

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1002

H.P. 728

House of Representatives, March 28, 1995

An Act to Establish a Clean Air Act Title V Operating Permit Program.

(EMERGENCY)

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CLARK of Millinocket.
Cosponsored by Senator FERGUSON of Oxford and
Representatives: AHEARNE of Madawaska, CAMERON of Rumford, DEXTER of
Kingfield, DiPIETRO of South Portland, GOULD of Greenville, GREENLAW of Standish,
KEANE of Old Town, MERES of Norridgewock, MORRISON of Bangor, ROSEBUSH of
East Millinocket, SIMONEAU of Thomaston, VIGUE of Winslow, Senators: AMERO of
Cumberland, CAREY of Kennebec, ESTY of Cumberland, HATHAWAY of York, LORD of
York, RUHLIN of Penobscot.

2 **Emergency preamble. Whereas,** Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** this Act requires the Department of Environmental
Protection to adopt rules by June 1, 1995 for an operating air
emission permitting program in accordance with the mandates of
8 Title V of the Federal Clean Air Act Amendments of 1990; and

10 **Whereas,** this deadline will occur before the expiration of
the 90-day period; and

12
14 **Whereas,** it is already past the deadline for submittal of
such a program to the United States Environmental Protection
Agency; and

16
18 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
20 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

24 **Sec. 1. 38 MRSA §590-F** is enacted to read:

26 **§590-F. Operating permit program**

28
30 By June 1, 1995, the department shall adopt rules, in
accordance with the Maine Administrative Procedure Act,
establishing an operating air emission permit program as required
32 pursuant to Title V of the Clean Air Act, 42 United States Code,
Section 7661 et seq. All elements of the program requirements
34 must be consistent with, and no more stringent than, the
requirements described in the United States Environmental
36 Protection Agency's regulations defining the required elements of
a federally approvable Title V program. By way of example, but
38 not limitation, the program must provide for the maximum
operating flexibility allowed under federal rules; identify minor
40 sources and emission units not subject to licensing under the
program in as clear and comprehensive a manner as practicable;
42 provide that only the requirements imposed pursuant to federal
regulations, and not those imposed under state rules that are
44 more stringent than federal requirements, are federally
enforceable; and minimize costs of compliance to the extent
46 possible under the mandates of the federal rules.

48 The operating air emission permit program must incorporate
the requirements for control of hazardous air pollutants as
50 required in Title III of the Clean Air Act, 42 United States

2 Code, Section 7412. Prior to completion by the United States
3 Environmental Protection Agency of residual risk assessments
4 pursuant to 42 United States Code, Section 7412(f), the
5 department may impose requirements on the basis of ambient air
6 standards for hazardous air pollutants only to the extent that
7 the ambient standards have been approved by the department for
8 such use and have been adopted in compliance with the provisions
9 of the Maine Administrative Procedure Act.

10 A permittee under a program established pursuant to this
11 section is exempt from other air emission licensing requirements
12 under this Title.

14 **Emergency clause.** In view of the emergency cited in the
15 preamble, this Act takes effect when approved.

18 STATEMENT OF FACT

20
21 Title V of the Federal Clean Air Act Amendments of 1990
22 requires states to develop operating air emission permit
23 programs. Pursuant to Title V, the United States Environmental
24 Protection Agency has promulgated extensive regulations that
25 define the required elements of a federally approvable permitting
26 program. This bill directs the Department of Environmental
27 Protection to establish an operating air emission permit program
28 consistent with, and not more stringent than, the United States
29 Environmental Protection Agency's requirements for such a
30 program. To minimize regulatory duplication, sources in Maine
31 subject to the new permit program will no longer be required to
32 obtain air licenses under Maine's existing air emission licensing
33 program; however, sources exempt from Title V permitting will
34 continue to be licensed under the department's existing air
35 emission licensing program.

36
37 The department is also directed to incorporate the Clean Air
38 Act requirements for the control of hazardous air pollutants.
39 This bill clarifies that ambient air quality standards for
40 hazardous air pollutants must be approved by the department and
41 adopted pursuant to the Maine Administrative Procedure Act.
42