**State of Maine: Notice of Agency Rulemaking – October 12, 2022**

**NOTICE OF STATE RULEMAKING**

**Public Input for Rules**

Notices are published each Wednesday to alert the public regarding state agency rulemaking. You may obtain a copy of any rule by notifying the agency contact person. You may also comment on the rule, and/or attend the public hearing. If no hearing is scheduled, you may request one - the agency may then schedule a hearing, and must do so if 5 or more persons request it. If you are disabled or need special services to attend a hearing, please notify the agency contact person at least 7 days prior to it. **Petitions**: you can petition an agency to adopt, amend, or repeal any rule; the agency must provide you with petition forms, and must respond to your petition within 60 days. The agency must enter rulemaking if the petition is signed by 150 or more registered voters, and may begin rulemaking if there are fewer. You can also petition the Legislature to review a rule; the Executive Director of the Legislative Council (115 State House Station, Augusta, ME 04333, phone (207) 287-1615) will provide you with the necessary petition forms. The appropriate legislative committee will review a rule upon receipt of a petition from 100 or more registered voters, or from "...any person who may be directly, substantially and adversely affected by the application of a rule..." (Title 5 §11112). **World‑Wide Web**: Copies of the weekly notices and the full texts of adopted rule chapters may be found on the internet at: http://www.maine.gov/sos/cec/rules. There is also a list of rulemaking liaisons (http://www.maine.gov/sos/cec/rules/liaisons.html), who are single points of contact for each agency.

**PROPOSALS**

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 305**, Natural Resources Protection Act – Permit by Rule

TYPE OF RULE:

Routine Technical –new Section 16-A

Major Substantive –Section 16

PROPOSED RULE NUMBER: **2022-P151, P152** *(2nd publication)*

BRIEF SUMMARY: The purpose of this proposed revision is to bring the Department’s rules into alignment with statutory changes concerning minor expansions in coastal sand dunes and to allow some beach nourishment projects to qualify for Natural Resource Protection Act (NRPA) permit by rule. The proposed revision also allows for planting native dune vegetation by hand with a NRPA permit by rule.

PUBLIC HEARING: November 3, 2022, 9:00 a.m., Marquardt Building - 32 Blossom Lane, Augusta, Maine. Entrance located on east side of building (Door D7).

COMMENT DEADLINE: November 15, 2022.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Naomi Kirk-Lawlor, 17 State House Station, Augusta, ME 04333. Telephone: (207) 287-7844. Email: Naomi.Kirk-Lawlor@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: None

STATUTORY AUTHORITY FOR THIS RULE: 38 MRS §344(7)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: N/A

DEP WEBSITE: <https://www.maine.gov/dep/>.

DEP RULEMAKING LIAISON: Mark.T.Margerum@Maine.gov.

AGENCY: **02-477** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Occupational Therapy Practice**

CHAPTER NUMBERS AND TITLES:

**Ch. 3** *(New)*, Licensure by Endorsement

**Ch. 7** *(Amend)*, Code of Ethics

TYPE OF RULE: Routine Technical

PROPOSED RULE NUMBER: **2022-P190, P191**

BRIEF SUMMARIES:

**Ch. 3: Licensure by Endorsement**

The Board is proposing to add a new chapter describing the pathway for Maine licensure for applicants with an active license in a U.S. jurisdiction that maintains licensing requirements that are substantially equivalent to Maine’s requirements. This rule implements LD 149 (PL 2021 Ch. 167), *An Act to Facilitate Licensure for Credentialed Individuals from Other Jurisdictions*, and LD 2035 (PL 2021 Ch. 642), *An Act to Make Changes to the Laws Regarding Licensure of Certain Individuals from Other Jurisdictions*.

**Ch. 7: Code of Ethics**

The Board is proposing to amend its Ch. 7 by adopting and incorporating by reference the *AOTA 2020 Occupational Therapy Code of Ethics*, Copyright © 2020, of the American Occupational Therapy Association, Inc. (hereinafter the “2020 AOTA Code of Ethics”). The current rule adopts the *2010 American Occupational Therapy Association (AOTA) Occupational Therapy Code of Ethics and Ethics Standards*, with certain exceptions [excluding Principle 4, Social Justice, in its entirety, with the exception of the title “Social Justice,” the prefatory phrase “Occupational therapy personnel shall” and paragraph F; excluding Principle 5, Procedural Justice, paragraphs D and F; and excluding Principle 7, Fidelity, paragraphs C, D and G]. In voting to propose the amended rule, the Board expressed desire to update the Code of Ethics to the current version published by AOTA and, given the changes from the *2010 AOTA Occupational Therapy Code of Ethics*, voted to incorporate the AOTA Code of Ethics without exclusions, but instead to adopt the 2020 version in its entirety.

**Copies** of the proposed rule and rulemaking documents may be found on the Board’s webpage: <https://www.maine.gov/pfr/professionallicensing/professions/board-occupational-therapy-practice>. Scroll down to “What’s New” and “Rulemaking.” Individuals may access the 2020 AOTA Code of Ethics via this link: *American Journal of Occupational Therapy*, November/December 2020, Vol. 74 (Supplement 3), [https://doi.org/10.5014/ajot.2020.74S3006](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fdoi.org%2F10.5014%2Fajot.2020.74S3006&data=05%7C01%7Ckristin.racine%40maine.gov%7C5eb47881143c4cc25b6608daa3191cb5%7C413fa8ab207d4b629bcdea1a8f2f864e%7C0%7C0%7C638001625517599142%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ik1haWwiLCJXVCI6Mn0%3D%7C3000%7C%7C%7C&sdata=uWJduGCEb3D7%2FSSnryoyoquDhyfne%2BF3XWofy8idsow%3D&reserved=0).

PUBLIC HEARING: N/A. *Pursuant to 5 MRS §8052(1) and §8053(3)(B), a hearing may be requested by five (5) interested persons by submitting a request in writing to contact person for this  filing. Comments on the proposed rules may be submitted by emailing* *Candice.B.Wright@Maine.gov* *or by mailing comments to the Maine Board of Occupational Therapy Practice, Attn: Candice Wright, 35 State House Station, Augusta, ME 04333-0035.*

COMMENT DEADLINE: Friday, December 2, 2022, 5:00 p.m. Comments may be submitted to Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035, Candice.B.Wright@Maine.gov.

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Candice Wright, Consumer Assistance and Hearing Coordinator, 35 State House Station, Augusta, ME 04333-0035. Email: Candice.B.Wright@Maine.gov. Telephone: (207) 624-8601. TTY: Maine relay 711.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: 32 MRS §2274(2); 32 MRS §2279(6); 10 MRS §8003-H.

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED *(if different)*:

AGENCY WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/board-occupational-therapy-practice>.

BOARD RULEMAKING LIAISON: Kristin.Racine@Maine.gov.

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 119**, Motor Vehicle Fuel Volatility Requirements

TYPE OF RULE: Major Substantive

PROPOSED RULE NUMBER: **2022-P192**

BRIEF SUMMARY: The 129th Maine Legislature repealed the requirement to sell only reformulated gasoline (RFG) in certain counties in Southern Maine as of November 1, 2020. After petitioning U.S. EPA and submitting a State Implementation Plan (SIP) revision, EPA approved Maine’s petition and determined that the removal of the federal RFG program for the Southern Maine Area is consistent with the applicable provisions of the *Clean Air Act* (CAA) and EPA's regulations. This amendment will remove from Ch. 119 the RFG requirement, which is no longer required in the Southern Maine Area due to EPA’s approval.

PUBLIC HEARING: November 3, 2022 - 9:00 a.m., Marquardt Building, 32 Blossom Lane, Augusta, Maine. Entrance located on east side of building (Door D7).

COMMENT DEADLINE: November 14, 2022

CONTACT PERSON FOR THIS FILING / SMALL BUSINESS IMPACT INFORMATION: Lynne Cayting, Chief, Mobile Sources Section in the Bureau of Air Quality, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7599. Email: Lynne.A.Cayting@Maine.gov.

FINANCIAL IMPACT ON MUNICIPALITIES OR COUNTIES: N/A

STATUTORY AUTHORITY FOR THIS RULE: Public Law 2019 Ch. 55, and 38 MRS §§ 585, 585‑A, and 585-C

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED: Section 110, *Clean Air Act of 1990*

DEP WEBSITE: <https://www.maine.gov/dep/>.

DEP RULEMAKING LIAISON: Mark.T.Margerum@Maine.gov.

**ADOPTIONS**

AGENCY: **02-416** - Department of Professional and Financial Regulation (PFR), Office of Professional and Occupational Regulation (OPOR), **Board of Social Worker Licensure**

CHAPTER NUMBERS AND TITLES:

**Repeal and Replace**:

**Ch. 10**, Definitions

**Ch. 11**, Advisory Rulings

**Ch. 12**, Licensure by Endorsement (formerly Application for Licensure)

**Ch. 13**, Licensure

**Ch. 14**, Continuing Professional Education

**Ch. 15**, Scope of Practice

**Ch. 16**, Code of Ethics and Grounds for Discipline (*formerly* Enforcement and Disciplinary Procedures)

**Ch. 17**, Record Retention Requirements

**New**:

**Ch. 18**, Telehealth

ADOPTED RULE NUMBERS: **2022-196** *thru* **204**

CONCISE SUMMARY: The rulemaking repeals and replaces the Board’s current rule chapters, with adopted changes including: adding a chapter creating a pathway for licensure by endorsement, adding a chapter setting forth rules for providing social work services via telehealth, establishing changes regarding consultation required for certain categories of licensure, clarifying aspects of continuing professional education requirements, and updating the scope of practice provisions and the code of ethics and grounds for board discipline.

EFFECTIVE DATE: October 11, 2022

AGENCY CONTACT PERSON: Kristina M. Halvorsen, Board Administrator, Department of Professional and Financial Regulation - Office of Professional and Occupational Regulation, Board of Social Worker Licensure, 35 State House Station, Augusta, ME 04333. Telephone: (207) 624-8420. TTY users call Maine Relay 711. Email: Kristina.M.Halvorsen@Maine.gov.

BOARD WEBSITE: <https://www.maine.gov/pfr/professionallicensing/professions/state-board-social-worker-licensure>.

OPOR RULEMAKING LIAISON: Kristin.Racine@Maine.gov.

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 169** *(New)*, Stationary Generators

ADOPTED RULE NUMBER: **2022-205**

CONCISE SUMMARY: The new rule establishes fuel requirements, emission standards, and stack requirements for stationary electric generators powered by reciprocating internal combustion engines. This rule was adopted pursuant to authority granted by 38 MRS §§ 585 and 585-A. The purpose of the rule is to 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.

EFFECTIVE DATE: October 9, 2022

AGENCY CONTACT PERSON: Lynn Muzzey, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-2229. Email: Lynn.Muzzey@Maine.gov.

DEP WEBSITE: <https://www.maine.gov/dep/>.

DEP RULEMAKING LIAISON: Mark.T.Margerum@Maine.gov.

AGENCY: **06-096 - Department of Environmental Protection (DEP)**

CHAPTER NUMBER AND TITLE: **Ch. 180** *(New)*, Appliance Efficiency Standards

TYPE OF RULE: Major Substantive

ADOPTED RULE NUMBER: **2022-206**

CONCISE SUMMARY: This new rule establishes efficiency standards for certain new products, thereby reducing resource consumption and emissions of greenhouse gases and other pollutants. The rule allows for sell-through of existing stocks of noncompliant products and defers to any federal preemptions. The rule is adopted pursuant to Public Law 2021 Ch. 433 (LD 940), *An Act To Establish Appliance Energy and Water Standards*, which authorized the Department to adopt efficiency standards relating to certain appliances and plumbing fixtures.

EFFECTIVE DATE: November 3, 2022

AGENCY CONTACT PERSON: Erle Townsend, Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7688. Email: Erle.Townsend@Maine.gov.

DEP WEBSITE: <https://www.maine.gov/dep/>.

DEP RULEMAKING LIAISON: Mark.T.Margerum@Maine.gov.