

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1629

S.P. 625

In Senate, April 24, 1991

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

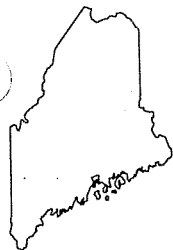
Presented by Senator VOSE of Washington

Cosponsored by Senator LUDWIG of Aroostook, Representative FARREN of Cherryfield
and Representative TAMMARO of Baileyville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Relating to Unavoidable Equipment Malfunctions.



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

2
4 Sec. 1. 38 MRSA §361-A, sub-§1-I is enacted to read:

6 1-I. Bypass. "Bypass" means the intentional diversion of
8 waste streams from any portion of a treatment facility.

10 Sec. 2. 38 MRSA §361-A, sub-§6-A is enacted to read:

12 6-A. Upset. "Upset" means an exceptional incident in which
14 there is unintentional and temporary noncompliance with
16 technology-based license effluent limitations because of factors
18 beyond the reasonable control of the licensee. An upset does not
20 include noncompliance to the extent caused by operational error,
22 improperly designed treatment facilities, lack of preventive
24 maintenance or careless or improper operation.

26 Sec. 3. 38 MRSA §414, sub-§§5-A and 5-B is enacted to read:

28 5-A. Bypasses. The licensee may allow any bypass to occur
30 that does not cause effluent limitations contained in the license
32 to be exceeded, but only if it is necessary to ensure efficient
34 operation or prevent damage to equipment.

36 5-B. Upsets. A licensee is not subject to penalty for
38 discharge in excess of technology-based license effluent
40 limitations if the excessive discharge was caused by an upset and
42 the licensee demonstrates that:

44 A. The upset occurred and the licensee can identify the
46 cause or causes of the upset;

48 B. The licensed facility was being properly operated at the
50 time of the upset;

52 C. The licensee provided oral notice of exceeding those
54 limitations within 24 hours to the department and a
56 follow-up written notice within 5 working days to the
58 department; and

60 D. The licensee took all reasonable steps to minimize or
62 prevent any discharge in excess of license limits.

64 Sec. 4. 38 MRSA §598, sub-§3, ¶E, as enacted by PL 1979, c.
66 718, §6, is repealed.

68 Sec. 5. 38 MRSA §598, sub-§4, as affected by PL 1989, c. 890,
70 Pt. A, §40 and amended by Pt. B, §168, is repealed.

72 Sec. 6. 38 MRSA §605, as affected by PL 1989, c. 890, Pt. A,
74 §40 and amended by Pt. B, §174, is repealed and the following
76 enacted in its place:

2 This bill makes Maine law consistent with federal law by
3 providing that owners and operators of the facilities are not
4 subject to penalty for unavoidable equipment malfunctions or,
5 with respect to air emission sources, for excess emissions during
6 cold start-up and shutdown as long as all reasonable steps have
7 been taken to prevent the malfunction to minimize the discharge
8 or emission. Because excess emissions may also be unavoidable
9 due to causes other than start-up, shutdown or malfunction, such
10 as process fluctuations, an exception is also granted for a
11 fraction of those excess emissions as long as they could not have
12 been reasonably avoided.