

**(Includes late-filed Board
of Underground Storage
Tank Installers (06-481)
(see last page)**

✓ 06

06-096

DEPARTMENT OF ENVIRONMENTAL PROTECTION
(including 90-564, Clean-Up and Response Fund Insurance Review Board)
2021 – 2022 Regulatory Agenda
October 1, 2021 to September 30, 2022

RULEMAKING LIAISON: Mark Margerum, Office of the Commissioner, Maine DEP,
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EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA: None

EXPECTED 2021-2022 RULEMAKING ACTIVITY:

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: Spring 2022

AFFECTED PARTIES: Parties who engage in open burning activities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 104: Incinerator Particulate Emission Standard

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

PURPOSE: The existing rule regarding particulate emissions from incinerators will be updated to establish prohibitions on certain homemade incinerators and better address small and medium sized incinerators.

ANTICIPATED SCHEDULE: Summer 2022

AFFECTED PARTIES: Operators of incinerators.

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: Summer 2022

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 115: Major and Minor source Air emission License Regulation

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

PURPOSE: The existing rule will be amended to incorporate financial and technical capacity requirements along with stack testing protocol submission requirements.

ANTICIPATED SCHEDULE: Spring 2022

AFFECTED PARTIES: Applicants, owners, and operators of 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rule will be amended to update and clarify compliance requirements and eliminate Stage II vapor control requirements repealed by statute.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: Summer 2022

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

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 128: Advanced Clean Trucks Program

STATUTORY BASIS: 38 MRS, §§ 576-A, 585, 585-A, 585-D

PURPOSE: This new rule will establish a program to reduce emissions from on-road vehicles over 8,500 pounds gross vehicle weight rating (GVWR) by incorporating the requirements of the California Advanced Clean Trucks regulation and is intended to accelerate sales of zero-emission vehicles over 8,500 pounds GVWR.

ANTICIPATED SCHEDULE: Fall 2021

AFFECTED PARTIES: Manufacturers, as defined in the rule, of on-road vehicles greater than 8,500 pounds GVWR manufactured in or after model year 2025 and registered, leased, rented, delivered for sale, or sold in Maine on or after January 1, 2025.

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: Winter 2021-22

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: Winter 2021-22

AFFECTED PARTIES: Applicants for air emissions permits.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 147: Hydrofluorocarbon Prohibitions

STATUTORY BASIS: P.L. 2021, Chapter 192

PURPOSE: This proposed new rule prohibits the use of hydrofluorocarbon chemicals (HFCs) with high global warming potentials in certain end uses as required by Public Law 2021 Chapter 192 and in support of the greenhouse gas reduction goals established in 38 M.R.S. § 576-A.

ANTICIPATED SCHEDULE: Fall 2021

AFFECTED PARTIES: Persons who sell, lease, rent, install, maintain, service, repair, dispose of, or enter into commerce in Maine any product or equipment in the end use categories listed in the rule.

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 2021-22

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 2022

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 2022

AFFECTED PARTIES: Owners and operators of concrete batch plants.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 168: Statewide Greenhouse Gas Emissions Regulation

STATUTORY AUTHORITY: 38 MRS §576-A

PURPOSE: This proposed new rule defines the overall reductions in GHG emissions that the State must achieve by both 2030 and 2050. This rule establishes the amount by which statewide greenhouse gas emissions must be reduced in order to achieve that compliance.

SCHEDULE: Adoption, October 2021.

AFFECTED PARTIES: Department staff will use these reduction targets to document progress in emissions reductions in the biennial report to the Legislature on the State GHG inventory.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 169: Stationary Generators

STATUTORY AUTHORITY: 38 MRS §585 and 585-A

PURPOSE: This new rule will ensure that the operation of new stationary generators does not negatively impact air quality or public health in the vicinity of a facility operating such a generator. The standards and requirements proposed are based on standards and requirements in Federal and State regulations applicable to similar equipment when used in other applications.

SCHEDULE: Rulemaking anticipated Summer/Fall 2021

AFFECTED PARTIES: Owners and operators of stationary generators installed after January 1, 2022, that are powered by engines subject to licensure requirements pursuant to Major and Minor Source Air Emission License Regulations, 06-096 CMR ch. 115, or Part 70 Air Emission License Regulations, 06-096 CMR ch. 140.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 170: Degassing of Petroleum Storage Tanks, Marine Vessels, and Transport Vessels

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

PURPOSE: This new rule will require owners and operators of petroleum storage tanks, marine vessels, and transport vessels storing or transporting certain liquid petroleum products to control emissions of volatile organic compounds during degassing operations.

ANTICIPATED SCHEDULE: Fall 2021

AFFECTED PARTIES: Owners and operators of petroleum storage facilities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 171: Control of Petroleum Storage Facilities

STATUTORY BASIS: 38 MRS §§ 585, 585-A and 590, P.L. 2021, Chapter 294

PURPOSE: This new rule will establish control, operating, inspection, testing, monitoring, recordkeeping, reporting, and licensure requirements for petroleum storage facilities

ANTICIPATED SCHEDULE: Fall 2021

AFFECTED PARTIES: Owners and operators of petroleum storage facilities.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 172: Stationary Combustion Installations

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

PURPOSE: This new rule will establish emission limits for particulate matter (PM) on oil fuel (including oil which is fired in combination with other liquid and gaseous fuels) and solid fuel fired stationary combustion installations.

ANTICIPATED SCHEDULE: Winter 2021-22

AFFECTED PARTIES: Owners and operators of stationary combustion installations.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 180: Appliance Efficiency Standards

STATUTORY BASIS: Public Law 2021, Chapter 433

PURPOSE: This new rule will establish energy efficiency and water conservation standards for certain appliances, products, and fixtures in accordance with the provisions of Public Law 2021, Chapter 433.

ANTICIPATED SCHEDULE: Winter 2021-22

AFFECTED PARTIES: Any person who sells or offers for sale in Maine any of the products identified in Public Law 2021, Chapter 433.

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-Winter 2021, and Fall 2022
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 2022
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 2022
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
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 2022
AFFECTED PARTIES: Owners and operators of licensed 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: Summer 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: Summer 2022

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

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 420: Septage Management Rules

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

PURPOSE: The existing rule will be amended to update the standards, requirements, and licensing procedures for septage management facilities.

SCHEDULE: Fall 2022

AFFECTED PARTIES: Owners and operators of licensed facilities.

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: Summer 2022

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: Summer 2022

AFFECTED PARTIES: Licensed waste dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 531: Regulations for Wastewater Operator Certification

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

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

ANTICIPATED SCHEDULE: Spring 2022

AFFECTED PARTIES: Certified wastewater operators and treatment plants.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

Chapter 532: 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-Spring 2022

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: Fall 2022

AFFECTED PARTIES: Licensed wastewater dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 583: 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. The new rule will subsequently be amended to incorporate standards for identifying and managing waterbodies impaired by nutrient enrichment by establishing numeric criteria for nitrogen.

ANTICIPATED SCHEDULE: Spring 2022 and Summer 2022

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: Fall 2022

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: Fall 2022

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: Spring 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 691: Rules for Underground Oil Storage Facilities

STATUTORY BASIS: 38 MRS §§ 341-H and 561 *et seq.*

PURPOSE: The existing rule will be amended to correct errors and omissions and to clarify certain portions of the recently revised rule (September 26, 2018).

SCHEDULE: Fall 2022

AFFECTED PARTIES: Owners and operators of licensed facilities.

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: Spring 2022

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

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 878: Toxics in Food Packaging Rule

STATUTORY BASIS: 32 MRS § 1737

PURPOSE: This new rule will reduce the toxicity in food packaging by prohibiting the sale of food packages containing intentionally added PFAS.

ANTICIPATED SCHEDULE: Fall 2022

AFFECTED PARTIES: Manufacturers and distributors of packing materials.

CONSENSUS-BASED RULE DEVELOPMENT: N/A

CHAPTER 879: 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: Summer, 2022

AFFECTED PARTIES: Manufacturers and distributors of products containing PFAS.

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: 2022

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: Spring 2022

AFFECTED PARTIES: Owners and operators of licensed facilities.

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: Fall 2022

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

CONSENSUS-BASED RULE DEVELOPMENT: N/A

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

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

EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA: None

EXPECTED 2021-2022 RULEMAKING ACTIVITY:

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

06-481 BOARD OF UNDERGROUND STORAGE TANK INSTALLERS

AMENDMENT for the 2021 - 2022 Regulatory Agenda

CONTACT PERSON:

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CHAPTERS: Chapter 3, Certification of Underground Oil Storage Tank Installers and Chapter 6, Certification of Underground Oil Storage Tank Inspectors

STATUTORY AUTHORITY: 32 M.R.S. § 10004

PURPOSE: The existing rules will be amended to discontinue the use of the terms "handicap," "handicapped" and "hearing impaired" in accordance with PL 2021, c. 348, and to update citations.

SCHEDULE: Rulemaking Anticipated June, 2022

AFFECTED PARTIES: Licensed Underground Oil Storage Tank Installers and Inspectors

IS ANY PROVISION OF THE PROPOSED RULE ANTICIPATED TO BE MORE STRINGENT THAN APPLICABLE FEDERAL STANDARDS? Yes ___ NO x