**State of Maine: Notice of Agency Rulemaking – March 27, 2024**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: <http://www.maine.gov/sos/cec/rules>. There is also a list of rulemaking liaisons (<http://www.maine.gov/sos/cec/rules/liaisons.html>), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **12-172** - Department of Labor, **Bureau of Unemployment Compensation**

CHAPTER NUMBER AND TITLE: **Ch. 24,** Approved Trainings

PROPOSED RULE NUMBER: **2023-P210** *(Comment extension)*

DETAILED SUMMARY: The amendments to the Rule update and clarify the criteria and procedure for approved training, which waives the eligibility requirements to be able and available for work and to search for work. The Rule is reposted with changes that clarify that training approved by other MDOL bureaus pursuant to various federal and state laws satisfy the training waiver requirement, which waives the eligibility requirements to be able and available for work and to search for work. The amendments to the Rule update and clarify the criteria and procedure for claimants to request approval of training not previously approved.

It is not necessary to resubmit comments previously submitted.

PUBLIC HEARING: None

COMMENT DEADLINE**: Friday, March 29, 2024 Rule is being reposted based on public comment (Extension of public comment period**) (Previous deadline Monday, March 25, 2024)

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Isaac H. Gingras, Department of Labor, 54 State House Station, Augusta, Maine 04333-0054. Telephone: 207-626-6232. Email: Isaac.H.Gingras@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 26 M.R.S. §§1082 and 1192 (6) and (6-C)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: http://www.maine.gov/labor/rehab/dod

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: Isaac.H.Gingras@maine.gov

AGENCY: **65-407 - Public Utilities Commission**

CHAPTER NUMBER AND TITLE: **Ch. 840,** Intervenor and Participant Funding

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P090**

BRIEF SUMMARY: The Commission initiates a rulemaking proceeding to consider proposed amendments to its Intervenor Funding Rule (Chapter 840). The Commission initiates this rulemaking proceeding to comply with recently enacted legislation.

PUBLIC HEARING: **April 17, 2024 at 1:00 p.m.** at the Public Utilities Commission, 26 Katherine Drive, Hallowell, Maine 04347. Persons unable to attend this conference in person may elect to participate virtually by emailing pamela.kowalchuk@maine.gov at the Commission and requesting a Microsoft Teams invitation. Those unable to attend via video may participate by phone using the dial-in information that appears on the Microsoft Teams invitation (obtained as described above).

COMMENT DEADLINE***:*** Written comments on the proposed rule may be filed with the Administrative Director until close of business on Monday, **April 29, 2024**. However, the Commission requests that comments be filed by close of business on Tuesday, **April 9, 2024** to allow for follow up inquiries during the hearing. Supplemental comments may be filed after the hearing by **Monday, April 29, 2024**. Written comments should refer to the docket number of this proceeding, Docket No. 2022-00299, and be filed using the Commission’s case management system (CMS) which is accessible from the Commission’s website or mailed to the Administrative Director, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333-0018.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Paulina Collins, 18 State House Station, Augusta, ME 04333. Telephone: (207)287-1566. Email: Paulina.Collins@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: Minimal

STATUTORY AUTHORITY FOR THIS RULE: 35-A M.R.S.A. §§ 111, 3101 and 1310- A.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/mpuc](http://www.maine.gov/mpuc)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Pamela.Kowalchuk@maine.gov

AGENCY: **06-096 - Department of Environmental Protection**

CHAPTER NUMBER AND TITLE: **Ch. 140,** Part 70 Air Emission License Regulation

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P091**

BRIEF SUMMARY: The Department is proposing to amend Chapter 140 to align with changes to Part 70 of the Federal Clean Air Act promulgated by EPA on July 21, 2023. EPA requires affected states to make these changes by August 21, 2024. Additionally, the Department is taking this opportunity to make minor changes that are considered clarifications, that correct grammar, that codify longstanding practices, or that are necessary to utilize an expected future electronic application system.

PUBLIC HEARING: 9:00 AM, April 18, 2024, Marquardt Bldg, Room 118, 32 Blossom Lane, Augusta

COMMENT DEADLINE: April 29, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Lynn Muzzey, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333. Telephone: (207) 332-1279. Email: Lynn.Muzzey@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*: N/A

STATUTORY AUTHORITY FOR THIS RULE: 38 M.R.S. §§ 585 and 585-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/dep/rules](http://www.maine.gov/dep/rules)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Mark.T.Margerum@maine.gov

AGENCY: **06-096 - Department of Environmental Protection**

CHAPTER NUMBER AND TITLE: **Chapter 145: NOx Control Program**

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2024-P092**

BRIEF SUMMARY: The Department is proposing to amend Chapter 145 to clarify that the rule applies to affected sources that are located both within the Ozone Transport Region (OTR). and in a county that has not received a NOx waiver. This has always been the intent of the rule. The affected sources located outside of the current OTR boundaries have consistently been covered by a NOx waiver and have historically not been subject to the requirements of Chapter 145; thus, this clarification has no effect on any actual or potential emissions from those sources. In addition to the applicability clarification, the Department is proposing to delete several obsolete provisions for interim standards for which the compliance date has passed. These amendments will be submitted to the U.S. Environmental Protection Agency for approval in Maine's State Implementation Plan.

PUBLIC HEARING: 9:00 AM, April 18, 2024, Marquardt Bldg, Room 118, 32 Blossom Lane, Augusta

COMMENT DEADLINE: April 29, 2024

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Lynn Muzzey, Maine Department of Environmental Protection, 17 State House Station, Augusta, ME 04333. Telephone: (207) 332-1279. Email: Lynn.Muzzey@maine.gov

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES *(if any)*:  None

STATUTORY AUTHORITY FOR THIS RULE: 38 M.R.S. §§ 585 and 585-A

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*: N/A

AGENCY WEBSITE: [www.maine.gov/dep/rules](http://www.maine.gov/dep/rules)

EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Mark.T.Margerum@maine.gov

AGENCY: **99-346 - Maine State Housing Authority**

CHAPTER NUMBER AND TITLE: **Ch. 16,** Low-Income Housing Tax Credit Rule

PROPOSED RULE NUMBER: **2024-P093**

BRIEF SUMMARY: The rule repeals and replaces the current Chapter 16, *Low-Income Housing Tax Credit Rule*.
The rule is the qualified allocation plan for allocating and administering the federal low-income housing tax credit in the State of Maine, including the State’s housing credit ceiling for calendar years 2025 and 2026, as required pursuant to Section 42 of the Internal Revenue Code.

DETAILED BASIS STATEMENT/SUMMARY: This rule is the qualified allocation plan for allocating and administering federal low income housing tax credits (“LIHTC”) in the State of Maine, which MaineHousing, as the State’s designated housing credit agency, is required to adopt pursuant to [Section 42](https://www.law.cornell.edu/uscode/text/26/42) of the Internal Revenue Code and the above-referenced sections of the Maine Housing Authorities Act.

This rule replaces the prior rule and includes the following changes:

Throughout:

* Updated deadlines
* Repaired grammatical errors (punctuation, typos, correcting defined terms, etc.)

Section 3B: Updated Preservation Set-Aside amount to $750,000.

Section 3C: Increased the amount of credit per unit to $30,000 from $20,000, and changed the maximum amount of credit per project to $1,200,000.

Section 4A: Pre-apps due July 3, 2024 and July 3, 2025.

Section 4B2: Applications due September 19, 2024 and September 18, 2025.

Section 4B3: Added language: “Submitted exhibits must include proper documentation to provide evidence of all funding sources and official approvals.”

Section 4I4: Updated language to clarify.

Section 4I5: Added language “in the case of a TDC Index Cap waiver, the TDC Index increases substantially”

Section 5A: Removed Section 811 language.

Section 5B: Increased the TDC Index caps.

Section 5C: Increased Rehabilitation Costs per unit of existing housing from $50,000 to $75,000.

Section 5G: Updated and clarified re-characterization language.

Section 5H: Added a link to the latest version of the Quality Standards and Procedures Manual and noted energy efficiency standards. Additionally, updated Build America, Buy America requirements, removed electrical raceway/conduits language and relocated and updated Section 3 language.

Section 5I: Changed Telemedicine Capabilities to “Broadband Access”

Section 5J: Added that the resident service coordinator must be available twice weekly which is the appropriate number of days each week acceptable to MaineHousing.

Section 6: Renumbered and reorganized the scoring criteria.

Section 6A: Increased the scoring points for Rehabilitation or Reuse of Existing Housing, Structure or Site from 4 to 5.

Section 6B: Increased the scoring points for Historic Rehabilitation from 4 to 5.

Section 6E: Updated the scoring points for Accessibility to increase 6 points to 9 points for Projects that are not specifically for Older Adults or Families, having only 1 BR and/or efficiency units and to add 6 points for Family Projects.

Section 6F: Increased the scoring points for National Housing Trust Fund from 1 to 2.

Section 6G: Increased the scoring points for Acquisition Cost from 4 to 5, increased the average acquisition cost per unit and increased the percentage of project’s acquisition cost as comparted to average acquisition cost and the associated points.

Section 6I: Decreased the scoring points for Housing Need from 10 to 8 and updated the Service Center Community Cities/Towns for both Project providing housing for Older Adults and Other Housing Projects and the associated points. Additionally, adjusted the points for Projects located on Native American tribal lands from 10 points to 8 points.

Section 6J: Increased the scoring points for Community Revitalization from 3 to 5 and added two points for Projects located in a QCT with at least 20% of the units at market rate.

Section 6K: Adjusted the scoring points and criteria for proximity to activities important to daily living to up to 5 points for activities important for daily living that are located within not more than a ½ mile of the Project, 1 point per activity.

Section 6L: Increased the scoring points for Readiness and provided a breakdown of the points for different categories.

Section 6M: Added the word “successfully” to the scoring criteria for two categories.

Section 6N: Changed to negative points for bad performance.

Section 6O: Reduced the weight of the scoring criterion from 5 points to 2.

Section 6P: Changed to negative points for bad performance.

Section 10F: Added Utility Monitoring to begin in Year 2 of the QAP.

Appendix A: Change made to “Activities Important to Daily Living” definition adjusting retail store to a store that offers regularly purchased household supplies.

Appendix B: Language was added to require any available radon test results for the Project site.

CONTACT PERSON FOR THIS FILING/SMALL BUSINESS IMPACT STATEMENT: Ashley Carson, Chief Counsel, Maine State Housing Authority, State House Station #89, 26 Edison Drive, Augusta, Maine, 04330-6046, (207) 626-4600 (telephone), Maine Relay 711, Acarson@mainehousing.org (e-mail)

Upon sufficient notice, this notice and the proposed rule will be made available in alternative formats for persons with disabilities and in alternative languages for persons with limited English proficiency.

PUBLIC HEARING: A public hearing will be held on Tuesday, April 16, 2024 at 9:30 a.m. at Maine State Housing Authority, 26 Edison Drive, Augusta, Maine. To listen or testify virtually, please contact the Board Administrator before the hearing at MaineHousing, 26 Edison Drive, Augusta, Maine 04330-6046; (207) 626-4600 (voice); 1-800-452-4668 (voice in state only); or 711 (Maine Relay) or via e-mail: BoardAdmin@mainehousing.org.

Upon sufficient notice, appropriate communication auxiliary aids and services will be provided to persons with disabilities and persons with limited English proficiency.

COMMENT DEADLINE: Friday, April 26, 2024 at 5:00 p.m.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any) None

STATUTORY AUTHORITY FOR THIS RULE: 30-A M.R.S. §4741(1), 30-A M.R.S. §4741(14) and Section 42 of the Internal Revenue Code of 1986, as amended

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): Same as above

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: acarson@mainehousing.org

**ADOPTIONS**

AGENCY: **94-270 - Commission on Governmental Ethics and Election Practices**

CHAPTER NUMBER AND TITLE: **Ch. 1,** Procedures; **Ch. 3,** Maine Clean Election Act and Related Provisions

ADOPTED RULE NUMBER: **2024-073, 2024-074**

CONCISE SUMMARY: The amendments change the Commission’s procedures for selecting meeting dates and quorum requirements, establish rules for the reporting of political committee game nights, eliminate the filing of independent expenditure reports by fax, allow the Executive Director to make appealable independent expenditure determinations on communications leading up to an election, simplify certain procedures for some political committees, and update the qualifying period for Maine Clean Election Act replacement candidates as directed by statute.

EFFECTIVE DATE: March 24, 2024

AGENCY CONTACT PERSON: Julie Aube, Commission Assistant, Commission on Governmental Ethics and Election Practices, 135 State House Station, Augusta, Maine 04333-0135. Telephone: 287-4179. Email: Julie.Aube@maine.gov

AGENCY WEBSITE:<http://www.maine.gov/ethics>
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Julie.Aube@maine.gov

AGENCY: **02-029 –** Department of Professional and Financial Regulation, **Bureau of Financial Institutions**

CHAPTER NUMBER AND TITLE: **Ch. 128,** Loans to One Borrower Limitations

ADOPTED RULE NUMBER: **2024-075**

CONCISE SUMMARY: This rule amends current Chapter 128 Loans to One Borrower Limitations, last promulgated January 21, 2013. The purpose of the proposed rule is to amend the definition of “Total capital and surplus” so that it is consistent with the calculation of the Federal Deposit Insurance Corporation’s Community Bank Leverage Ratio (CBLR) as found in 12 C.F.R. Part 324. The amendment accommodates those financial institutions using CBLR that are no longer required to calculate Tier 2 capital. The Bureau has determined that these changes will be useful for financial institutions utilizing modern approaches to capital calculations, including those that utilize the CBLR Framework.

EFFECTIVE DATE: March 24, 2024

AGENCY CONTACT PERSON: David Gordon Laurendeau, Attorney, Bureau of Financial Institutions, 36 State House Station, Augusta, ME 04333-0036. Telephone: 207-624-8574. Email: David.G.Laurendeau@maine.gov

AGENCY WEBSITE: <https://www.maine.gov/pfr/financialinstitutions/>
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: David.G.Laurendeau@maine.gov

AGENCY: **95-648 -** **Efficiency Maine Trust**

CHAPTER NUMBER AND TITLE: **Ch. 3,** Electric Efficiency and Conservation Programs

ADOPTED RULE NUMBER: **2024-076**

CONCISE SUMMARY: Chapter 3 of the Efficiency Maine Trust’s rules governs the implementation of the Trust’s Electric Efficiency and Conservation Programs. Amendments to Chapter 3 adopted in this rulemaking reflect updates to the Efficiency Maine Trust Act resulting from the enactment of P.L. 2023, ch. 328, An Act to Enact the Beneficial Electrification Policy Act. These changes pertain to the Trust’s activities to advance the policy of beneficial electrification and to the inclusion of certain cost-effective beneficial electrification measures in the determination of maximum achievable cost-effective (MACE) resources in the Trust’s triennial plan. Adopted updates to the rule also reflect changes made by the Legislature in recent years to 35-A M.R.S.A. §10104(4) and to 35-A M.R.S.A. §10110(2), which describe goals that the Trust must advance in its triennial plans and criteria for conservation programs.

EFFECTIVE DATE: March 26, 2024

AGENCY CONTACT PERSON:Nat Haslett, Manager for Regulatory and Legislative Affairs, Efficiency Maine Trust, 168 Capitol Street, Suite 1, Augusta, ME 04330. Telephone:(207) 553-3068. Email: Nat.Haslett@effiencymaine.com

AGENCY WEBSITE: [www.efficiencymaine.com](http://www.efficiencymaine.com/)
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Nat.Haslett@efficiencymaine.com

AGENCY: **94-649 - Maine Commission on Indigent Legal Services**

CHAPTER NUMBER AND TITLE: **Ch. 3,** Eligibility Requirements for Specialized Panels

ADOPTED RULE NUMBER: **2024-077**

CONCISE SUMMARY: This proposed rule amendment would amend the eligibility requirements for an attorney rostered with the Commission to receive assignments in specialized case types.  This amendment adds some case types to the list of specialized case types and amends eligibility and application requirements for all specialized case types.

EFFECTIVE DATE: March 25, 2024

AGENCY CONTACT PERSON:Jim Billings, Executive Director, Maine Commission on Indigent Legal Services, 154 State House Station, Augusta, ME 04333. Telephone: 207-287-3254. Email: Jim.Billings@Maine.gov

AGENCY WEBSITE: [www.maine.gov/mcils](http://www.maine.gov/mcils)
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Jim.Billings@Maine.gov

AGENCY:  **03-201 - Maine Department of Corrections**

CHAPTER NUMBER AND TITLE: **Ch. 10,** Subsection 27.2, Supervised Community Confinement

ADOPTED RULE NUMBER: **2024-078**

CONCISE SUMMARY:The Maine Department of Corrections amended Ch. 10, Supervised Community Confinement. The primary reason this rule is amended is to address a statutory change that makes a resident eligible for the supervised community confinement program (SCCP) if they have a worsening prognosis that is likely to result in a terminal or severely incapacitating medical condition. Other amendments clarify reasons for denying approval to SCCP as they relate to victim safety; add a requirement of notifying a domestic violence resource center if a resident who is in custody for a domestic violence crime is approved for transfer to SCCP; clarify that a client on SCCP is not allowed to travel out of state without the written permission of their probation officer; clarify that a client may be removed from SCCP without notifying the Director of Adult Community Corrections if a probation supervisor thinks it is necessary; and make other clarifications.

EFFECTIVE DATE: April 1, 2024

AGENCY CONTACT PERSON**:** Mary Lucia, Maine Department of Corrections, 111 State House Station, Augusta, Maine 04333. Telephone: (207) 530-0983. Email: Mary.A.Lucia@maine.gov

AGENCY WEBSITE: <https://www.maine.gov/corrections/>
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Mary.A.Lucia@maine.gov

AGENCY: **02-658 -** Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, **Maine Fuel Board**

CHAPTER NUMBER AND TITLE: **Ch. 6,** Adoption of Standards

ADOPTED RULE NUMBER: **2024-079**

CONCISE SUMMARY: In the 2021 edition of the NFPA 54, recently adopted and incorporated by reference into board rule Chapter 6, a new table was established for both direct vent and non-direct vent appliances requiring that the direct vent termination from appliances over 150,000 btu is required to be 4’ from the side or below an opening or 1’ above.  Prior to the adoption of 2021 NFPA 54, the vent terminal of a direct vent appliance with an input of over 50,000 btu was required to be 12” from building openings. The adopted rule amends the 2021 NFPA as adopted by the board and revert to the previously adopted standard, requiring direct vent terminal clearances for appliances greater than 150,000 btu to be in accordance with the manufacturer’s instructions, and in no case less than 12”.

EFFECTIVE DATE: March 30, 2024

AGENCY CONTACT PERSON:Kristin M. Racine, Deputy Director, Office of Professional and Occupational Regulation, Maine Fuel Board, 35 State House Station, Augusta, ME 04333-0035. Telephone: 207-624-8615. Email: Kristin.Racine@maine.gov

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/maine-fuel-board>
EMAIL FOR OVERALL AGENCY RULEMAKING LIAISON: Kristin.Racine@maine.gov