

06-096

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*Including 90-564, Clean-Up and Response Fund Review Board  
and 06-481, Board of Underground Storage Tank Installers  
2022 – 2023 Regulatory Agenda  
October 1, 2022, to September 30, 2023*

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**RULEMAKING LIAISON:** Mark Margerum, Office of the Commissioner, Maine DEP, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7842. Email: [Mark.T.Margerum@Maine.gov](mailto:Mark.T.Margerum@Maine.gov)

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**EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA:** None

**EXPECTED 2022-2023 RULEMAKING ACTIVITY:**

**CHAPTER 2: Rules Concerning the Processing of Applications**

STATUTORY BASIS: 38 M.R.S. §341-H

PURPOSE: The existing rule will be amended as needed to ensure procedural equity and maintain consistency with the Maine Administrative Procedure Act and statutory requirement.

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Parties filing applications and members of the public participating in Department review of pending applications, and persons filing appeals for consideration by the Board.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 40: Conduct of Enforcement Hearings**

STATUTORY BASIS: 38 M.R.S. §341-H and 347-A

PURPOSE: The existing rule will be amended as needed to ensure procedural equity and maintain consistency with the Maine Administrative Procedure Act and statutory requirement.

ANTICIPATED SCHEDULE: As needed basis

AFFECTED PARTIES: Parties participating in enforcement hearings before the Department.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 80: Reduction of Toxics in Packaging**

STATUTORY BASIS: 32 MRS § 1733, 1737

PURPOSE: The existing rule will be amended to address phthalates and PFAS in food packaging in accordance with statutory changes.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Manufacturers and distributors of packing materials.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 90: PFAS in Product Reporting Rule**

STATUTORY BASIS: P.L. 2021, Chapter 477, 38 MRS § 1612

PURPOSE: This new rule will implement recent legislation to collect information regarding the use of PFAS in products.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Manufacturers and distributors of products containing PFAS.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 101: Visible Emission Regulation**

STATUTORY BASIS: 38 MRS §585

PURPOSE: The existing rule regarding visible emissions will be updated to address federal requirements for startup, shutdown, and malfunction emissions.

ANTICIPATED SCHEDULE: Winter 2022/Spring 2023

AFFECTED PARTIES: Licensed and unlicensed sources of air emissions

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 102: Open Burning**

STATUTORY BASIS: 38 MRS §585-A

PURPOSE: The existing rule regarding open burning will be updated to clarify permissible open burning activities including fire safety training exercises.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Parties who engage in open burning activities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 106: Low Sulfur Fuel**

STATUTORY BASIS: 38 MRS §§ 585 and 585-A

PURPOSE: The existing rule regarding the sulfur content of fossil fuels will be amended to eliminate obsolete regulatory requirements.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: Parties who distribute, import, offer for sale, or blend fossil fuels in Maine and certain fuel burning sources.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 116: Prohibited Dispersion Techniques**

STATUTORY BASIS: 38 MRS §§ 585-A and 590

PURPOSE: The existing rule will be amended to update and clarify requirements and revise the definition of “production area” to be consistent with current EPA policy.

ANTICIPATED SCHEDULE: Winter 2023

AFFECTED PARTIES: Applicants for new and amended air emission licenses.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 118: Gasoline Dispensing Facilities Vapor Control**

STATUTORY BASIS: 38 MRS §§ 585 and 585-A

PURPOSE: The existing rule will be amended to update and clarify compliance requirements and eliminate Stage II vapor control requirements repealed by statute.

ANTICIPATED SCHEDULE: Winter 2023

AFFECTED PARTIES: Owners and operators of gasoline dispensing facilities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 119: Motor Vehicle Fuel Volatility Limit**

STATUTORY BASIS: 38 MRS §§ 585, 585-A, and 585-C

PURPOSE: The existing rule will be amended to update and clarify compliance requirements and eliminate reformulated gasoline requirements repealed by statute.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Owners and operators of bulk gasoline terminals and persons delivering gasoline directly to a gasoline service station or a bulk gasoline plant.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 143: New Source Performance Standards**

STATUTORY BASIS: 38 MRS §§ 590, 585-A, and 585-B

PURPOSE: The existing rule regarding the New Source Performance Standards for air emissions will be amended as necessary to incorporate recent updates to federal new source performance standards for which Maine has already accepted delegation.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Applicants for air emissions permits.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 144: National Emission Standards for Hazardous Air Pollutants**

STATUTORY BASIS: 38 MRS §§ 590, 585-A, and 585-B

PURPOSE: The existing rule regarding emissions standards for hazardous air pollutants will be amended as necessary to incorporate recent updates to National Emission Standards for Hazardous Air Pollutants regulations for which Maine has previously accepted delegation.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Applicants for air emissions permits.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 145: NO<sub>x</sub> Control Program**

STATUTORY BASIS: 38 MRS § 585-A

PURPOSE: The existing rule will be amended to clarify applicability for facilities that are not located in the Ozone Transport Region.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Owners or operators of fossil fuel fired electric generating units, resource recovery units or fossil fuel fired indirect heat exchanger or primary boilers with a heat input greater than 250 million British Thermal Units (Btu) per hour

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 149: General Permit for Nonmetallic Mineral Processing Plants**

STATUTORY BASIS: 38 MRS §§ 585 and 585-A

PURPOSE: The existing rule regarding portable nonmetallic mineral processing plants will be amended to clarify regulatory requirements, better address particulate emissions, and provide greater consistency between Chapter 115 air emission licenses and Chapter 149 general permits for these sources.

ANTICIPATED SCHEDULE: Winter 2023

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 155: Control of Emissions from Fumigation Operations**

STATUTORY BASIS: 38 MRS §585-B

PURPOSE: This new rule will establish emission control requirements for hazardous air pollutant and toxic air pollutant emissions from bulk, chamber, and container fumigation operations.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: Owners and operators of agricultural and forestry products fumigation operations.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 164: General Permit for Concrete Batch Plants**

STATUTORY BASIS: 38 MRS §585-A

PURPOSE: The existing rule will be amended to provide greater consistency between Chapter 115 air emission licenses and Chapter 164 general permits for these sources.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: Owners and operators of concrete batch plants.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 167: Tracking and reporting Gross and Annual Greenhouse Gas Emissions**

STATUTORY BASIS: 38 MRS §585-A

PURPOSE: The existing rule will be amended to update incorporated by reference greenhouse gas emissions measuring and estimation methodologies used in calculating annual greenhouse gas emissions for the State.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: This rule defines how the Department collects and aggregates GHG emissions data from all sources in the State.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **CHAPTER 305: Natural Resources Protection Act - Permit by Rule Standards**

STATUTORY BASIS: 38 MRS §344(7), 480-E(14), and P.L. 2021, Chapter 186 §5

PURPOSE: The existing rule will be updated as necessary, including but not limited to road crossing standards, emergency exemptions for certain improvements, seaweed removal from beaches, utilization of the latest information in NOAA tables, simplify the standards for public boat launches, and address minor expansions on sand dunes.

ANTICIPATED SCHEDULE: Fall 2022, Spring 2023

AFFECTED PARTIES: Applicants for permits under the Permit-by-Rule program.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **Chapter 335: Significant Wildlife Rules**

STATUTORY BASIS: 38 MRS §341-H

PURPOSE: The existing rule will be updated as necessary to ensure consistency with state statutory requirements.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: Applicants for permits involving Significant Wildlife Habitat.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

#### **Chapter 381: Solar Project Permit by Rule Standards**

STATUTORY BASIS: 38 MRS §344(7)

PURPOSE: This new rule will be proposed to create a permit-by-rule program for some solar projects.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: Applicants for permits for new solar projects.  
CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 401: Solid Waste Management Rules: Landfill Siting, Design and Operation**

STATUTORY BASIS: 38 MRS §§ 341-H and 1304(1 & 1-B)

PURPOSE: The prohibitive siting criteria of the existing rule for construction/demolition debris; land clearing debris; and wood waste landfills that are less than 6 acres will be amended to allow the importation of soil to achieve the required separation thickness for existing landfills.

SCHEDULE: Fall 2022

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 411: Solid Waste Management Rules: Non-Hazardous Waste Transporter Licenses**

STATUTORY BASIS: 38 MRS §1304(1-A)

PURPOSE: The existing rule regarding licenses to transport solid waste, special waste or septage will be amended to incorporate updated licensing procedures and standards.

ANTICIPATED SCHEDULE: Fall 2023

AFFECTED PARTIES: Transporters of solid waste special waste and septage, and owners and operators of licensed solid waste facilities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 415: E-Waste**

STATUTORY BASIS: 38 MRS §1610

PURPOSE: The existing rule will be amended to clarify and update the operation of the e-waste handling and recycling program.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: E-waste consolidators facility operators, and municipalities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 418: Beneficial Use of Solid Wastes**

STATUTORY BASIS: 38 M.R.S. §§ 341-H, and 1304

PURPOSE: The existing rule will be updated to incorporate additional PFAS in appendix A, and to update other screening levels as needed.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: Producers or processors of solid waste potentially containing PFAS.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 426: Responsibilities Under the Returnable Beverage Container Law**

STATUTORY BASIS: 38 M.R.S. § 3115

PURPOSE: The existing rule will be amended to clarify and update requirements of the Beverage Container Redemption program.

ANTICIPATED SCHEDULE: Winter 2023

AFFECTED PARTIES: Manufacturers, distributors, and retailers of beverages, pick-up agents for manufacturers and other initiators of deposit, and owners and operators of bottle redemption centers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 427: Pharmaceutical Collection and Disposal Program**

STATUTORY BASIS: 38 M.R.S. § 1612

PURPOSE: A new rule will be established to clarify cost allocation between pharmaceutical stewardship organizations, and to clarify that drug compounders are “manufacturers”.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Pharmaceutical manufacturers, drug compounders, and pharmaceutical stewardship organizations.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**Chapter 500: Stormwater Management**

STATUTORY BASIS: 38 MRS §§ 341-H, 413, 420-D, 484

PURPOSE: The existing rule will be updated as necessary to address climate adaptation and resiliency issues.

ANTICIPATED SCHEDULE: Fall 2022 – Spring 2023

AFFECTED PARTIES: Applicants for permits involving stormwater impacts.

CONSENSUS-BASED RULE DEVELOPMENT: Yes

**CHAPTERS 520-529: Waste Discharge Permitting Program Rules**

STATUTORY BASIS: 38 MRS §§ 341-H, 413

PURPOSE: The existing rules will be amended as necessary to incorporate current requirements under the US EPA’s National Pollutant Discharge Elimination System (NPDES) rules.

ANTICIPATED SCHEDULE: Winter 2023

AFFECTED PARTIES: Licensed waste dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 531: Regulations for Wastewater Operator Certification**

STATUTORY BASIS: 38 MRS §§ 341-H and 32 MRS §4179

PURPOSE: The existing rule will be amended to update various provisions of the operator training and certification requirements.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Certified wastewater operators and treatment plants.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**Chapter 533: Operations, Maintenance and Asset Management Rule**

STATUTORY BASIS: 38 MRS 414-B(5)

PURPOSE: This new rule will establish a framework for licensed treatment works to adopt operations, maintenance, and asset management plans.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Licensed wastewater dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTERS 579: Biological Criteria Rules**

STATUTORY BASIS: 38 MRS §§ 341-H and 464(5)

PURPOSE: The existing rule will be amended to incorporate additional numeric aquatic life criteria for fresh surface waters based on macroinvertebrate and algal communities.

ANTICIPATED SCHEDULE: Winter 2022-Spring 2023

AFFECTED PARTIES: Licensed wastewater dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**Chapter 582: Regulations Relating to Temperature**

STATUTORY BASIS: 38 MRS §§ 341-H and 464(5)

PURPOSE: The existing rule will be amended to clarify language related to marine temperature standards.

ANTICIPATED SCHEDULE: Summer 2023

AFFECTED PARTIES: Licensed wastewater dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 583: Freshwater Nutrient Criteria Rule**

STATUTORY BASIS: 38 MRS §§ 341-H and 464(5)

PURPOSE: This proposed new rule will provide standards for identifying and managing waterbodies impaired by nutrient enrichment by establishing numeric criteria for phosphorus and describing a decision framework for determining whether a waterbody has impaired water quality standards and if so, whether nutrients caused the impairment.

ANTICIPATED SCHEDULE: Spring 2023

AFFECTED PARTIES: Licensed waste dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 584: Surface Water Quality Criteria for Toxic Pollutants**

STATUTORY BASIS: 38 MRS §§ 341-H and 420

PURPOSE: The existing rule will be amended to ensure consistency with national water quality criteria promulgated by the Environmental Protection Agency and to adopt ambient water quality criteria for aluminum and ammonia.

ANTICIPATED SCHEDULE: Summer 2023

AFFECTED PARTIES: Licensed wastewater dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**Chapter 588: Mixing Zone Rule**

STATUTORY BASIS: 38 MRS 461

PURPOSE: This new rule will describe methodologies for identifying mixing zones.

ANTICIPATED SCHEDULE: Summer 2023

AFFECTED PARTIES: Licensed wastewater dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**Chapter 589: Marine and Estuarine Nutrient Rule**

STATUTORY BASIS: 38 MRS §§ 341-H and 464(5)

PURPOSE: This proposed new rule will establish numeric criteria for nitrogen in marine and estuarine waters.

ANTICIPATED SCHEDULE: Winter 2023

AFFECTED PARTIES: Licensed wastewater dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 600: Oil Discharge Prevention and Pollution Control Rules for Marine Oil Terminal Facilities, Transportation Pipelines and Vessels**

STATUTORY BASIS: 38 MRS §§541 *et seq.*

PURPOSE: The existing rule will be updated to improve clarity and ensure consistency with statutory amendments.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Licensed Marine Oil Terminal Facilities, Maine Energy Marketers Association; Municipal Officials, City of South Portland; Local citizens.

CONSENSUS BASED RULE DEVELOPMENT: N/A

**CHAPTER 860: Waste Oil Management Rules**

STATUTORY BASIS: 38 MRS §§ 1301 *et seq.*

PURPOSE: The existing rule will be revised to improve clarity and consistency with federal rules.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Facilities that generate, store, collect, transport, treat or sell waste oil.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 877: Residential Upholstered Furniture Rule**

STATUTORY BASIS: 38 MRS §§ 1609-A

PURPOSE: This new rule will provide implementation guidance for the statutory prohibition on the sale or distribution of upholstered furniture containing in its fabric or other covering or in its cushioning materials more than 0.1% of a flame-retardant chemical or more than 0.1% of a mixture that includes flame-retardant chemicals.

ANTICIPATED SCHEDULE: Winter 2023

AFFECTED PARTIES: Manufacturers and distributors of residential upholstered furniture containing flame retardants.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 891: Designation of a Chemical of High Concern as a Priority Chemical**

STATUTORY BASIS: 38 MRS §1694

PURPOSE: This new rule will designate a chemical of high concern as a priority chemical and require reporting for certain product categories that contain one or more of the regulated chemicals.

ANTICIPATED SCHEDULE: 2023

AFFECTED PARTIES: Manufacturers and distributors of products containing the chemical of high concern.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 900: Biomedical Waste Management Rules**

STATUTORY BASIS: 38 MRS §§ 341-H, 1303-C(34)(K) and 1319-0(3)

PURPOSE: The existing rule will be amended to update and clarify standards, requirements, and licensing/registration procedures for biomedical waste facilities.

SCHEDULE: Summer 2023



AFFECTED PARTIES: Owners and operators of licensed facilities, and entities/persons generating or handling biomedical waste.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**CHAPTER 1000: Guidelines for Municipal Shoreland Zoning Ordinances**

STATUTORY BASIS: 38 MRS §438-A(1)

PURPOSE: The existing rule will be amended to clarify the existing guidelines regarding float haul-outs and to make other miscellaneous technical updates and corrections.

SCHEDULE: Spring 2023

AFFECTED PARTIES: Municipalities and applicants for piers and accompanying float haul-outs.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

**VARIOUS CHAPTERS: Repeal of State-imposed Shoreland Zoning Ordinance for Specified Towns**

STATUTORY BASIS: 38 M.R.S. §438-A(4).

PURPOSE: The existing State-imposed Shoreland Zoning Ordinances for towns that have subsequently adopted ordinances in compliance with State requirements will be proposed to be repealed.

ANTICIPATED SCHEDULE: As necessary.

AFFECTED PARTIES: Shoreland property owners, municipal officials.

CONSENSUS BASED RULE DEVELOPMENT: N/A

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AGENCY UMBRELLA-UNIT NUMBER: **06-481**

AGENCY NAME: **Board of Underground Storage Tank Installers**

**CONTACT PERSON FOR FOLLOWING CHAPTERS:** Mark Margerum, Office of the Commissioner, Maine D.E.P., 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7842. E-mail: [Mark.T.Margerum@Maine.gov](mailto:Mark.T.Margerum@Maine.gov)

**EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA:** None

**EXPECTED 2022-2023 RULEMAKING ACTIVITY:**

The Board of Underground Storage Tank Installers is not proposing any rulemaking at this time.

AGENCY UMBRELLA-UNIT NUMBER: **90-564**

AGENCY NAME: **Clean-Up and Response Fund Review Board**

**CONTACT PERSON FOR FOLLOWING CHAPTERS:** Mark Margerum, Office of the Commissioner, Maine D.E.P., 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7842. E-mail: [Mark.T.Margerum@Maine.gov](mailto:Mark.T.Margerum@Maine.gov)

**EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA:** None

**EXPECTED 2022-2023 RULEMAKING ACTIVITY:**

The Clean-Up and Response Fund Review Board is not proposing any rulemaking at this time.