

# MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 354, L.D. 474, Bill, "An Act Relating to Equipment Start-up, Shutdown and Unavoidable Malfunction"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 38 MRSA §349, sub-§9, as amended by PL 1993, c. 232, §1, is further amended to read:

9. Unavoidable malfunctions. The commissioner may exempt from civil penalty an air emission or a wastewater discharge in excess of license limitations if the emission or discharge occurs during start-up or shutdown or results exclusively from an unavoidable malfunction entirely beyond the control of the licensee and the licensee has taken all reasonable steps to minimize or prevent any discharge or emission and takes corrective action as soon as possible. There may be no exemption if the malfunction is caused, entirely or in part, by poor maintenance, careless operation, poor design or any other reasonably preventable condition or preventable equipment breakdown. The burden of proof is on the licensee seeking the exemption under this subsection. In the event of an unavoidable malfunction, the licensee shall notify the commissioner in writing within 48 hours and submit a written report, together with any exemption requests, to the department on a quarterly basis. The commissioner shall annually report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters with regard to the exercise of this authority.

COMMITTEE AMENDMENT

2           **Sec. 2. 38 MRSA §605**, as affected by PL 1989, c. 890, Pt. A,  
§40 and amended by Pt. B, §174, is further amended to read:

4           **§605. Malfunctions**

6           Any person owning or operating any emission source that  
8           suffers a malfunction or breakdown in any component part and that  
malfunction or breakdown causes a violation of any emission  
standards shall notify the commissioner ~~in-writing~~ within 48  
10          hours and submit a written report to the department on a  
quarterly basis.'

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**STATEMENT OF FACT**

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16           This amendment replaces the original bill. It eliminates  
the current statutory requirement that 48-hour reports be  
submitted to the Department of Environmental Protection, in  
18          writing, and instead allows sources to give oral notice to the  
department of any start-up, shutdown or malfunction violations  
within 48 hours and then to follow up with a written report on a  
20          quarterly basis. The quarterly report supersedes the 5-day  
written report that is currently required as a standard condition  
22          in air emission licenses, according to department regulations.  
Under this bill, licensees no longer have to submit their written  
24          reports within 5 working days of the occurrence but are required  
instead to include the information previously provided in those  
26          5-day reports in written reports submitted to the department on a  
quarterly basis.  
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