

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 Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §420-D
Chapter number/title: **Ch. 500**, Stormwater Management
Filing number: **2015-002**
Effective date: 1/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting these rules to provide greater flexibility and clarity in its stormwater management programs.

Basis statement:

The Department's existing Ch. 500, *Stormwater Management*, rules contain both major substantive and routine technical elements. While most of the provisions implementing the Storm Water Management law are major substantive, thereby subject to the requirements established in 5 M.R.S. Chapter 375 §§ 8071 *et seq.*, the provisions in Section 6 of the current rules (entitled "Compensation Fees and Mitigation Credits"), are routine technical in nature and not subject to these requirements.

The Department is proposing to bifurcate the existing rules by deleting these routine technical provisions (Section 6) from Ch. 500 and incorporating them into a new and separate stand-alone rule.

Fiscal impact of rule:

This adoption is not expected to have a significant fiscal impact on small businesses, the regulated community or municipalities. While many of the proposed revisions (e.g., the general standards) provide additional flexibility to the regulated community, and are expected to reduce costs, other elements of the proposal (e.g. increased compensation fees for urban impaired streams) could increase costs to some applicants choosing to utilize these voluntary compliance options.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §420-D(11)
Chapter number/title: **Ch. 501**, Stormwater Management Compensation Fees and Mitigation Credit
Filing number: **2015-003**
Effective date: 1/13/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting this rule to provide greater flexibility for the regulated community and reward applicants for more effective stormwater control efforts, while ensuring that the compensation fee program adequately funds mitigation projects.

Basis statement:

The Department is adopting a new rule specifically addressing stormwater compensation fees and mitigation credits. (These provisions were formerly included in Ch. 500 of the Department's rules. The Department is now updating and establishing these requirements as a stand-alone rule.) The Ch. 501 *Stormwater Management Compensation Fees and Mitigation Credit* rule establishes a program allowing applicants to undertake a compensation project, or pay a compensation fee in lieu of meeting certain stormwater control requirements. The rule establishes the required compensation fees along with earned mitigation credits for projects required to meet the general stormwater and phosphorous control standards. The Department is adopting this rule to provide greater flexibility for the regulated community and reward applicants for more effective stormwater control efforts, while ensuring that the compensation fee program adequately funds mitigation projects.

Fiscal impact of rule:

This adoption is not expected to have a significant fiscal impact on small businesses, the regulated community or municipalities. While the rule increases compensation fees for some projects required to meet the urban impaired stream standard, it provides additional opportunities for projects to earn mitigation credits from on-site and off-site mitigation activities. In addition, the rule establishes a graduated fee schedule for those sources choosing to pay a compensation fee in lieu of reducing phosphorus beyond a project's allotment. This graduated fee schedule rewards project developers for implementing more effective on-site phosphorous controls.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §438-A(5)
Chapter number/title: **Ch. 1000**, Guidelines for Municipal Shoreland Zoning Ordinances
Filing number: **2015-009**
Effective date: 1/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments to Ch. 1000 are, in part, the result of a stakeholder process that took place over several months in 2011, and which was summarized in a report to the legislature titled "Report on the Shoreland Zoning Stakeholder Process" and dated January 2012. The Department consulted with stakeholders again in 2014 prior to commencing this rule-making. The 2011 stakeholder process was initiated in response to proposed legislation to amend the *Mandatory Shoreland Zoning Act* and with the intent of updating the Ch. 1000 *Guidelines*. Recognizing that many issues were due to confusion over the rules, the Department facilitated a series of stakeholder group meetings to examine the rules to find ways to clarify provisions and build in more flexibility, while still maintaining important shoreland protections.

In addition to the amendments that resulted from the stakeholder process, recent statutory amendments were also incorporated into the proposed rule in order to make Ch. 1000 consistent with the *Mandatory Shoreland Zoning Act*.

Lastly, longstanding Department policies on certain topic have been incorporated into the rule to provide more clarity for both municipalities, who are charged with administering and enforcing shoreland zoning regulations, and shoreland zoned landowners.

Basis statement:

The Department is amending Ch. 1000 to incorporate a number of legislative changes to the *Shoreland Zoning Act* which have been adopted over the past three years. These include but are not limited to:

- P.L. 2013, Ch. 140 "An Act to Help Small Businesses and Promote Tourism by Allowing the Construction of a Deck over a River within a Downtown Revitalization Project,"
- P.L. 2013, Ch. 186 "An Act to Streamline the Approval of Accessibility Structures,"
- P.L. 2013, Ch. 231 "An Act Regarding Working Waterfront Projects,"
- P.L. 2013, Ch. 242 "An Act to Exempt Agriculture, Timber Harvesting and Public Employees from Certain Oversight in Shoreland Areas,"
- P.L. 2013, Ch. 320, "An Act to Amend the Mandatory Shoreland Zoning Laws,"
- P.L. 2013, Ch. 489 "An Act To Amend the Mandatory Shoreland Zoning Laws To Exclude Subsurface Waste Water Disposal Systems, Geothermal Heat Exchange Wells and Wells or Water Wells from the Definition of "Structure.""

There are also a number of changes intended to clarify the model ordinance and to better reflect Department interpretations. Some of these changes were suggested in a stakeholder process conducted in 2011, which was summarized in a report titled "Report on the Shoreland Zoning Stakeholder Process" and dated January 2012. The changes are also based on the professional judgment of the Department Staff charged with administering the Shoreland Zoning program.

Fiscal impact of rule:

The amendments to Ch. 1000 result in a minor fiscal impact to municipalities, as they will likely need to update local ordinance to comply with the new rule.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §38, MRS §341-H, PL 2013 c. 300
Chapter number/title: **Ch. 3**, Rules Governing the Conduct of Licensing Hearings
Filing number: **2015-015**
Effective date: 2/16/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment aligns the Department's *Rules Governing the Conduct of Licensing Hearings* with the notice requirements set forth in the *Maine Administrative Procedure Act* (5 MRS §9051-A(3)) as amended by P.L. 2013 c. 300.

Basis statement:

The November 2014 amendments to Ch. 3 remove the requirement to issue press releases and public service announcements of licensing hearings and replaces them with a general provision stating that some programs administered by the Department may have additional notice requirements for licensing hearings. The change was authorized by PL 2013 ch. 300 (LD 1497) "An Act to Make Minor Changes and Corrections to Statutes Administered by the Department of Environmental Protection," which amended the *Maine Administrative Procedure Act* to remove these requirements from statute.

Fiscal impact of rule:

None.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 1319(O)(1), 2144
Chapter number/title: **Ch. 850**, Identification of Hazardous Waste
Filing number: **2015-030**
Effective date: 3/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purpose of this rule-making is to add paint waste as a new type of universal waste. In addition the hazardous waste rules relating to universal waste were moved from Ch. 850 into a new Ch. 858.

Basis statement:

This rule change modifies Ch. 850 to primarily move the universal waste rules into a new Ch. 858. Clarifications and corrections of errors were also made to the chapter including language to ensure better linkage between Ch. 850 and 858. A public hearing on the changes was held on October 7, 2014 with a close of public comment on October 17, 2014.

Fiscal impact of rule:

This rule is expected to have a reduction in the cost of complying with regulations. The addition of paint waste from small hazardous waste generators to the universal waste rules will reduce the costs for these business owners of complying with the hazardous waste regulations.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 1319(O)(1), 2144
Chapter number/title: **Ch. 858**, Universal Waste Rules
Filing number: **2015-031**
Effective date: 3/11/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The primary purpose of this rule-making is to add paint waste as a new type of universal waste. In addition the hazardous waste rules relating to universal waste were moved from Ch. 850 into a new Ch. 858.

Basis statement:

This rule change creates Ch. 858. The existing universal waste rules were relocated from Ch. 850 to this chapter. A new addition to the universal waste rules was the incorporation of paint waste. Clarifications and corrections of errors were also made to the chapter including language to more clearly delineate certain requirements for universal wastes in Ch. 850 and 858.

Fiscal impact of rule:

This rule is expected to have a reduction in the cost of complying with regulations. The addition of paint waste from small hazardous waste generators to the universal waste rules will reduce the costs for these business owners of complying with the hazardous waste regulations.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 546
Chapter number/title: **Ch. 696**, Oil Discharge and Pollution Control Rules for Rail Tank Cars
Filing number: **2015-053**
Effective date: 3/26/2015
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

This rule addresses immediate threats to public health, safety and/or welfare. Over the past several years, increasing quantities of oil have been transported by rail tank cars in Maine and throughout the country. This increase has unfortunately been accompanied by a number of oil discharges and more significant accidents (e.g., accidents in Quebec and West Virginia). The increasing number of rail tank cars used for both transporting and the long-term storage of oil makes it imperative that rail tank cars used for long term storage are regularly inspected, and that the Department be provided with accurate and timely information in the event of an oil discharge or other emergency event.

Basis statement:

This rule establishes requirements for the remediation of any oil discharges from rail tank cars, requires the submission of federal Response Plans to the Department, and establishes inspection requirements for rail cars storing oil that are parked at a siding for more than 5 consecutive days. In recent years there has been a significant growth in the number of rail tank cars used to transport oil in Maine, with a concomitant increase in the use of these tank cars for longer-term storage of oil at rail sidings adjacent to rivers and residential areas. These practices pose a considerable risk to Maine's sensitive natural resources, including Class AA and Class A surface waters, and to groundwater serving public and private drinking water supplies. This emergency rule will provide the Department with accurate and timely information in the event of an oil discharge or other emergency event, and significantly reduce the likelihood of a release of oil that would create a local safety, public health, or environmental hazard.

Fiscal impact of rule:

This adoption will not have a significant fiscal impact on small businesses and other members of the regulated community. Oil discharge removal and remediation is currently required pursuant by statute at 38 MRS §548, and owners and operators of rail tank cars must already prepare written response plans pursuant to federal regulations at 49 CFR §130.31. Visual inspections of rail cars used for long-term oil storage may impose a small additional cost on the regulated community; the Department was unable to quantify this cost.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 304(1, 1-B, 13, 13-A), 1310-N(9)
Chapter number/title: **Ch. 400**, Maine Solid Waste Management Rules: General Provisions
Filing number: **2015-059**
Effective date: 4/6/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

- Make the rule consistent with legislation enacted over the past few years concerning determinations of public benefit for solid waste disposal facilities;
- Incorporate a general licensing standard for solid waste facilities requiring that the practices of these facilities are consistent with the State’s solid waste management hierarchy, as required by PL 2013 ch. 458;
- Incorporate an exemption from solid waste licensing requirements for “aged, fully-hardened asphalt” by including it in the existing definition of “inert fill”;
- Incorporate an exemption from solid waste licensing requirements for “wood pallets that are not pressure treated or visibly contaminated, and from which fasteners have been removed” by including them in the definition of “wood wastes”.
- Change the due date for annual reports submitted by solid waste transfer stations and storage facilities in order to make the date consistent with that of solid waste disposal facilities; this change will facilitate the department’s data gathering and reporting efforts;
- Revise definitions of Types IA, B, and C residuals to make them consistent with proposed revisions to Ch. 418;
- The Department also proposes minor changes to maintain consistency throughout the Solid Waste rules, update citations, correct formatting, and clarify existing language.

Basis statement:

The amendments to 06-096 CMR ch. 400 were proposed for several different purposes. First, the draft amendments make the rule consistent with legislation enacted over the past few years concerning incorporation of the State’s solid waste management hierarchy, as required by PL 2013 ch. 458, and determinations of public benefit for solid waste disposal facilities. The rule incorporates new exemptions from the solid waste management rules for “aged, fully-hardened asphalt” and for “wood pallets that are not pressure treated or visibly contaminated and from which fasteners have been removed”. Further, the revised rule provides for: change of the due date for annual reports submitted by solid waste transfer stations and storage facilities in order to make the date consistent with that of solid waste disposal facilities; revision of the definitions of Types IA, B, and C residuals; and, minor changes to update citations, modify formatting, and clarify existing language.

Fiscal impact of rule:

No significant fiscal impact anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B,13,13-A),1310-N(9)
Chapter number/title: **Ch. 418**, Maine Solid Waste Management Rules: Beneficial Use of Solid Wastes
Filing number: **2015-060**
Effective date: 4/6/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendment updates Ch. 418 by replacing Appendix A (“Screening Standards for Beneficial Use”) with values of constituents listed in the “Maine Remedial Action Guidelines for Sites Contaminated with Hazardous Substances”, revised May 8, 2013 (“Maine RAGS”). The Maine RAGS are current risk based standards developed by the Department in collaboration with the Maine CDC. The development of the Maine RAGs included an opportunity for public comment. Replacing the existing Appendix A in this way will make the screening standards of Ch. 418 consistent with existing standards and will ensure that the most current risk based values are being applied. Specifically, the screening standard is “one-half the concentration of a RAGs listed chemical, using the lowest value among the concentration values for relevant exposure pathways and scenarios for the chemical”, because the general risk standard for beneficial use is more conservative than the standard applied to site clean ups. The 418 screening standard however, is not prohibitive; it is simply used as a threshold beyond which an applicant is required to include “a demonstration that the proposed beneficial use of the waste does not pose a significant risk to public health or an unreasonable threat to the natural environment.”

The draft rule also adopts a series of minor revisions to Ch. 418. These revisions serve to maintain consistent formatting and citation throughout the Solid Waste Rules, updating citations, removing redundant language and clarify existing language, and removing language that is no longer relevant.

Basis statement:

The Department adopts updates to 06-096 CMR ch. 418 (Ch. 418) to replace Appendix A (“Screening Standards for Beneficial Use”) with values of constituents listed in the “Maine Remedial Action Guidelines for Sites Contaminated with Hazardous Substances”, revised May 8, 2013 (“Maine RAGs”). The Maine RAGs are current risk based standards developed by the Department in collaboration with the Maine Center for Disease Control (CDC). The development of the Maine RAGs included an opportunity for public comment. Replacing the existing Appendix A in this way will make the screening levels of Ch. 418 consistent with contaminant guidelines used by other Department programs and will ensure that the most current risk based values are being applied. The Ch. 418 screening levels however, are not prohibitive; they are simply used as a threshold beyond which an applicant is required to include “a demonstration that the proposed beneficial use of the waste does not pose a significant risk to public health or an unreasonable threat to the natural environment.”

The Department also proposed a series of minor revisions to Ch. 418. These revisions serve to maintain consistent formatting and citation throughout the Solid Waste Rules, updating citations, removing redundant language and clarifying existing language, and removing language that is no longer relevant.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 401**, Landfill Siting Design and Operation
Filing number: **2015-066**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 402**, Transfer Station and Storage Sites for Solid Waste
Filing number: **2015-067**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

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- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
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- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
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Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 403**, Incineration Facilities
Filing number: **2015-068**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
- 2) Update references to the CFR to the most recent revision and append referenced language.
- 3) Correct formatting and citation form for consistency throughout the Department's rules.
- 4) Removing repetitive or reallocated language.
- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 405**, Water Quality Monitoring, Leachate Monitoring, and Waste Characterization
Filing number: **2015-069**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
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- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
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Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 410**, Composting Facilities
Filing number: **2015-070**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
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- 3) Correct formatting and citation form for consistency throughout the Department's rules.
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- 5) Clarification of existing requirements.
- 6) Reallocating general Solid Waste Definitions to Ch. 400.
- 7) Delete references to deadlines and transition periods that have passed.

Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 1301 *et seq.*, 1304(1,1-B, 13,13-A)
Chapter number/title: **Ch. 419**, Agronomic Utilization of Residuals
Filing number: **2015-071**
Effective date: 4/12/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

LD 1483 directed the Department to review its Solid Waste Rule and adopt routine technical rules to better incorporate the waste management hierarchy into the Rules. The Department is proposing additional changes to Ch. 400 and 418 to carry out this Legislatures directive. These amendments are meant to reflect these changes and maintain consistency throughout the Solid Waste. In addition the Department has proposed additional minor changes.

These changes include:

- 1) Correcting citations to other Solid Waste and Hazardous Waste Rules to reflect other amendments.
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- 6) Reallocating general Solid Waste Definitions to Ch. 400.
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Basis statement:

The purpose of the modifications to 06-096 CMR ch. 401, 402, 403, 405, 410 and 419 is to update and clarify the rules through: correction of citations to other Solid Waste and Hazardous Waste Rules to reflect other proposed amendments; update of references to the CFR to the most recent revision and appending of referenced language; correction of formatting and citation form for consistency throughout the Department's rules; removal of repetitive or reallocated language; clarification of existing requirements; reallocation of general definitions to Ch. 400; deletion of references to deadlines and transition periods that have passed.

Fiscal impact of rule:

No significant fiscal impact is anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §585-D
Chapter number/title: **Ch. 127**, New Motor Vehicle Emissions Standards
Filing number: **2015-093**
Effective date: 5/19/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose for this rule amendment is to delay implementation of California's aftermarket catalytic converter requirements for three years to June 1, 2018. In addition clarification for exempt vehicles is adopted in Section 4(F)(5).

Basis statement:

The purpose of this rule-making is to delay the effective date to June 1, 2018 for requiring new aftermarket catalytic converters installed in Maine be certified by California Air Resources Board (CARB). This regulation would apply to passenger, light and medium duty-vehicles that are certified to the California emission standards after the warranty for the original equipment has expired. The purpose for further delaying the effective date to June 1, 2018 is to allow more time for manufacturers to comply and for other states in the region to adopt these requirements. States in the Ozone Transport Region have asked EPA to adopt the CARB aftermarket catalytic converter standards. The Ozone Transport Region Committee has also drafted the state *Model Rule for Sale of Aftermarket Catalytic Converters* based on California's program. Additional time will allow these provisions to be adopted with a more uniform implementation process across the region.

Fiscal impact of rule:

The automotive aftermarket industry estimates the CARB certified new aftermarket catalytic converter sells for approximately 30% more than the federal ACC but 50% less than an original equipment part.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 585-A, 585-N; Resolves 2015 ch. 10
Chapter number/title: **Ch. 119**, Motor Vehicle Fuel Volatility Limit
Filing number: **2015-110**
Effective date: 7/15/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

During the 1st session of the 126th Maine Legislature, L.D. 1359 “An Act to Update and Simplify Maine Gasoline Requirements” was enacted, which requires retailers who sell gasoline in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, or Lincoln County to sell only federal reformulated gasoline referred to as RFG, commencing May 1, 2014. The use of RFG in the seven southern counties mentioned above, will allow Maine to discontinue the use of a “boutique” 7.8 Reid Vapor Pressure (RVP) fuel during the summer months which has been required since the State opted-out of the RFG program.

Basis statement:

During the 1st session of the 126th Maine Legislature, L.D. 1359 “An Act to Update and Simplify Maine Gasoline Requirements” was enacted, which requires retailers who sell gasoline in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox, or Lincoln County to sell only federal reformulated gasoline referred to as RFG starting May 1, 2014, The use of RFG in the seven southern counties mentioned above, will allow Maine to discontinue the use of a “boutique” 7.8 Reid Vapor Pressure (RVP) fuel during the summer months which has been required since the State opted-out of the RFG program. Requiring the federally formulated fuel in southern Maine is a step toward the goal for a single fuel requirement state wide.

During the 2nd session the Legislature enacted LD 1796 “An Act to Delay Implementation of Reformulated Gasoline Requirements in Maine” recognizing the potential for fuel supply shortages and increased price volatility, Public Law 2014 Ch. 453 delays the implementation of RFG in southern Maine until June 1, 2015.

The Department is aligning Ch. 119 with PL 2014 ch. 453, and require implementation of the RFG program commencing June 1, 2015. Final adoption of this major substantive rule-making, as provisionally adopted by the Board on June 5, 2014, was authorized by the enactment of Resolve 2015 Ch. 10, which was signed into law by Governor LePage on April 16, 2015.

Fiscal impact of rule:

RFG will be distributed year round in southern Maine instead of the current 7.8 RVP “boutique” fuel during ozone season and conventional fuel in the winter months. The use of RFG in the seven southern counties will allow Maine to stop using a “boutique” fuel which in turn should reduce the cost of fuel in those counties during the summer months. However, using RFG instead of conventional fuel during the winter months may cost more. Staff determined the average price difference for fuels brought into New England was three cents higher for RFG than conventional fuel.

No longer having a seasonal fuel program in southern Maine should have less impact to small gasoline retailers.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 341-H, 546
Chapter number/title: **Ch. 696**, Oil Discharge and Pollution Control Rules for Rail Tank Cars
Filing number: **2015-113**
Effective date: 6/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule is being adopted to address immediate threats to public health, safety and/or welfare. Over the past several years, increasing quantities of oil have been transported by rail tank cars in Maine and throughout the country. This increase has unfortunately been accompanied by a number of oil discharges and more significant accidents (e.g., accidents in Quebec and West Virginia). The increasing number of rail tank cars used for both transporting and the long-term storage of oil makes it imperative that rail tank cars used for long term storage are regularly inspected, and that the Department be provided with accurate and timely information in the event of an oil discharge or other emergency event.

Basis statement:

The Department is adopting a new rule that establishes requirements for the remediation of any oil discharges from rail tank cars, requires the submission of federal Response Plans to the Department, and establishes inspection requirements for rail cars storing oil that are parked at a siding for more than 5 consecutive days. In recent years there has been a significant growth in the number of rail tank cars used to transport oil in Maine, with a concomitant increase in the use of these tank cars for longer-term storage of oil at rail sidings adjacent to rivers and residential areas. These practices pose a considerable risk to Maine's sensitive natural resources, including Class AA and Class A surface waters, and to groundwater serving public and private drinking water supplies. This rule will provide the Department with accurate and timely information in the event of an oil discharge, and significantly reduce the likelihood of a release of oil that would create a local safety, public health, or environmental hazard.

The Department of Environmental Protection posted this rule to a 30-day public comment period ending on May 1, 2015. The Department's final text includes several revisions made in response to comments received during the written comment period.

Fiscal impact of rule:

This adoption will not have a significant fiscal impact on small businesses and other members of the regulated community. Oil discharge removal and remediation is currently required pursuant by statute at 38 MRS §548, and owners and operators of rail tank cars must already prepare written response plans pursuant to federal regulations at 49 CFR §130.31. Visual inspections of rail cars used for long-term oil storage may impose a small additional cost on the regulated community; the Department was unable to quantify this cost.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §8055(3), 38 MRS §§ 341-H, 1694
Chapter number/title: **Ch. 888**, Designation of Four Members of the Chemical Class Phthalates as Priority Chemicals
Filing number: **2015-114**
Effective date: 6/22/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The proposed rule would designate four members of the chemical class phthalates as priority chemicals and require reporting for certain product categories that contain one or more of these regulated phthalates. The rule would apply to manufacturers of specified product categories that contain intentionally added di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), or diethyl phthalate (DEP).

This draft rule is proposed by citizen petition, which was received by the Department on May 14, 2014.

In order to make the originally proposed draft rule more consistent with currently effective rules implemented by the Safer Chemicals Program, and to better align the proposed rule with Maine law, the Department has made substantial changes to the originally proposed draft. This public notice provides an opportunity for public review and comment regarding those changes.

Basis statement:

On May 14, 2014, a citizen petition to initiate rule-making to designate four members of the chemical class phthalates as priority chemicals was submitted to the Department of Environmental Protection (“Department”). The petition sought to establish di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP), and diethyl phthalate (DEP) as Priority Chemicals, and require manufacturers of specified categories of children’s products to report their intentional use in such products to the Department.

In accordance with the *Maine Administrative Procedure Act*, 5 MRS §8055, any person may petition an agency for the adoption or modification of any rule. Within 60 days after receiving such a petition, the agency must either notify the petitioner of its denial, or initiate the appropriate rule-making proceedings. However, because this petition was submitted by more than 150 registered voters of the State of Maine, the Department was required by law to initiate rule-making (5 MRS §8055(3)). The nature of the petition’s proposed rule Ch. 888 is such that proceedings follow the Department’s routine technical rule-making process.

The draft rule, as proposed in the citizen’s petition, was published on July 9, 2014. Following the direction provided by the *Maine Administrative Procedure Act*, 5 MRS §8052(1), a public hearing on this petition was held on July 29, 2014. The public comment period closed on September 29, 2014, with the Department receiving over 900 comments.

Because numerous sections of petitioner’s originally proposed draft rule were in conflict with governing statute and rule, it was necessary for the Department to modify language in the proposed draft to better align the rule with currently effective Maine law. Some sections of the proposed draft rule were substantially revised from the petitioner’s proposal as a result of these necessary changes. Additionally, some sections of the rule required modification to provide greater clarity. This required the Department to republish the proposed draft in its amended form on February 11, 2015, and provide for another public comment period. This second comment period specifically requested input from the public concerning the

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modification of language from the originally proposed draft (5 MRS §8052(5)(B)) and closed on March 13, 2015, with the Department receiving 36 comments.

Basis for Amended Language

The Commissioner is unable to adopt the originally proposed applicability section of draft rule Ch. 888 because it fails to identify distributors as a regulated entity and omits exemptions which appear in previous priority chemical rules. Additionally, the originally proposed language was unclear and did not accurately reflect the statutory language of, “product for sale in the State” (38 MRS §1695(1)) when describing products subject to regulation under this rule.

Within section 2 of the proposed draft rule, changes were necessary to properly cite Department rule chapter 880.

Several definitions within the originally proposed rule were modified to be consistent with the Department’s other rules and with federal regulatory definitions so that the regulated community can more readily comply with the rule. Section 2(I) was amended to remove unnecessary descriptive language so that it is clearer which compounds are regulated, similar to changes made in section 3(A). Rather than duplicate the list of criteria from statute, the Department made section 3(B) more meaningful by describing which of the designation criteria had been met.

Because the rule must be consistent with statute, the Commissioner cannot adopt the originally proposed tiered reporting system. Governing law states that regulated entities must submit applicable information, “not later than 180 days after a priority chemical is identified...” (*Toxic Chemicals in Children’s Products*, 38 MRS §1695(1)). The Department is unable to create a reporting condition in rule which does not align with statutory requirements.

Petitioner’s proposed rule provided a waiver of disclosure for regulated entities that are subject to reporting requirements in the State of Washington. However, Maine law specifies that priority chemical disclosure applies to a manufacturer or distributor providing a product for sale in the State of Maine (*Toxic Chemicals In Children’s Products*, 38 MRS §1695(1)). This specificity regarding the location of commerce, and the substantial distance between the Maine and Washington marketplaces, leaves this section of the petitioner’s proposed draft misaligned with statute and unenforceable. Additionally, information reported to Washington State through its *Children’s Safe Products Act*, Ch. 70.240 RCW, does not mirror information required by Maine law.

These amendments to proposed rule Ch. 888 have resulted in a statutorily aligned and enforceable regulation, which fits within the scope and purpose of the Department’s existing Safer Chemicals Program. Because evidence in the record shows that the phthalates listed in the proposed rule have met the criteria for designation as Priority Chemicals, and that publicly accessible information which reflects the information requested by the proposed rule does not exist, the Department moves to designate the four phthalates named in proposed rule Ch. 888 as Priority Chemicals.

Fiscal impact of rule:

Because the proposed rule applies to manufacturers or distributors of certain products, the fiscal impacts will fall mainly on manufacturers of consumer products which contain intentionally added amounts of the four proposed priority chemicals. Filing the required report information with the Department is expected to cost a complying entity nominal time and effort. Regulated entities are also expected to pay a one-time reporting fee to the Department to cover the costs associated with information management, at this time that amount is yet to be determined. The impact of this reporting fee will be dependent on the regulated entity’s ability to absorb such a cost, which had not been planned for in annual preparation for the budgetary impacts of government compliance.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §585-A
Chapter number/title: **Ch. 129**, Surface Coating Facilities
Filing number: **2015-120**
Effective date: 7/7/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Section 184 of the *Clean Air Act* requires states to implement or update reasonably available control technology “RACT” controls on all major VOC and NO_x emission sources and on source categories covered by a Control Technique Guideline “CTG” document. EPA defines RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. In the late 1970’s, EPA published a CTG recommending VOC controls for miscellaneous metal parts and products, which was updated in September 2008 to include VOC limits for miscellaneous plastic parts and products.

Basis statement:

In 2008, the EPA published CTGs recommending VOC controls for miscellaneous metal and plastic parts coatings.

The amendments expand Ch. 129 to include miscellaneous metal and plastic parts, which include, but are not limited to, metal and plastic components of the following types of products as well as the products themselves: fabricated metal products, molded plastic parts, small and large farm machinery, commercial and industrial machinery and equipment, automotive or transportation equipment, interior or exterior automotive parts, construction equipment, motor vehicle accessories, bicycles and sporting goods, toys, recreational vehicles, pleasure craft (recreational boats), extruded aluminum structural components, railroad cars, heavier vehicles, lawn and garden equipment, business machines, laboratory and medical equipment, electronic equipment, steel drums, metal pipes, and numerous other industrial and household products. The EPA had not previously issued a CTG covering these products. The amendment applies a threshold to categories 4 through 6 of 2.7 tons per 12 month rolling period above which sources are subject to the rule. VOC emission limits are expressed in weight per volume units instead of a weight per surface area coated.

The amendments provide VOC limits various coating processes based upon reductions being achieved by either a low VOC coat or in combination with other control techniques. The Rule includes three categorical exemptions and additional exemptions based upon the nature of the coating applied.

Fiscal impact of rule:

There may be minor costs for facilities to convert to low VOC coatings or install add-on control technology and to comply with the required record keeping. EPA believes that low-VOC coating materials that can meet the recommended control levels in the CTG are already available at a cost that is not significantly greater than the cost of coating materials with higher VOC contents.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §420-D; Resolve 2015 ch. 22
Chapter number/title: **Ch. 500**, Stormwater Management
Filing number: **2015-132**
Effective date: 8/12/2015
Type of rule: Major Substantive
Emergency rule: No

Principal reason or purpose for rule:

The Department is adopting these rules to provide greater flexibility and clarity in its stormwater management programs.

Basis statement:

The amendments to Ch. 500 Stormwater Management are intended to provide greater flexibility while encouraging the use of innovative stormwater designs that will accommodate measures for addressing climate change, resiliency, and adaptation in our infrastructure. Elements include: 1) treatment levels in the general standards have been revised to provide additional stormwater treatment options where the standard treatment requirements are impractical or cannot be met; 2) a new voluntary Low Impact Development (LID) credit has been established that reduces the volume of stormwater that must be treated if an applicant uses LID techniques; 3) new treatment levels have been created for redevelopment projects, through the use of scaled treatment requirements based on stormwater impact changes; and 4) the appendices, which provide basic performance standards for a variety of stormwater management and associated activities, have been updated to reflect current stormwater best management practices. There are a number of minor revisions to the rule that will provide greater clarity and consistency with other Department rules.

The Department and Board of Environmental Protection held a public hearing for this rule on October 16, 2014. The comment period closed on October 27, 2014. The Department's final proposal includes a number of revisions made in response to testimony received during the public hearing and the written comment period. Additional minor changes were made in response to review by the Office of the Maine Attorney General.

The final adoption of the amendments to this major substantive rule was authorized by Resolve 2015 ch. 22, only if the rule was amended 1) in Section 4(E) to clarify, for the purposes of the urban impaired stream standard, that where there is a Department-approved management and monitoring plan in place and monitoring demonstrates that a stressor in the watershed is contributing to the impairment of the urban impaired stream, the Department may require the applicant to use alternative or additional stormwater treatment measures to address the identified stressor; and 2) to extend the permit shield provisions of the rule to the implementation of innovative measures in order to increase the probability that low-impact development measures will be installed. The Department made these additional amendments pursuant to the Resolve.

Fiscal impact of rule:

This change is not expected to have a significant fiscal impact on small businesses, the regulated community or municipalities. While many of the revisions (e.g., the general standards) provide additional flexibility to the regulated community, and are expected to reduce costs, other elements of the adoption (e.g. increased compensation fees for urban impaired streams) could increase costs to some applicants choosing to utilize these voluntary compliance options.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §8055(3), 38 MRS §§ 341-H, 1694
Chapter number/title: **Ch. 885**, Designation of Formaldehyde as a Priority Chemical and Regulation of Formaldehyde in Children's Products
Filing number: **2015-134**
Effective date: 7/26/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule implements Maine's *Toxic Chemicals in Children's Products* law (38 MRS §§ 1691-1699-B), which, as set forth in 38 MRS §1692, has the purpose of protecting the health, safety and welfare of children and other vulnerable populations by reducing their exposure to chemicals of high concern by substituting safer alternatives when feasible. Due to a lack of information in the public domain regarding the use of chemicals listed as Maine's chemicals of high concern, Maine law confers upon the Department the authority to designate chemicals as priority. When a chemical is designated as a priority chemical the Department has the regulatory authority to require the disclosure of information about that chemical's use in certain children's product categories when intentionally added above the *de minimis* level. Utilizing this statutory framework, the Department is most effective in achieving the law's stated goal through analysis of this reported information, which may provide details regarding the extent to which children's products provide the opportunity for exposure to priority chemicals. Information collected by the Department can then be further analyzed to determine whether additional regulation is necessary.

Summary:

This chapter designates formaldehyde as a priority chemical and requires reporting for certain children's products that contain intentionally added formaldehyde.

Fiscal impact of rule:

Because the rule applies to manufacturers or distributors of certain children's products, the fiscal impacts will fall mainly on manufacturers of certain children's products which contain intentionally added amounts of the priority chemical. Filing the required report information with the Department is expected to cost a complying entity nominal time and effort. Regulated entities are also expected to pay a one-time reporting fee to the Department to cover the costs associated with information management. At this time that amount is yet to be determined. The impact of this reporting fee will be dependent on the regulated entity's ability to absorb such a cost, which had not been planned for in annual preparation for the budgetary impacts of government compliance.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 38 MRS §§ 585, 585-A
Chapter number/title: **Ch. 141**, Conformity of General Federal Actions
Filing number: **2015-136**
Effective date: 7/27/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Ch. 141 currently incorporates sections of 40 CFR 51 as published November 30, 1993, which satisfies the 1993 federal requirement that states incorporate Federal Conformity into their State Implementation Plan (SIP). Subsequently, in 2005, the United States Congress passed the *Safe, Accountable, Flexible, Efficient Transport Equity Act: A Legacy for Users*, eliminating the mandate for States to adopt and submit General Conformity SIPs. As a result, EPA amended its regulations to make the adoption and submittal of General Conformity SIPs optional. These amendments also repealed the majority of the relevant sections 40 CFR 51 as they were duplicative of 40 CFR 93.

Fiscal impact of rule:
None anticipated.

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Agency name: Department of Environmental Protection
Umbrella-Unit: **06-096**
Statutory authority: 5 MRS §8051; 38 MRS §341-H
Chapter number/title: **Ch. 2**, Rule Concerning the Processing of Applications and Other Administrative Matters
Filing number: **2015-185**
Effective date: 10/19/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The amendments to Ch. 2 will facilitate the electronic submission of applications, appeals and petitions, and eliminate the requirement to submit an original paper document within five working days of an electronic submission. The Department is also adopting revisions that will clarify the transfer of ownership definition in this rule, and allow for a more complete assessment of both the financial and technical capacity of a prospective licensee, before any license for a hazardous waste facility, solid waste disposal facility, waste oil facility, and biomedical waste facility license is transferred. In addition, the Department is aligning the permit by rule review provisions in Ch.2 with those in the Department's Ch. 305, *Natural Resources Protection Act Permit By Rule Standards*.

Basis statement:

The amendments to the Department's Ch. 2, *Rule Concerning the Processing of Applications and Other Administrative Matters*, will allow the submission of electronic signatures in a form acceptable to the Department, and eliminate the requirement to submit an original paper document within five working days of an electronic submission, thereby helping to modernize and better align the Department's submission requirements with current business practice.

The Department also amends the Permit By Rule provisions of Ch. 2 to provide for a 14 calendar day review period, which is consistent with the Department's Ch. 305, *Natural Resources Protection Act- Permit By Rule Standards*.

Although the Department proposed additional revisions to clarify the transfer of ownership definition in this rule, and allow for a more complete assessment of both the financial and technical capacity of a prospective licensee before any license for a hazardous waste facility, solid waste disposal facility, waste oil facility, and biomedical waste facility license is transferred, the Department has withdrawn those portions of the from consideration at this time.

Fiscal impact of rule:

The amendments to Ch. 2 will provide a minor cost savings to affected parties.

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

Agency name: Department of Environmental Protection, **Board of Underground Storage Tank Installers**
Umbrella-Unit: **06-481**
Statutory authority: 32 MRS §10004
Chapter number/title: **Ch. 3**, Certification of Underground Oil Tank Installers
Filing number: **2015-013**
Effective date: 2/15/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The principal purposes of the rule are to amend the standards for a person to qualify for a variance from the rule's apprenticeship requirements and to allow a certified installer from another state to qualify for reciprocity.

Basis statement:

The Board of Underground Storage Tank Installer's reasons for this rule-making are two-fold. This rule-making amends the current apprenticeship variance requirements to make them more comparable to the apprenticeship training and experience requirements. This rule-making clarified the variance requirements regarding the passage of the initial examination, demonstration of ethical practice, evidence of satisfactory performance of out-of-state underground oil storage facility installations and removals, and submission of copies of current equipment manufacturer training certifications.

The Board also amended the standards an installer certified in another state needs to meet when applying for reciprocity to install and remove tanks in Maine without having to meet the apprenticeship requirements. The objective of this amendment is to require an applicant to meet a more comprehensive set of standards to ensure they are qualified to satisfactorily perform the duties of a Maine certified tank installer.

History: This rule was first adopted in 1988 with the specific purpose to ensure individuals installing and removing underground oil storage tanks are doing so in accordance with Maine's technical and safety standards. Certification of installers was a component of the State's overall effort to reduce the number and severity of oil discharges from underground oil storage tanks. It has been amended four times since 1988. This chapter establishes a certification program for underground oil tank installers. It describes the initial examination process, the apprenticeship requirements and final examination requirements. In addition, it establishes a mechanism for upgrading of certificates, granting reciprocity, renewing and issuing of certificates, and certifying employees of the Department of Environmental Protection.

Fiscal impact of rule:

No measurable fiscal impact is anticipated.

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Agency name: Department of Environmental Protection, **Board of Underground Storage Tank Installers**
Umbrella-Unit: **06-481**
Statutory authority: 32 MRS §10004.2
Chapter number/title: **Ch. 6**, Certification of Underground Storage Tank Inspectors
Filing number: **2015-014**
Effective date: 2/15/2015
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The purpose of the rule amendment is to change the application for reciprocity to reflect that reciprocity is open to residents of states other than Maine.

Basis statement:

History: This rule was initially adopted in 2002 and amended once in 2006. Annual compliance inspections of underground oil storage facilities are required by statute to be conducted by Board of Underground Storage Tank certified inspectors. This chapter establishes a certification program for underground oil storage tank inspectors. The rule includes the application, examination, certification, and renewal requirements. Reciprocity requirements are also provided.

Purpose of rule-making: The purpose of this rule-making is to amend the Board of Underground Tank Installers' regulation governing the certification of underground oil storage tank inspectors. It modifies language found in the reciprocity requirements of the rule to reflect that reciprocity is open to residents of states other than Maine.

The amendment is based on consultation between the Board of Underground Tank Installers and the Office of the Attorney General. The Board's members include certified tank installers, a member nominated by the Maine Energy Marketers Association, the commissioner's representative and a municipal fire chief.

Fiscal impact of rule:

No measurable fiscal impact is anticipated.