# 94-457 FINANCE AUTHORITY OF MAINE

Chapter 316: CLEAN FUEL VEHICLE PROGRAM

Summary: This rule establishes the procedures and standards applicable to borrowers participating in the Authority's statewide program for making loans to finance the acquisition or lease of clean fuel vehicles or related components or facilities.

1. Definitions.

 A. Reference to Act Definitions. Certain terms used in this rule which are defined in the Finance Authority of Maine Act, 10 M.R.S.A. Section 961 and following (the “Act”), shall have the meaning set forth in the Act unless clearly specified otherwise or unless the context clearly indicates otherwise.

 B. Defined Terms.

1. “Borrower” means a person or entity that meets the eligibility requirements set forth in Section 3 of this rule, and includes a prospective borrower where the context requires. If the borrower is a holding company or is a subsidiary or affiliate of or is related to an entity with 50% or more common ownership, “borrower” shall include the parent, affiliated or related entity when determining eligibility, including the net worth and debt service coverage of the borrower.

2. “Chief Executive Officer” means the Authority's Chief Executive Officer or a person acting under the supervisory control of the Chief Executive Officer.

3. “Clean fuel” means all products or energy sources used to propel motor vehicles, as defined in Title 29-A, Section 101, other than conventional gasoline, diesel or reformulated gasoline, that, when compared to conventional gasoline, diesel or reformulated gasoline, results in lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide or particulates or any combination of these. “Clean fuel” includes, but is not limited to, compressed natural gas; liquefied natural gas; liquefied petroleum gas; hydrogen; hythane, which is a combination of compressed natural gas and hydrogen; dynamic flywheels; solar energy; alcohol fuels containing not less than 85% alcohol by volume; and electricity.

4. “Clean fuel vehicle” means a vehicle that may be propelled by a clean fuel or a fuel-cell electric vehicle that uses any fuel.

5. “Clean fuel vehicle project” or “Project” means the acquisition or lease of clean fuel vehicles, the acquisition of clean fuel vehicle delivery systems and other clean fuel vehicle components, the conversion of vehicle fuel systems to the sue of clean fuels and the acquisition of capital equipment necessary to establish clean fuel vehicle support and maintenance facilities.

6. “Members” means the members of the Finance Authority of Maine.

7. “Principals” means one or more natural persons who own or control 20% or more of the borrower.

8. “Program” means the Clean Fuel Vehicle Program governed by the Act and this rule.

9. “State” means the State of Maine.

2. Program Implementation and Assistance Provided.

The program shall be administered by and is delegated to the Chief Executive Officer. The Authority may provide financial assistance in the form of a direct loan in the amount actually necessary to complete the project up to $50,000 to an eligible borrower. Assistance under this program may be combined, to the extent possible, with assistance under other Authority programs.

3. Eligibility.

 A. To be eligible for financial assistance under the program a borrower must demonstrate each of the following:

 1. The project is technologically feasible.

 2. The project will contribute to a reduction of or more efficient use of fossil fuels.

 3. A reasonable likelihood that the borrower will be able to repay the loan.

 4. A reasonable likelihood that the borrower will not be able to obtain the funds necessary to undertake all or any part of the project from any other source, including an insured loan pursuant to 10 MRSA §1026-A.

B. The interest rate on each loan shall be determined based on the amount of the total Project financing contributed (other than working capital financing or financing collateralized by accounts receivable, inventory or good will) to the Project from sources other than the Clean Vehicle Fuel Program. Such source of funds must be confirmed to the satisfaction of the Chief Executive Officer. The loan interest rate shall be determined as follows:

**Rate Financing Contributed From Other Sources**

4% 50% or more

8% Less than 50%

In the event of default, the Authority may assess interest at the prime rate plus 2% from the date of any such default.

C. Additional requirements and covenants of each loan may be established, provided that each borrower shall at minimum be required to maintain and repair collateral, maintain adequate insurance covering public liability, hazard, and flood insurance if borrower is located in a flood plain, and comply with all applicable federal, State and local laws, regulations, ordinances and orders. Each borrower shall also be required to maintain such environmental liability insurance as may be required by the Chief Executive Officer.

 D. A borrower may obtain a direct loan for a project that has already been completed if the borrower provides satisfactory evidence of compliance with each of the following criteria.

 1. The project was completed no later than nine months previous to the date the complete application is received by the Authority.

 2. The loan is made to the same individual or entity, who operated the project at the time the project was undertaken.

4. Application Procedure and Content.

Each borrower shall submit an application to the Chief Executive Officer on such forms and with such attachments as the Chief Executive Officer may require consistent with the purposes of the program and this rule. The Chief Executive Officer will review each application for completeness and eligibility. Applications that are not substantially complete may be deemed not received until completed. The Chief Executive Officer shall determine when an application is received, which determination shall be final. An application shall contain, at a minimum, such general information identifying and describing the borrower, the proposed project, and the proposed financing of the project as specified in the application form and as otherwise requested by the Chief Executive Officer.

5. Criteria and Considerations.

A. [Repealed]

B. No application will be approved unless the Chief Executive Officer determines that the borrower is eligible and that the loan proceeds will be used for a project.

C. No application will be approved unless the Chief Executive Officer determines that the application is complete and that information sufficient to make an informed decision on the application has been received.

D. The Authority may rely upon information provided to it by the Department of Environmental Protection regarding whether a project is eligible.

6. Terms and Conditions; Premiums, Fees and Other Charges.

A. Periodic payments of principal and interest shall be established in accordance with a borrower's individual needs.

B. The loan amount shall not exceed $50,000.

C. Direct loans shall not exceed terms of seven (7) years.

D. Additional requirements and covenants of each loan may be established, provided that each borrower shall at a minimum be required to maintain and repair collateral, maintain adequate insurance covering public liability, hazard, and flood insurance if borrower is located in a flood plain, and comply with all applicable federal, State and local laws, regulations, ordinances and orders. Each borrower shall also be required to maintain such environmental liability insurance as may be required by the Chief Executive Officer.

E. The borrower in the case of a direct loan shall pay a loan origination fee equal to 2% of the loan amount at closing and shall be responsible for the Authority's out of pocket costs and expenses of closing, administering and collecting the loan or grant. Commencing on the first anniversary date of the date of the loan and annually on the same date thereafter, the borrower shall pay to the Authority an annual loan administration fee in an amount equal to 1% of the outstanding principal balance of the loan remaining due on each such anniversary date.

F. [Repealed]

G. The Authority, in the sole discretion of the Chief Executive Officer, may reduce the rate of interest or increase the term of any loan including loans with original terms of seven (7) years in the event a borrower can show adverse circumstances resulting in financial hardship.

7. Collateral.

A. Repayment of any loan pursuant to the program shall be secured by such collateral as the Chief Executive Officer may require, including without limitation, a mortgage or security interest in real estate, buildings or personal property of the business entity, subject only to such other encumbrances as the Chief Executive Officer may approve, assignment or pledges of leases, and personal or corporate guarantees. Personal guarantees of the principals shall be required unless compelling reasons are presented justifying not requiring a guarantee.

B. Loans may, at the discretion of the Chief Executive Officer, be secured by collateral valued for collateral purposes at less than the amount of the loan, when necessary to ensure that a project which meets the public purposes of this program will be completed.

C. Real estate or stationary machinery or equipment constituting a significant portion of collateral for repayment of a loan shall be located within the State. Mobile machinery or equipment, including vessels, constituting a significant portion of collateral for repayment of the loan shall be registered with and taxed by the State or municipal authorities, if the State or municipal authorities register or tax machinery or equipment of a type similar to the collateral, and shall be stored or berthed in the State when not in use.

8. Commitment

A. Upon approval of a direct loan application by the Chief Executive Officer, a commitment will be issued setting forth the terms and conditions upon which the loan will be extended.

B. [Repealed]

C. [Repealed]

D. In the event the Chief Executive Officer rejects any application, the Chief Executive Officer will promptly send the applicant notice containing reasons for the rejection. The notice shall include a statement of the applicant's right to appeal the Chief Executive Officer's decision to the members.

9. Appeal to the Members.

In the event that an application is rejected by the Chief Executive Officer, the applicant shall have the right to appeal the decision of the Chief Executive Officer to the members, provided that such appeal shall not affect processing of other applications received prior to the notice of appeal. Notice of the appeal, together with a statement of the reasons why the Chief Executive Officer's decision should be reversed or modified, shall be given to the Chief Executive Officer in writing within 20 days after the date the Chief Executive Officer mailed the notice of rejection to the applicant. The appeal shall be heard at a meeting of the members, and the applicant must be present to support the appeal. The appeal shall be based on the record before the Chief Executive Officer on the date of the rejection. The decision of the Chief Executive Officer shall be final unless the members determine that the rejection by the Chief Executive Officer was arbitrary, capricious or an abuse of discretion, in which event the members may overturn or modify the decision of the Chief Executive Officer and may direct the Chief Executive Officer to take further action with respect to the application. Priority of any application with respect to which the Chief Executive Officer's rejection has been overturned or modified shall be determined as of the date and time of receipt of the notice of appeal.

10. Waiver of Rule.

The Chief Executive Officer may waive any requirement of this rule, except to the extent that the requirement is mandated by the Act, in cases where the deviation from the rule is insubstantial and is not contrary to the purposes of the program.

STATUTORY AUTHORITY: 10 M.R.S.A. §§ 969-A(14), 1023-K and 1026-P(3)

EFFECTIVE DATE:

 November 2, 1998 (original rule) - filing 98-462

 August 27, 2005 - Amendment 1, filing 2005-243: repealed sections 5(A), 5(F), 7(B), 7(C) and amended sections: 2, 3(A)(4), and 4

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 17, 2025