

Annual List of Rulemaking Activity
Rules Adopted January 1, 2022 to December 31, 2022
Prepared by the Secretary of State pursuant to 5 MRS §8053-A sub-§5

Agency name: Department of Labor, **Bureau of Labor Standards**
Umbrella-Unit: **12-170**
Statutory authority: 26 M.R.S. §§ 42 and 53
Chapter number/title: **Ch. 9**, Rules Governing Administrative Civil Money Penalties
Filing number: **2022-177**
Effective date: 9/21/2022
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The proposed amendments are intended to clarify the calculations of penalties for wage and hour violations and to explain in more detail the process for appealing such penalties and the conduct of an appeal hearing.

Basis statement:

The Bureau of Labor Standard is proposing amendments to Chapter 9 to clarify and expand upon the process for calculation of penalties for wage and hour violations, specifically, to add multipliers for repeat and willful violations and to provide for combining or grouping violations. The proposed Rule expands upon the process for appeals of such penalties, by explaining in more detail the conduct of an appeal hearing, the role of the Hearing Officer in conducting the hearing and issuing a Recommended Decision, the role of the Bureau Director in issuing a final agency decision, and the right of appeal to Superior Court. The proposed Rule adds definitions and explains the respective roles of the Division Director and the Bureau Director.

No public comments were received for this proposed rule.

A public hearing was held via Zoom at 2PM on November 11th, 2021, as posted.

The virtual hearing was conducted by Mike Roland, Director of the Bureau of Labor Standards. Several other employees of the Bureau attended and assisted with the technology. The hearing was recorded.

Shortly after 2PM, Director Roland read an opening statement and invited comment on the proposed rules. The hearing was kept open for slightly more than one hour. During that time there were no other attendees and no public comment was offered. Shortly after 3PM, Director Roland made a brief closing statement explaining that public comment would be accepted until 5PM on December 6th, and the hearing was ended.

The Rule was released to the Second Session of the 130th Legislature as LD 1925, “Resolve, Regarding Legislative Review of Portions of Chapter 9: Rules Governing Administrative Civil Money Penalties for Labor Law Violations, a Major Substantive Rule of the Department of Labor, Bureau of Labor Standards.” The Rule was considered by both the Labor and Housing Committee and the full legislature. It was signed by the Governor on April 14th as Resolve 2022 Chapter 157. The Resolve became effective on August 8th, 2022, which allows the Department to formally adopt this major substantive rule.

Fiscal impact of rule:

N/A

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Agency name: Department of Labor, **Bureau of Labor Standards**
Umbrella-Unit: **12-170**
Statutory authority: 26 M.R.S. § 42
Chapter number/title: **Ch. 13**, Rules Governing the Establishment and Use of Fair Minimum Wage Rates on State Construction Projects
Filing number: **2022-081**
Effective date: 5/4/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department of Labor, Bureau of Labor Standards, is responsible for drafting rules and changes for Title 26 Chapter 15. The changes to the rules are to implement statutory changes from P.L. 2019, Ch. 545, update two incorporation-by-reference sources and streamline the mailed survey data collection process.

Basis statement:

Modification of this rule, which governs the administration of Maine's Prevailing Wage Program by the Department's Bureau of Labor Standards, is needed in order to bring it into conformity with changes in statute, specifically P.L. 2019, Ch. 545. These amendments also adapt the rule to changes in technology and in job classifications in the regulated construction industry. They also provide for the more efficient and less intrusive conduct of the required annual surveys by updating the two incorporation-by-reference sources and streamlining the mail survey process. These amendments to the rule were developed through consultation with an ad hoc advisory group convened in accordance with 26 MRS 1307-A. No public comments were received. The final rule is as proposed, except for minor formatting edits.

Fiscal impact of rule:

There may be increased costs on the projects involving state-funded one and two-family residential building projects which are rare and on average should amount to less than \$1 million per year.

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Agency name: Department of Labor, **Bureau of Labor Standards**
Umbrella-Unit: **12-170**
Statutory authority: 26 M.R.S. § 3502
Chapter number/title: **Ch. 19**, Rules Governing Apprenticeship in Construction of Energy Generation Facilities
Filing number: **2022-006**
Effective date: 1/15/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule was proposed to clarify standards laid out in 26 MRS Chapter 43. There are a large number of applicable projects planned in the state that the laws apply to and this rule provides definitions to clarify the law and procedures necessary for implementing the apprenticeship standards set in the law. The rule is necessary so affected parties are able to properly follow the law.

Basis statement:

The purpose of this chapter is to provide definitions and procedures for implementing apprenticeship standards in the construction of certain energy generation facilities pursuant to 26 MRS Ch. 43 § 3502. This rule describes the responsibility of persons engaged in the construction of energy generating facilities with capacity of 2 or more megawatts to hire and employ a minimum number of apprentices. Construction employers are defined to include a general contractor or subcontractor or other entity having significant control over the construction of a generation facility. The rule explains how that number will be determined based on the total number employed in apprenticeable occupations in a such construction. Construction employers must demonstrate compliance with the statute and must provide payroll records demonstrating compliance or must offer valid evidence that sufficient numbers of apprentices in apprenticeable occupations were not available as determined by this rule. The comment period was extended from August 23 to September 13.

Fiscal impact of rule:

None

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Agency name: Department of Labor, **Maine Apprenticeship Program**
Umbrella-Unit: **12-181**
Statutory authority: 26 M.R.S. § 3212
Chapter number/title: **Ch. 1**, Rules Relating to Labor Standards for Registration of Apprenticeship Programs
Filing number: **2022-130**
Effective date: 7/19/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule is updated to reflect changes in federal regulations, 29 CFR Parts 29 and 30, and changes in state law set forth at Title 26, Chapter 37.

Basis statement:

The proposed amendments clarify that Maine Apprenticeship Program has the authority for approval, registration, and deregistration of apprenticeships. The proposed amendments update the standards for approval and registration of apprenticeships to conform with title 26, Chapter 37.

The proposed rule was published for public comment and sent to interested persons on May 25, 2022. The public comment period ended on June 27, 2022. No public comments were received. The final rule being adopted is identical to the proposed rule.

Fiscal impact of rule:

N/A

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Agency name: Department of Labor, **Maine Apprenticeship Program**
Umbrella-Unit: **12-181**
Statutory authority: 26 M.R.S. § 3212
Chapter number/title: **Ch. 2**, Rules Pertaining to Equal Opportunity for Employment in Registered Apprenticeship Programs in the State of Maine
Filing number: **2022-131**
Effective date: 7/22/2022
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These rules are amended to comply with updates required under 29 CFR 30.

Basis statement:

Modification of this rule, which sets forth the Maine Apprenticeship Program's plan to promote equality of opportunity and affirmative action in apprenticeship programs, is necessary for conformity with requirements in the federal rules for apprenticeship programs, 29 CFR 29 and 29 CFR 30.

The proposed rule was published for public comment and sent to interested persons on May 25, 2022. The public comment period ended on June 27, 2022. No public comments were received. The final rule being adopted is identical to the proposed rule.

Fiscal impact of rule:

N/A