**06**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**2015 - 2016 Regulatory Agenda**

October 21, 2015 *(Ch. 100 and 501 amended March 17, 2016)*

**06-096: Department of Environmental Protection *(General)***

**06-481: Board of Underground Storage Tank Installers**

**90-564: Fund Insurance Review Board**

**LIAISON FOR AGENCY RULE-MAKING: Jeffrey Crawford,** Office of the Commissioner, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7842. E-mail: [Jeff.S.Crawford@Maine.gov](mailto:Jeff.S.Crawford@Maine.gov) .

**CHAPTER 100:** Definitions Regulation

STATUTORY BASIS: 38 M.R.S. §585-A

PURPOSE: This existing rule will be amended to identify NOx as aprecursor to ozone in the definition of “regulated pollutant” and replace a reference to “NO2” with “NOx” in the definition of “significant emission increase.”

ANTICIPATED SCHEDULE: Spring 2016

AFFECTED PARTIES: Regulated community

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 501:** Stormwater Management Compensation Fees and Mitigation Credit

STATUTORY BASIS: 38 M.R.S. §420-D(11)

PURPOSE:This existing rule will be amended to more accurately reflect the effectiveness of different mitigation activities on each of the following sites: 1) Road or high use parking lots; 2) Medium use parking lots; 3) Other parking lots; 4) Roof or impervious areas; and 5) Landscaped areas.

ANTICIPATED SCHEDULE: Spring 2016

AFFECTED PARTIES: Regulated community

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

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

**CHAPTER 100:** Definitions Regulation *(in addition to the above)*

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: 2015.

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 106:** Low Sulfur Fuel

STATUTORY BASIS: 38 M.R.S. §§ 585, 603-A

PURPOSE: Ch. 106 will be revised to incoporate amendments to 38 M.R.S. §603-A made by PL 2015 c. 66.

ANTICIPATED SCHEDULE: Fall 2015

AFFECTED PARTIES: Owners and operators of facilities utilizing residual and distillate oil fuels, general public and regulated community

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: 2015.

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: 2015.

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 130:** Solvent Cleaners

STATUTORY BASIS: 38 M.R.S. §§ 583-B and 585-A.

PURPOSE: The Department is updating Chapter 130 to incorporate federal Control Technique Guidelines (CTG) requirements for industrial cleaning solvents.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: General public and regulated community.

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: 2016.

AFFECTED PARTIES: Major sources of volatile organic compounds.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 137:** Emission Standards

STATUTORY BASIS: 38 M.R.S. §§ 585-A, 585-C and 575.

PURPOSE: The rule will be updated to incorporate changes in federal law and international standard.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: General public and regulated community.

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: 2015.

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 148:** Emissions from Smaller-Scale Electric Generating Facilities

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

PURPOSE: The Department may propose the repeal of this rule because most smaller-scale electric generating units are now regulated at the federal level.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Owners and operators of smaller-scale electric generating units.

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 159:** Control of Volatile Organic Compounds from Adhesives and Sealants

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

**PURPOSE: The existing rule may be amended to align compliance requirements for single-ply roofing products with requirements in neighboring states, thereby addressing cross-border sales issues and reducing costs to the regulated community.**

**ANTICIPATED SCHEDULE: 2015-2016.**

**AFFECTED PARTIES: Wholesalers, retailers and users of regulated single-ply roofing products.**

**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. Tel: (207) 215-4397.

**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: Fall 2015.

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 371:** Definitions of Terms Used in Site Location of Development Law and Regulations

STATUTORY BASIS: 38 M.R.S. §§ 343 and 482(2-C).

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

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 373:** Financial Capacity Standard of Site Location Law

STATUTORY BASIS: 38 M.R.S. §343.

PURPOSE: This existing rule will be amended to reflect changes in nomenclature and Department practice, and provide greater clarity for the applicant.

ANTICIPATED SCHEDULE: Fall 2015.

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 375:** No Adverse Environmental Effect Standard of the Site Location Law

STATUTORY BASIS: 38 M.R.S. §343.

PURPOSE: This existing rule will be amended to incorporate and update solid waste, odor control and water supply standards that are currently contained in Chapter 373 of the Department’s rules.

ANTICIPATED SCHEDULE: Fall 2015.

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 380:** Long-Term Construction Projects (Site Law)

STATUTORY BASIS: 38 M.R.S. §§ 341-D(1) and 343.

PURPOSE: This existing rule will be repealed and replaced with a new rule describing requirements associated with long-term construction projects permitted under the Site Location of Development Law.

ANTICIPATED SCHEDULE: Fall 2015.

AFFECTED PARTIES: Regulated community.

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*. and 35-A M.R.S. Chapter 34.

PURPOSE: A new rule may be proposed to address issues unique to wind power projects which are not addressed in existing Department rules.

ANTICIPATED SCHEDULE: Fall 2015.

AFFECTED PARTIES: Regulated community.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR THE FOLLOWING CHAPTERS:** Leslie Anderson, Bureau of Remediation and Waste Management, 17 State House Station, Augusta, ME 04333-0017. Tel: (207) 287-2821.

**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: 2015 – 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 415:** Solid Waste Management Rules: Reasonable Costs for Handling and Recycling of Electronic Waste

STATUTORY BASIS: 38 M.R.S. §1610(5)(D)(1).

PURPOSE: Incorporate statutory amendments and address enforceability discovered with out-of-state consolidators.

ANTICIPATED SCHEDULE: 2015 – 2016.

AFFECTED PARTIES: Manufacturers of consumer electronics covered by the rule (e.g. TVs and computer monitors) and persons in the business of collecting, consolidating and transporting those electronics for recycling.

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: 2015-2016.

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

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: 2015.

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. Tel: (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 Returnable Beverage Container Program, Bottle Bill, to Department of Environmental Protection.

ANTICIPATED SCHEDULE: 2015 – 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: Regulated community.

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. Tel: 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 596:** Overboard Discharges: Licensing and Abandonment

STATUTORY BASIS: 38 M.R.S. §413.

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

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Owners of overboard discharge systems.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CONTACT PERSON FOR THE FOLLOWING CHAPTERS:** Leslie Anderson, Bureau of Remediation and Waste Management, 17 State House Station, Augusta, ME 04333-0017. Tel: (207) 287-2821.

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

STATUTORY BASIS: 38 M.R.S. §546(4).

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

ANTICIPATED SCHEDULE: 2015.

AFFECTED PARTIES: Owners and operators of oil storage facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 685:** Payment and Reimbursement of Oil Transfer Fees

STATUTORY BASIS: 38 M.R.S. §341-D(1-B).

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

ANTICIPATED SCHEDULE: 2015.

AFFECTED PARTIES: Owners and operators of oil storage facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 686:** Standards for Assessing Ability to Pay Deductibles under the State Insurance Program for Oil Storage Tanks

STATUTORY BASIS: 38 M.R.S. §568-A(3).

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

ANTICIPATED SCHEDULE: 2015.

AFFECTED PARTIES: Owners and operators of oil storage facilities

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**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: 2015.

AFFECTED PARTIES: Underground petroleum storage tank owners, operators, and Maine certified oil storage inspectors 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: 2015 – 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: 2015 – 2016.

AFFECTED PARTIES: Generators of hazardous waste.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTER 857:** Hazardous Waste Manifest Requirements

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

PURPOSE: Revise state regulation to incorporate requirements of federal rule regarding use of hazardous waste manifest as applicable.

ANTICIPATED SCHEDULE: 2015 – 2016.

AFFECTED PARTIES: Hazardous waste generators, transporters and treatment, storage and disposal facility operators.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

**CHAPTERS 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 Chapter331.

ANTICIPATED SCHEDULE: 2015 – 2016.

AFFECTED PARTIES: Hazardous waste generators.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

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

STATUTORY BASIS: 38 M.R.S. §438-A.

PURPOSE: The existing rule will be amended to incorporate recent statutory changes pursuant to PL2015 Chapter 11.

ANTICIPATED SCHEDULE: 2016.

AFFECTED PARTIES: Shoreland property owners and municipal officials.

CONSENSUS-BASED RULE DEVELOPMENT: Not applicable.

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

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

**CONTACT PERSON FOR FOLLOWING CHAPTER:** Theresa Scott, Staff to the Board of Underground Storage Tank Installers, c/o DEP-BRWM, 17 State House Station, Augusta ME 04333-0017. Telephone: (207) 287-7169.

**CHAPTER 1:** Administrative Rules

STATUTORY BASIS: 32 M.R.S. §10004.

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

ANTICIPATED SCHEDULE: 2015.

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

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

AGENCY NAME: **Fund Insurance Review Board**

**CONTACT PERSON FOR FOLLOWING CHAPTERS:** Leslie Anderson, Bureau of Remediation and Waste Management, 17 State House Station, Augusta, ME 04333-0017. Tel: (207) 287-2821.

**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