

Annual List of Rule-Making Activity
Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 5052, 5053, 5078, 5083
Chapter number/title: **Ch. 420**, Nursing Home Care Insurance and Long Term Care Insurance
Filing number: **2015-051**
Effective date: 3/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments implement 2013 PL c. 278.

Basis statement:

Pursuant to the April 3, 2014, "Notice of Rule-making", Superintendent of Insurance Eric Cioppa held a public hearing on April 29, 2014, at the Department of Professional and Financial Regulation building, 76 Northern Avenue, Gardiner, Maine. The public comment period was held open until May 12, 2014 at 4:30 p.m. The purposes of the amendments are to implement PL 2013 c. 278 by establishing claims practice standards for long-term care insurers as well as appeal processes for adverse benefit determinations regarding long-term care insurance. Other minor changes were also proposed.

After reviewing the initial round of public comments, the Superintendent proposed revisions that were determined to be substantially different from the amendments initially proposed, so the comment period was reopened pursuant to 5 MRS §8052(5)(B). Pursuant to notice dated October 7, 2014, the Superintendent published the revised proposed amendments and reopened the comment period for the limited purpose of providing opportunity for further comment on proposed Sections 10 and 11 of Rule 420 and Sections 32 and 33 of Rule 425. The reopened comment period was held open until October 31, 2014 at 4:30 p.m.

Amendments to rule Ch. 420 are authorized by 24-A MRS §§ 212, 5052, 5053, 5078, and 5083. Amendments to rule Ch. 425 are authorized by 24-A MRS §§ 2316 and 2321 and by 24-MRS §§ 212, 2412, 2413, 2414, 2736, 5071, 5072, 5073, 5074, 5075, 5077, 5078, 5080, and 5083.

Fiscal impact of rule:

The rule is not expected to have a fiscal impact on state government.

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Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 5052, 5053, 5078, 5083
Chapter number/title: **Ch. 425**, Long Term Care Insurance
Filing number: **2015-052**
Effective date: 3/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments implement 2013 PL c. 278.

Basis statement:

Pursuant to the April 3, 2014, “Notice of Rule-making”, Superintendent of Insurance Eric Cioppa held a public hearing on April 29, 2014, at the Department of Professional and Financial Regulation building, 76 Northern Avenue, Gardiner, Maine. The public comment period was held open until May 12, 2014 at 4:30 p.m. The purposes of the amendments are to implement PL 2013 c. 278 by establishing claims practice standards for long-term care insurers as well as appeal processes for adverse benefit determinations regarding long-term care insurance. Other minor changes were also proposed.

After reviewing the initial round of public comments, the Superintendent proposed revisions that were determined to be substantially different from the amendments initially proposed, so the comment period was reopened pursuant to 5 MRS §8052(5)(B). Pursuant to notice dated October 7, 2014, the Superintendent published the revised proposed amendments and reopened the comment period for the limited purpose of providing opportunity for further comment on proposed Sections 10 and 11 of Rule 420 and Sections 32 and 33 of Rule 425. The reopened comment period was held open until October 31, 2014 at 4:30 p.m.

Amendments to rule Ch. 420 are authorized by 24-A MRS §§ 212, 5052, 5053, 5078, and 5083. Amendments to rule Ch. 425 are authorized by 24-A MRS §§ 2316 and 2321 and by 24-MRS §§ 212, 2412, 2413, 2414, 2736, 5071, 5072, 5073, 5074, 5075, 5077, 5078, 5080, and 5083.

Fiscal impact of rule:

The rule is not expected to have a fiscal impact on state government.

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Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2517
Chapter number/title: **Ch. 917**, Annuity Suitability
Filing number: **2015-091**
Effective date: 11/01/2015 -- deferred effective date
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments revise suitability standards and producer training requirements with respect to annuity recommendations made by insurance producers or companies. The amendments reflect 2010 changes to the National Association of Insurance Commissioners' (NAIC) *Suitability in Annuity Transactions Model Regulation*. They are adopted in light of the Harkins-Meek Amendment to the *Dodd-Frank Act*. The Harkins-Meek amendment to Dodd-Frank provides a "safe harbor" from treatment of equity-indexed annuities as federal securities subject to SEC Rule 151A in jurisdictions which have adopted the NAIC Model Regulation as amended in 2010. Current Bureau of Insurance rule Ch. 917 is an earlier version of the NAIC Model

Basis statement:

Maine Insurance rule Ch. 917, *Annuity Disclosure*, was originally adopted by the Superintendent of Insurance effective July 1, 2007. The purpose of the rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

The amendments revise suitability standards and producer training requirements with respect to annuity recommendations made by insurance producers of companies. The amendments reflect 2010 changes to the National Association of Insurance Commissioners' (NAIC) *Suitability in Annuity Transactions Model Regulation*. They are adopted in light of the Harkins-Meek Amendment to the *Dodd-Frank Act*. The Harkins-Meek amendment to Dodd-Frank provides a "safe harbor" from treatment of equity-indexed annuities as federal securities subject to SEC rule 151A in jurisdictions which have adopted the NAIC Model Regulation as amended in 2010. Current Bureau of Insurance rule Ch. 917 is an earlier version of that Model.

Fiscal impact of rule:

None

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Agency name: Department of Professional and Financial
Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2151-B
Chapter number/title: **Ch. 915**, Annuity Disclosure
Filing number: **2015-103**
Effective date: 5/31/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments update the current rule to incorporate new National Association of Insurance Commissioners' (NAIC) *Annuity Disclosure Model Regulation* requirements relating to annuity illustrations and recordkeeping relating to disclosures as well as to repeal the required use of an outdated *NAIC Annuity Buyer's Guide* in favor of current versions of NAIC Buyer's Guides.

Basis statement:

Maine Insurance rule Ch. 915, *Annuity Disclosure*, was originally adopted by the Superintendent of Insurance effective April 1, 2004. The purpose of the rule is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. This rule is based on the model regulation promulgated by the National Association of Insurance Commissioners ("NAIC"), and the Superintendent is revising Rule 915 to reflect changes made to the NAIC model. Specifically, the amended rule adds two new sections, "Standards for Annuity Illustrations" and "Recordkeeping", and provides for an Annuity Illustration Example in the Appendix. Miscellaneous corrections and clarifications have also been made.

Fiscal impact of rule:

None

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Agency name: Department of Professional and Financial
Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 2186
Chapter number/title: **Ch. 920**, Reporting of Fraudulent Insurance Acts
Filing number: **2015-228**
Effective date: 11/25/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To update the existing rule to address ambiguities and to allow the Superintendent to amend the reporting form.

Basis statement:

Rule 920 was originally adopted in 1999 pursuant to 24-A MRS §2184(4) which requires insurers to file with the Superintendent of Insurance annual reports relating to fraudulent acts which the insurer knew or reasonably believed had been committed during the preceding calendar year. The statute required the Superintendent to establish by rule the information that must be reported. When originally adopted, Rule 920 contained the reporting form to be used by insurers embedded in the Rule itself. The primary purpose of this amendment is to remove the form from the body of the Rule and to provide that the reporting form will be in the form and manner prescribed by the Superintendent. This allows possible future changes in the form at the discretion of the Superintendent. The amendment also clarifies that the report is to be filed by all insurers licensed to do business in Maine, resolving any ambiguity on this issue contained in the original Rule.

Fiscal impact of rule:

None

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Agency name: Department of Professional and Financial Regulation, **Bureau of Insurance**
Umbrella-Unit: **02-031**
Statutory authority: 24-A MRS §§ 212, 222, 410, 412, 413, 421, 422, 731-B; 39-A MRS §403
Chapter number/title: **Ch. 730**, Standards for Acceptance of Reinsurance of Workers' Compensation Self-Insurance
Filing number: **2015-241**
Effective date: 12/9/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To update the current rule to conform to generally accepted standards applicable to insurers and reinsurers.

Basis statement / Purpose and scope:

The purpose of this rule is to set standards and procedures for insurers and reinsurers to become eligible to accept reinsurance for self-insured workers' compensation in Maine. This rule does not apply to reinsurance accounts approved by the Superintendent pursuant to Title 39-A MRS §403(4-A) and accepting reinsurance only from their member group self-insurers.

Fiscal impact of rule:

None

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 501**, Definitions

Filing number: **2015-210**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with either "Program" or "Director." In addition, the term "Program" was added to the list of defined terms.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 503**, Variances

Filing number: **2015-211**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. This chapter was amended by changing the "Department" reference to "Program," which is now a defined term in Ch. 501. The rule should refer to the specific Program rather than the larger Department in setting forth the Program's administrative process for variance petitions.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 507**, Advisory Rulings

Filing number: **2015-212**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 511**, National Codes Applicable to Elevators and Tramways

Filing number: **2015-213**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation ("OPOR"). Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

This chapter was also amended by updating the national code editions incorporated by reference. A prime consideration in updating the code editions is that doing so will allow owners to incorporate newer, more efficient technologies into elevator and tramways installations and operations. Prior to amending this chapter, the referenced codes had not been updated since rulemaking in 2008 and were out-of-date. As a result, applicants who sought to utilize the latest technologies had to submit to the Chief Inspector a petition for a variance to the out-of-date codes referenced in the rule. Petitioning for a variance is a process that costs both time and money to owners. Technical staff must also take time to review and evaluate the petitions, and the number of petitions has increased in recent years. With the amended rule, owners who wish to utilize newer technologies that are now covered by the updated code editions will no longer need to petition for a variance.

The following are notable amendments to the referenced codes. Section 3(A) previously included an exception on Limited Use, Limited Accessibility ("LULA") elevators. This exception set forth an additional safety measure that was not found in the national code at the time. Now, the updated code does have this standard, and therefore, an exception in rule is no longer necessary.

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Also in Section 3(A), an exception has been added in order to clarify the requirements for documenting periodic tests because the updated edition of ASME 17.1 includes a reference to test documentation requirements in Section 8.11.1.1.2(b). This code section requires that an inspector submit a written report to the State because the code also requires that an inspector be present for all periodic tests. However, the prior Board previously adopted an exception to the code requirement that periodic tests be performed in the presence of an inspector. The exception adopted by the prior Board provides that an inspector is not required to be present at periodic tests performed by a licensed mechanic and that the mechanic completes required test documentation (see Section 3(A)(3), unchanged from the previous rules). Because Maine requires elevator mechanics to be licensed, and licensure is based on meeting certain experience and examination requirements, the additional requirement of having an inspector present for all periodic tests is unnecessary, particularly when having an inspector present comes at an additional cost to elevator owners. Therefore, due to the exception previously set forth by the prior Board and the longstanding practice of elevator mechanics in Maine as a result of that exception, the amended rule sets forth an exception to ASME 17.1, Section 8.11.1.1.2(b). This exception further clarifies that it is the responsibility of licensed mechanics performing the periodic tests to meet the documentation requirements set forth in the code, not inspectors.

In Section 3(A) and 3(B), standards pertaining to aramid fiber ropes for elevators were not adopted. Technical staff has encountered several failed attempts to use aramid fiber ropes safely and therefore has concluded that the safety concerns associated with the use of aramid fiber ropes outweigh any positive benefits. Other states' regulations have done the same.

Other exceptions have been struck from the rule because the exceptions have been incorporated into the updated code editions. Therefore, the exceptions are no longer necessary.

Lastly, references to Vertical Reciprocating Conveyors ("VRCs") were removed from this chapter in order to correct an oversight from a previous rulemaking. In the previous rulemaking, the Board at the time sought to regulate VRCs but was unable to proceed in adopting a rule chapter on VRCs because the statutory definition of an elevator does not include a conveyor. Despite the fact that the rule chapter on VRCs was not adopted and VRCs have never been regulated, the Board neglected to remove all references to VRCs from other rule chapters.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 513**, Elevators

Filing number: **2015-214**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter had to be amended.

In Section 1, the references to "Board" were removed and replaced with references to "Chief Inspector." Under 32 MRS §15224, plans and specifications for new elevator installations or alterations must be submitted to, and approved by, the Chief Inspector. Accordingly, it is appropriate for the Chief Inspector to be the one that provides the form for approval.

Also, the initial certificate fee requirement was removed from Section 1(A). This section sets forth what an elevator owner must submit to the Chief Inspector before installing a new elevator, and the initial certificate fee is not necessary at this stage. Rather, this fee is collected after the initial inspection of the installed elevator, which is already addressed in Ch. 521.

In addition, the reference to Vertical Reciprocating Conveyors (UVRCs") was removed from Section 2 of this chapter in order to correct an oversight from a previous rulemaking. In the previous rulemaking, the Board at the time sought to regulate VRCs but was unable to proceed in adopting a rule chapter on VRCs because the statutory definition of an elevator does not include a conveyor. Despite the fact that the rule chapter on VRCs was not adopted and VRCs have never been regulated, the Board neglected to remove all references to VRCs from other rule chapters.

Other minor revisions were also made to reorganize, update, and clarify the rule.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 515**, Tramways

Filing number: **2015-215**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter had to be amended.

In Section 1 (A)(2), the reference to "Board" was removed and replaced with a reference to "Chief Inspector." Under 32 MRS §15224, plans and specifications for new tramway installations or alterations must be submitted to, and approved by, the Chief Inspector. Accordingly, it is appropriate for the Chief Inspector to be the one that provides the form for approval.

In addition, the initial certificate fee requirement was removed from Section 1(A). This section sets forth what a tramway owner must submit to the Chief Inspector before installing a new tramway, and the initial certificate fee is not necessary at this stage. Rather, this fee is collected after the initial inspection of the installed tramway, which is already addressed in Ch. 523.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 521**, Elevator Owners’ Duties and Responsibilities

Filing number: **2015-216**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

This chapter was also amended by changing when an elevator owner must apply for a new inspection certificate in Section 2(B). Previously, an owner had to apply no later than 30 business days before the current inspection certificate expired. As amended, an owner now must apply no later than 30 days before the current inspection certificate expires. This change provides a clearer guideline for both owners and Program staff, eliminating the need to calculate business days. In effect, the change also provides elevator owners with more time to apply for inspection certificates.

Other minor revisions were also made to update, streamline, and clarify the rule.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 523**, Tramway Owners’ Duties and Responsibilities

Filing number: **2015-217**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

In addition, Section 1 was reorganized to clarify the tramway inspection requirements. The content of this section was not changed.

This chapter was also amended by changing when a tramway owner must apply for a new inspection certificate in Section 3(B). Previously, an owner had to apply no later than 30 business days before the current inspection certificate expired. As amended, an owner now must apply no later than 30 days before the current inspection certificate expires. This change provides a clearer guideline for both owners and Program staff, eliminating the need to calculate business days. In effect, the change also provides tramway owners with more time to apply for inspection certificates.

Other minor revisions were also made to update, streamline, and clarify the rule.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 531**, Licensed Private Elevator Inspectors

Filing number: **2015-218**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

In addition, this chapter was amended by updating Section 2(A) in order to bring the rule in line with the current ASME QEI-1 standard. Previously, the rule required that an applicant for a private elevator inspector license had to be certified as a Qualified Elevator Inspector ("QEI") by an organization accredited by the ASME Qualification of Inspectors Committee. However, ASME no longer provides the accreditation standards. Based on ASME QEI-1 - 2013: "Standards for the Qualification of Elevator Inspectors," the amended rule now requires an applicant to be certified as a QEI by an organization accredited by an independent, internationally or nationally recognized organization that accredits personnel certification bodies to ANSI/ISOIIEC 17024 or its equivalent and ASME QEI-1.

Other minor revisions were also made to update and clarify the rule.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221,15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 533**, Licensed Private Tramway Inspectors

Filing number: **2015-219**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director." Other minor revisions were also made to update the rule.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 535**, Licensed Wire Rope Inspectors

Filing number: **2015-220**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director." Other minor revisions were also made to update the rule.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 537**, Licensed Elevator Mechanics

Filing number: **2015-221**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

Other minor revisions were also made to update the rule.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 539**, Licensed Lift Mechanics

Filing number: **2015-222**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Program" and "Director."

Other minor revisions were also made to correct errors in formatting and references, and to update the rule.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
**Office of Professional and Occupational Regulation –
Elevator and Tramway Safety Program**

Umbrella-Unit: **02-241**

Statutory authority: 5 MRS §§ 8056(1)(B)(1)-(3), 9001; 32 MRS §§ 15202,
15204, 15205-A, 15208, 15208-A, 15209, 15209-A,
15211, 15212, 15213, 15214, 15216, 15216-C,
15221, 15224, 15225-A, 15226, 15227, 15228, 15229

Chapter number/title: **Ch. 541**, Elevator Contractors

Filing number: **2015-223**

Effective date: 12/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To reflect statutory changes that eliminated the Board of Elevator and Tramway Safety and created the Elevator and Tramway Safety Program administered by the Director of the Office of Professional and Occupational Regulation; to reflect updates to the national codes that have been incorporated by reference into the rules; to update the Qualified Elevator Inspector certification requirement; to remove references to vertical reciprocating conveyors; and to make minor revisions and updates throughout the rules.

Basis statement:

In 2013, statutory changes restructured the licensing and regulation of elevators and tramways by eliminating the Board of Elevator and Tramway Safety and creating the Elevator and Tramway Safety Program, administered by the Director of the Office of Professional and Occupational Regulation. Due to these changes, this chapter was amended by removing all references to "Board" and replacing those references with "Director."

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Real Estate Appraisers
Umbrella-Unit: **02-298**
Statutory authority: 32 MRS §14012(3)
Chapter number/title: **Ch. 240**, Standards of Professional Practice
Filing number: **2015-245**
Effective date: 1/1/2016
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Upcoming publication of an updated edition of the *Uniform Standards of Professional Appraisal Practice* ("USPAP") for 2016-17.

Basis statement:

Title 32 MRS §14012(3) authorizes the board to establish standards of practice for licensed real estate appraisers, and 32 MRS §14028 requires licensees to comply with the *Uniform Standards of Professional Appraisal Practice* (UUSPAP") promulgated by the Appraisal Standards Board of the Appraisal Foundation. Federal law also requires compliance with USPAP for real estate appraisals in federally related transactions. See 12 use §§ 3336, 3339.

The rule amendment designates the 2016-17 edition of USPAP as the standards of practice for Maine-licensed real estate appraisers, which go into effect beginning January 1, 2016.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine Board of Dental Examiners**
Umbrella-Unit: **02-313**
Statutory authority: PL 2014 ch. 575 of the 126th Maine Legislature (Second Regular Session (LD 1230); 32 MRS §1073 (2))
Chapter number/title: **Ch. 17**, Requirements for Establishing a Board Approved Dental Hygiene Therapy Program
Filing number: **2015-116**
Effective date: 6/29/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This chapter implements Public Law 2014 ch. 575 of the 126th Legislature (Second Regular Session), which requires the Board to adopt rules by January 1, 2015, setting the requirements for dental hygiene therapy education programs until such a time that dental hygiene therapy programs are accredited by the Commission on Dental Accreditation. The rule, which is based on national models, outlines the minimum standards the Board will use to approve a dental hygiene therapy educational program. The standards include the resources an educational institution must demonstrate to ensure that the program has the administrative, financial and clinical support to ensure student competencies upon successful completion of the program. The Board convened an ad hoc committee in accordance with the consultation requirements outlined in the legislation, which included dental hygiene educators and a dental educator from two of Maine's postsecondary educational institutions. The *ad hoc* committee recommended the minimum standards contained in this rule to establish a balance between protecting the public and providing opportunities to access educational programs that would meet the competency standards in the emerging practice of dental hygiene therapy.

Basis statement:

This new chapter outlines the requirements for a dental hygiene therapy education program that meets the licensure requirements pursuant to 32 MRS §1094-AA(2)(D) until such a time that dental hygiene therapy programs are accredited by the Commission on Dental Accreditation. The rule, which is based on national models and other state licensure regulations, outlines the minimum standards the Board will use to approve a dental hygiene therapy educational program. The standards include the resources an educational institution must demonstrate to ensure that the program has the administrative, financial and clinical support to ensure student competencies upon successful completion of the program.

Fiscal impact of rule:

N/A

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine Board of Dental Examiners**

Umbrella-Unit: **02-313**

Statutory authority: Public Law 2015 ch. 192 of the 127th Maine Legislature (First Regular Session (LD 1009) and 32 MRS §1073(2))

Chapter number/title: **Ch. 16**, Rules for Independent Practice Dental Hygienists to Process Dental Radiographs

Filing number: **2015-238**

Effective date: 12/5/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

This chapter implements Public Law 2015 ch. 192 of the 127th Legislature (First Regular Session), which requires the Board to adopt rules setting the practice standards for Independent Practice Dental Hygienists to expose and process dental radiographs as part of their established scope of practice. The existing rule allowed Independent Practice Dental Hygienists to process radiographs, but only under a pilot program, which expired on March 13, 2015. This amendment removes the pilot program language, the reporting and inspection requirements, the exposure and findings form, as well as the geographic restrictions. It retains the protocols established in the prior adoption of the rule with regard to written agreements and referral protocols.

Basis statement:

This amendment sets the practice standards for Independent Practice Dental Hygienists to expose and process dental radiographs as part of their established scope of practice. The existing rule allowed Independent Practice Dental Hygienists to process radiographs, but only under a pilot program, which expired on March 13, 2015. This amendment removes the pilot program language, the reporting and inspection requirements, the exposure and findings form, as well as the geographic restrictions. It retains the protocols established in the prior adoption of the rule with regard to written agreements and referral protocols.

Fiscal impact of rule:

N/A

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine Board of Dental Examiners**
Umbrella-Unit: **02-313**
Statutory authority: Public Law 2015 ch. 192 of the 12ih Maine Legislature (First Regular Session (LD 1009) and 32 MRS §1073(2)
Chapter number/title: **Ch. 5**, Requirements for Licensure as a Denturist
Filing number: **2015-244**
Effective date: 12/15/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This chapter implements Public Law 2015 ch. 192 of the 127th Legislature (First Regular Session), which allows the Board of Dental Examiners to issue a permit to a denturist student for the purpose of performing limited denturist services in order to meet the clinical requirements of a board-approved denturism educational program. The amendment outlines the requirements for an individual seeking a denturist externship permit.

Basis statement:

The Maine Board of Dental Examiners [Board] is charged by the Legislature with the regulation of dentists, dental hygienists, dental hygiene therapists, dental denturists, dental radiographers, and expanded function dental assistants in the State of Maine in order to protect the public. In order to accomplish its mission of regulating these professions and protecting the public, the Legislature granted the Board the authority to create rules.

The genesis of the current rule making proceedings was the passage of Public Law 2015 ch. 192 of the 127th Legislature (First Regular Session, LD 1009), which authorized the Board to issue a permit to a denturist student to perform limited denturist services. The Board formally proposed the new rule on July 17, 2015. Pursuant to Executive Order 2014-002, effective April 14, 2014, the proposed rule revisions were forwarded to the Commissioner of the Department of Professional and Financial Regulation, who subsequently approved them for rule-making on June 24, 2015. On July 27th, the proposed rule was forwarded to the Office of the Governor pursuant to Executive Order 20 FY 11/12, effective August 24, 2011. On August 3, 2015, the Board received approval from the Office of the Governor to publish the proposed rule revisions for public review and comment. On August 18, 2015, the Maine Board of Dental Examiners forwarded the proposed rule packet (which included a signed approval from the Commissioner of Professional and Financial Regulation, and the Office of the Governor) to the Secretary of State's Office for publishing in the newspapers and online. The notice appeared in the newspapers and online on August 26, 2015. In accordance with 5 MRS §8053(2), the Board held a rule-making hearing on the proposed rules on September 18, 2015, with an established deadline of September 28, 2015, for the submission of written comments. On October 16, 2015, the Board reviewed the verbal and written comments submitted regarding the proposed rule revisions.

Fiscal impact of rule:

N/A

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters

Umbrella-Unit: **02-333**

Statutory authority: 32 MRS §5506(4)

Chapter number/title: **Ch. 10**, Definitions

Filing number: **2015-033**

Effective date: 4/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The board sought to update and streamline the rules overall. The board has never utilized the dictionary referenced in this chapter and there is no longer a print version of the dictionary.

Basis statement:

This chapter was repealed because it references a dictionary that the board has never used and there is no longer a print version of the dictionary. Any term that may require a definition can be defined in the text of the particular rule that references the term. Repealing this chapter serves to update and streamline the rules.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §§ 5506(1), (2); 5514(2)
Chapter number/title: **Ch. 40**, Qualifications for Intern Forester License
Filing number: **2015-034**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all qualifications for intern forester licensure into one chapter.

Basis statement:

This chapter was repealed and replaced in order to reorganize and consolidate the qualifications for intern forester licensure. The concepts in former Ch. 40 of the board's rules have been combined with the concepts in former Ch. 50, which addressed the variance from educational qualifications for issuance of an intern forester license. As a result, New Ch. 40 sets forth, in one place, all qualifications for an intern forester license, both as a degree candidate and as a variance candidate.

In consolidating rules, minor changes were made to the rules set forth in former Ch. 40. First, the sources have been updated for the list of accredited education programs and the approval standards for non-approved educational programs. Second, the rules now refer applicants to the direct source online for a list of accredited education programs and for the approval standards for non-approved educational programs. Previously, the rule referred applicants to both the direct source and the board. Referral to the board is unnecessary because board staff merely checks the direct sources when an inquiry is received; the board does not maintain this information.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters

Umbrella-Unit: **02-333**

Statutory authority: 32 MRS §§ 5506(1), (2), 5514(2)

Chapter number/title: **Ch. 50**, Variance from Educational Qualifications for Issuance of an Intern Forester License

Filing number: **2015-035**

Effective date: 4/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all qualifications for intern forester licensure into one chapter.

Basis statement:

This chapter was repealed in order to reorganize and consolidate the qualifications for intern forester licensure. The concepts in former Ch. 50 of the board's rules have been combined with the concepts in former Ch. 40, which addressed the educational qualifications for issuance of an intern forester license. As a result, New Ch. 40 sets forth, in one place, all qualifications for an intern forester license, both as a degree candidate and as a variance candidate.

In consolidating rules, some changes were made to the rules set forth in former Ch. 50. First, in former Ch. 50, there was a section pertaining to the recognition of physical labor in an applicant's work experience. The board determined that this provision was unnecessary because physical labor is inherent in all four subject areas outlined in the subsection on nature and duration of work experience, and therefore, physical labor is already included in the work experience analysis.

Second, former Ch. 50 required an employment resume for documentation of an applicant's work experience. New Ch. 40 has eliminated the employment resume requirement because the application will ask for the same information. There is no need for an applicant to provide the same information in two places.

Third, new Ch. 40 requires that supplemental forestry education consist only of Category 1, Category 2, and Post-secondary course-work. Former Ch. 50 provided an additional Category 3 and Category 4. The board determined that it was preferable to have supplemental forestry education consist only of Category 1, Category 2, and Post-secondary course-work because these categories consist of activities that are akin to organized learning in an academic setting.

Finally, former Ch. 50 required an original, sealed transcript for documentation of an applicant's supplemental forestry education. New Ch. 40 has eliminated the requirement that the transcript be original and sealed because doing so complies with the policy of the Office of Professional and Occupational Regulation to remove barriers to online licensing applications.

Fiscal impact of rule:

None.

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Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters

Umbrella-Unit: **02-333**

Statutory authority: 32 MRS §§ 5506(2), 5515(3), (4), (5), (5-A), (6), (10); 5516(2)

Chapter number/title: **Ch. 60**, Sponsorship of Intern Foresters

Filing number: **2015-036**

Effective date: 4/1/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all requirements for forester licensure into a single chapter and to implement some of the new and amended statutory provisions on forester licensing standards that will go into effect on April 1, 2015 through PL 2013, c. 527.

Basis statement:

This chapter was repealed in order to reorganize and consolidate the qualifications for forester licensure. The concepts in former Ch. 60 of the board's rules have been combined with former Ch. 70 on licensure as forester. Former Ch. 60 outlined what is required during the internship in order for a licensed intern forester to qualify for a forester license, and therefore, has been incorporated into a single chapter on obtaining forester licensure. The result of combining the rules of both chapters is new Ch. 70, which now sets forth, in one place, all requirements and qualifications for a forester license.

In consolidating rules, some changes were made to the rules set forth in former Ch. 60. First, language on the nature of work experience required for forester licensure was taken from former Ch. 60 and modified so that it applies to all pathways to licensure. The requirement should be the same for all pathways. In addition, the requirement in former Ch. 60 that each of the four subject areas must ordinarily account for no less than 10% of the work experience was not carried over to new Ch. 70. New Ch. 70, as proposed, used the following language: "Each of the four subject areas must be substantially represented in the applicant's work history." The board found that the substantially represented standard was preferable to the 10% standard because of the difficulty in determining what constitutes a particular percentage. Additionally, using the substantially represented standard provided consistency throughout the rules because that standard was already in rule for evaluating the work experience of an applicant seeking an intern forester license through the variance pathway. As explained in the Response to Comments section for Ch. 70, the board adopted the proposed rule with a slight change to this standard.

Second, language was added to the full time equivalency and internship log requirements of former Ch. 60 in order to account for the statutory change that now allows degree candidates to earn forestry experience toward the internship requirement prior to obtaining an intern forester license. In addition, language that addresses the requirement of three references was eliminated because this requirement was removed from the statute.

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Finally, the subsection in former Ch. 60 pertaining to sponsor reports during the internship was not carried over to new Ch. 70 because the board found it to be unnecessary, as no reports have been filed consistent with this provision.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Board of Licensure of Foresters**
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §§ 5506(2), 5515(3), (4), (5), (5-A), (6), (10); 5516(2)
Chapter number/title: **Ch. 70**, Qualifications for Forester License
Filing number: **2015-037**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to combine all requirements for forester licensure into a single chapter and to implement some of the new and amended statutory provisions on forester licensing standards that will go into effect on April 1, 2015 through PL 2013, c. 527.

Basis statement:

This chapter was repealed and replaced in order to reorganize and consolidate the qualifications for forester licensure. Former Ch. 70 of the board's rules has been combined with the concepts in former Ch. 60. The result of combining the concepts of these two chapters is New Ch. 70, which now sets forth, in one place, all the requirements and qualifications for a forester license.

New Ch. 70 is comprised of four sections: (1) educational requirement; (2) work experience requirement; (3) examination requirement; and (4) four pathways to licensure.

The four pathways to licensure set forth in section 4 are as follows: (1) applicants with lawful forestry experience as an intern forester; (2) applicants with lawful forestry experience in another jurisdiction; (3) applicants with lawful forestry experience as an employee of the federal government; and (4) applicants who are licensed in another jurisdiction.

Subsection 1 on applicants with lawful forestry experience as an intern forester incorporates the sponsorship requirements for an intern forester that were set forth in former Ch. 60, as well as statutory changes to the internship found in 32 MRS §5515(3). Subsection 2 on applicants with lawful forestry experience in another jurisdiction is authorized by 32 MRS §5515(5). Subsection 3 on applicants with lawful forestry experience as an employee of the federal government is authorized by 32 MRS §5515(5-A).

Subsection 4 on applicants who are licensed in another jurisdiction is authorized by 32 MRS §5516(2). The board determined that an applicant licensed in another jurisdiction need only take and pass Part 1 of the exam (the Maine-specific portion). With this requirement, an applicant will not encounter any unnecessary barriers to licensure but will still need to be educated and tested on Maine-specific forestry practice.

None of the language from former Ch. 70 has been incorporated into New Ch. 70. Former Ch. 70 addressed the forester examination and the requirement of three references. New language now addresses the forester examination and the three references requirement has been eliminated from the statute.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §§ 5506(4),5514(4); 5515(7)
Chapter number/title: **Ch.80**, Continuing Forestry Education
Filing number: **2015-038**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to clarify and update the rules by adjusting the nature and amount of continuing education hours, adopting the auditing process set forth in the rules of the Office of Professional and Occupational Regulation, and removing the continuing education requirement for a licensee's first renewal.

Basis statement:

This chapter was amended by adjusting the nature and amount of continuing education hours, adopting the auditing process set forth in the rules of the Office of Professional and Occupational Regulation, removing the continuing education requirement for a licensee's first renewal, and making a minor grammatical change to the section on optional pre-approval. The amendments serve to update and clarify the rules.

First, the board sought to bring more clarity to the continuing education requirement by requiring 6 hours of continuing education during the preceding license term, to coincide with the annual license renewal, instead of 12 hours during the two year period ending on December 31 of each even-numbered year.

Second, the board replaced section 3 on reporting and documentation with section 3-A on the auditing process, which is set forth in Ch. 13 of the rules of the Office of Professional and Occupational Regulation. The auditing process verifies compliance with continuing education requirements, and the new rule will require a licensee to certify to completion of continuing education hours when submitting an application for license renewal. That certification is then subject to audit.

Third, the board has added section 4-A, which will serve to exempt licensees from having to complete continuing education for their first license renewal. This exemption is consistent with a long-standing board practice.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure of Foresters
Umbrella-Unit: **02-333**
Statutory authority: 32 MRS §5506(4)
Chapter number/title: **Ch. 110**, Transition Provisions
Filing number: **2015-039**
Effective date: 4/1/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The board sought to update and streamline the rules.

Basis statement:

This chapter was repealed because it was used to implement the transition provision of PL 2001, c. 261 §6 and is no longer applicable. Repealing this chapter serves to update the rules.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Board of Licensure in Medicine
Umbrella-Unit: **02-373**
Statutory authority: 10 MRS §8003-E; 32 MRS §3269(7)
Chapter number/title: **Ch. 4**, Rules Regarding the Issuance of Citations
Filing number: **2015-021**
Effective date: 3/10/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Ch. 4 lists the violations for which a citation and administrative fine may be issued, describes the licensee's right to request a hearing, and describes the time and manner in which the fine must be paid. Section 2 specifies the Board may issue a complaint charging unprofessional conduct and states that administrative fines are not reportable to any databanks. The proposed amendment includes additional bases for issuing citations.

Basis statement:

The previous version of Ch. 4, which was adopted in August 2009, identified the violations for which a citation and administrative fine might be issued by the Board, described the licensee's right to request a hearing before the Board, described the time and manner in which the fine must be paid, and stated that administrative fines were not reportable to any databanks. The present version of Ch. 4 clarifies the administrative process regarding the issuance of citations, permits the Board to issue a complaint in addition to issuing citations, and expands the circumstances under which citations could be issued to include:

- Failure to report the existence of an outstanding complaint on a license application, license renewal application or any document provided to the Board;
- Failure to provide a response to the notice of complaint within the statutorily specified thirty (30) days from notice or within the timeframe specified by issuance of an extension of response as granted by Board staff;
- Failure to provide an accurate answer to any questions on any Board application;
- Failure to submit a complete application for licensure within fourteen (14) days from issuance of an emergency license, unless a waiver has been granted; and
- Failure to meet continuing medical education (CME) requirements at license renewal as confirmed by random audit.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation, **Maine State Board of Nursing**
Umbrella-Unit: **02-380**
Statutory authority: 32 MRS §2153-A(1)
Chapter number/title: **Ch. 4**, Disciplinary Action and Violations of Law
Filing number: **2015-049**
Effective date: 3/25/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal reason for the change is to update the language in the rule, Ch. 4, to reflect the statutory change (PL 105 May 20, 2013).

Basis statement:

This filing updates the language in the rule, Ch. 4, to reflect the statutory change (PL 105 May 20, 2013).

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board

Umbrella-Unit: **02-385**

Statutory authority: 10 MRS §§ 9005-A, 9085

Chapter number/title: **Ch. 820**, Definitions

Filing number: **2015-158**

Effective date: 8/30/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To add a new definition to the rule, to update and make minor revisions to the rule, and to allow the use of two-story modular homes in communities.

Basis statement:

This chapter was amended in order to make the following changes: to add "Licensee" as a definition; to revise the definition of "Manufactured Home" to allow for the use of two-story modular homes in communities as long as the homes do not exceed 16 feet in width measured at any floor, which may attract more residents to manufactured housing communities; and to make other minor revisions to update and clarify the rule chapter.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
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Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board
Umbrella-Unit: **02-385**
Statutory authority: 10 MRS §§ 9005-A, 9085
Chapter number/title: **Ch. 830**, Licensure of Manufactured Housing Communities
Filing number: **2015-159**
Effective date: 8/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To add email address to the required application material, to remove a grandfather provision, to clarify other language, and to update and make other minor revisions.

Basis statement:

This chapter was amended by adjusting the application and renewal process in an effort to update and streamline these processes. Specifically, requiring an email address is intended to increase avenues of communication with licensees and to allow for online license application/renewal and email renewal reminders.

In addition, this chapter was amended by correcting and clarifying language pertaining to the license fee requirement for a change in ownership. Under the Board's statute, a manufactured housing community must submit an application with a license fee upon a change in ownership (see 10 MRS §§ 9083 and 9021(2-A)). In the previous rule, however, the language was not clear that a license fee was required, making the requirement difficult to enforce.

The Board made other minor revisions throughout this chapter in order to update and clarify the rule, including the addition of a provision that requires change in contact information to be reported to the Board and the removal of a grandfather provision pertaining to the number of sites in a community, as this provision is no longer applicable.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board

Umbrella-Unit: **02-385**

Statutory authority: 10 MRS §§ 9005-A, 9084, 9085; 5 MRS §9001

Chapter number/title: **Ch. 840**, Rules Relating to Drinking Water Systems of
Manufactured Housing Communities

Filing number: **2015-160**

Effective date: 8/30/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

The previous rules were not clear about the requirement of annual water testing of private water systems and reporting test results. Additionally, the previous rules did not address notifying community residents of the annual water test results. Therefore, the board adopted this new rule chapter to clarify the requirements for private water systems in order to ensure that the necessary water testing is being conducted and reported and that community residents are notified of test results.

Basis statement:

This chapter was adopted in order to clarify and elaborate on the rules regulating drinking water systems in manufactured housing communities, specifically the requirement of annual water testing of private water systems and the reporting of test results. The specific testing required has not changed. The previous rules, however, did not address notification of annual water test results to community residents. Thus, the Board has set forth a requirement that a community provide an annual water safety report to community residents, along with annual test results. To assist communities with this requirement, the adopted rule provides a form for this report.

This chapter also clarifies the requirements for new private systems or any expansions/upgrades/re-engineering of existing private water systems, which are regulated by the Board with the Division of Environmental Health (within DHHS) serving as a technical advisor. Other provisions include: an option for the Board to issue an Order of Conditional Operation for an existing non-compliant private water system; water quality standards for existing private water systems in active operation that are not expanding, upgrading or re-engineering; the requirement of a designated water system operator; reporting requirements; record maintenance requirements; requirements for communication and notice to consumers; an option for the board to order an engineering study for existing private waters systems with violations or deficiencies; and the ability of the board to issue an emergency order or boil water order in situations where the board finds an imminent hazard to public health.

With this chapter, the Board seeks to improve its efforts to protect the health and safety of the public, particularly community residents, from unsafe private water systems without imposing any unnecessary costs on the regulated community.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board

Umbrella-Unit: **02-385**

Statutory authority: 10 MRS §§ 9005-A, 9085

Chapter number/title: **Ch. 850**, Community Licensing - Standards

Filing number: **2015-161**

Effective date: 8/30/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

To move the drinking water standards from this chapter to the new Ch. 840, to correct and clarify other language, and to update the reference to the *National Electrical Code*.

Basis statement:

This chapter was amended by removing the drinking water standards and relocating those standards to a new chapter (Ch. 840).

In addition, the Board updated the reference to the *National Electrical Code*. The rule previously referenced the 2002 Code, and this has been updated to the 2014 Code, which the Maine Electricians' Examining Board has adopted.

The Board made several other clarifying language changes and minor revisions throughout the rule chapter.

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Manufactured Housing Board
Umbrella-Unit: **02-385**
Statutory authority: 10 MRS §§ 9005-A, 9085, 9086
Chapter number/title: **Ch. 860**, Inspections and Complaints
Filing number: **2015-162**
Effective date: 8/30/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To make minor revisions and to update the rule.

Basis statement:

This chapter was amended by making minor revisions, such as capitalizing defined terms and updating the title of the agency to "Office of Professional and Occupational Regulation."

Fiscal impact of rule:

None.

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Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Radiologic Technology Board of Examiners
Umbrella-Unit: **02-465**
Statutory authority: 32 MRS §9853(6)(E)
Chapter number/title: **Ch. 8**, Scope of Practice
Filing number: **2015-206**
Effective date: 11/7/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

To allow nuclear medicine technologists to use computed tomography for diagnostic purposes.

Basis statement:

During the 126th legislative session, stakeholders submitted a bill to allow a pathway for those licensed in nuclear medicine to learn how to fully use hybrid technology; however, the bill did not pass. The board subsequently convened a work group, the focus of which was computed tomography. The work group determined that the Board's statute allows an individual licensed as a nuclear medicine technologist to use hybrid technology, but the Board's rules do not. Thus, the work group developed an amendment to Ch. 8 of the Board's rules that expands the scope of practice for nuclear medicine technologists by allowing nuclear medicine technologists that hold a current ARRT (American Registry of Radiologic Technologists) or NMTCB (Nuclear Medicine Technology Certification Board) certification in computed tomography to use computed tomography for diagnostic purposes.

Fiscal impact of rule:

None.

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Rules Adopted January 1, 2015 to December 31, 2015
Prepared by the Secretary of State, pursuant to 5 MRS §8053-A, sub-§5

Agency name: Department of Professional and Financial Regulation,
Maine Fuel Board

Umbrella-Unit: **02-658**

Statutory authority: 32 MRS §18123(2)

Chapter number/title: **Ch. 13**, Installation of Propane and Natural Gas Burning Equipment

Filing number: **2015-240**

Effective date: 12/8/2015

Type of rule: Routine Technical

Emergency rule: No

Principal reason or purpose for rule:

In 2014, the board adopted Ch. 1 through 13, which repealed and replaced the rules of the former Oil and Solid Fuel Board and the Propane and Natural Gas Board. However, the board subsequently reserved rule-making on Ch. 13 Section 13.7 due to concerns raised by the regulated community about the proposed language. A subcommittee was formed to deal specifically with Section 13.7, and the subcommittee drafted language for Section 13.7 that the board accepted on February 12, 2015. With this rule, the board seeks to ensure compatibility and the safest possible installation of conversion burners when converting an appliance to propane or natural gas from another fuel source.

Basis statement:

Ch. 13 Section 13.7 sets forth requirements for installing a conversion burner to convert an appliance to propane or natural gas from another fuel source. In a previous rulemaking that concluded in 2014, the board adopted Ch. 1 through 13, which repealed and replaced the rules of the former Oil and Solid Fuel Board and Propane and Natural Gas Board. However, the board subsequently reserved rulemaking on Ch. 13 Section 13.7 due to concerns raised by the regulated community about the proposed language. The board thereafter formed the Section 13.7 Subcommittee ("subcommittee"), made up of board members and staff, fuel industry representatives, and other interested parties. The subcommittee met three times from November 2014 to January 2015. On January 12, 2015, the subcommittee voted to approve proposed language for Section 13.7. On February 12, 2015, the board voted unanimously to approve the subcommittee's proposed language and to proceed to rule-making.

The rule sets forth a number of requirements designed to ensure the safest possible conversion of an appliance to gas from another fuel source. The rule is comprised of three subsections:

Section 13.7.1, which sets forth conversion requirements where the input of the burner is 400,000 btu or less; Section 13.7.2, which sets forth conversion requirements where the input of the burner is greater than 400,000 btu; and Section 13.7.3, which sets forth oil tank requirements upon conversion to an alternative fuel.

As proposed, Section 13.7.1 provided the following requirements: the conversion burner must be a listed conversion burner; the installer must verify with the appliance manufacturer that the appliance is suitable for use with gas; and the appliance or burner manufacturer must provide installation and setup instructions

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specific to the appliance if it is designed to operate with a positive chamber pressure. In instances where the appliance manufacturer is no longer available, the proposed rule allowed an installer to use the burner selection criteria of ANSI Z21.8 and the burner manufacturer's combustion setup instructions. The installation ultimately had to conform to national codes, as referenced in the rule.

As proposed, Section 13.7.2 provided the following requirements: the conversion burner must be a listed conversion burner; the installer must verify with the appliance manufacturer that the appliance is capable of being used with gas; and the burner must be selected for use in the make and model of appliance, with the rule providing three ways in which this requirement may be met. The installation ultimately had to conform to national codes, as referenced in the rule. Section 13.7.2(4) also provided that installations 1,000,000 btu or greater had to conform to the additional codes referenced therein.

Fiscal impact of rule:

None.