

**Annual List of Rule-Making Activity**  
**Rules Adopted January 1, 2016 to December 31, 2016**  
*Prepared by the Secretary of State, pursuant to 5 MRS, §8053-A, sub-§5*

**Agency name:** Maine State Housing Authority  
**Umbrella-Unit:** 99-346  
**Statutory authority:** 30-A MRS §§ 4722(1)(W), 4741(15)  
**Chapter number/title:** Ch. 25, Weatherization Assistance Program Rule  
**Filing number:** 2016-057  
**Effective date:** 4/3/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The replacement rule: i) Delinks the Home Energy Assistance Program (HEAP) weatherization program from the U.S. Department of Energy Weatherization Assistance Program (DOE WAP) requirements. The existing rule applies to both programs. The replacement rule will apply only to DOE WAP; (ii) Refers to revised federal regulations on administrative requirements, cost principles, and auditing requirements and incorporates federal guidance on household income calculations; (iii) Revises procedures for suspending or terminating a subgrantee: a formal hearing process is replaced with an informal review; (iv) Clarifies the fair hearing process for applicants and for debarment of contractors; and (v) Makes other minor technical revisions and updates.

**Basis statement / summary:**

This rule replaces in its entirety the current *Weatherization Program Rule* for the following purposes: to remove the LIHEAP weatherization program from the rule; to refer to revised federal regulations on administrative requirements, cost principles, and auditing requirements and to comport with federal guidance on household income calculations; to revise the procedures for suspending or terminating a subgrantee; to make clarifications to the fair hearing process for applicants and for debarment of contractors; and to make other minor technical revisions and updates.

**Fiscal impact of rule:**

None.

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**Agency name:** **Maine State Housing Authority**  
**Umbrella-Unit:** **99-346**  
**Statutory authority:** 30-A MRS §§ 4741(1),(14); Section 42 of the *Internal Revenue Code of 1986*, as amended  
**Chapter number/title:** **Ch. 16**, Low Income Housing Tax Credit Rule  
**Filing number:** **2016-131**  
**Effective date:** 8/7/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

Maine State Housing Authority, as the housing credit agency for the State of Maine, is required to adopt a qualified allocation plan for allocating and administering federal low-income housing tax credits (sometimes referred to as housing credits), including without limitation the state's housing credit ceiling established pursuant to Section 42 of the *Internal Revenue Code of 1986*, as amended. Ch. 16 of Maine State Housing Authority's rules is the State's qualified allocation plan. The proposed rule will repeal and replace the current Ch. 16 and will be the State's qualified allocation plan for allocating and administering federal low-income housing tax credits, including the State's housing credit ceiling for calendar year 2017.

**Basis statement / summary:**

The *Internal Revenue Code of 1986*, as amended, (the "Code") and the *Maine Housing Authorities Act* require Maine State Housing Authority ("MaineHousing"), as the designated housing credit agency for the State of Maine, to adopt a qualified allocation plan for allocating and administering federal low income housing tax credits ("Credit"), including without limitation the state ceiling of federal low-income housing tax credits allocated to the State of Maine annually (the "State Ceiling").

Ch. 16 of MaineHousing's rules, the *Low Income Housing Tax Credit Rule*, is the State's qualified allocation plan for allocating and administering the Credit. This rule, sometimes referred to herein as the plan, repeals and replaces in its entirety the prior Ch. 16, referred to herein as the prior plan. This rule provides for a one-year qualified allocation plan and includes the scoring criteria for the 2017 State Ceiling.

Cost containment continues to be a priority under this plan. The cost containment selection criteria, including the total development cost (TDC) caps, benchmarks and scoring criteria, in this plan are the same as the prior plan with the some modifications.

**Fiscal impact of rule:**

The State's housing credit ceiling for calendar year 2017 is expected to generate approximately \$29,500,000 of private investor capital. The capital generated by the syndication of the federal low-income housing tax credits will be used to develop affordable housing for low- and very low-income persons in the State of Maine. The rule will not impose any costs on municipalities or counties for implementation or compliance.

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**Umbrella-Unit:** **99-346**  
**Statutory authority:** 30-A MRS §§ 4722(1)(W), 4741(15), 4991 *et seq.*; 42 USCA §§ 8621 *et seq.*  
**Chapter number/title:** **Ch. 24**, Home Energy Assistance Program Rule  
**Filing number:** **2016-132**  
**Effective date:** 8/7/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The replacement rule: (i) expands the timeframe in which applicants with household members who are the age of two, elderly, or subject to hypothermia are prioritized; (ii) allows all applicants to apply by phone; (iii) expands the “permission to share” release; (iv) eliminates language prohibiting program benefits for survivors of a recently deceased primary recipient when all remaining household members are under 18; (v) enhances the program component designed to provide education and help clients reduce their energy burden; (vi) amends the \$.07 discount program to apply only to program-assisted deliveries; (vii) revises policies concerning the timing of returned funds from vendors to conform with new federal guidance; (viii) allows community action agencies to use program dollars for intake and certification staff salaries; (ix) eases requirements around unemployment verification, employee benefit disclosures, changes to applications after initial submission, verifying households with minimum income, and processing applications for children with divorced parents; (x) amends cost limits in the Central Heating Improvement Program (CHIP) from a “per-occurrence” limit to a “program average” limit allowing higher cost solutions such as a system replacement to be fully funded by CHIP; (xi) allows CHIP to pay for replacements of systems previously installed under CHIP when the systems have reached the end of their useful life; (xii) implements an “asset test” for CHIP services; (xiii) inserts language clarifying possible denial of service for CHIP misuse and abuse; and (xiv) amends procurement requirements to be consistent with MaineHousing’s procurement policy.

**Basis statement / summary:**

This replacement rule repeals and replaces in its entirety the current *Home Energy Assistance Program Rule*. The rule establishes standards for administering fuel assistance, emergency fuel assistance, weatherization, and heating system repair and replacement funds to low income households in the State of Maine. The replacement rule: (i) expands the timeframe in which applicants with household members who are the age of two, elderly, or subject to hypothermia are prioritized; (ii) allows all applicants to apply by phone; (iii) expands the “permission to share” release; (iv) eliminates language prohibiting program benefits for survivors of a recently deceased primary recipient when all remaining household members are under 18; (v) enhances the program component designed to provide education and help clients reduce their energy burden; (vi) amends the \$.07 discount program to apply only to program-assisted deliveries; (vii) revises policies concerning the timing of returned funds from vendors to conform with new federal guidance; (viii) allows community action agencies to use program dollars for intake and certification staff salaries; (ix) eases requirements around unemployment verification, employee benefit disclosures, changes to applications after initial submission, verifying households with minimum income, and processing applications for children with divorced parents; (x) amends cost limits in the Central Heating Improvement Program (CHIP) from a “per-occurrence” limit to a “program average” limit allowing higher cost solutions such as a system replacement to be fully funded by CHIP; (xi) allows CHIP to pay for

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replacements of systems previously installed under CHIP when the systems have reached the end of their useful life; (xii) implements an “asset test” for CHIP services; (xiii) inserts language clarifying possible denial of service for CHIP misuse and abuse; and (xiv) amends procurement requirements to be consistent with MaineHousing’s procurement policy.

**Fiscal impact of rule:**

None.

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**Umbrella-Unit:** **99-346**  
**Statutory authority:** 30-A MRS §4741(1); 36 MRS §5219-NN  
**Chapter number/title:** **Ch. 33** *(New)*, Home Modification Tax Credit Rule  
**Filing number:** **2016-213**  
**Effective date:** 12/11/2016  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**  
*(See Basis Statement)*

**Basis statement / summary:**

Under a new law individual taxpayers whose income does not exceed \$55,000 may receive an income tax credit up to \$9,000 for expenses incurred for modifications to make their home accessible to an individual with a disability who lives or will live in the home. This rule sets forth the types of home modification expenditures that qualify for the credit, the building standards applicable to the modifications, and the process MaineHousing will use to determine that a taxpayer's expenditures qualify for the credit.

**Fiscal impact of rule:**  
None.