

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1540

H. P. 1207

House of Representatives, March 27, 1979

Referred to the Committee on Energy and Natural Resources. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Blodgett of Waldoboro.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Enable Delegation of the Prevention of Significant Deterioration of Air Quality Program.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 38 MRSA § 582, sub-§ 5-B is enacted to read:

5-B. **Baseline concentration.** "Baseline concentration" means, with respect to a pollutant, that ambient concentration level reflecting actual air quality as of August 7, 1977, minus any contribution of sources subject to review for the prevention of significant air quality deterioration between January 6, 1975 and August 7, 1977.

Sec. 2. 38 MRSA § 582, sub-§ 7-C, as enacted by PL 1973, c. 438, § 3, is repealed and the following enacted in its place:

7-C. **Fugitive dust.** "Fugitive dust" means solid airborne particulate matter which is uncontaminated resulting from industrial activity.

Sec. 3. 38 MRSA § 582, sub-§ 7-C-1 is enacted to read:

7-C-1. **Fugitive emissions.** "Fugitive emissions" means particulate matter emitted by an air pollution source other than from a stack or flue.

Sec. 4. 38 MRSA § 582, sub-§ 7-E-1 is enacted to read:

7-E-1. Major emitting source. "Major emitting source" means any of the following stationary sources of air pollutants:

- A. Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input;
- B. Primary zinc smelters;
- C. Coal cleaning plants, thermal dryers;
- D. Iron and steel mill plants;
- E. Kraft pulp mills;
- F. Portland cement plants;
- G. Primary aluminum ore reduction plants;
- H. Primary copper smelters;
- I. Municipal incinerators capable of charging more than 250 tons of refuse per day;
- J. Hydrofluoric, sulfuric and nitric acid plants;
- K. Petroleum refineries;
- L. Lime plants;
- M. Phosphate rock processing plants;
- N. Coke oven batteries;
- O. Sulfur recovery plants;
- P. Carbon black plants;
- Q. Sintering plants;
- R. Secondary metal production facilities;
- S. Chemical process plants;
- T. Fossil-fuel boilers of more than 250 million British thermal units per hour heat input;
- U. Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels;
- V. Taconite ore processing plants;
- W. Glass fiber processing plants;
- X. Charcoal production facilities;
- Y. Lead smelters; and
- Z. Fuel conversion plants;

which emit, or have the potential to emit, 100 tons per year or more of any air pollutant.

The term shall also include any source with the potential to emit 250 tons per year or more of any air pollutant.

The term shall also include any modification in any source listed whose potential emissions of any pollutant is increased by 100 tons per year and modification in any other source whose potential emission is increased by 250 tons per year.

The term shall not include nonprofit health or educational facilities.

Sec. 5. 38 MRSA § 582, sub-§ 9-B is enacted to read:

9-B. Potential emissions. "Potential emissions" means those emissions expected to occur without air pollution control equipment. Annual potential emissions shall be based on the maximum annual rated capacity of the source, unless the source is subject to enforceable permit conditions which limit the operating rate and hours of operation. Other enforceable permit conditions on the type or amount of materials combusted or processed will also be used in determining the potential emission rate of a source.

Sec. 6. 38 MRSA § 583-B is enacted to read:

§ 583-B. Classification of air quality control regions

The air quality regions set forth in section 583 or portions thereof are classified as follows:

1. Class I. Class I:

A. Those federal lands which have been established as mandatory Class I areas by the Federal Clean Air Act: Acadia National Park located in the Downeast Air Quality Region; Moosehorn National Wildlife Refuge located in the Downeast Air Quality Region; and the Roosevelt Campobello International Park located in New Brunswick, Canada;

2. Class II. The areas in the State not designated Class I or Class III or nonattainment areas shall be Class II areas;

3. Class III.

4. Nonattainment areas. The department shall have the authority to designate certain regions or portions thereof as nonattainment area after public hearing and determination that any ambient air quality standard is being exceeded;

5. Redesignation of class.

A. Lands of federally recognized Indian tribes may be redesignated as follows:

(1) Lands within the exterior boundaries of reservations of federally recognized Indian tribes may be redesignated only by the appropriate Indian governing body under the terms and procedures set forth in the Federal Clean Air Act.

B. Other areas may be redesignated as follows:

(1) The board may redesignate any air quality region, in whole or in part, Class I, II or III. Prior to the redesignation of an air quality region in whole or in part, the board shall hold a public hearing which shall be conducted in the area proposed to be redesignated. Prior to the public hearing a report shall be made available with a description and analysis of health, environmental, economic, social and energy impacts of the proposed redesignation. Should the area proposed for redesignation include or be deemed to effect federally owned lands, the board shall consult with the appropriate federal land manager prior to the redesignation. Any redesignation shall state the date on which it will become effective and shall be in effect until 90 days after the date of adjournment of the next regular session of the Legislature unless the next regular session shall adopt by legislative enactment such redesignation.

Sec. 6-A. 38 MRSA § 584-A, sub-§ 1, as enacted by PL 1971, c. 570, is amended to read:

1. Particulate matter.

A. Particulate matter concentration for any 24-hour period at any location shall not exceed ~~100~~ 150 micrograms per cubic meter.

B. The annual geometric mean of the 24-hour particulate matter concentrations at any location shall not exceed ~~50~~ 60 micrograms per cubic meter.

Sec. 7. 38 MRSA §§ 584-B - 584-E are enacted to read:

§ 584-B. Establishment of ambient increments - Class I regions

In addition to the ambient air quality standards set forth in section 584-A any Class I region or part thereof within the State, including those federal lands designated by the Federal Clean Air Act Amendments of 1977, shall be subject to a maximum allowable increase in concentration of sulfur dioxide and particulate matter over the baseline concentration of that pollutant, which increase shall not be exceeded more than once annually for any period other than an annual period. The maximum allowable increase shall consist of:

1. Particulate matter. In regards to particulate matter:

A. An increase in the annual geometric mean at any location not to exceed 5 micrograms per cubic meter; and

B. An increase in concentration for any 24-hour period at any location not to exceed 10 micrograms per cubic meter; and

2. Sulfur dioxide. In regards to sulfur dioxide:

- A. An increase in the annual arithmetic mean at any location not to exceed 2 micrograms per cubic meter;**
- B. An increase in concentration for any 24-hour period at any location not to exceed 5 micrograms per cubic meter; and**
- C. An increase in concentration for any 3-hour period at any location not to exceed 25 micrograms per cubic meter.**

§ 584-C. Establishment of ambient increments - Class II regions

In addition to the ambient air quality standards set forth in section 584-A, any Class II region or part thereof within the State shall be subject to a maximum allowable increase in concentration of particulate matter and sulfur dioxide over the baseline concentration of that pollutant, which increase shall not be exceeded more than once annually for any period other than an annual period. The maximum allowable increase shall consist of:

1. Particulate matter. In regards to particulate matter:

- A. An increase in the annual geometric mean at any location not to exceed 19 micrograms per cubic meter; and**
- B. An increase in concentration for any 24-hour period at any location not to exceed 37 micrograms per cubic meter; and**

2. Sulfur dioxide. In regards to sulfur dioxide:

- A. An increase in the annual arithmetic mean at any location not to exceed 20 micrograms per cubic meter;**
- B. An increase in concentration for any 24-hour period at any location not to exceed 91 micrograms per cubic meter; and**
- C. An increase in concentration for any 3-hour period at any location not to exceed 512 micrograms per cubic meter.**

§ 584-D. Establishment of ambient increments - Class III regions

In addition to the ambient air quality standards set forth in section 584-A, any Class III region or part thereof within the state shall be subject to a maximum allowable increase in concentration of particulate matter and sulfur dioxide over the baseline concentration of that pollutant, which increase shall not be exceeded more than once annually for any period other than the annual period. The maximum allowable increase shall consist of:

1. Particulate matter. In regards to particular matter:

- A. An increase in the annual geometric mean at any location not to exceed 37 micrograms per cubic meter; and**

B. An increase in concentration for any 24-hour period at any location not to exceed 75 micrograms per cubic meter; and

2. Sulfur dioxide. In regards to sulfur dioxide:

A. An increase in the annual arithmetic mean at any location not to exceed 40 micrograms per cubic meter;

B. An increase in concentration for any 24-hour period at any location not to exceed 182 micrograms per cubic meter; and

C. An increase in concentration for any 3-hour period at any location not to exceed 700 micrograms per cubic meter.

§ 584-E. Exclusions from applicable increments - Class I, II and III regions

1. Exclusions from applicable increments. The following concentrations shall be excluded in determining compliance with applicable increments:

A. Concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under the provisions of sections 2 (a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 over the emissions from such sources before the effective date of such order;

B. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities; and

C. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.

Sec. 8. 38 MRSA § 587, first ¶, as amended by PL 1971, c. 618, § 12, is repealed and the following enacted in its place:

Any person who owns or is in control of any source for which an air emission license was granted and construction was commenced prior to January 6, 1975, or a source other than a new or modified major stationary source for which an air emission license is granted after January 6, 1975, may apply to the board for a variance from ambient air quality standards or emission standards promulgated under this chapter. The application shall be accompanied by such information and data as the board may reasonably require. The board may grant such variance if it finds that:

Sec. 9. 38 MRSA § 587, sub-§§ 1 and 2, as enacted by PL 1969, c. 474, § 1, are amended to read:

1. **No danger to human health or safety.** The emissions occurring or proposed to occur do not endanger human health or safety; and

2. Compliance to produce hardship. Compliance with the rules or regulations from which variance is sought would produce serious hardships; **and**

Sec. 10. 38 MRSA § 587, sub-§ 3 is enacted to read:

3. Violation. Such variance will not cause or contribute to a violation of the applicable ambient air increment.

Sec. 11. 38 MRSA § 587, as last amended by PL 1977, c. 300, § 42, is further amended by inserting at the end the following new paragraph:

Any owner or operator of a new or modified major emitting source who applies for an air emission license after January 6, 1975, shall not be eligible for a variance from ambient air quality standards, including applicable ambient air increments, except that the source may apply for a variance to increments applicable to mandatory federal Class I areas under the terms and conditions set forth in section 165(d) of the Federal Clean Air Act, 42 United States Code Annotated, section 7475(d).

Sec. 12. 38 MRSA § 590, 2nd ¶, 2nd and 3rd sentences, as amended by PL 1971, c. 618, § 12, are repealed as follows:

~~Within 30 days of receipt of a properly completed application, the board shall either grant the license, deny the license or order a hearing thereon. Within 10 days after notice of the grant or denial of any application under this section, the applicant may request a hearing thereon~~

Sec. 13. 38 MRSA § 590, 2nd ¶, 4th sentence, as amended by PL 1971, c. 681, § 12, is further amended to read:

All hearings under this section shall be held in some municipality within the region where the proposed emission is to be located ~~within 30 days of receipt of an application where the board orders a hearing thereon, or within 30 days of receipt by the board of a request by the applicant for a hearing.~~

Sec. 14. 38 MRSA § 590, as last amended by PL 1975, c. 282, § 4, is further amended by adding at the end the following new paragraph:

The board shall have the power to deny an air emission license for a major emitting source if it determines that emissions from the source will cause an adverse impact on air quality-related value, including visibility for federally mandated Class I areas notwithstanding the fact that the source will not cause or contribute to air pollution concentrations which exceed the ambient increments for a Class I area.

Sec. 15. 38 MRSA § 608, as enacted by PL 1975, c. 669, § 5, is repealed.

STATEMENT OF FACT

The Clean Air Act Amendments of 1977 (August 7, 1977) require each state to devise a program to prevent the significant deterioration of air quality in all areas

which do not violate national ambient air quality standards. The program is composed of 2 parts. The first is the classification of clean air areas into one of 3 possible categories, each with ambient air increments which define the amount of deterioration over present air quality that will be allowed. Class I areas **must** include certain federally owned or controlled lands and **may** include any other areas of special significance to be determined by the State. In Maine, Acadia National Park, Moosehorn National Wildlife Refuge and Roosevelt Campobello International Park located in New Brunswick, Canada, are mandatory Class I areas. Class I designation means that only very small changes in existing air quality will be allowed from future large stationary sources.

Class II areas are most prevalent in Maine because most of the State does not violate national ambient standards. According to federal law, Class II designation is automatic for all such areas unless the State proposes a redesignation to either Class I or III. Class III designation allows the greatest increase in pollution, is procedurally complicated and designed for the clustering of major air pollution sources. No Class III designations are recommended at the present time.

Areas of the State which violate national standards are known as nonattainment areas.

In addition to the designation of clean air areas, the prevention of significant deterioration program requires a preconstruction review of all major stationary sources to assure that the applicable increment will be met and to impose the "best available control technology" on all emissions from these sources. The best available control technology requirement is necessary to insure that new sources of pollution use the latest available technology to prevent as much pollution as possible in clean air areas. The State has the power to define best available control technology on a case-by-case basis taking into account environmental, energy and economic costs.