

MAINE STATE LEGISLATURE

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Date: 6-7-21

(Filing No. H-441)

MAJORITY
ENVIRONMENT AND NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 119, L.D. 163, "An Act To Revise
Maine's Environmental Laws"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning the Regulation of Air Emissions at Petroleum Storage Facilities'

Amend the bill by inserting after the title and before the enacting clause the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the 129th Legislature in 2020 passed Resolve 2019, chapter 128, which directed a study and legislative report-back by the Department of Environmental Protection regarding methods of measuring and controlling air emissions from aboveground petroleum storage tanks; and

Whereas, that report submitted by the Department of Environmental Protection in 2021 to the Joint Standing Committee on Environment and Natural Resources contained a number of conclusions and recommendations designed to address such air emissions; and

Whereas, numerous citizens and municipalities of the State continue to call for the immediate imposition of additional measures to protect public health and safety through the control of such air emissions; and

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 necessary for the preservation of the public peace, health and safety; now, therefore,'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 38 MRSA §590, sub-§1, as amended by PL 2001, c. 626, §16, is repealed and the following enacted in its place:

COMMITTEE AMENDMENT

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1. License required; rules. After ambient air quality standards and emission standards have been established within a region, the board may by rule provide that a person may not operate, maintain or modify in that region any air contamination source or emit any air contaminants in that region without an air emission license from the department.

A. As a condition of licensure under this chapter for any petroleum storage facility with an aboveground petroleum storage tank, the facility shall:

(1) Ensure that any new aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons used for the storage of distillate fuel products is equipped with a floating roof;

(2) Maintain a record of any additives or materials added to any heated, aboveground petroleum storage tank;

(3) Ensure that any heated, fixed-roof aboveground petroleum storage tank is fully insulated in a manner that minimizes temperature fluctuation and resulting breathing losses and that the temperature of the petroleum product stored in the tank is continuously monitored;

(4) Implement forward-looking infrared technology for the monitoring of vapor leaks around any aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons, as well as around the piping and fittings associated with the tank. The facility shall conduct such monitoring on at least a monthly basis, and the results of that monitoring and any resulting repairs made as a result of detected leaks must be properly documented and provided to the department upon request;

(5) Collect site-specific air emission test data semiannually during the most active time of operations for any existing, new or modified heated, aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons, and the collected data must be used to establish site-specific air emission factors. A facility that operates in a similar manner multiple tanks of the same construction storing the same product may, upon approval by the department, collect site-specific air emission test data from a representative tank in lieu of testing all similarly operating tanks. The test data collected by the facility must be used for the purposes of annual air emissions reporting and by the department when determining compliance with licensed air emission limits;

(6) Conduct on a monthly basis a visual inspection of the internal, floating roof of any aboveground petroleum storage tank equipped with such a roof; conduct on a monthly basis an external leak inspection of that roof using photo ionization detection technology or flame ionization detection technology; and conduct a complete inspection of the cover and seal associated with that roof every 2 years and each time the tank is emptied and degassed; and

(7) If the facility has an aboveground petroleum storage tank with a storage capacity greater than 39,000 gallons that is equipped with an external or internal floating roof, implement a fenceline monitoring program, designed and operated by a qualified, independent 3rd-party entity, which must provide continuous emission monitoring consistent with the requirements of the United States Environmental Protection Agency's Method 325A, Volatile Organic Compounds

COMMITTEE AMENDMENT

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from Fugitive and Area Sources: Sampler Deployment and VOC Sample Collection, and Method 325B, Volatile Organic Compounds from Fugitive and Area Sources: Sampler Preparation and Analysis. The facility shall provide to the department a description of its fence line monitoring program and a copy of all data collected under the program, which the department shall make available on its publicly accessible website.

B. A facility required to be licensed under this chapter may not load distillate fuel into a cargo tank that carried gasoline as its most recent load unless the facility is equipped with and uses a collection and control system for air emissions of volatile organic compounds.

C. As a condition of licensure under this chapter for any new or modified bulk gasoline terminal, the terminal shall implement best practical treatment for emissions associated with the loading, unloading and storage of gasoline at the terminal that is equivalent or substantially similar to applicable best available control technology requirements implemented by the United States Environmental Protection Agency pursuant to the federal Clean Air Act.

D. At least once every 5 years, the board shall evaluate and, if determined necessary, update the best practical treatment requirements applicable to licensed petroleum storage facilities with aboveground petroleum storage tanks. In evaluating the best practical treatment requirements pursuant to this paragraph, the board shall consider best practical treatment requirements for aboveground petroleum storage tanks implemented by other New England states and applicable best available control technology requirements implemented by the United States Environmental Protection Agency pursuant to the federal Clean Air Act.

E. An incinerator may not be used to dispose of solid waste without a license from the department, except an incinerator with a primary chamber volume no greater than 133 cubic feet or 1,000 gallons that burns only wood waste as defined in Title 12, section 9324, subsection 7-A and painted and unpainted wood from construction and demolition debris.

As used in this subsection, "petroleum storage facility" means a storage facility that receives petroleum products from refineries primarily by pipeline, ship or barge and delivers those products to bulk plants or to commercial or retail accounts primarily by tank truck.

The board may adopt rules to implement paragraphs A to E. Rules initially adopted to implement paragraphs A to E are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Any subsequent revision to rules adopted to implement paragraphs A to E are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Department of Environmental Protection; rulemaking. On or before December 31, 2021, the Department of Environmental Protection shall initiate rulemaking to amend its rules regulating air emissions adopted pursuant to the Maine Revised Statutes, Title 38, sections 585, 585-A and 590 to align those rules as necessary with the provisions of Title 38, section 590, subsection 1, paragraphs A to E.

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Sec. 3. Department of Environmental Protection; report. On or before March 1, 2022, the Department of Environmental Protection shall submit a report to the Joint Standing Committee on Environment and Natural Resources that includes:

1. The department's findings regarding the effectiveness of mist eliminators and carbon systems for the reduction of volatile organic compounds emissions from heated, fixed-roof aboveground petroleum storage tanks. The department shall include in the report any recommendations regarding the installation of such equipment on heated, fixed-roof residual oil and asphalt storage tanks located at petroleum storage facilities in the State as a condition of licensure;

2. An update on the department's findings regarding any other emission control technologies and equipment in use at petroleum storage facilities and the effectiveness of such technologies and equipment in reducing volatile organic compound emissions, hazardous air pollutant emissions and the emissions of other air contaminants expected to significantly contribute to odor issues in the surrounding area. The department shall include in the report any recommendations regarding the implementation of regulatory standards for emission control at petroleum storage facilities as a condition of licensure;

3. An update on the department's acquisition of commercially available software capable of calculating emissions in accordance with the United States Environmental Protection Agency's "Fifth Edition Compilation of Air Pollutant Emissions Factors, Volume 1: Stationary Point and Area Sources (AP-42)," including an identification of federal, state or other funding sources available for such acquisition and any associated recommendations;

4. The department's findings and recommendations regarding the ongoing ambient air monitoring study conducted in coordination with the cities of South Portland and Portland since 2019, including information regarding the use of the United States Environmental Protection Agency's Human Exposure Model, HEM-3, to confirm or otherwise inform the siting of ambient air monitoring stations at the most appropriate locations for the study;

5. The department's findings and recommendations regarding the implementation of fenceline monitoring programs at petroleum storage facilities with aboveground petroleum storage tanks with capacity greater than 39,000 gallons that are equipped with an external or internal floating roof, the collection of fenceline monitoring data by the department and the public accessibility of that data; and

6. Any recommendations, including proposed legislation, regarding the regulation of emissions at petroleum storage facilities.

After reviewing the report submitted under this section, the committee may report out legislation related to the report to the 130th Legislature.

As used in this section, "petroleum storage facility" means a storage facility that receives petroleum products from refineries primarily by pipeline, ship or barge and delivers those products to bulk plants or to commercial or retail accounts primarily by tank truck.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

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Air Quality 0250

Initiative: Provides one-time funding for contracted services to research and prepare a report regarding the regulation of air emissions at petroleum storage facilities.

GENERAL FUND	2021-22	2022-23
All Other	\$20,000	\$0
GENERAL FUND TOTAL	\$20,000	\$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment, which is the majority report of the committee, changes the title and replaces the bill, which is a concept draft, and adds an emergency preamble and emergency clause. The amendment does the following.

1. It amends the laws regulating air emissions to require the adoption by rule of certain requirements and prohibitions applicable to the licensure or operation of petroleum storage facilities with aboveground petroleum storage tanks and bulk gasoline terminals.

2. It requires the Department of Environmental Protection, on or before December 31, 2021, to initiate major substantive rulemaking to amend its rules regulating air emissions consistent with the changes to the laws regulating air emissions provided for in the amendment.

3. It requires the Department of Environmental Protection, on or before March 1, 2022, to submit a report to the Joint Standing Committee on Environment and Natural Resources containing a number of specific findings regarding the regulation of air emissions at petroleum storage facilities and any recommendations, including proposed legislation, resulting from those findings or otherwise regarding such regulation. After reviewing the report, the committee may report out legislation related to the report to the 130th Legislature.

The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



130th MAINE LEGISLATURE

LD 163

LR 701(02)

An Act To Revise Maine's Environmental Laws

Fiscal Note for Bill as Amended by Committee Amendment *(ACH-441)*

Committee: Environment and Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Net Cost (Savings)				
General Fund	\$20,000	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$20,000	\$0	\$0	

Fiscal Detail and Notes

This bill changes the laws regulating air emission to require the adoption by rule of certain requirements and prohibitions applicable to the licensure or operation of petroleum storage facilities with aboveground petroleum storage tanks and bulk gasoline terminals. The bill also requires the Department of Environmental Protection (DEP) to research and report specific findings regarding the regulation of air emissions at petroleum storage facilities by March 1, 2022. The DEP has indicated that the scope and timeline of the research would be unable to be completed within existing staffing and resources. The bill includes a one-time appropriation of \$20,000 in fiscal year 2021-22 for contracted services to meet the research and reporting requirements within the specified timeline.