

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
116TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 368, L.D. 1125, Bill, "An Act Concerning Continuous Emission Monitoring Devices"

Amend the bill in section 1 by striking out all of subsection 3 and inserting in its place the following:

'3. Emission monitoring devices. Failure Except as provided in this subsection, failure by a person to register, install, maintain and use emission monitoring devices or to file reports from those devices renders that person liable to the penalties prescribed in sections 348 and section 349. Emission monitoring devices must record accurate and reliable data during all source-operating time except for periods when emission monitoring devices are subject to established quality assurance and quality control procedures or to unavoidable malfunction. In any enforcement action brought by the department, the burden of proof is on the licensee to demonstrate that the failure of emission monitoring devices to record accurate and reliable data was due to an unavoidable malfunction or the performance of established quality assurance and quality control procedures on the monitoring system.

A. The department may not initiate enforcement action pursuant to section 349 against any person for failure to operate a continuous emission monitoring system for gaseous emissions as long as the system is recording accurate and reliable data at least 90% of the source-operating time in each quarter of the calendar year. If the continuous emission monitoring system for gaseous emissions is recording accurate and reliable data less than 90% of source-operating time within any quarter of the calendar year, the department may initiate enforcement action and may include in that enforcement action any period of time that the continuous emission monitoring system was not recording accurate and reliable data during that quarter unless the licensee can demonstrate to the satisfaction of the

2 department that the failure of the system to record accurate
3 and reliable data was due to the performance of established
4 quality assurance and quality control procedures or
5 unavoidable malfunctions.

6 B. The department may not initiate enforcement action
7 pursuant to section 349 against any person for failure to
8 operate a continuous opacity monitoring system as long as
9 the system is recording accurate and reliable data at least
10 95% of the source-operating time in each quarter of the
11 calendar year, excluding time periods when the licensee is
12 performing quality assurance and quality control procedures
13 on the system that are required by the department. If the
14 continuous opacity monitoring system is recording accurate
15 and reliable data less than 95% of the source-operating time
16 within any quarter of the calendar year, the department may
17 initiate enforcement action and may include in that
18 enforcement action any period of time that the continuous
19 opacity monitoring system was not recording accurate and
20 reliable data during that quarter unless the licensee can
21 demonstrate to the satisfaction of the department that the
22 failure of the system to record accurate and reliable data
23 was due to the performance of established quality assurance
24 and quality control procedures or unavoidable malfunctions.'

25 Further amend the bill by inserting at the end before the
26 statement of fact the following:

27
28 **FISCAL NOTE**

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30 This bill will relax certain enforcement responsibilities of
31 the Department of Environmental Protection with regard to
32 continuous emission monitoring devices. As a result of the
33 decreased enforcement activities, the department will be
34 collecting fewer fines for deposit to the General Fund. The
35 amounts of the reductions of General Fund revenues can not be
36 determined at this time.
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40 **STATEMENT OF FACT**

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42 This amendment replaces section 1 of the bill. The
43 requirement in section 1 that emission monitoring devices be
44 operated at all times, other than periods when unavoidable
45 malfunctions occur or established quality assurance and quality
46 control, or QA/QC, procedures are being performed, is intended to
47 prohibit facilities from turning off emission monitoring devices
48 for any other reasons. Pursuant to section 1, facilities are not
49 subject to enforcement action by the Department of Environmental
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2 Protection for monitoring system downtime unless and until their
3 monitoring devices are recording accurate and reliable data less
4 than 90% of the source-operating time in the case of gaseous
5 emissions monitoring and less than 95% of the source-operating
6 time for opacity monitoring. The enforcement threshold for
7 opacity monitoring systems excludes periods associated with any
8 QA/QC activities that are required by the department. If these
9 thresholds are exceeded in any quarter, the department may take
10 enforcement action against the licensee for any downtime in that
11 quarter that the licensee can not prove was due to unavoidable
12 equipment malfunction or established QA/QC activities.

13 The amendment also adds a fiscal note.

14

Reported by Senator Lawrence for the Committee on Energy
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COMMITTEE AMENDMENT