FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document No. 1680

H.P. 1259 House of Representatives, May 23, 1983

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.

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

EDWIN H. PERT, Clerk

Presented by Representative Hall of Sangerville.

Cosponsor: Senator Kany of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Establish and Amend the Air Emission and Open-burning Standards.

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

Sec. 1. 12 MRSA §9321, sub-§1, ¶D, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

D. The matter and type of burning proposed, giving due consideration to prohibitions and permissible open-burning regulations of the Department of Environmental Protection under Title 38, section 599;

Sec. 2. 12 MRSA §9321, sub-§2, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

2. Revocation. The director or his delegate may revoke any permit during a period of high forest fire danger or any permit which results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter 25 or Title 5, chapter 375.

Sec. 3. 12 MRSA §9321, sub-§4, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

4. Conditions. The director may issue a permit with stated conditions or restrictions to insure adequate control of permitted fires in accordance with criteria of subsection 1 and conformity to regulations of the Department of Environmental Protection under Title 38, section 599.

Sec. 4. 25 MRSA §2436-A, as amended by PL 1981, c. 115, is repealed and the following enacted in its place:

§2436-A. Out-of-doors burning

1. Permit required. No person, firm or corporation may burn out of doors without a permit from a municipal fire chief, town forest fire warden or forest ranger, except as provided in Title 12, sections 9322 and 9324 and subsection 3.

2. Domestic trash. Residential burning of highly combustible domestic, household trash in incinerators is allowed where no municipal property tax supported trash collection service is available or will accept those materials provided that the incinerator has been inspected and approved by a municipal fire chief, town forest fire warden or forest ranger using minimum criteria established by the director for safe fire operation.

3. Burning at municipal solid waste disposal facilities. Open burning at municipal solid waste disposal facilities in compliance with Department of Environmental Protection regulation, Title 38, section 599 and Department of Conservation regulation, Title 12, chapter 807, subchapter IV, is allowed without a permit.

4. Violation. Whoever violates this section is guilty of a Class E crime.

Sec. 5. 38 MRSA §599, as amended by PL 1981, c. 273, §§1 to 3, is repealed and the following enacted in its place:

§599. Open burning

1. Scope. This section:

A. Shall be applicable in all ambient air quality regions in this State; and

B. Shall not interfere with or supersede any local law or ordinance which is more stringent.

2. Prohibitions. The following open-burning activities and materials shall be prohibited.

A. Open burning of tires, rubber products, asphalt shingles and wire insulation is prohibited.

B. Open burning of solid waste materials, other than brush and demolition debris, at a municipal solid waste disposal site serving 1,000 or more persons is prohibited.

C. Open burning of solid waste material at any existing municipal solid waste disposal site serving less than 1,000 persons that has been in continuous operation since August 7, 1977, shall only be prohibited where the Board of Environmental Protection, after investigation and hearing, finds that open burning at that specific municipal site has caused violation of ambient air quality standards.

D. Open burning of solid waste material, other than brush and demolition debris, at any new municipal solid waste disposal site which received its initial site location of development permit after August 7, 1977, is prohibited.

E. Residential open burning of rubbish, refuse, garbage, human and animal remains and by-product waste such as tar, paints, solvents and sludge, as defined in section 582, subsection 12, is prohibited.

F. The residential open burning of highly combustible domestic, household trash such as paper, cardboard cartons, wood boxes, as defined in section 582, subsection 12, is prohibited where a municipal property tax supported trash collection service is available and will accept those materials.

G. The residential open burning of leaves, brush, deadwood and tree cuttings accrued from normal property maintenance by the individual land or homeowner or lessee thereof is prohibited where a municipal property tax supported trash collection service is available and will accept those materials.

H. No person, firm, corporation, association, municipal or state agency may engage in any open burning except in conformity with subsection 3.

3. Permissible open burning with permit. When not prohibited by local ordinances, the following types of burning are permissible if a permit has been obtained from the fire warden, forest ranger or local fire prevention official having jurisdiction over the location where the fire is to be set, so long as the burning is conducted according to the terms and conditions of the permit and provided that no nuisance is created:

A. Campfires;

B. Fires in conjunction with holiday and festive celebrations;

C. Burning of solid or liquid fuels and structures for the purpose of research or bona fide instruction and training of municipal, volunteer and industrial fire fighters in methods of fighting fires when conducted under the direct control and supervision of qualified instructors;

D. Burning for agricultural purposes which include, but are not limited to, open burning of blueberry fields, potato tops, hayfields and prescribed burning for timberland management;

E. Residential open burning of highly combustible domestic, household trash such as paper, cardboard cartons, wood boxes, as defined in section 582, subsection 12, is permissible where no municipal property tax supported trash collection service is available or will accept those materials;

F. Residential open burning of leaves, brush, deadwood and tree cuttings accrued from normal property maintenance by the individual land or homeowner or lessees thereof is permissible where no municipal property tax supported trash collection service is available or will accept those materials;

G. Burning for the disposal of materials, other than those prohibited in subsection 2, paragraph A, generated from the clearing of any land or erection, modification, maintenance, demolition or construction of any highway, railroad, power line, communication line, pipeline, building or development, either on site, or at any municipal solid waste disposal facility where open burning of that material is not expressly prohibited;

H. Burning for hazardous abatement purposes such as, but not limited to, the burning of grass fields; and

I. Burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum product.

4. Permissible open burning without permit. When not prohibited by local ordinances, the following types of burning are permissible without permit so long as no nuisance is created:

A. Residential use of outdoor grills and fireplaces for recreational purposes such as preparing food; and

B. The burning of brush and demolition debris at municipal solid waste disposal facilities.

Sec. 6. 38 MRSA §600, as amended by PL 1979, c. 476, §§4 and 5, is repealed and the following enacted in its place:

§600. Fuel-burning equipment particulate emission standard

1. Scope. This chapter shall apply to all fuel-burning or solid waste fuel-burning equipment located in the State and having a rated capacity of 3 million British Thermal Units per hour or greater.

2. Emission standards for existing sources. Any source which has applied for an air emission license prior to December 22, 1982, shall limit particulate emissions as follows.

A. Emission standards for oil-gas petroleum-burning sources are as follows.

(1) Any source burning distillate or residual fuel oil, gas or other petroleum product shall not exceed 0.20 pounds particulate per million British Thermal Units. Any source which cannot achieve the 0.20 pounds particulate per million British Thermal Units limit will be allowed to operate at that higher emission rate, but not to exceed 0.30 pounds particulate matter per million British Thermal Units, if it installs automatic fuel viscosity controls integrated into the fuel oil controls and combustion efficiency instrumentation. The source will be allowed a period of one year from the date of demonstration of noncompliance to install the controls.

B. Emission standards for coal-burning sources are as follows.

(1) Any coal-burning source with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any coal-burning source, including one presently burning oil but designed to burn coal, with a heat input capacity of 50 million British Thermal Units per hour or greater shall not exceed 0.08 pounds particulate per million British Thermal Units.

C. Emission standards for wood-burning sources are as follows.

(1) Any source designed to burn wood, bark, chips, sawdust, pulp mill sludge or similar forest product, including those with supplementary oil-firing capabilities, with a heat input capacity of less than 150 million British Thermal Units per hour shall not exceed an emission rate defined according to the following equation, even during periods of burning only oil.

$$\log y = 0.034 - 0.256 \log x$$

where y = allowable emission rate expressed in pounds particulate per million British Thermal Units

x = equipment capacity expressed in millions of British Thermal Units per hour

(2) Any source designed to burn wood, bark, chips, sawdust, pulp mill sludge or similar forest product, including those with supplementary oil-firing capabilities, with a heat input capacity of 150 million British Thermal Units per hour or greater shall not exceed 0.30 pounds particulate per million British Thermal Units.

D. Emission standards for solid waste burning sources are as follows.

(1) Any source burning refuse, garbage, trash or any combination of municipal or industrial solid waste shall not exceed the limits of section 601, the incinerator particulate emission standard.

3. Emission standards for new sources. Any fuel-burning equipment which applies for an air emission license after December 22, 1982, shall limit particulate emissions as follows.

A. Emission standards for oil-gas petroleum burning sources are as follows.

(1) Any source burning distillate or residual fuel oil, gas or other petroleum product with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.12 pounds particulate per million British Thermal Units.

(2) Any source burning distillate or residual fuel oil-gas or other petroleum product with a heat input capacity of 50 million British Thermal Units per hour or greater, but less than 250 million British Thermal Units per hour, shall not exceed 0.08 pounds particulate per million British Thermal Units.

(3) Any source burning distillate or residual fuel oil, gas or other petroleum product with a heat input capacity of greater than 250 million British Thermal Units per hour shall not exceed 0.06 pounds particulate per million British Thermal Units.

B. Solid waste burning sources are as follows.

(1) Any source burning refuse, garbage, trash or any combination of municipal or industrial solid waste with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any source burning refuse, garbage, trash or any combination of municipal or industrial solid waste with a heat input capacity of 50 million British Thermal Units per hour or greater, but less than 250 million British Thermal Units per hour, shall not exceed 0.20 pounds particulate per million British Thermal Units.

(3) Any source burning refuse, garbage, trash or any combination of municipal or industrial solid waste with a heat input capacity of 250 million British Thermal Units per hour or greater shall not exceed

0.10 pounds particulate per million British Thermal Units.

C. Coal-burning sources are as follows.

(1) Any coal-burning source with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any coal-burning source with a heat input capacity equal to or greater than 50 million British Thermal Units per hour, but less than 250 million British Thermal Units per hour, shall not exceed 0.08 pounds particulate per million British Thermal Units.

(3) Any coal-burning source with a heat input capacity of 250 million British Thermal Units per hour or greater shall not exceed 0.05 pounds particulate per million British Thermal Units.

D. Wood, coal, biomass burning sources are as follows.

(1) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of 50 million British Thermal Units per hour or greater, but less than 250 million British Thermal Units per hour, shall not exceed 0.08 pounds particulate per million British Thermal Units when burning the primary fuel or fuel combinations within the range of design rate proportions. When

burning a fuel other than the primary design fuel or a combination of fuels outside the range of design rate proportions, the particulate emissions shall not exceed 0.10 pounds particulate per million British Thermal Units, provided that the particulate matter control equipment is being operated to maximize particulate removal.

(3) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of 250 million British Thermal Units per hour or greater, shall not exceed 0.06 pounds particulate per million British Thermal Units when burning the primary fuel or fuel combinations within the range of design rate proportions. When burning a fuel other than the primary design fuel, or a combination of fuels outside the range of design rate proportions, the particulate emissions shall not exceed 0.10 pounds particulate per million British Thermal Units, provided that the control equipment is being operated and maintained to maximize particulate removal.

(4) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of 50 million British Thermal Units per hour or greater, which uses a venturi scrubber providing 75% or greater sulfur dioxide removal shall be exempt from the provisions of subparagraphs (2) and (3) and shall not exceed 0.10 pounds particulate per million British Thermal Units.

4. Test methods and procedures. Compliance shall be determined by test methods and procedures approved on or before December 22, 1982, or any method providing equivalent accuracy and reliability subsequently approved by the board.

5. Exemptions. Any source considered new according to subsection 3, but which equipment has been

previously owned and operated, shall be exempt from the provisions of subsection 3 and will be subject to case-by-case emission limitations not to exceed the respective emission limitations of subsection 2.

Sec. 7. 38 MRSA §603, as amended by PL 1975, c. 669, §4, is repealed.

Sec. 8. 38 MRSA §603-A is enacted to read:

§603-A. Low sulfur fuel

1. Scope. This section shall apply to those fuel-burning sources in the State which are not required to achieve the lower emission rates of new source performance standards or as required to satisfy the case-by-case requirements of best available control technology.

2. Prohibitions. Except as provided in subsections 4 and 5, no person may use any liquid fossil fuel with a sulfur content exceeding the limits in paragraph A or any solid fossil fuel with a sulfur content to heat content ratio exceeding the limits of paragraph B.

A. The sulfur content for liquid fossil fuels is as follows.

(1) In the central Maine, downeast, Aroostook County and northwest Maine air quality control regions, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% by weight any time after November 1, 1973. In the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% by weight any time after June 1, 1975.

(2) In the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 1.5% by weight any time after November 1, 1975.

(3) In the Portland Peninsula Air Quality

Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 1.0% by weight any time after November 1, 1985.

B. The sulfur content for solid fossil fuels is as follows:

(1) 1.2 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the central Maine, downeast, Aroostook County, northwest Maine and that portion of the Metropolitan Portland Air Quality Region outside the Portland Peninsula Air Quality Region. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December;

(2) 0.72 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region until November 1, 1985. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December; and

(3) 0.48 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region after November 1, 1985. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December.

3. Records. Record-keeping requirements are as follows.

A. Any person importing residual oil or bituminous coal into the State shall submit to the Department of Environmental Protection a quarterly report itemizing the quantity, sulfur con-

tent, ash content and heat content for each shipment of the fuel. Reports covering each preceding quarter shall be submitted by the end of the month following the end of the calendar quarter. It shall be the responsibility of the person importing the fuel to maintain a record of the certified fuel analyses upon which the quarterly reports are based and provide the user a copy of the certification.

B. Any person achieving compliance by means of blending fuels shall submit to the Department of Environmental Protection quarterly reports indicating the respective fuel volumes, sulfur contents and heat contents.

C. Any person achieving compliance by means of flue gas desulfurization or other sulfur removal processes shall submit to the Department of Environmental Protection quarterly reports indicating delivered fuel sulfur contents, a summary of sulfur dioxide concentrations from a continuous in-stack monitor and identifying any period of equipment malfunction or other outage.

4. Flue gas desulfurization. Any source that installs any approved flue gas desulfurization system or other prescribed sulfur removal device shall be permitted to use fuel with a sulfur content in excess of the limitations of subsection 2 such that, after control, total sulfur dioxide emissions do not exceed 2.4 pounds of sulfur dioxide per million British Thermal Units in any 24-hour period, or emission rates corresponding to the fuel sulfur limitations required for sources on the Portland peninsula.

5. Fuel blending. Any source may achieve compliance with the fuel sulfur limitations of subsection 2 by means of blending low sulfur fuel with a higher sulfur fuel, proportioned on the basis of relative heat content of each fuel.

6. Test methods and procedures. Test methods and procedures are as follows.

A. Any source achieving compliance using flue gas desulfurization or other sulfur removal processes, or fuel blending involving one noncompli-

ance grade fuel, shall demonstrate compliance through the installation and operation of an approved continuous in-stack sulfur dioxide monitor.

B. Whenever compliance is demonstrated by the analysis of bulk residual oil American Society for Testing and Materials Methods D129 or 1552, or equivalent procedures as approved by the commissioner, shall be used.

C. Whenever compliance is demonstrated by the analysis of bulk coal, Environmental Protection Agency Method 19 as published at 44 Federal Register 33580, dated June 11, 1979, or equivalent procedures as approved by the commissioner, shall be used. Method 19 includes the following procedures:

(1) American Society for Testing and Materials D2234 for sample collection;

(2) American Society for Testing and Materials D2013 for sample preparation;

(3) American Society for Testing and Materials D3177 for sulfur analysis;

(4) American Society for Testing and Materials D3173 for moisture analysis; and

(5) American Society for Testing and Materials D3176 for gross calorific value determination.

7. Emergency variance. If, during periods of energy crisis or equipment outage or natural disasters, an oil supplier is unable to supply conforming fuel, that supplier may apply for a temporary variance to the Commissioner of Environmental Protection. The commissioner may, without hearing, issue that variance for the supplier and his regular users for a period not to exceed 60 days if the application, in his judgment, meets the criteria of the applicable statutory variance requirements and that the emergency action is necessary to avoid an immediate threat to public health, safety or general welfare. The temporary variance cannot be renewed.

STATEMENT OF FACT

Sections 1, 2, 3, 4 and 5 are intended to resolve certain conflicts between the Department of Environmental Protection and the Department of Conservation open-burning rules and clarifies for the public permissible open-burning activities. These rules specify the prohibition of open burning of certain materials and activities, the criteria for issuing and revoking open-burning permits and preventative measures and restrictions for out-of-doors burning.

Section 6 specifies allowable particulate emission rates for all new and existing fuel-burning equipment with a capacity greater than 3 million British Thermal Units per hour. Specific limits are established for coal, oil and gas, solid waste and wood-burning equipment.

Sections 7 and 8 establish a sulfur content limit for solid fossil fuels, coal, on a pounds sulfur per million British Thermal Unit basis to account for the difference in heat content and sulfur variability between liquid fossil fuels, oil and coal. The existing sulfur content limits established for liquid fossil fuels remains unchanged.

Section 8 also specifies record-keeping requirements for residual oil or bituminous coal importers and test methods to be used to demonstrate compliance with the rule.

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