**06-096**

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**(***including* **90-564 - Clean-Up and Response Fund Insurance Review Board)**

2019 – 2020

Regulatory Agenda

September 27, 2019

**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)

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

**EXPECTED 2019-2020 RULEMAKING ACTIVITY:**

**CHAPTER 102: Open Burning**

STATUTORY BASIS: 38 M.R.S. §585-A

PURPOSE: The existing rule regarding open burning will be updated to clarify permissible open burning activities.

ANTICIPATED SCHEDULE: Summer 2020

AFFECTED PARTIES: Parties who engage in open burning activities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 104: Incinerator Particulate Emission Standard**

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

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

ANTICIPATED SCHEDULE: Summer 2020

AFFECTED PARTIES: Operators of incinerators.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 106: Low Sulfur Fuel**

STATUTORY BASIS: 38 M.R.S. §§ 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 2020

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

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 143: New Source Performance Standards**

STATUTORY BASIS: 38 M.R.S. §§ 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: Summer 2020

AFFECTED PARTIES: Applicants for air emissions permits.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 38 M.R.S. §§ 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: Summer 2020

AFFECTED PARTIES: Applicants for air emissions permits.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

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

PURPOSE: The existing rule regarding portable nonmetallic mineral processing plants will be amended to clarify regulatory requirements and better address particulate emissions.

ANTICIPATED SCHEDULE: Summer 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 156:** **CO2 Budget Trading Program**

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

**PURPOSE: The existing rule regarding the CO2 Budget Trading Program and the Regional Greenhouse Gas Initiative (RGGI) will be amended as necessary to incorporate changes in the Model Rule.**

ANTICIPATED SCHEDULE: Spring 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

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

**PURPOSE: The existing rule regarding the CO2 Budget Trading Program and the RGGI will be amended as necessary to incorporate changes in the Model Rule.**

**ANTICIPATED SCHEDULE: Spring 2020**

**AFFECTED PARTIES: Owners and operators of licensed facilities.**

**CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.**

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

STATUTORY BASIS: 38 M.R.S. §585-B

PURPOSE: The existing rule will be amended to address volatile organic compound concentrations of adhesives used in fiberglass boat building operations.

ANTICIPATED SCHEDULE: Summer 2020

AFFECTED PARTIES: Fiberglass boat manufacturers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 162: Control of Fiberglass Boat Manufacturing Materials**

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

PURPOSE: This existing rule will be amended to correct and clarify compliance requirements.

ANTICIPATED SCHEDULE: Summer 2020.

AFFECTED PARTIES: Fiberglass boat manufacturers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

**STATUTORY BASIS: 38 M.R.S. §585-A**

**PURPOSE: The existing rule regarding air emissions from concrete batch plants will be amended as necessary to address state and federal requirements.**

**ANTICIPATED SCHEDULE: Summer 2020**

**AFFECTED PARTIES: Operators of concrete batch plants.**

**CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.**

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

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

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, and to simplify the standards for public boat launches.

ANTICIPATED SCHEDULE: Spring 2020

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

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**Chapter 335: Significant Wildlife Rules**

STATUTORY BASIS: 38 M.R.S. §341-H

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

ANTICIPATED SCHEDULE: Spring 2020

AFFECTED PARTIES: Applicants for permits involving Significant Wildlife Habitat.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 38 M.R.S. §§ 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: Winter 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 38 M.R.S. §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: Winter 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 420: Septage Management Rules**

STATUTORY BASIS: 38 M.R.S. §§ 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: Winter 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 424: Solid Waste Management Rules: Lead Management Regulations**

STATUTORY BASIS: 38 M.R.S. §1295

PURPOSE: The existing rule regarding the certification and licensing of persons engaged in residential lead-based paint mitigation activities will be amended to incorporate recent federal EPA rule changes impacting DEP’s delegated program.

ANTICIPATED SCHEDULE: Winter 2020

AFFECTED PARTIES: Parties involved in residential lead-based paint mitigation.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 425: Solid Waste Management Rules: Asbestos Management Regulations**

STATUTORY BASIS: 38 M.R.S. §§ 1274-A, 1275, 1280, and 1282

PURPOSE: The existing rule regarding asbestos abatement activities and asbestos waste storage will be amended to remove the fee structure and otherwise update based on lessons-learned during implementation of the rule.

ANTICIPATED SCHEDULE: Spring 2020

AFFECTED PARTIES: Asbestos removal contractors and owners or occupants of affected properties.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 38 M.R.S. §§ 3101 through 3117

PURPOSE: The existing rule regarding the Returnable Beverage Container Law will be updated in accordance with legislative changes adopted in PL 2019, Chapter 526 (An Act to Implement Recommendations of the Department of Environmental Protection Regarding the State’s Container Redemption Laws).

ANTICIPATED SCHEDULE: Fall 2019

AFFECTED PARTIES: Bottle redemption businesses, initiators of deposits, and bottling companies.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 38 M.R.S. §§ 341-H, 413

PURPOSE: These 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: Spring-Summer 2020

AFFECTED PARTIES: Licensed waste dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 32 M.R.S. §§ 341-H and 4179

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

ANTICIPATED SCHEDULE: Fall-Winter 2019-2020

AFFECTED PARTIES: Certified wastewater operators and treatment plants.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 583: Nutrient Criteria Rule**

STATUTORY BASIS: 38 M.R.S. §§ 341-H and 464(5)

PURPOSE: The 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: Winter 2020

AFFECTED PARTIES: Licensed waste dischargers.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

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

STATUTORY BASIS: 38 M.R.S. §§ 341-H, 420 and P.L. 2019, ch. 463

PURPOSE: The existing rule will be amended to ensure consistency with national water quality criteria promulgated by the Environmental Protection Agency and to adopt site-specific water quality criteria for certain water bodies. The rule will also be amended to reflect current federal requirements and to incorporate new standards for sustenance fishing as authorized by P.L. 2019, Chapter 463.

ANTICIPATED SCHEDULE: Fall 2019

AFFECTED PARTIES: Licensed waste dischargers and consumers of fish from certain Maine waters.

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

SCHEDULE: Spring 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 852: Land Disposal Restrictions**

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

PURPOSE: The existing rule will be updated to complete incorporation of relevant federal Land Disposal Restrictions and waste listing rules.

ANTICIPATED SCHEDULE: Winter 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 854: Standards for Hazardous Waste Facilities**

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

PURPOSE: The existing rule will be updated to incorporate all relevant federal standards for the licensing of hazardous waste facilities.

SCHEDULE: Winter 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 856: Licensing of Hazardous Waste Facilities**

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

PURPOSE: The existing rule will be updated to incorporate all relevant federal standards for the licensing of hazardous waste facilities.

SCHEDULE: Winter 2020

AFFECTED PARTIES: Owners and operators of licensed facilities.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 857: Hazardous Waste Manifest Requirements**

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

PURPOSE: The existing rule establishes requirements for the use of manifests to track the movement of hazardous waste and will be updated to incorporate the most recent federal program requirements and procedures.

ANTICIPATED SCHEDULE: Winter 2020

AFFECTED PARTIES: Generators of hazardous waste who transport, or offer for transportation, hazardous waste.

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**AMENDMENT for the 2019 – 2020 Regulatory Agenda**

**CHAPTER 890:** Designation of PFOS as a Priority ChemicalSTATUTORY AUTHORITY: 38 M.R.S. §341-H, and 38 M.R.S. §1694

PURPOSE: The proposed rule would designate PFOS as a priority chemical and requires manufacturers or distributors of certain children’s products and consumer products, which are available for sale in the State of Maine, to report this use when PFOS is intentionally added to product categories specified in the rule.

SCHEDULE: Fall 2019

AFFECTED PARTIES: Manufacturers of consumer products which contain intentionally added amounts of perfluorooctane sulfonic acid.

IS ANY PROVISION OF THE PROPOSED RULE ANTICIPATED TO BE MORE STRINGENT THAN APPLICABLE FEDERAL STANDARDS? Yes X No

There are no applicable federal standards.

**CHAPTER 891: 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: 2020

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

CONSENSUS-BASED RULE DEVELOPMENT: Not contemplated.

**CHAPTER 900: Biomedical Waste Management Rules**

STATUTORY BASIS: 38 M.R.S. §§ 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 2020

AFFECTED PARTIES: Owners and operators of licensed 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:** Mark Margerum, Office of the Commissioner, Maine D.E.P., 17 State House Station, Augusta, ME 04333-0017. Telephone: (207) 287-7842. Email: [Mark.T.Margerum@Maine.gov](mailto:Mark.T.Margerum@Maine.gov)

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

**EXPECTED 2019-2020 RULEMAKING ACTIVITY:**

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