

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 1218

H.P. 903

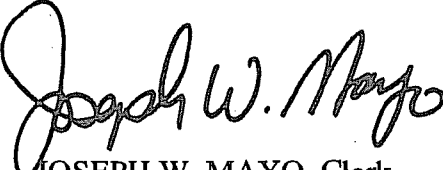
House of Representatives, April 8, 1993

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**An Act Related to Unavoidable Equipment Malfunctions.**

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

  
JOSEPH W. MAYO, Clerk

Presented by Representative LORD of Waterboro.  
Cosponsored by Representatives: ANDERSON of Woodland, CLARK of Millinocket,  
CONSTANTINE of Bar Harbor, GOULD of Greenville, HEINO of Boothbay, HUSSEY of  
Milo, JACQUES of Waterville, MORRISON of Bangor, POULIN of Oakland, Senator:  
CIANCHETTE of Somerset.

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

2  
4       **Sec. 1. 38 MRSA §361-A, sub-§§1-I and 6-A** are enacted to read:

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

8       6-A. Upset. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based licensed effluent limitations because of factors beyond the reasonable control of the licensee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance or careless or improper operation.

16       **Sec. 2. 38 MRSA §414, sub-§§7 and 8** are enacted to read:

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

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

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

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

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

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

42       **Sec. 3. 38 MRSA §414-A, sub-§4**, as enacted by PL 1991, c. 483, §2, is repealed.

44       **Sec. 4. 38 MRSA §590, sub-§5**, as enacted by PL 1991, c. 658, §1, is repealed.

48       **Sec. 5. 38 MRSA §605**, as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §174, is repealed and the following enacted in its place:

