

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Finance Authority of Maine (FAME)
Umbrella-Unit: 94-457
Statutory authority: 10 MRS §969-A(14); 10 MRS §1026-M(11); 10 MRS §1026-A
Chapter number/title: Ch. 314, Regional Economic Development Revolving Loan Program
Filing number: 2015-063
Effective date: 4/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule incorporates recent statutory changes made by the Legislature to the program. Also, we anticipate additional funding of \$8 million from the State pursuant to bonds issued pursuant to Public Law 2014 ch. 596.

Basis statement:

The amendment implements the changes made by P.L. 2013 ch. 596, and Public Law 2013 ch. 605: making loans more flexible and broadening eligibility for small businesses to include mixed-use and value-added natural resource enterprises; raising the maximum number of employees of eligible businesses from 50 to 100; and increasing maximum loan sizes from \$250,000 to \$350,000. The amendment does not become effective until the Authority receives additional funding from the state of at least \$1 million.

Fiscal impact of rule:

The rule will not cost the state, counties, or municipalities anything. New voter-approved funds will flow into the program and be disbursed by regional agencies in the form of loans to eligible businesses. The amendment will not impose any costs on municipalities or counties.

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Agency name: Finance Authority of Maine (FAME)
Umbrella-Unit: 94-457
Statutory authority: 10 MRS §1100-ZZ; 16 MRS §5219-GG
Chapter number/title: Ch. 325, Maine New Markets Capital Investment Program
Filing number: 2015-165
Effective date: 9/1/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The rule amendment is necessary to protect the program from unintended use. In the course of administering the program, certain kinds of transactions have been eligible for tax credits under the existing rule that do not provide the level of direct public benefit that the Authority believes the program was intended to require, as stated in the legislative findings and intent found in 10 MRS §1100-Z(1). The amendment addresses this issue by further defining a qualified low-income community investment, adding a restriction that such an investment does not include a transaction where more than a *de minimus* amount (5%) is used to refinance expenses already made, to make equity distributions, to acquire existing businesses, or to pay transaction fees.

Basis statement:

The rule amendment is necessary to protect the program from unintended use. In the course of administering the program, certain kinds of transactions have been eligible for tax credits under the existing rule that do not provide the level of direct public benefit that the Authority believes the program was intended to require, as stated in the legislative findings and intent found in 10 MRS §1100-Z(1). The amendment addresses this issue by further defining a qualified low-income community investment adding a restriction that such an investment does not include a transaction where more than a *de minimus* amount (5%) is used to refinance expenses already made, to make equity distributions, to acquire existing businesses, or to pay transaction fees. Similar changes were proposed in recent legislation, L.D. 297, in the First Session of the 127th Legislature. While there appeared to be extremely broad support in the Legislature for the elimination of so-called "one-day loans" and other transactions with potentially similar deficiencies in direct public benefit, differences over other provisions in L.D. 297 resulted in the bill not being enacted. Without the changes made by this rule amendment, the program remains subject to unintended use if applications for tax credits are filed for transactions that utilize these mechanisms without the intended direct public benefit.

The rule was adopted on an emergency basis on August 20, 2015. The Authority found that emergency adoption of the rule was warranted since there is a real threat that new applications could be filed under the existing rule prior to the completion of the non-emergency rule-making process that would utilize the balance of tax credits under the program, thereby making the amendment futile. The Authority finds that the imminent threat of loss of significant state tax credits to transactions that do not provide sufficient levels of direct public benefit represents an immediate threat to the public's general welfare and adoption of the rule amendment on an emergency basis necessary to avoid such threat.

The rule amendment is intended to have retroactive effect to be applicable to any Certification Application that has not been approved at the time of the effective date of the amendment.

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Fiscal impact of rule:

- A. The cost of this rule amendment to the agency will be covered by fees charged.
 - B. It is expected that no one will be adversely affected by the amendments other than parties who would use the program in an unintended manner.
 - C. The rule is not expected to have any material effect on competition or the employment market.
 - D. The above statements were made based on the Authority's administration of the program.
- The amendment will not impose any costs on municipalities or counties.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053, sub-§5

Agency name: Finance Authority of Maine (FAME)
Umbrella-Unit: 94-457
Statutory authority: 10 MRS §1100-2; 36 MRS §5219-GG
Chapter number/title: Ch. 325, Maine New Markets Capital Investment Program, Amendment 3
Filing number: 2015-209
Effective date: 11/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule amendment is necessary to protect the program from unintended use. In the course of administering the program, certain kinds of transactions have been eligible for tax credits under the existing rule that do not provide the level of direct public benefit that the Authority believes the program was intended to require, as stated in the legislative findings and intent found in 10 MRS §1100-Z(1). The amendment addresses this issue by further defining a qualified low-income community investment, adding a restriction that such an investment does not include a transaction where more than a *de minimus* amount (5%) is used to refinance expenses already made, to make equity distributions, to acquire existing businesses, or to pay transaction fees.

Basis statement / summary:

This rule establishes the procedures, standards and fees applicable to applicants under the Authority's Maine New Markets Capital Investment Program (the "Program"). Under the Program, the Authority may allocate tax credit authority to a qualified community development entity, which allocation acts as a reservation of refundable tax credits that may subsequently be approved by the Authority if the qualified community development entity obtains qualified equity investments as certified by the Authority as provided by 10 MRS §1100-Z.

Fiscal impact of rule:

The amendment will not impose any costs on municipalities or counties.