116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document **No. 1125**

S.P. 368 In Senate, April 1, 1993

An Act Concerning Continuous Emission Monitoring Devices.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator TITCOMB of Cumberland.
Cosponsored by Senators: BEGLEY of Lincoln, LUDWIG of Aroostook, VOSE of Washington, WEBSTER of Franklin, Representatives: HOGLUND of Portland, KERR of Old Orchard Beach.

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

Sec. 1. 38 MRSA §589, sub-§3, as enacted by PL 1991, c. 384, §9 and affected by §16, is amended to read:

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 349. Emission monitoring devices are considered in use during periods of calibration, audit, span checks and quality assurance activities undertaken in accordance with a quality assurance and control plan submitted to the department. Failure to operate an emission monitoring device for opacity due to equipment malfunction or failure may render the failing party liable to penalties only to the extent the period of nonoperation exceeds 5% of source-operating time on a calendar quarterly basis. Failure to operate an emission monitoring device for substances other than opacity may 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. For purposes of this subsection, "emission monitoring devices" includes operating parameter monitors.

Sec. 2. 38 MRSA §603-A, sub-§4, as amended by PL 1989, c. 501, Pt. CC, §2, is further amended to read:

4. Flue gas desulfurization. Any source that installs any approved flue gas desulfurization system or other prescribed sulfur removal device ~~shall~~ must 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 until November 1, 1991, and~~ 1.92 pounds of sulfur dioxide per million British Thermal Units in any 24-hour period ~~thereafter,~~ or emission rates corresponding to the fuel sulfur limitations required for sources on the Portland peninsula.

Except for lime kilns at pulp and paper mills, the department may require any person achieving compliance by means of an approved flue gas desulfurization system or other prescribed sulfur removal device to operate a continuous emission monitoring device for sulfur dioxide.

STATEMENT OF FACT

Continuous emission monitors, or CEMs, and operating parameter monitors, or OPMs, are complex pieces of equipment. A significant amount of maintenance, calibration and audit must be performed on CEMs and OPMs to ensure proper operation. Because preventive maintenance, calibration and audit are required by the Department of Environmental Protection, this bill provides that CEMs and OPMs are considered in use during those periods provided the services are being conducted in accordance with the quality assurance plan submitted to the department.

Due to their complexity, CEMs and OPMs occasionally malfunction despite the best efforts of operators. This bill is intended to recognize the technological limitations of this equipment and to provide the regulated community with a clearer definition of acceptable CEM and OPM operation. Therefore, consistent with federal guidelines, this bill provides that nonoperation of a CEM due to equipment malfunction does not subject a person to penalties if the period of nonoperation does not exceed 5% of source-operating time for opacity CEMs and 10% of source-operating time for all other CEMs and OPMs. The bill does not alter the department's existing authority to exempt periods of noncompliance due to unavoidable malfunction in excess of these thresholds.

This bill provides that CEMs for sulfur dioxide may not be required on lime kilns that are equipped with approved sulfur removal devices.