MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE

FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
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1983

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

FIRST REGULAR SESSION

CONTINUED

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

4. Eligibility. A person is not eligible for a license under this section if one or more of the convictions or adjudications upon which his habitual offender status is based, pursuant to section 2292, carried a mandatory penalty of suspension or revocation of license.

5. Definition. For purposes of this section, a "work-restricted license" is a license to operate a motor vehicle between a residence and a place of employment, in the scope of employment, or both, as determined by the Secretary of State.

Effective September 23, 1983.

CHAPTER 504

H.P. 1259 - L.D. 1680

AN ACT to Establish and Amend the Air Emission and Open-burning Standards.

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

Sec. 1. 12 MRSA §9321, sub-§1, ¶D, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

D. The matter and type of burning proposed, giving due consideration to prohibitions and permissible open-burning regulations of the Department of Environmental Protection under Title 38, section 599;

Sec. 2. 12 MRSA §9321, sub-§2, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

2. Revocation. The director or his delegate may revoke any permit during a period of high forest fire danger or any permit which results in creation of a nuisance condition without compliance with the provisions of Title 4, chapter 25 or Title 5, chapter 375.

Sec. 3. 12 MRSA §9321, sub-§4, as enacted by PL 1979, c. 545, §3, is repealed and the following enacted in its place:

4. Conditions. The director may issue a permit with stated conditions or restrictions to insure adequate control of permitted fires in accordance with

criteria of subsection 1 and conformity to regulations of the Department of Environmental Protection under Title 38, section 599.

Sec. 4. 12 MRSA §9324, sub-§§5 and 6 are enacted to read:

5. Permit required. No person, firm or corporation may burn out of doors without a permit from a municipal fire chief, town forest fire warden or forest ranger, except as provided in sections 9322 and 9324 and Title 38, section 599.

6. Domestic trash. Residential burning of highly combustible domestic, household trash in incinerators is allowed where no municipal property tax supported trash collection service is available or will accept those materials provided that the incinerator has been inspected and approved by a municipal fire chief, town forest fire warden or forest ranger using minimum criteria established by the director for safe fire operation.

Sec. 5. 25 MRSA §2436-A, as amended by PL 1981, c. 115, is repealed.

Sec. 6. 38 MRSA §582, sub-§7-E-2 is enacted to read:

7-E-2. Lowest achievable emission rate. "Lowest achievable emission rate" means for any source that rate of emissions which reflects:

A. The most stringent emission limitation which is contained in any implementation plan of any state, required under the United States Clean Air Act, as amended by Title 42 of the United States Code, Section 1857, for that class or category of source, unless the owner or operator of the proposed source demonstrates that those limitations are not achievable; or

B. The most stringent emission limitation which is achieved in practice by that class or category of source, whichever is more stringent. In no event may "lowest achievable emission rate" result in the emission of any pollutant in excess of those standards and limitations promulgated pursuant to Section 111 or 112 of the United States Clean Air Act, as amended, or any emission standard established by the department.

Sec. 7. 38 MRSA §599, as amended by PL 1981, c. 273, §§1 to 3, is repealed and the following enacted in its place:

§599. Open burning

1. Scope. This section:

A. Shall be applicable in all ambient air quality regions in this State; and

B. Shall not interfere with or supersede any local law or ordinance which is more stringent.

2. Prohibitions. The following open-burning activities and materials shall be prohibited.

A. Open burning of tires, rubber products, asphalt shingles, industrial leather scraps and wire insulation is prohibited.

B. Open burning of solid waste materials, other than brush and demolition debris, at a municipal solid waste disposal site serving 1,000 or more persons is prohibited.

C. Open burning of solid waste material at a municipal solid waste disposal site serving less than 1,000 persons shall only be prohibited where the Board of Environmental Protection, after investigation and hearing, shows that the continuance of open burning at a specific municipal site is in violation of air quality standards.

D. Residential open burning of rubbish, refuse, garbage, human and animal remains and by-product waste such as tar, paints, solvents and sludge, as defined in section 582, subsection 12, is prohibited.

E. The residential open burning of highly combustible domestic, household trash such as paper, cardboard cartons, wood boxes, as defined in section 582, subsection 12, is prohibited where a municipal property tax supported trash collection service is available and will accept those materials.

F. The residential open burning of leaves, brush, deadwood and tree cuttings accrued from normal property maintenance by the individual land or homeowner or lessee thereof is prohibited where a municipal property tax supported trash collection service is available and will accept those materials.

G. No person, firm, corporation, association, municipal or state agency may engage in any open burning except in conformity with subsection 3.

3. Permissible open burning with permit. When not prohibited by local ordinances, the following types of burning are permissible if a permit has been obtained from the fire warden, forest ranger or local fire prevention official having jurisdiction over the location where the fire is to be set, so long as the burning is conducted according to the terms and conditions of the permit and provided that no nuisance is created:

A. Recreational campfires kindled when the ground is not covered by snow;

B. Fires in conjunction with holiday and festive celebrations;

C. Burning of solid or liquid fuels and structures for the purpose of research or bona fide instruction and training of municipal, volunteer and industrial fire fighters in methods of fighting fires when conducted under the direct control and supervision of qualified instructors;

D. Burning for agricultural purposes which include, but are not limited to, open burning of blueberry fields, potato tops, hayfields and prescribed burning for timberland management;

E. Residential open burning of highly combustible domestic, household trash such as paper, cardboard cartons, wood boxes, as defined in section 582, subsection 12, is permissible where no municipal property tax supported trash collection service is available or will accept those materials;

F. Residential open burning of leaves, brush, deadwood and tree cuttings accrued from normal property maintenance by the individual land or homeowner or lessees thereof is permissible where no municipal property tax supported trash collection service is available or will accept those materials;

G. Burning for the disposal of materials, other than those prohibited in subsection 2, paragraph A, generated from the clearing of any land or erection, modification, maintenance, demolition or construction of any highway, railroad, power line, communication line, pipeline, building or development, either on site, or at any municipal solid waste disposal facility where open burning of that material is not expressly prohibited;

H. Burning for hazardous abatement purposes such

as, but not limited to, the burning of grass fields; and

I. Burning for the containment or control of spills of gasoline, kerosene, heating oil or similar petroleum product.

4. Permissible open burning without permit. When not prohibited by local ordinances, the following types of burning are permissible without permit so long as no nuisance is created:

A. Residential use of outdoor grills and fireplaces for recreational purposes such as preparing food;

B. The burning of brush and demolition debris at municipal solid waste disposal facilities; and

C. Recreational campfires kindled when the ground is covered with snow.

Sec. 8. 38 MRSA §600, as amended by PL 1979, c. 476, §§4 and 5, is repealed and the following enacted in its place:

§600. Fuel-burning equipment particulate emission standard

1. Scope. This chapter shall apply to all fuel-burning or solid waste fuel-burning equipment located in the State and having a rated capacity of 3 million British Thermal Units per hour or greater.

2. Emission standards for existing sources. Any source which has applied for an air emission license prior to December 22, 1982, shall limit particulate emissions as follows.

A. Emission standards for oil, gas or petroleum-burning sources are as follows.

(1) Any source burning distillate or residual fuel oil, gas or other petroleum product shall not exceed 0.20 pounds particulate per million British Thermal Units. Any source which cannot achieve the 0.20 pounds particulate per million British Thermal Units limit will be allowed to operate at that higher emission rate, but not to exceed 0.30 pounds particulate matter per million British Thermal Units, if it installs automatic fuel viscosity controls integrated into the fuel oil controls and combustion efficiency instrumentation. The source will be allowed a period of one year

from the date of demonstration of noncompliance to install the controls.

B. Emission standards for coal-burning sources are as follows.

(1) Any coal-burning source with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any coal-burning source, including one presently burning oil but designed to burn coal, with a heat input capacity of 50 million British Thermal Units per hour or greater shall not exceed 0.08 pounds particulate per million British Thermal Units.

C. Emission standards for wood-burning sources are as follows.

(1) Any source designed to burn wood, bark, chips, sawdust, pulp mill sludge or similar forest product, including those with supplementary oil-firing capabilities, with a heat input capacity of less than 150 million British Thermal Units per hour shall not exceed an emission rate defined according to the following equation, even during periods of burning only oil.

$$\log y = 0.034 - 0.256 \log x$$

where y = allowable emission rate expressed in pounds particulate per million British Thermal Units

x = equipment capacity expressed in millions of British Thermal Units per hour

(2) Any source designed to burn wood, bark, chips, sawdust, pulp mill sludge or similar forest product, including those with supplementary oil-firing capabilities, with a heat input capacity of 150 million British Thermal Units per hour or greater shall not exceed 0.30 pounds particulate per million British Thermal Units.

D. Emission standards for solid waste burning sources are as follows.

(1) Any source burning refuse, garbage, trash or any combination of municipal or industrial solid waste shall not exceed the

limits of section 601, the incinerator particulate emission standard.

3. Emission standards for new sources. Any fuel-burning equipment which applies for an air emission license after December 22, 1982, shall limit particulate emissions as follows.

A. Emission standards for oil, gas or petroleum-burning sources are as follows.

(1) Any source burning distillate or residual fuel oil, gas or other petroleum product with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.12 pounds particulate per million British Thermal Units.

(2) Any source burning distillate or residual fuel oil-gas or other petroleum product with a heat input capacity of 50 million British Thermal Units per hour or greater, but less than 250 million British Thermal Units per hour, shall not exceed 0.08 pounds particulate per million British Thermal Units.

(3) Any source burning distillate or residual fuel oil, gas or other petroleum product with a heat input capacity of greater than 250 million British Thermal Units per hour shall not exceed 0.06 pounds particulate per million British Thermal Units.

B. Solid waste burning sources are as follows.

(1) Any source burning refuse, garbage, trash or any combination of municipal or industrial solid waste with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any source burning refuse, garbage, trash or any combination of municipal or industrial solid waste with a heat input capacity of 50 million British Thermal Units per hour or greater, but less than 250 million British Thermal Units per hour, shall not exceed 0.20 pounds particulate per million British Thermal Units.

(3) Any source burning refuse, garbage, trash or any combination of municipal or

industrial solid waste with a heat input capacity of 250 million British Thermal Units per hour or greater shall not exceed 0.10 pounds particulate per million British Thermal Units.

C. Coal-burning sources are as follows.

(1) Any coal-burning source with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any coal-burning source with a heat input capacity equal to or greater than 50 million British Thermal Units per hour, but less than 250 million British Thermal Units per hour, shall not exceed 0.08 pounds particulate per million British Thermal Units.

(3) Any coal-burning source with a heat input capacity of 250 million British Thermal Units per hour or greater shall not exceed 0.05 pounds particulate per million British Thermal Units.

D. Wood, coal, biomass burning sources are as follows.

(1) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of less than 50 million British Thermal Units per hour shall not exceed 0.30 pounds particulate per million British Thermal Units.

(2) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of 50 million British Thermal Units per hour or greater, but less than 250 million British Thermal Units per hour, shall not exceed 0.08 pounds particulate per million British Thermal Units when burning the primary fuel or fuel combinations within the range of design rate proportions. When burning a fuel other than the primary design fuel or a combination of fuels outside the range of design rate proportions, the particulate emissions shall not exceed 0.10 pounds particulate per million British Ther-

mal Units, provided that the particulate matter control equipment is being operated to maximize particulate removal.

(3) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of 250 million British Thermal Units per hour or greater, shall not exceed 0.06 pounds particulate per million British Thermal Units when burning the primary fuel or fuel combinations within the range of design rate proportions. When burning a fuel other than the primary design fuel, or a combination of fuels outside the range of design rate proportions, the particulate emissions shall not exceed 0.10 pounds particulate per million British Thermal Units, provided that the control equipment is being operated and maintained to maximize particulate removal.

(4) Any biomass boiler, so called, designed to burn wood, coal, sludge, petroleum product or other such combustible fuel, alone or in combination, with a heat input capacity of 50 million British Thermal Units per hour or greater, which uses a venturi scrubber providing 75% or greater sulfur dioxide removal shall be exempt from the provisions of subparagraphs (2) and (3) and shall not exceed 0.10 pounds particulate per million British Thermal Units.

4. Test methods and procedures. Compliance shall be determined by test methods and procedures approved on or before December 22, 1982, or any method providing equivalent accuracy and reliability subsequently approved by the board.

5. Exemptions. Any source considered new according to subsection 3, but which equipment has been previously owned and operated, shall be exempt from the provisions of subsection 3 and will be subject to case-by-case emission limitations not to exceed the respective emission limitations of subsection 2.

Sec. 9. 38 MRSA §603, as amended by PL 1975, c. 669, §4, is repealed.

Sec. 10. 38 MRSA §603-A is enacted to read:

§603-A. Low sulfur fuel

1. Scope. This section shall apply to those

fuel-burning sources in the State which are not required to achieve the lower emission rates of new source performance standards or as required to satisfy the case-by-case requirements of best available control technology.

2. Prohibitions. Except as provided in subsections 4 and 5, no person may use any liquid fossil fuel with a sulfur content exceeding the limits in paragraph A or any solid fossil fuel with a sulfur content to heat content ratio exceeding the limits of paragraph B.

A. The sulfur content for liquid fossil fuels is as follows.

(1) In the Central Maine, Downeast, Aroostook County and Northwest Maine Air Quality Control Regions, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% by weight any time after November 1, 1973. In the Metropolitan Portland Air Quality Control Region outside the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 2.5% by weight any time after June 1, 1975.

(2) In the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 1.5% by weight any time after November 1, 1975.

(3) In the Portland Peninsula Air Quality Control Region, no person may use any liquid fossil fuel with a sulfur content greater than 1.0% by weight any time after November 1, 1985.

B. The sulfur content for solid fossil fuels is as follows:

(1) 1.2 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Central Maine, Downeast, Aroostook County, Northwest Maine Air Quality Control Regions and that portion of the Metropolitian Portland Air Quality Region outside the Portland Peninsula Air Quality Region. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December;

(2) 0.72 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region until November 1, 1985. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December; and

(3) 0.48 pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region after November 1, 1985. A calendar quarter shall be composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December.

3. Records. Record-keeping requirements are as follows.

A. Any person importing residual oil or bituminous coal into the State shall submit to the Department of Environmental Protection a quarterly report itemizing the quantity, sulfur content, ash content and heat content for each shipment of the fuel. Reports covering each preceding quarter shall be submitted by the end of the month following the end of the calendar quarter. It shall be the responsibility of the person importing the fuel to maintain a record of the certified fuel analyses upon which the quarterly reports are based and provide the user a copy of the certification.

B. Any person achieving compliance by means of blending fuels shall submit to the Department of Environmental Protection quarterly reports indicating the respective fuel volumes, sulfur contents and heat contents.

C. Any person achieving compliance by means of flue gas desulfurization or other sulfur removal processes shall submit to the Department of Environmental Protection quarterly reports indicating delivered fuel sulfur contents, a summary of sulfur dioxide concentrations from a continuous in-stack monitor and identifying any period of equipment malfunction or other outage.

4. Flue gas desulfurization. Any source that installs any approved flue gas desulfurization system or other prescribed sulfur removal device shall 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, or emission rates corresponding to the fuel sulfur limitations required for sources on the Portland peninsula.

5. Fuel blending. Any source may achieve compliance with the fuel sulfur limitations of subsection 2 by means of blending low sulfur fuel with a higher sulfur fuel, proportioned on the basis of relative heat content of each fuel.

6. Test methods and procedures. Test methods and procedures are as follows.

A. Any source achieving compliance using flue gas desulfurization or other sulfur removal processes, or fuel blending involving one noncompliance grade fuel, shall demonstrate compliance through the installation and operation of an approved continuous in-stack sulfur dioxide monitor.

B. Whenever compliance is demonstrated by the analysis of bulk residual oil American Society for Testing and Materials Methods D129 or 1552, or equivalent procedures as approved by the commissioner, shall be used.

C. Whenever compliance is demonstrated by the analysis of bulk coal, Environmental Protection Agency Method 19 as published at 44 Federal Register 33580, dated June 11, 1979, or equivalent procedures as approved by the commissioner, shall be used. Method 19 includes the following procedures:

(1) American Society for Testing and Materials D2234 for sample collection;

(2) American Society for Testing and Materials D2013 for sample preparation;

(3) American Society for Testing and Materials D3177 for sulfur analysis;

(4) American Society for Testing and Materials D3173 for moisture analysis; and

(5) American Society for Testing and Materials D3176 for gross calorific value determination.

7. Emergency variance. If, during periods of energy crisis or equipment outage or natural disasters, an oil supplier is unable to supply conforming fuel, that supplier may apply for a temporary vari-

ance to the Commissioner of Environmental Protection. The commissioner may, without hearing, issue that variance for the supplier and his regular users for a period not to exceed 60 days if the application, in his judgment, meets the criteria of the applicable statutory variance requirements and that the emergency action is necessary to avoid an immediate threat to public health, safety or general welfare. The temporary variance cannot be renewed.

Effective September 23, 1983.

CHAPTER 505

H.P. 1319 - L.D. 1749

AN ACT to Provide for Swifter Disposition of Drunk Driving Cases.

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

Sec. 1. 29 MRSA §1311-A is enacted to read:

§1311-A. Suspension on administrative determination for operating with an excessive blood-alcohol level

1. Purpose. The purpose of this section is:

A. To provide maximum safety for all persons who travel or otherwise use the public highways of the State; and

B. To remove quickly from the public highways of this State those persons who have shown themselves to be a safety hazard by operating or attempting to operate a motor vehicle with an excessive blood-alcohol level.

1-A. Definition. For the purposes of this section, "operating or attempting to operate a motor vehicle with an excessive blood-alcohol level" means operating or attempting to operate a motor vehicle while having 0.10% or more by weight of alcohol in the blood.

2. Suspension. The Secretary of State shall make the determination of suspension as follows.