

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

SECOND REGULAR SESSION
January 3, 2024 to May 10, 2024

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 9, 2024

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2024

Sec. 2. 35-A MRSA §3802, sub-§1-A is enacted to read:

1-A. Beneficial load. "Beneficial load" means:

A. An increase in electric load that is consistent with the principles of beneficial electrification; or

B. The excess electrical capacity within the grid, the use of which is consistent with beneficial electrification and, when feasible, avoids the need for significant investment in or expenditures for additional grid infrastructure.

"Beneficial load" includes electric load that is used to reduce peak demand or shift the demand to lower cost time periods.

Sec. 3. 35-A MRSA §3803, sub-§2, as enacted by PL 2023, c. 328, §1, is amended to read:

2. Plan for promoting beneficial electrification for end uses of energy. The trust shall develop a 3-year beneficial electrification plan for end uses of energy as part of the trust's triennial plan in accordance with section 10104, subsection 4 and provide annual updates to the plan in accordance with section 10104, subsection 6. ~~In developing its beneficial electrification plan for end uses, the trust shall consult with relevant departments and agencies.~~

A. In developing its beneficial electrification plan for end uses that promotes beneficial electrification, the trust shall:

(1) Consult with relevant departments and agencies;

(2) Consider incentivizing the appropriate placement of and promoting commercial or industrial beneficial load; and

(3) Integrate the ongoing energy planning efforts of the office as appropriate.

B. In developing its beneficial electrification plan under this subsection, the trust shall consider:

(1) Incorporating the assumptions and advancing the findings and recommendations of the office in its "Maine Energy Plan: Pathway to 2040" study launched in August 2023, part of the comprehensive state energy plan required by Title 2, section 9, subsection 3, paragraph C;

(2) Whether, in order to enable more efficient generation and transmission planning, a certain type or location of electric load is beneficial load;

(3) Integrating with and informing the commission's consideration of grid planning priorities pursuant to section 3147; and

(4) Seeking input from transmission and distribution utilities and relevant agencies and organizations in the State.

Sec. 4. Efficiency Maine Trust beneficial electrification update. By February 1, 2025, the trust shall provide a written update on its beneficial electrification planning as well as any recommendations, which may include proposed legislation, to improve its planning activities or to advance beneficial electrification, as defined in the Maine Revised Statutes, Title 35-A, section 3802, subsection 1, and siting of beneficial load, as defined in Title 35-A, section 3802, subsection 1-A, to the joint standing committee of the Legislature having jurisdiction over energy matters. The committee may report out a bill related to beneficial electrification or the trust's recommendations to the 132nd Legislature in 2025.

Sec. 5. Appropriations and allocations. The following appropriations and allocations are made.

PUBLIC UTILITIES COMMISSION

Public Utilities - Administrative Division 0184

Initiative: Provides one-time funding for contracted consulting services.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$102,100
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$102,100

See title page for effective date.

CHAPTER 554

H.P. 1138 - L.D. 1775

An Act to Establish a Clean Hydrogen Pilot Program

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 35-A MRSA §123 is enacted to read:

§123. Clean hydrogen pilot program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Clean hydrogen" means hydrogen produced through a process that results in a life-cycle greenhouse gas emissions rate of not greater than 0.45 kilograms of carbon dioxide or carbon dioxide equivalents per kilogram of hydrogen generated, as determined by the commission in accordance with the applicable requirements of the federal act and IRS production tax credit regulations.

B. "Federal act" means the Inflation Reduction Act of 2022, Public Law 117-169, 136 Stat. 1818.

C. "IRS production tax credit regulations" means regulations of the federal Internal Revenue Service adopted pursuant to the provisions of the federal act that govern clean hydrogen production tax credits.

D. "Pilot program" or "program" means the clean hydrogen program established pursuant to this section.

E. "Qualifying facility" means a facility that produces clean hydrogen and:

- (1) Is located in the State;
- (2) Meets applicable requirements for a federal clean hydrogen production tax credit under the federal act and IRS production tax credit regulations; and
- (3) Has a peak electricity demand of no more than 20 megawatts.

2. Pilot program. The commission, in collaboration with the Governor’s Energy Office and the Department of Environmental Protection, shall establish a pilot program in accordance with this section. The pilot program must be designed to allow the commission to select a proposal for a qualifying facility that meets the requirements of this section. The commission shall administer the program in accordance with this section and shall ensure that such administration is in the public interest and:

- A. Accounts for and is designed to advance the renewable energy and climate policies and goals of the State;
- B. Minimizes potential negative environmental and community effects;
- C. Maximizes air quality, health and workforce benefits; and
- D. Encourages high standards of safety performance.

3. Program requirements; qualifying facility. By December 31, 2025, the commission shall issue a request for proposals for the development and operation of a qualifying facility. The proposal selected for the program must:

- A. Identify, for the clean hydrogen produced by the qualifying facility, an offtake facility that is an end user located in the State that serves the industrial or transportation sector in the State;
- B. Demonstrate that the use of the clean hydrogen by the offtake facility pursuant to paragraph A will reduce the offtake facility’s greenhouse gas emissions;
- C. Demonstrate that the owner or operator of the qualifying facility:

(1) Has control over the site where the qualifying facility is to be located; and

(2) Has technical and financial capacity to develop, operate and decommission the qualifying facility;

D. Demonstrate construction and operations safety performance history relating to hydrogen and non-hydrogen aspects of the qualifying facility and identify an individual who will be responsible for the qualifying facility’s safety program;

E. Describe how the qualifying facility will minimize potential negative environmental and community effects of its development and operation;

F. Describe how the qualifying facility will maximize workforce benefits as well as air quality and health; and

G. Provide a business development and management plan that describes:

- (1) The scope of the project to develop the qualifying facility, including anticipated hydrogen production volumes;
- (2) Development timelines for the qualifying facility, including permitting milestones;
- (3) Feedstocks to be used;
- (4) End uses for the clean hydrogen produced by the qualifying facility;
- (5) The impact of a special contract that may be approved in accordance with subsection 5;
- (6) Anticipated funding from public and private sources; and
- (7) How the qualifying facility will align with the State’s renewable energy and climate policies and goals.

4. Proposal selection. If the commission, after consultation with the Governor’s Energy Office and the Department of Environmental Protection, finds that a proposal for the development and operation of a qualifying facility meets the requirements of this section, the commission may select that qualifying facility for participation in the program.

If more than one proposal for the development and operation of a qualifying facility meets the requirements of this section, the commission shall give preference to the proposal that provides the greatest benefit to rate-payers and is likely to result in the greatest reduction in greenhouse gas emissions.

The commission shall, to the extent practicable, make a determination of whether to select a proposal under this subsection and provide notice of its decision to all facilities that submitted proposals to participate in the program within 120 days of the closing of the request for proposal process.

The commission may not select more than one proposal for participation in the pilot program.

5. Special contract selection. After selecting a qualifying facility for participation in the program under subsection 4, the commission shall direct the transmission and distribution utility in whose territory the qualifying facility is located to negotiate with that qualifying facility for a special contract that the commission may approve in accordance with section 703, subsection 3-A and as provided in this subsection. The commission may approve a special contract between the selected qualifying facility and the transmission and distribution utility in whose territory the proposed facility is located if the commission determines that the contract for service is necessary to make the development of the qualifying facility viable and cost-effective. The commission may approve a special contract for no more than 20 megawatts of electricity pursuant to this subsection.

6. Wage requirements. The owner or operator of a qualifying facility selected for the program pursuant to subsection 4 shall ensure that all persons engaged in the construction, alteration or repair of the qualifying facility, including all employees, contractors and subcontractors, are paid wages that are not less than the prevailing hourly wage for work of a similar character in the locality in which the qualifying facility is located as most recently determined by the Department of Labor, Bureau of Labor Standards in accordance with Title 26, section 1308 and in compliance with applicable requirements of the federal act and IRS production tax credit regulations.

7. Production requirements; special contract termination. If the commission determines that the qualifying facility selected for the program pursuant to subsection 4 is not meeting the anticipated clean hydrogen production volumes provided in its business development and management plan under subsection 3, paragraph G, the commission may order the transmission and distribution utility to terminate the special contract approved pursuant to subsection 5.

8. Rules. The commission may adopt rules to implement this section. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 555
S.P. 867 - L.D. 2039

**An Act to Amend the Law
Regarding the Board of the
Finance Authority of Maine to
Allow for the Addition of a
Proxy Designee**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 10 MRSA §965, sub-§4, ¶B, as amended by PL 1985, c. 344, §12 and PL 2011, c. 657, Pt. W, §5, is further amended to read:

B. One natural resources commissioner designated by the Governor from either the Department of Agriculture, Conservation and Forestry or the Department of Marine Resources, or that commissioner's designee; and

See title page for effective date.

CHAPTER 556
H.P. 1326 - L.D. 2064

**An Act to Amend the Laws
Regarding Certain Advisory
Councils and Boards Related to
the Department of Marine
Resources**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 12 MRSA §6024, sub-§1-A, as amended by PL 2023, c. 207, §4, is further amended to read:

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of 17 members. The chair of the Lobster Advisory Council, the chair of the Sea Urchin Zone Council ~~and~~, the chair of the Shellfish Advisory Council ~~and~~ the chair of the Aquaculture Advisory Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources matters and to confirmation by the Legislature. Five members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 5 members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that none of those 5 members may represent lobster harvesters. The remaining ~~9~~ 8 members must include one member who