



# 115th MAINE LEGISLATURE

# **SECOND REGULAR SESSION-1992**

### Legislative Document

No. 2016

# S.P. 817

In Senate, January 8, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26. Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

JOY J. O'BRIEN Secretary of the Senate

Presented by Senator VOSE of Washington Cosponsored by Representative ANDERSON of Woodland.

## STATE OF MAINE

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

An Act Concerning Continuous Emission Monitoring Devices.

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

#### Sec. 1. 38 MRSA §349, sub-§10 is enacted to read:

10. Written notice. Within 60 days of submittal of a
 report or notice by a licensee pursuant to subsection 9, the
 commissioner shall notify the licensee in writing that the excess
 emission or discharge is exempt from penalty or notify the
 licensee in writing of the reason the excess emission or
 discharge is not exempt from penalty. If the commissioner does
 not notify the licensee as specified in this subsection, the
 excess emission or discharge is exempt from penalty.

Sec. 2. 38 MRSA §589, sub-§3, as enacted by PL 1991, c. 384, §9 and affected by §16, is amended to read:

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Emission monitoring devices. Failure Except as provided 3. in this subsection, failure by a person to register, install, 18 maintain and use emission monitoring devices or to file reports 20 from those devices renders that person liable to the penalties prescribed in sections 348 and 349. Emission monitoring devices are considered in use during periods of calibration, audit and 22 preventive maintenance undertaken in accordance with a quality 24 assurance plan submitted to the department. Failure to operate an emission monitoring device due to equipment malfunction may 26 render the failing party liable to penalties only to the extent the period of nonoperation exceeds 10% of source operating time on a calendar quarterly basis. Failure to operate an emission 28 monitoring device due to unavoidable equipment malfunction in 30 excess of 10% may be exempt from penalties at the discretion of the department as provided by section 349, subsection 9 and section 590. 32

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#### Sec. 3. 38 MRSA §589, sub-§4 is enacted to read:

36 4. Written notice. Within 60 days of submittal of a guarterly report by a licensee pursuant to subsection 3
38 indicating failure to operate an emission monitoring device due to unavoidable equipment malfunction in excess of 10% of source
40 operating time, the commissioner shall notify the licensee in writing that the period of nonoperation is exempt from penalty or
42 notify the licensee in writing of the reason the period of nonoperation is not exempt from penalty. If the commissioner
44 does not notify the licensee as specified in this subsection, the period of nonoperation is exempt from penalty.

#### STATEMENT OF FACT

Continuous emission monitors, CEMs, are complex pieces of
 equipment. A significant amount of maintenance, calibration and
 audit must be performed on CEMs to ensure proper operation.

Because preventive maintenance, calibration and audit are required by the Department of Environmental Protection, this bill provides that CEMs are considered in use during periods of nonoperation provided the services are being conducted in accordance with a quality assurance plan submitted to the department.

8 This bill also provides that nonoperation of a CEM due to equipment malfunction does not subject a person to penalties if 10 the period of nonoperation does not exceed 10% of source operating time. Under the bill, periods of noncompliance due to 12 unavoidable malfunctions in excess of 10% of source operating time may be exempt from penalty at the discretion of the 14 department.

16 This bill also requires that the department respond to licensees who have submitted requests for exemptions from penalty 18 due to equipment malfunctions.