**06**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

2016 – 2017

Regulatory Agenda

August 8, 2016

**LIAISON FOR AGENCY RULE-MAKING: Jeffrey Crawford,** Office of the Commissioner, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7647. E-mail: Jeff.S.Crawford@Maine.gov .

**CONTACT PERSON FOR FOLLOWING CHAPTERS**: Marc Cone, Bureau of Air Quality, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-1932

**CHAPTER 100:** Definitions Regulation

STATUTORY BASIS: 38 M.R.S. §585-A.

PURPOSE: This existing rule will be amended to add several compounds to the list of compounds excluded from the definition of volatile organic compound (VOC) on the basis of their negligible contribution to ground level ozone formation.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Manufacturers and distributors of coatings and other products using exempt compounds.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 100:** Definitions Regulation

STATUTORY BASIS: 38 M.R.S. §585-A.

PURPOSE: This existing rule will be amended to incorporate additional federal greenhouse gas (Tailoring Rule) requirements and federal new source review (NSR) requirements for particulate matter.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: These administrative changes will not have a direct impact on the regulated community or the environment.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 101:** Visible Emissions Regulation

STATUTORY BASIS: 38 M.R.S. §585.

PURPOSE: Incorporate federal requirements for startups, shutdowns and malfunctions.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Major and minor sources of air emissions.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 110:** Ambient Air Quality Standards

STATUTORY BASIS: 38 M.R.S. §585-A

PURPOSE: Incorporate updated National Ambient Air Quality Standards (NAAQS).

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Major and minor sources of air emissions.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 113:** Growth Offset Regulation

STATUTORY BASIS: 38 M.R.S. §585-A.

PURPOSE: The existing rule will be amended to further clarify the process for offset generation when a facility closes, or shuts down. The proposed amendments will also simplify the offset substitution process.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: General public and regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 115:** Major and Minor Source Air Emission License Regulations

STATUTORY BASIS: 38 M.R.S. §§ 585, 585-A and 590.

PURPOSE: This existing rule will be amended to incorporate new federal new source review (NSR) requirements for PM2.5.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 134:** Reasonably Available Control Technology for Facilities That Emit Volatile Organic Compounds

STATUTORY BASIS: 38 M.R.S. §585-A.

PURPOSE: This rule may need to be amended to reflect Maine’s partial opt-out of OTC requirements.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Major sources of volatile organic compounds.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 140:** Part 70 Air Emission License Regulations

STATUTORY BASIS: 38 M.R.S. §§ 585, 585-A and 590.

PURPOSE: This existing rule will be amended to incorporate new federal new source review (NSR) requirements for PM2.5.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 150:** Control of Emissions from Outdoor Wood Boilers

STATUTORY BASIS: 38 M.R.S. **§**§ 585-A and 610-B; P.L. 2007 c. 442.

PURPOSE: The existing rule will be amended to reflect new federal standards for wood burning appliances.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 156:** CO2 Budget Trading Program

STATUTORY BASIS: 38 M.R.S. **§**§ 580, 580-A, 580-B. 580-C and 38 M.R.S. §585-A.

PURPOSE: The existing rule may be amended to implement the federal Clean Power Plan program in Maine.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Owners and operators of sources participating in the Regional Greenhouse Gas Initiative CO2 budget trading program and sources subject to the federal Clean Power Plan.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 158:** CO2 Budget Trading Program Auction Provisions

STATUTORY BASIS: 38 M.R.S. **§**§ 580, 580-A, 580-B. 580-C and 38 M.R.S. §585-A.

PURPOSE: The existing rule may be amended to implement the federal Clean Power Plan program in Maine.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Owners and operators of sources participating in the Regional Greenhouse Gas Initiative CO2 budget trading program and sources subject to the federal Clean Power Plan.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR FOLLOWING CHAPTERS:** Mark Bergeron, Bureau of Land Resources, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 215-4397.

**CHAPTER 200:** Metallic Mineral Exploration, Advanced Exploration and Mining

STATUTORY BASIS: 38 M.R.S §490-NN(1)(B), P. L.2011, ch. 853

PURPOSE: This rule is being proposed to implement the Maine Metallic Mineral Mining Act, 38 M.R.S. Section 490-LL *et seq*., and will repeal and replace the existing Chapter 200 Metallic Mineral Exploration, Advanced Exploration and Mining rule.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Owners and operators of metallic mineral mining operations and the general public.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 305:** Permit by Rule Standards

STATUTORY BASIS: 38 M.R.S. §§ 341-D and 480(H).

PURPOSE: This existing rule will be amended to address any updates as needed.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 378:** Variance Criteria for the Excavation of Rock, Topsoil, Clay or Silt and Performance Standards for the Storage of Petroleum Products

STATUTORY BASIS: 38 M.R.S. §§ 341-D and 490-E).

PURPOSE: This existing rule will be amended to update petroleum storage standards and correct statutory citations.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Owners and operators of rock, topsoil, clay and silt excavation sites.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 382**: Review of Wind Power Projects under the Wind Energy Act

STATUTORY BASIS: 38 M.R.S. §§ 341-D, 481 *et seq*., 35-A M.R.S. Chapter 34, and P.L. 2007, ch. 661(E-2).

PURPOSE: This rule will provide further guidance by clarifying and explaining the current review process and standards for wind energy projects under the Wind Energy Act (WEA).

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR THE FOLLOWING CHAPTERS:** Tina Zabierek, Acting Policy Director, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-5219.

**CHAPTER 409:** Solid Waste Management Rules: Processing Facilities

STATUTORY BASIS: 38 M.R.S. §1304(1 and 1-B).

PURPOSE: The existing rule will be amended to incorporate standards for landspreading and biopile treatment of petroleum contaminated soil and the use of mobile processing equipment.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Solid waste facility operators and persons involved in the remediation of petroleum spills and contaminated soils.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 38 M.R.S. §1304(1 and 1-B).

PURPOSE: The existing rule will be amended to incorporate updated licensing procedures.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Transporters of solid waste, special waste or septage in the State of Maine.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 418:** Solid Waste Management Rules: Beneficial Use of Solid Wastes

STATUTORY BASIS: 38 M.R.S. §1304(1, 1-B and 13).

PURPOSE: The existing rule will be amended to include standards for the offsite use of petroleum contaminated soils and to update certain other standards related to the beneficial use of solid wastes.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Persons who generate, process and/or beneficially use solid wastes, including petroleum contaminated soils.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 420:** Solid Waste Management Rules: Septage Management Rules

STATUTORY BASIS: 38 M.R.S. §1304(1).

PURPOSE: These rules will be updated to reflect current best practices.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Persons engaged in the land application and storage of septage and municipal septage management compliance permitting.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 424:** Lead Management Regulations

STATUTORY BASIS: 38 M.R.S. §1295.

PURPOSE: The existing rule will be amended to update certain work practice standards to current standards of professional practice.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Lead abatement professionals.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR FOLLOWING CHAPTERS:** Mark Bergeron, Bureau of Land Resources, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 215-4397.

**CHAPTER 426:** Solid Waste Management Rules: Responsibilities of Manufacturers, Distributors, Dealers, Initiators of Deposit, Contracted Agents and Redemption Centers Under the Returnable Beverage Container Law

STATUTORY BASIS: 32 M.R.S. §§ 1866 (5), 1871-A, and 1871-C.

PURPOSE: Transfer the returnable beverage container program (Bottle Bill), to Department of Environmental Protection.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Distributors and retailers of beverages in returnable containers.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

CHAPTER 450: Administrative Regulations for Hydropower Projects

STATUTORY BASIS: 38 M.R.S. §630 *et seq*., 12 M.R.S. §401 *et seq*. and 12 M.R.S. §681 *et seq*.

PURPOSE: The existing rule is being updated to provide consistency with the authorizing statutes and the Department’s Chapter 2 Rules Concerning the Processing of Applications and Other Administrative Matters, and include requirements associated with tidal or wave action.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Owners and operators of new and existing hydropower projects.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

CHAPTER 451: Impoundment Water Quality Standards for Hydropower Projects

STATUTORY BASIS: 38 M.R.S. §630 *et seq*., 12 M.R.S. §401 *et seq*. and 12 M.R.S. §681 *et seq*.

PURPOSE: This new rule will establish water quality criteria for hydropower storage dam impoundments.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Owners and operators of new and existing hydropower projects.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable

**CHAPTER 502:** Direct Watersheds of Water Bodies Most at Risk from New Development

STATUTORY BASIS: 38 M.R.S. §§ 341-D, 420-D, and 484.

PURPOSE: The existing rule will be amended to address issues relating to standards for redevelopment and best management practices, and update the lists of most impaired lakes and urban impaired streams based on the most current data.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Land developers and businesses.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR FOLLOWING CHAPTERS:** Michael Kuhns, Bureau of Land and Water Quality, 17 State House Station, Augusta, ME 04333-0017. Telephone: 207.287.2827.

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

STATUTORY BASIS: 38 M.R.S. §413.

PURPOSE: The existing rules will be amended to incorporate changes in federal law.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Licensed Waste Dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 594:** State Contribution to Overboard Discharge Replacement Projects
STATUTORY BASIS: 38 M.R.S.A. §411-A.
PURPOSE: This existing rule will be revised to update reimbursement criteria for overboard discharge (OBD) replacement projects funded by state grants.

ANTICIPATED SCHEDULE: 2017.
AFFECTED PARTIES: Owners of overboard discharge units.
CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 596:** Overboard Discharges: Licensing and Abandonment
STATUTORY BASIS: 38 M.R.S.A. §§ 413(3), 414(3-A), 414-A(1)(B), 464(4)(A), 464(4)(G), 464(7), 464(8)
PURPOSE: This existing rule will be revised to include financial criteria for overboard discharge (OBD) replacement projects conducted at the expense of the OBD owner.

ANTICIPATED SCHEDULE: 2017.
AFFECTED PARTIES: Owners of overboard discharge units.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR THE FOLLOWING CHAPTERS:** Tina Zabierek, Acting Policy Director, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-5219.

**CHAPTER 691:** Rules for Underground Oil Storage Facilities

STATUTORY BASIS: 38 M.R.S. §§ 341-H and 561 *et seq*.

PURPOSE: The existing rule will be amended to reflect statutory changes pursuant to PL2015 Chapter 319 and incorporate requirements of federal rules regarding registration, installation, operation, monitoring, testing and removal of underground storage facilities as applicable.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Underground petroleum storage tank owners, operators, and Maine certified oil storage inspectors and installers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 692:** Siting of Oil Storage Facilities

STATUTORY BASIS: 38 M.R.S. §341-H and P.L. 2007, ch. 569 §7.

PURPOSE: The existing rule will be amended to prohibit the siting new oil storage facilities on high yield aquifers.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Aboveground oil storage facility owners and operators and installers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 700:** Siting of Facilities that Pose a Significant Threat to Drinking Water

STATUTORY BASIS: §341-D(1-B); PL 2001, c. 302, §3 and PL 2007, c. 569, §7

PURPOSE: The existing rule will be amended to prohibit the siting of facilities posing a significant threat to groundwater on high yield aquifers.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Aboveground oil storage facility owners and operators and installers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 850:** Identification of Hazardous Wastes

STATUTORY BASIS: 38 M.R.S. §1301 *et seq*.

PURPOSE: Revise state regulation to incorporate requirements of federal rule regarding management of solvent contaminated wipers as applicable.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Generators of wipers contaminated by hazardous waste.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 852:** Land Disposal Restrictions

STATUTORY BASIS: 38 M.R.S. §1301 *et seq*.

PURPOSE: Revise state regulation to incorporate requirements of federal rule regarding land disposal restrictions as applicable.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Generators of hazardous waste.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 853:** Licensing of Transporters of Hazardous Wastes

STATUTORY BASIS: 38 M.R.S. §1301 *et seq*.

PURPOSE: The existing rule will be amended to incorporate updated licensing procedures.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Transporters of hazardous waste.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 858:** Universal Waste Rules

STATUTORY BASIS: 38 M.R.S. §§ 1319-O (1) and 2144.

PURPOSE: Revise requirements for post-consumer paint to align with PL2015 Chapter 331.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Hazardous waste generators.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 860:** Waste Oil Management Rules

STATUTORY BASIS: 38 M.R.S. §§ 343-A, 361, 481-488, 541-557, and 1301, *et seq*.

PURPOSE: Update oil management requirements for waste oil dealers and transporters.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Waste oil dealers and transporters.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CONTACT PERSON FOR FOLLOWING CHAPTER:** Tina Zabierek, Acting Policy Director, Office of the Commissioner, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-5219.

**CHAPTER 889:** Designation of Two Flame Retardants as Priority Chemicals

STATUTORY BASIS: 38 M.R.S. §1694.

PURPOSE: The proposed rule will designate two chemicals of high concern (decabromodiphenyl ether and hexabromocyclododecane) as priority chemicals and require reporting for certain product categories that contain one or more of the regulated chemicals.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Manufacturers and distributors of products containing these fire retardants.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 890:** Designation of a Chemical of High Concern as a Priority Chemical

STATUTORY BASIS: 38 M.R.S. §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: 2017.

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

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR THE FOLLOWING CHAPTER:** Tina Zabierek, Acting Policy Director, Office of the Commissioner, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-5219.

**CHAPTER 900:** Biomedical Waste Management Rules

STATUTORY BASIS: 38 M.R.S. §§ 341-D(1-B), 1303-C(34)(K) and 1319-0(3)

PURPOSE: Update biomedical waste management requirements for transporters and owners or operators of transfer facilities and treatment facilities.

ANTICIPATED SCHEDULE: 2017.

AFFECTED PARTIES: Transporters and owners/operators of biomedical waste facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

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

**CONTACT PERSON FOR FOLLOWING CHAPTERS:** Tina Zabierek, Acting Policy Director, Office of the Commissioner, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-5219.

**CHAPTER 3:** Appeals Procedure

STATUTORY BASIS: 38 M.R.S. §§ 568-A(3-A) and 568-B(1).

PURPOSE: The existing rule will be amended to reflect statutory changes pursuant to PL2015 Chapter 319.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Applicants for certification as underground storage tank installers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 4:** Oil Import Fees

STATUTORY BASIS: 38 M.R.S. §§ 568-B(2)(D) and 569-A(5)(E).

PURPOSE: The existing rule will be amended to reflect statutory changes pursuant to PL2015 Chapter 319.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Applicants for certification as underground storage tank installers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 5:** Documentation Requirements for Applications to the State Fire Marshal for Coverage by the Ground Water Oil Clean-Up Fund at Above Ground Oil Storage Facilities

STATUTORY BASIS: 38 M.R.S. §568-A(1)(H)

PURPOSE: The existing rule will be amended to reflect statutory changes pursuant to PL2015 Chapter 319.

ANTICIPATED SCHEDULE: 2016

AFFECTED PARTIES: Applicants for certification as underground storage tank installers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated