

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Efficiency Maine Trust
Umbrella-Unit: 95-648
Statutory authority: 35-AMRSA §10203(4), §10203(5), §10204(1)
Chapter number/title: Ch. 5, Commercial Property Assessed Clean Energy (C-PACE) Program Regulations
Filing number: 2023-023
Effective date: 2/18/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

In June 2021, the Legislature passed Maine's C-PACE enabling legislation: L.D. 340 - An Act To Allow for the Establishment of Commercial Property Assessed Clean Energy Programs. Pursuant to 35-A MRSA § 10203(1), the Efficiency Maine Trust (the Trust), a third party contracted by the Trust, or a municipality that has adopted a C-PACE ordinance may establish a C-PACE program. The Trust intends to launch such a program in the coming months, adding to its suite of financing initiatives for energy project investment. 35-A MRSA § 10203(4) states that the Trust shall adopt by rule a quality assurance system for the C-PACE program, and 35-A MRSA §10204(1) states that a C-PACE agreement entered into pursuant to a C-P ACE program must comply with underwriting requirements established by rule by the Trust. The Trust is proposing this rule to satisfy the statutory directives above, and to describe certain key elements of how the C-PACE Program will be administered.

Basis statement:

I. Summary

This presents the factual and policy basis for Chapter 5-a new rule of the Efficiency Maine Trust (the Trust) governing the administration and implementation of a Commercial Property Assessed Clean Energy (C-PACE) program in Maine.

II. Background

In June 2021, the legislature passed Maine's C-PACE enabling legislation: l.D. 340 - *An Act To Allow for the Establishment of Commercial Property Assessed Clean Energy Programs* (the "C-PACE Act"). Pursuant to 35-A MRSA 5 10203(1), the Efficiency Maine Trust (the Trust), a third party contracted by the Trust, or a municipality that has adopted a C-PACE ordinance may establish a C-PACE program. The Trust intends to add such a program to the suite of financing initiatives for energy project investment under the Efficiency Maine Green Bank.

A C-PACE program allows qualifying commercial real property owners to access an attractive type of financing to undertake qualifying energy efficiency and clean energy improvements on their buildings and repay the investment over time. Like other project financing, C-PACE relies on borrowed capital from a lender to pay for the upfront costs associated with energy efficiency or renewable energy improvements. Unlike other project financing, the borrowed capital is secured by a property tax assessment with an associated lien on the subject property. The security provided by the lien results in several compelling features, including longer terms, lower interest rates, and transferability of the repayment obligations to subsequent owners of the property. In turn, C-PACE strengthens the business case for investment in more extensive building improvements having longer paybacks compared to what may be possible with traditional financing.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Maine's C-PACE Act outlines several program parameters (e.g., administration, eligibility, underwriting criteria, assessment, collection, priority) and it calls on the Trust to establish certain program design elements and rules. Specifically, the Act states that the Trust *shall adopt by rule* a quality assurance system for the C-PACE program, and states that a C-PACE agreement entered into pursuant to a C-PACE program must comply with underwriting requirements *established by rule* by the Trust. The Act also provides that the Trust *may* establish rules for participation in a C-PACE program, which may include, but are not limited to, terms and conditions related to program design, implementation and administration, cost sharing, collection of C-PACE assessments and recording of liens.

The Trust's staff (Staff) has researched and vetted program design options in preparation for the launch of its C-PACE program. To that end, Staff has reviewed materials from other jurisdictions, met with national experts, and discussed the program with Maine-based stakeholders. Staff presented an overview of its draft program materials and proposed process workflow during a stakeholder workshop on July 26, 2022. The workshop was open to the public and provided a forum for the Trust to solicit constructive input from a broad range of participants. Staff then reviewed that feedback, fine-tuned its materials, and set about drafting a formal rule.

The general purpose of the proposed rule is to establish elements of a C-PACE program in Maine. As required by statute, the rule enumerates underwriting standards and quality assurance provisions. It also clarifies how the program will be administered. The rule explains the basic procedural and substantive standards and requirements for application, application review, and decisions, and defers treatment of certain operational details to a separate document called the "Program Guidelines".

Fiscal impact of rule:

No change.