

## CHAPTER 4

### PROTECTION AND IMPROVEMENT OF AIR

#### §581. Declaration of findings and intent

The Legislature finds and declares that air pollution exists with varying degrees of severity within this State; that such air pollution is potentially and in some cases actually dangerous to the health of the citizenry, often causes physical discomfort, injury to property and property values, discourages recreational and other uses of the state's resources and is aesthetically unappealing. [PL 1969, c. 474, §1 (NEW).]

The Legislature by this chapter intends to exercise the police power of the State in a coordinated state-wide program to control present and future sources of emission of air contaminants to the end that air polluting activities of every type shall be regulated in a manner that reasonably insures the continued health, safety and general welfare of all of the citizens of the State; protects property values and protects plant and animal life. [PL 1969, c. 474, §1 (NEW).]

Nothing in this chapter is intended, nor shall be construed, to limit, impair, abridge, create, enlarge or otherwise affect, substantively or procedurally, the right of any person to damage or other relief on account of injury to persons or property due to violation of air quality standards or emission standards and to maintain any action or other appropriate procedure therefor; nor to so affect the powers of the State to initiate, prosecute and maintain actions to abate public nuisances. [PL 1969, c. 474, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW).

#### §582. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 546, §11 (AMD).]

**1. Air contaminants.** "Air contaminants" includes, but is not limited to, dust, fumes, gas, mist, particulate matter, smoke, vapor or any combination thereof. [PL 1989, c. 546, §11 (AMD).]

**2. Air contamination source.** "Air contamination source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops and stores; heating and power plants and stations; buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, hotels, restaurants, schools, hospitals, churches and other institutional buildings; garages and vending and service locations and stations, railroad locomotives, ships, boats and other water-borne craft; portable fuel-burning equipment, indoor and outdoor incinerators of all types, refuse dumps and piles; and any machinery, equipment, stack, conduit, flue, duct, vent, chimney or other apparatus leading out of any of the foregoing. [PL 1979, c. 127, §212 (AMD).]

**3. Air pollution.** "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life or to property, or which unreasonably interfere with the enjoyment of life and property throughout the State or throughout such areas of the State as shall be affected thereby. [PL 1983, c. 760, §1 (AMD).]

**4. Air pollution control apparatus.** "Air pollution control apparatus" means and includes any appliance, equipment or machinery which removes, reduces controls, eliminates, disposes of or renders less noxious the emission of air contaminants into ambient air.  
[PL 1989, c. 546, §11 (AMD).]

**5. Ambient air.** "Ambient air" means all air outside of buildings, stacks or exterior ducts.  
[PL 1969, c. 474, §1 (NEW).]

**5-A. Best practical treatment.** "Best practical treatment" means that method which controls or reduces emissions of air contaminants to the lowest possible level considering:

A. The then existing state of technology; [PL 1973, c. 438, §1 (NEW).]

B. The effectiveness of available alternatives for reducing emissions from the source being considered; and [PL 1989, c. 546, §11 (AMD).]

C. The economic feasibility for the type of establishment involved. [PL 1973, c. 438, §1 (NEW).]  
[PL 1989, c. 546, §11 (AMD).]

**5-B. Baseline concentration.**  
[PL 1979, c. 718, §1 (RP).]

**5-C. Best available retrofit technology or BART.** "Best available retrofit technology" or "BART" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each visibility-impairing air pollutant that is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source and the degree of improvement in visibility that may reasonably be anticipated to result from the use of such technology.  
[PL 2007, c. 95, §1 (NEW).]

**5-D. BART eligible unit.** "BART eligible unit" means an existing stationary facility.  
[PL 2007, c. 95, §2 (NEW).]

**5-E. Existing stationary facility.** "Existing stationary facility" has the same meaning as in 40 Code of Federal Regulations, Section 51.301 (2006).  
[PL 2007, c. 95, §3 (NEW).]

**6. Board.**  
[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §155 (RP).]

**6-A. Commissioner.**  
[PL 1977, c. 78, §207 (RP).]

**6-A-1. Bulk gasoline plant.** "Bulk gasoline plant" means, except for gasoline service stations, any gasoline storage and distribution facility or bulk gasoline terminal with a daily throughput of 76,000 liters, or 20,000 gallons, or less, that receives gasoline from refineries, bulk gasoline terminals or through direct import.  
[PL 1989, c. 546, §11 (NEW).]

**6-B. Bulk gasoline terminal.** "Bulk gasoline terminal" means a gasoline storage facility that receives gasoline from refineries, primarily by pipeline, ship or barge, and delivers gasoline to bulk gasoline plants or commercial or retail accounts primarily by tank vehicle and that has a daily throughput of more than 76,000 liters, or 20,000 gallons, of gasoline.  
[PL 2013, c. 381, Pt. B, §34 (AMD).]

**7. Emission.** "Emission" means a release of air contaminants into ambient air or the air contaminants so released.

[PL 1989, c. 546, §11 (AMD).]

**7-A. Emission source.** "Emission source" means any and all sources of emissions of air contaminants, whether privately or publicly owned or operated.

[PL 1973, c. 438, §3 (NEW).]

**7-A-1. External floating roof.** "External floating roof" means a storage vessel cover in an open-top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

[PL 1979, c. 385, §1 (NEW).]

**7-B. Fuel-burning equipment.** "Fuel-burning equipment" means any furnace, boiler or apparatus, and all appurtenances thereto, used in the process of burning fuel including stationary internal combustion engines.

[PL 1989, c. 546, §11 (AMD).]

**7-C. Fugitive dust.**

[PL 1979, c. 718, §2 (RP).]

**7-C-1. Fugitive emissions.** "Fugitive emissions" means emissions of air contaminants which do not pass through a stack, flue, chimney or vent.

[PL 1989, c. 546, §11 (AMD).]

**7-D. General process source.** "General process source" means any emission source, except fuel-burning equipment, incinerators, mobile sources, open burning sources and sources of fugitive emissions.

[PL 1989, c. 546, §11 (AMD).]

**7-E. Incinerator.** "Incinerator" means any device, apparatus or equipment used for destroying, reducing or salvaging by fire any material or substance, but does not include any device, apparatus or equipment used to burn material-separated, refuse-derived fuel.

A. [PL 1989, c. 546, §11 (RP).]

B. [PL 1989, c. 546, §11 (RP).]

C. [PL 1989, c. 546, §11 (RP).]

D. [PL 1989, c. 546, §11 (RP).]

E. [PL 1989, c. 546, §11 (RP).]

F. [PL 1989, c. 546, §11 (RP).]

G. [PL 1989, c. 546, §11 (RP).]

H. [PL 1989, c. 546, §11 (RP).]

I. [PL 1989, c. 546, §11 (RP).]

[PL 1991, c. 220, §1 (AMD).]

**7-E-1. Internal floating roof.** "Internal floating roof" means a cover or roof in a fixed-roof tank which rests upon or is floated upon the petroleum liquid being contained, and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

[PL 1979, c. 385, §1 (NEW).]

**7-E-2. Lowest achievable emission rate.** "Lowest achievable emission rate" means the more stringent rate of emissions based on the following:

A. The most stringent emission limitation which is contained in any implementation plan of any state for that class or category of source, unless the owner or operator of the proposed source demonstrates that those limitations are not achievable; or [PL 1989, c. 546, §11 (AMD).]

B. The most stringent emission limitation 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 board. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §156 (AMD).]

[PL 1989, c. 546, §11 (AMD); PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §156 (AMD).]

**7-F. Modification.**

[PL 1979, c. 718, §4 (RP).]

**7-G. Hazardous air pollutant.** "Hazardous air pollutant" means an air pollutant to which no ambient air standard is applicable and which in the judgment of the board causes, or contributes to, air pollution which may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness. This term includes, but is not limited to, those pollutants for which the United States Environmental Protection Agency has adopted National Emission Standards for Hazardous Air Pollutants pursuant to 40 Code of Federal Regulations, Part 61. [PL 1989, c. 546, §11 (AMD).]

**7-H. Gasoline dispensing facility.** "Gasoline dispensing facility" means any gasoline service station, bulk terminal or bulk plant or any other facility or organization, governmental or private, that stores gasoline in tanks having a capacity of greater than 250 gallons, and dispenses fuel for motor vehicle use.

[PL 1989, c. 197, §2 (NEW).]

**7-I. Material-separated, refuse-derived fuel.** "Material-separated, refuse-derived fuel" means a binder-enhanced, pelletized, solid fuel product made from the combustible fraction of a municipal solid waste stream that has been processed to remove the recyclable material before combustion. The product may not contain more than 6% by weight of plastic, metal, glass or food waste. In addition, the production of material-separated, refuse-derived fuel may not exceed 40% by weight of the total municipal solid waste stream from which it was derived.

[PL 1991, c. 220, §2 (NEW).]

**8. Municipality.** "Municipality" includes, for purposes of enacting an air pollution control ordinance, only cities, organized towns and plantations.

[PL 1983, c. 703, §1 (AMD).]

**8-A. Opacity.** "Opacity" means the degree of light obscuring capability of emissions of visible air contaminants expressed as a percentage. Complete obscuration shall be expressed as 100% opacity.

[PL 1989, c. 546, §11 (AMD).]

**8-B. Open burning.** "Open burning" means the burning of any type of combustible material in the open ambient air without being completely enclosed and where the products of combustion are emitted directly into the ambient air without passing through a stack, chimney or duct or other device or structure.

[PL 1973, c. 438, §4 (NEW).]

**8-C. Outdoor wood boiler.** "Outdoor wood boiler" means a fuel burning device:

A. Designed to burn wood, biomass fuel products or other solid fuels; [PL 2009, c. 209, §1 (AMD).]

B. That the manufacturer specifies for outdoor installation or in structures not normally occupied by humans or is an indoor-rated device housed in a modular or containerized structure; and [PL 2009, c. 209, §2 (AMD).]

C. That heats building space or water, or both, through the distribution, typically through pipes for a fluid or ducts for air, of a fluid or air heated in the device. [PL 2009, c. 209, §3 (AMD).]  
[PL 2009, c. 209, §§1-3 (AMD).]

**9. Person.** "Person" means any individual, partnership, corporation, whether private, public or quasi-municipal, municipality, state governmental agency or other legal entity.  
[PL 1969, c. 474, §1 (NEW).]

**9-A. Process weight rate.** "Process weight rate" means the average total weight of all materials, not including any gaseous or liquid fuels, solid fuels or combustion air, introduced into any manufacturing, industrial or combustion process that may result in the emission of any regulated pollutant to the ambient air, computed on an hourly basis, and shall be expressed in terms of weight per unit of time.  
[PL 1989, c. 546, §11 (AMD).]

**9-B. Petroleum liquids.** "Petroleum liquids" means crude oil, condensate, and any finished or intermediate products manufactured or extracted in a petroleum refinery.  
[PL 1989, c. 546, §11 (AMD).]

**9-B. Potential emissions.**  
[PL 1979, c. 718, §5 (RP).]

**9-C. Potential emissions.**  
[PL 1981, c. 470, Pt. A, §166 (RP).]

**9-D. PM10.** "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 Code of Federal Regulations, Part 50, Appendix J and designated in accordance with 40 Code of Federal Regulations, Part 53.  
[PL 1995, c. 493, §11 (NEW).]

**10. Region.** "Region" means an air quality region or regions established by the board pursuant to section 583.  
[PL 1989, c. 546, §11 (AMD).]

**10-A. Resource recovery facility.** "Resource recovery facility" has the same meaning as an incineration facility defined in section 1303-C, subsection 16 except that, for the purposes of this chapter, a facility that burns material-separated, refuse-derived fuel but does not burn municipal solid waste or refuse-derived fuel as defined in section 1303-C is not a resource recovery facility.  
[PL 1991, c. 220, §3 (NEW).]

**10-B. Reformulated gasoline.** "Reformulated gasoline" has the same meaning as in 40 Code of Federal Regulations, Section 80.2(ee) (2012).  
[PL 2013, c. 221, §1 (NEW).]

**11. Ringelmann Chart.** "Ringelmann Chart" shall mean the chart published and described in the United States Bureau of Mines Information Circular 8333, on which are illustrated graduated shades of gray for use in estimating the light obscuring density or opacity of any black emissions or any other such device which may be approved by the board.  
[PL 1989, c. 546, §11 (AMD).]

**11-A. Solid waste fuel.** "Solid waste fuel," when burned as fuel in solid waste fuel-burning equipment, means any material, other than primary fossil fuel, including, without limitation, garbage, refuse, sludge from a waste treatment plant or air pollution control facility, sawdust, shavings, chips, bark, slabs or inert fill material.

[PL 1979, c. 476, §2 (NEW).]

**11-B. Solid waste fuel-burning equipment.** "Solid waste fuel-burning equipment" means any furnace, boiler or apparatus, and all appurtenances thereto, capable of burning solid waste fuel for the primary purpose of producing thermal energy. Equipment used to burn material-separated, refuse-derived fuel either alone or with another fuel other than solid waste fuel or refuse-derived fuel as defined in section 1303-C is not solid waste fuel-burning equipment.

[PL 1991, c. 220, §4 (AMD).]

**11-C. True vapor pressure.** "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss from Floating Roof Tanks," 1962.

[PL 1981, c. 470, Pt. A, §167 (RAL).]

**11-D. Toxicity score.** "Toxicity score" means a score given to a hazardous air pollutant by the Department of Health and Human Services, Maine Center for Disease Control and Prevention.

[PL 2007, c. 589, §4 (AMD); PL 2007, c. 589, §9 (AFF).]

**11-E. Air quality units.** "Air quality units" means the toxicity score for a hazardous air pollutant multiplied by the estimated emissions of that hazardous air pollutant.

[PL 2007, c. 589, §5 (AMD); PL 2007, c. 589, §9 (AFF).]

**12. Waste.** "Waste" means refuse, garbage, rubbish, trash or unwanted or discarded materials of any kind and source.

A. [PL 1989, c. 546, §11 (RP).]

B. [PL 1989, c. 546, §11 (RP).]

C. [PL 1989, c. 546, §11 (RP).]

D. [PL 1989, c. 546, §11 (RP).]

E. [PL 1989, c. 546, §11 (RP).]

F. [PL 1989, c. 546, §11 (RP).]

G. [PL 1989, c. 546, §11 (RP).]

[PL 1989, c. 546, §11 (AMD).]

Additional words, terms and phrases, whether used in this chapter or not, may be defined for purposes of this chapter by the board by regulation, but in no case may a definition established by this section be altered by board regulation. [PL 1971, c. 618, §12 (AMD).]

## SECTION HISTORY

PL 1969, c. 431, §9 (AMD). PL 1969, c. 474, §1 (NEW). PL 1971, c. 618, §12 (AMD). PL 1973, c. 438, §§1-6 (AMD). PL 1977, c. 78, §207 (AMD). PL 1979, c. 127, §§212,213 (AMD). PL 1979, c. 381, §§1-5 (AMD). PL 1979, c. 385, §1 (AMD). PL 1979, c. 476, §§1,2 (AMD). PL 1979, c. 541, §A271 (AMD). PL 1979, c. 663, §232 (AMD). PL 1979, c. 718, §§1-5 (AMD). PL 1981, c. 470, §§A166,A167 (AMD). PL 1983, c. 504, §6 (AMD). PL 1983, c. 535, §1 (AMD). PL 1983, c. 703, §1 (AMD). PL 1983, c. 760, §1 (AMD). PL 1989, c. 197, §§1,2 (AMD). PL 1989, c. 546, §11 (AMD). PL 1989, c. 890, §§A40,B155, 156 (AMD). PL 1991, c. 220, §§1-4 (AMD). PL 1993, c. 412, §7 (AMD). PL 1995, c. 493, §11 (AMD). PL 2003, c. 689, §B6 (REV). PL 2007, c. 95, §§1-3 (AMD). PL 2007, c. 442, §1 (AMD). PL 2007, c. 589, §§4, 5 (AMD). PL 2007, c. 589, §9 (AFF). PL 2009, c. 209, §§1-3 (AMD). PL 2013, c. 221, §1 (AMD). PL 2013, c. 381, Pt. B, §34 (AMD).

### §583. Establishment of air quality regions

The board may establish reasonable air quality regions within the State for the purposes of conducting air quality studies, and establishing reasonable ambient air quality standards and emission standards therein. [PL 1975, c. 618, §12 (AMD).]

The following air quality regions, established by the board are adopted: [PL 1975, c. 618, §12 (AMD).]

**1. Metropolitan Portland Air Quality Region.** The Metropolitan Portland Air Quality Region shall consist of the Counties of York, Cumberland, Sagadahoc and the municipalities of Brownfield, Denmark, Fryeburg, Hiram and Porter in the County of Oxford.  
[PL 1971, c. 346 (NEW).]

**1-A. Portland Peninsula Air Quality Region.** The Portland Peninsula Air Quality Region shall consist of that section of the City of Portland bordered on the west by Interstate 295, on the south and east by the Fore River and on the north by Casco Bay and the inlet to Back Bay.  
[PL 1985, c. 746, §25 (AMD).]

**2. Central Maine Air Quality Region.** The Central Maine Air Quality Region shall consist of the Counties of Androscoggin, Kennebec, Knox, Lincoln and Waldo; of the municipalities of New Portland, Embden, Solon, Athens, Harmony, Cambridge, Ripley and all other municipalities in Somerset County to the south of these; of the municipalities and unorganized territory of Township No. 6, Phillips, Salem Township, Freeman Township and all other municipalities and unorganized territory in Franklin County to the south of these; and of the municipalities and unorganized territory of Stow, Batchelder, Grant, Gilead, Riley T.A. No. 1, Grafton T.A. No. 2, Andover North Surplus, Byron and all other municipalities in Oxford County to the south and east of these with the exception of those municipalities within the Metropolitan Portland Air Quality Region.  
[PL 1971, c. 346 (NEW).]

**3. Downeast Air Quality Region.** The Downeast Air Quality Region shall consist of the Counties of Hancock and Washington; of the municipality of Stacyville, the unorganized territory of T.3, R.7, W.E.L.S., T.3, R.8, W.E.L.S. and all other municipalities and unorganized territory in Penobscot County to the south of these; and of the municipalities and unorganized territory of Blanchard Plantation, Monson, Willimantic, Bowerbank, Barnard Plantation, T.6, R.8, W.E.L.S. (Williamsburg Township), Brownville, Lake View Plantation and all other municipalities and unorganized territory in Piscataquis County to the south of these.  
[PL 1971, c. 346 (NEW).]

**4. Aroostook Air Quality Region.** The Aroostook Air Quality Region shall consist of all municipalities and unorganized territory in Aroostook County not included within the Northwest Air Quality Region.  
[PL 1971, c. 346 (NEW).]

**5. Northwest Maine Air Quality Region.** The Northwest Maine Air Quality Region shall consist of the municipality of Upton, the unorganized territory of C Surplus Township, C Township and all other municipalities and unorganized territory in Oxford County to the north of these; the municipalities and unorganized territory of D Township, E Township, Madrid, T.4, R.1, B.K.P., W.K.R., Kingfield and all other municipalities and unorganized territory in Franklin County to the north of these; of the municipalities and unorganized territory of Lexington Plantation, Concord Township, Bingham, Brighton Plantation and all other municipalities and unorganized territory in Somerset County to the north of these; of the municipalities and unorganized territory of Shirley, Elliottsville Plantation, T.7, R.9, W.E.L.S., T.6, R.9, W.E.L.S. (Katahdin Iron Works), T.5, R.9, W.E.L.S., T.4, R.9, W.E.L.S. and all municipalities and unorganized territory in Piscataquis County to the north of these; of the municipality of Patten, the unorganized territory of T.4, R.7, W.E.L.S., T.4, R.8, W.E.L.S., and all other municipalities and unorganized territory in Penobscot County to the north of these; and the municipality of St. Francis, the unorganized territory of T.16, R.9, W.E.L.S., T.15, R.9, W.E.L.S., T.14, R.9,

W.E.L.S., T.13, R.9, W.E.L.S., T.12, R.9, W.E.L.S., T.11, R.9, W.E.L.S., and all other municipalities and unorganized territory in Aroostook County to the west of these.

[PL 1971, c. 346 (NEW).]

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 346 (AMD). PL 1971, c. 618, §12 (AMD). PL 1975, c. 669, §1 (AMD). PL 1985, c. 746, §25 (AMD).

#### **§583-A. Regulations for hearing and applications**

**(REPEALED)**

#### SECTION HISTORY

PL 1975, c. 282, §1 (NEW). PL 1977, c. 300, §39 (RP).

#### **§583-B. Classification of air quality control regions**

The air quality regions set forth in section 583 or portions thereof are classified as follows: [PL 1979, c. 381, §6 (NEW).]

##### **1. Class I.** Class I:

A. Those federal lands which have been established as mandatory Class I areas by the Federal Clean Air Act: Acadia National Park located in the Downeast Air Quality Region; Moosehorn National Wildlife Refuge located in the Downeast Air Quality Region; and the Roosevelt Campobello International Park located in New Brunswick, Canada; [PL 1979, c. 381, §6 (NEW).]

[PL 1979, c. 381, §6 (NEW).]

**2. Class II.** The areas in the State not designated Class I or Class III or nonattainment areas shall be Class II areas;

[PL 1979, c. 381, §6 (NEW).]

##### **3. Class III.**

[PL 1979, c. 381, §6 (NEW).]

**4. Nonattainment areas.** The board shall have the authority to designate certain regions or portions thereof as nonattainment areas after opportunity for a public hearing and determination that any ambient air quality standard is being exceeded;

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §157 (AMD).]

##### **5. Redesignation of class.**

A. [PL 1979, c. 732, §28 (RP).]

B. Other areas may be redesignated as follows:

(1) The board may recommend to the Legislature the redesignation of any air quality region in whole or in part, to Class I, II or III. Prior to this recommendation, an opportunity for a public hearing shall be offered in areas which may be affected by the proposed redesignation. Prior to notice of the hearing opportunity, a report shall be made available with a description and an analysis of health, environmental, economic, social and energy impacts with the proposed redesignation. Should the area proposed for redesignation include or be deemed to affect federally owned lands, the board shall consult with the appropriate federal land manager prior to the redesignation. All proposed redesignations shall be submitted to the Legislature for enactment. [PL 1983, c. 566, §33 (AMD).]

[PL 1983, c. 566, §33 (AMD).]

#### SECTION HISTORY



PL 1979, c. 381, §6 (NEW). PL 1979, c. 732, §§28,31 (AMD). PL 1983, c. 566, §§32,33 (AMD). PL 1989, c. 890, §§A40,B157 (AMD).

#### **§584. Establishment of ambient air quality standards**

The board may recommend to the Legislature reasonable standards, in this chapter called "ambient air quality standards," within a reasonable air quality region regulating and limiting the amount and types of air contaminants which may exist in the ambient air of the region. The standards shall be designed to preserve or enhance the quality of ambient air within the region and to prevent air pollution. The board shall determine by rule the extent to which those standards apply within those areas to which the public does not have general access. [PL 1989, c. 144, §1 (AMD).]

Prior to recommending ambient air quality standards, the board shall offer an opportunity for a public hearing and shall give public notice of its intent to recommend standards for the region in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1989, c. 144, §1 (AMD).]

The board shall solicit and consider all available information concerning the existing quality of the ambient air within the region; the recreational, industrial and residential uses of land within the region; the effects of existing air contaminants and air pollution upon the uses; the availability and effectiveness of air pollution control apparatus designed to control and reduce the existing air contaminants and air pollution; the expense of purchasing and installing the same, and such other evidence as in the board's judgment will enable it to recommend to the Legislature standards necessary to prevent air pollution within the region. [PL 1989, c. 144, §1 (AMD).]

#### **SECTION HISTORY**

PL 1969, c. 474, §1 (NEW). PL 1971, c. 462, §1 (AMD). PL 1971, c. 618, §12 (AMD). PL 1975, c. 282, §2 (AMD). PL 1979, c. 541, §A272 (AMD). PL 1983, c. 566, §§34-36 (AMD). PL 1983, c. 760, §2 (AMD). PL 1987, c. 878, §1 (AMD). PL 1989, c. 144, §1 (AMD).

#### **§584-A. Ambient air quality standards**

For purposes of statutory interpretation, rules, licensing determinations, policy guidance and all other actions by the department or the board, any reference to an ambient air quality standard is interpreted to refer to the national ambient air quality standard established pursuant to Section 109 of the federal Clean Air Act, 42 United States Code, Section 7409, as amended. The department shall implement ambient air quality standards as required by the federal Clean Air Act, 42 United States Code, Section 7409 and regulations promulgated under that section by the United States Environmental Protection Agency. Nothing in this section may be construed to limit the authority of the department to adopt emission standards designed to achieve and maintain ambient air quality standards. [PL 2011, c. 206, §19 (RPR).]

##### **1. Particulate matter.**

[PL 2011, c. 206, §19 (RP).]

##### **2. Sulfur dioxide.**

[PL 2011, c. 206, §19 (RP).]

##### **3. Carbon monoxide.**

[PL 2011, c. 206, §19 (RP).]

##### **4. Photochemical oxidant.**

[PL 2011, c. 206, §19 (RP).]

##### **4-A. Ozone.**

[PL 2011, c. 206, §19 (RP).]

##### **5. Hydrocarbon.**

[PL 1995, c. 642, §7 (RP).]

**6. Nitrogen dioxide.**

[PL 2011, c. 206, §19 (RP).]

**7. Lead.**

[PL 2011, c. 206, §19 (RP).]

**8. Chromium.**

[PL 2011, c. 206, §19 (RP).]

**9. Perchloroethylene.**

[PL 2011, c. 206, §19 (RP).]

**10. Toluene.**

[PL 2011, c. 206, §19 (RP).]

SECTION HISTORY

PL 1971, c. 570 (NEW). PL 1979, c. 381, §6-A (AMD). PL 1981, c. 157 (AMD). PL 1983, c. 359, §1 (AMD). PL 1987, c. 242 (AMD). PL 1989, c. 155, §1 (AMD). PL 1991, c. 646 (AMD). PL 1995, c. 306, §§1,2 (AMD). PL 1995, c. 642, §7 (AMD). PL 1999, c. 79, §1 (AMD). PL 2009, c. 121, §15 (AMD). PL 2011, c. 206, §19 (RPR).

**§584-B. Establishment of ambient increments -- Class I regions**

In addition to the ambient air quality standards set forth in section 584-A, any Class I region or part thereof within the State, including those federal lands designated by the Federal Clean Air Act Amendments of 1977, is subject to a maximum allowable increase in concentration of sulfur dioxide, particulate matter and nitrogen oxides over the baseline concentration of that pollutant. An increase shall not be exceeded more than once annually for any period other than an annual period. The maximum allowable increase consists of: [PL 1989, c. 860, §1 (AMD).]

**1. PM10.** In regards to PM10:

A. An increase in the annual arithmetic mean at any location not to exceed 4 micrograms per cubic meter; and [PL 1995, c. 493, §12 (AMD).]

B. An increase in concentration for any 24-hour period at any location not to exceed 8 micrograms per cubic meter; and [PL 1995, c. 493, §12 (AMD).]

[PL 1995, c. 493, §12 (AMD).]

**2. Sulfur dioxide.** In regards to sulfur dioxide:

A. An increase in the annual arithmetic mean at any location not to exceed 2 micrograms per cubic meter; [PL 1979, c. 381, §7 (NEW).]

B. An increase in concentration for any 24-hour period at any location not to exceed 5 micrograms per cubic meter; and [PL 1979, c. 381, §7 (NEW).]

C. An increase in concentration for any 3-hour period at any location not to exceed 25 micrograms per cubic meter. [PL 1979, c. 381, §7 (NEW).]

[PL 1979, c. 381, §7 (NEW).]

**3. Nitrogen oxides.** In regards to nitrogen oxides:

A. An increase in the annual arithmetic mean at any location not to exceed 2.5 micrograms per cubic meter to be expressed as nitrogen dioxide. [PL 1989, c. 860, §2 (NEW).]

[PL 1989, c. 860, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 381, §7 (NEW). PL 1989, c. 860, §§1,2 (AMD). PL 1995, c. 493, §12 (AMD).

**§584-C. Establishment of ambient increments -- Class II regions**

In addition to the ambient air quality standards set forth in section 584-A, any Class II region or part thereof within the State is subject to a maximum allowable increase in concentration of particulate matter, sulfur dioxide and nitrogen oxides over the baseline concentration of that pollutant. An increase shall not be exceeded more than once annually for any period other than an annual period. The maximum allowable increase consists of: [PL 1989, c. 860, §3 (AMD).]

**1. PM10.** In regards to PM10:

A. An increase in the annual arithmetic mean at any location not to exceed 17 micrograms per cubic meter; and [PL 1995, c. 493, §13 (AMD).]

B. An increase in concentration for any 24-hour period at any location not to exceed 30 micrograms per cubic meter; [PL 1995, c. 493, §13 (AMD).]

[PL 1995, c. 493, §13 (AMD).]

**2. Sulfur dioxide.** In regards to sulfur dioxide:

A. An increase in the annual arithmetic mean at any location not to exceed 20 micrograms per cubic meter; [PL 1979, c. 381, §7 (NEW).]

B. An increase in concentration for any 24-hour period at any location not to exceed 91 micrograms per cubic meter; and [PL 1979, c. 381, §7 (NEW).]

C. An increase in concentration for any 3-hour period at any location not to exceed 512 micrograms per cubic meter; and [RR 1993, c. 1, §128 (COR).]

[RR 1993, c. 1, §128 (COR).]

**3. Nitrogen oxides.** In regards to nitrogen oxides:

A. An increase in the annual arithmetic mean at any location not to exceed 25.0 micrograms per cubic meter to be expressed as nitrogen dioxide. [PL 1989, c. 860, §4 (NEW).]

[PL 1989, c. 860, §4 (NEW).]

## SECTION HISTORY

PL 1979, c. 381, §7 (NEW). PL 1989, c. 860, §§3,4 (AMD). RR 1993, c. 1, §§127,128 (COR). PL 1995, c. 493, §13 (AMD).

**§584-D. Establishment of ambient increments -- Class III regions**

In addition to the ambient air quality standards set forth in section 584-A, any Class III region or part thereof within the State is subject to a maximum allowable increase in concentration of particulate matter, sulfur dioxide and nitrogen oxide over the baseline concentration of that pollutant. An increase shall not be exceeded more than once annually for any period other than the annual period. The maximum allowable increase consists of: [PL 1989, c. 860, §5 (AMD).]

**1. PM10.** In regards to PM10:

A. An increase in the annual arithmetic mean at any location not to exceed 34 micrograms per cubic meter; and [PL 1995, c. 493, §14 (AMD).]

B. An increase in concentration for any 24-hour period at any location not to exceed 60 micrograms per cubic meter; [PL 1995, c. 493, §14 (AMD).]

[PL 1995, c. 493, §14 (AMD).]

**2. Sulfur dioxide.** In regards to sulfur dioxide:

A. An increase in the annual arithmetic mean at any location not to exceed 40 micrograms per cubic meter; [PL 1979, c. 381, §7 (NEW).]

B. An increase in concentration for any 24-hour period at any location not to exceed 182 micrograms per cubic meter; and [PL 1979, c. 381, §7 (NEW).]

C. An increase in concentration for any 3-hour period at any location not to exceed 700 micrograms per cubic meter; and [RR 1993, c. 1, §130 (COR).]

[RR 1993, c. 1, §130 (COR).]

**3. Nitrogen oxides.** In regards to nitrogen oxides:

A. An increase in the annual arithmetic mean at any location not to exceed 30.0 micrograms per cubic meter to be expressed as nitrogen dioxide. [PL 1989, c. 860, §6 (NEW).]

[PL 1989, c. 860, §6 (NEW).]

#### SECTION HISTORY

PL 1979, c. 381, §7 (NEW). PL 1989, c. 860, §§5,6 (AMD). RR 1993, c. 1, §§129,130 (COR). PL 1995, c. 493, §14 (AMD).

#### §584-E. Exclusions from applicable increments -- Class I, II and III regions

**1. Exclusions from applicable increments.** The following concentrations shall be excluded in determining compliance with applicable increments:

A. Concentrations of such pollutant attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, or natural gas, or both, by reason of an order which is in effect under the provisions of sections 2(a) and (b) of the Federal Energy Supply and Environmental Coordination Act of 1974 over the emissions from such sources before the effective date of such order; [PL 1979, c. 381, §7 (NEW).]

B. Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities; and [PL 1979, c. 381, §7 (NEW).]

C. The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration. [PL 1979, c. 381, §7 (NEW).]

[PL 1979, c. 381, §7 (NEW).]

#### SECTION HISTORY

PL 1979, c. 381, §7 (NEW).

#### §584-F. Air quality health warnings

**1. Dissemination of warnings to media and public.** Whenever the department predicts that ambient air concentrations of a pollutant will reach the United States Environmental Protection Agency's Air Quality Index category of Unhealthy for Sensitive Groups or a higher category, the department shall disseminate a health warning to the mass media, including but not limited to television, radio and print media, and shall urge the media to issue the warning to the general public. The department shall use best efforts to educate the media as to the need to broadly disseminate health warnings to the public. In disseminating a warning under this subsection, the department shall also use the most appropriate technology available to disseminate health warnings directly to the public. [PL 2023, c. 496, §1 (AMD).]

[PL 2023, c. 496, §1 (AMD).]

**2. Daily ground-level ozone concentration information.** The department shall provide information to the public on daily ground-level ozone concentrations by a toll-free ozone information telephone hotline or through other appropriate technology.

[PL 2023, c. 496, §1 (AMD).]

#### SECTION HISTORY

PL 1995, c. 306, §3 (NEW). PL 1999, c. 79, §2 (AMD). PL 2023, c. 496, §1 (AMD).

**§585. Establishment of emission standards**

The board may establish and may amend standards, herein called "emission standards", limiting and regulating in a just and equitable manner the amount and type of air contaminants which may be emitted to the ambient air within a region. Such emission standards shall be designed to prevent air pollution and to achieve and maintain the ambient air quality standards within the region in which applicable. [PL 1971, c. 618, §12 (AMD).]

Prior to the establishment or amendment of emission standards, the board shall offer an opportunity for a public hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. The board shall solicit and consider all available information concerning the ambient air quality standards of the region; the existing emissions of air contaminants within the region, their nature, amount and sources; the effect of the emissions upon the ambient air quality standards of the region; the availability, effectiveness and cost of air pollution control apparatus designed to prevent and control air pollution caused by such emissions, and such other evidence as in the board's judgment will enable it to determine and establish emission standards for the region which will achieve and maintain the ambient air quality standards therein. [PL 1983, c. 566, §37 (AMD).]

The board shall by rule establish or may amend emission standards limiting and regulating the amount and type of air contaminants that may be emitted to the ambient air of a region to achieve the goals set forth in this section. The rule must state the date upon which the standards or any individual standard becomes effective. In establishing the date, the board shall consider the degree of air pollution existing within the region, the length of time necessary to inform persons affected by the establishment of these standards that these standards exist, the time needed by the board to implement effective controls and the time needed by persons affected to design and install air pollution control apparatus to comply with the new standards. [PL 1989, c. 144, §2 (AMD); PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §158 (AMD).]

**SECTION HISTORY**

PL 1969, c. 474, §1 (NEW). PL 1971, c. 462, §2 (AMD). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §40 (AMD). PL 1983, c. 566, §§37,38 (AMD). PL 1987, c. 878, §2 (AMD). PL 1989, c. 144, §§2,3 (AMD). PL 1989, c. 890, §§A40,B158 (AMD).

**§585-A. Establishment of standards**

The board may establish and amend regulations to implement ambient air quality standards and emission standards. These regulations shall be designed to achieve and maintain ambient air quality standards and emission standards within any region and prevent air pollution. [PL 1989, c. 144, §4 (AMD).]

Prior to the establishment or amendment of rules, the board shall offer an opportunity for a public hearing thereon in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. The board shall solicit and consider all available information concerning applicable ambient air quality and emission standards; the availability, effectiveness and cost of any air pollution control apparatus designed to prevent or control air pollution or violations of ambient air quality or emission standards which would be required by any proposed rules; and such other evidence as in the board's judgment will enable it to determine and establish rules adequate to maintain applicable ambient air quality and emission standards. [PL 1989, c. 144, §4 (AMD).]

The board shall establish or amend rules to achieve the purposes set forth in this section. The board may delay the effective date of the rules. [PL 1989, c. 144, §4 (AMD); PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §159 (AMD).]

The department shall confer with the joint standing committee of the Legislature having jurisdiction over natural resource matters before it proposes any revisions to the state implementation plan, required in the federal Clean Air Act, Section 110, 42 United States Code, Section 7410, that would require the

State to implement new emissions reduction strategies or programs or substantially revise or terminate existing emissions reduction strategies or programs. Notwithstanding any other parts of this section, rules adopted pursuant to this section relating to motor vehicle fuel standards are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1999, c. 107, §1 (AMD).]

#### SECTION HISTORY

PL 1971, c. 462, §3 (NEW). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §41 (AMD). PL 1983, c. 566, §§39,40 (AMD). PL 1987, c. 878, §3 (AMD). PL 1989, c. 144, §4 (AMD). PL 1989, c. 890, §§A40,B159 (AMD). PL 1997, c. 531, §1 (AMD). PL 1999, c. 107, §1 (AMD).

#### §585-B. Hazardous air pollutant standards

**1. Standards.** The board may establish and amend emission standards for hazardous air pollutants, and regulations to implement these standards. If emission standards are not feasible, the board may adopt design, equipment, work practice or operational standards for activities emitting hazardous pollutants.

[PL 1989, c. 144, §5 (AMD).]

**2. Procedure.** All standards and regulations under this section shall be adopted in conformance with the Maine Administrative Procedure Act, Title 5, chapter 375, except as provided in this section. Prior to the establishment or amendment of these standards and regulations, the board shall conduct a public hearing to receive testimony on:

A. Any health risk assessment on the pollutants proposed to be controlled that has been conducted by the Department of Health and Human Services; [PL 1983, c. 535, §2 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

B. The extent to which the public is exposed to the pollutant; [PL 1983, c. 535, §2 (NEW).]

C. The availability, effectiveness and cost of any air pollution control apparatus designed to prevent or control the emissions of hazardous pollutants; and [PL 1983, c. 535, §2 (NEW).]

D. Any other information that would assist the board in establishing standards adequate to protect the public health and safety. [PL 1983, c. 535, §2 (NEW).]

[PL 1983, c. 535, §2 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

**3. Relation to ambient standards.** The board may control hazardous air pollutants if no ambient air quality standards have been established for those pollutants.

[PL 1989, c. 144, §5 (AMD).]

#### **4. Legislative review.**

[PL 1989, c. 144, §6 (RP).]

**5. Standards for mercury.** Notwithstanding subsection 1, an air emission source may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January 1, 2000; 22.7 kilograms, or 50 pounds, per year after January 1, 2004; 15.9 kilograms, or 35 pounds, after January 1, 2007; and 11.4 kilograms, or 25 pounds, after January 1, 2010. As an alternative to not emitting mercury in excess of 11.4 kilograms, or 25 pounds, after January 1, 2010, an air emission source may reduce mercury emissions by 90 percent by weight after January 1, 2010. Compliance with these limits must be specified in the license of the air emission source. The department shall establish by rule testing protocols and measurement methods for emissions sources for which the department has not established such protocols and methods for determining compliance with the emission standard for mercury. These rules are routine technical rules under Title 5, chapter 375, subchapter 2-A.

An air emission source may apply to the board for an extension or modification of the 11.4-kilogram, or 25-pound, limit as follows.

A. An emission source may submit an application to the board no later than January 1, 2009 for a 6-month extension of the January 1, 2010 deadline to meet the 11.4-kilogram, or 25-pound, limit. The board shall grant the extension if the board determines, based on information presented by the source, that compliance with the limit is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons. [PL 2005, c. 590, §1 (AMD).]

B. An emission source may submit an application to the board no later than January 1, 2009 for a license modification establishing an alternative emission limit for mercury. The board shall grant the license modification if the board finds that the proposed mercury emission limit meets the most stringent emission limitation that is achievable and compatible with that class of source, considering economic feasibility. [PL 2005, c. 590, §1 (AMD).]

Pending a decision on an application for an extension or a license modification under this subsection, the 15.9-kilogram, or 35-pound, limit applies to the emission source.

Notwithstanding the January 1, 2000 compliance date in this subsection, a resource recovery facility that is subject to an emissions limit for mercury adopted by rule by the board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound, mercury emissions limit after December 19, 2000.

For determining compliance with this subsection, the results of multiple stack tests may be averaged in accordance with guidance provided by the department.

[PL 2013, c. 300, §13 (AMD).]

**6. Mercury reduction plans.** An air emission source emitting mercury in excess of 10 pounds per year after January 1, 2007 must develop a mercury reduction plan. Except as provided in subsection 7, the mercury reduction plan must be submitted to the department no later than September 1, 2008. The mercury reduction plan must contain:

A. Identification, characterization and accounting of the mercury used or released at the emission source; and [PL 2005, c. 590, §2 (NEW).]

B. Identification, analysis and evaluation of any appropriate technologies, procedures, processes, equipment or production changes that may be utilized by the emission source to reduce the amount of mercury used or released by that emission source, including a financial analysis of the costs and benefits of reducing the amount of mercury used or released. [PL 2005, c. 590, §2 (NEW).]

C. [RR 2005, c. 2, §24 (RP).]

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than March 1, 2009 summarizing the mercury emissions and mercury reduction potential from those emission sources subject to this subsection. In addition, the department shall include an evaluation of the appropriateness of the 25-pound mercury standard established in subsection 5. The evaluation must address, but is not limited to, the technological feasibility, cost and schedule of achieving the standards established in subsection 5. The department shall submit an updated report to the committee by March 1, 2013. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to report out to the 126th Legislature a bill relating to the evaluation and the updated report.

[PL 2015, c. 250, Pt. C, §8 (AMD).]

**7. Stack tests for mercury.** An air emission source emitting mercury in excess of 10 pounds in calendar year 2010 must:

A. Conduct a stack test for mercury twice in calendar year 2011 and twice in calendar year 2012. The stack tests must be conducted at least 4 months apart; and [PL 2009, c. 535, §3 (NEW).]

B. By January 1, 2013, develop a mercury reduction plan and submit the plan to the department in accordance with subsection 6. The plan must contain the results of the 4 stack tests conducted pursuant to paragraph A. [PL 2009, c. 535, §3 (NEW).]

For determining compliance with subsection 5, the results of multiple stack tests under this subsection may be averaged in accordance with guidance provided by the department.

The department may approve an alternative to the stack testing requirements in this subsection, such as, but not limited to, mercury input data or a continuous mercury emission monitoring system. [PL 2009, c. 535, §3 (NEW).]

#### SECTION HISTORY

PL 1983, c. 535, §2 (NEW). PL 1989, c. 144, §§5,6 (AMD). PL 1997, c. 722, §3 (AMD). PL 2003, c. 689, §B6 (REV). RR 2005, c. 2, §24 (COR). PL 2005, c. 590, §§1,2 (AMD). PL 2009, c. 338, §§1, 2 (AMD). PL 2009, c. 535, §§1-3 (AMD). PL 2013, c. 300, §13 (AMD). PL 2015, c. 250, Pt. C, §8 (AMD).

#### §585-C. Hazardous air pollutant emissions inventory

**1. Findings and purpose.** The Legislature finds that advancing scientific knowledge increasingly demonstrates that many air pollutants may reasonably be anticipated to result in an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness to the residents of the State. Accordingly, the Legislature concludes that it is in the public interest to identify the extent of potential health risks.

[PL 1983, c. 835, §2 (NEW).]

**2. Emissions inventory.** The commissioner shall carry out and maintain an inventory of the sources in the State emitting any substance that may be a hazardous air pollutant.

A. This inventory must include the following data for each of those substances:

- (1) The number of sources;
- (2) The location of each source or category of source;
- (3) The quantity emitted by each source or category of source;
- (4) The total emissions; and
- (5) The percentage of total emissions generated by sources with existing air licenses. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §160 (AMD).]

B. In conducting this inventory, the commissioner may rely upon questionnaires or other reasonable methods, including those established by the United States Environmental Protection Agency, for the purpose of carrying out this duty as promptly and efficiently as possible. The commissioner shall clearly indicate on any requests for information the minimum amount of emissions that must be reported. The commissioner may not require reporting of this information more frequently than every other year. [PL 1995, c. 313, §1 (AMD).]

C. In carrying out this inventory, the commissioner may require persons to provide information on forms supplied by the commissioner. Refusal to provide the information subjects the person of whom it is requested to a civil penalty of not more than \$100 for each day's delay. Submission of false information constitutes a violation of section 349, subsection 3, in addition to being subject to remedies otherwise available by law. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §160 (AMD).]

D. [PL 2015, c. 250, Pt. C, §9 (RP).]

E. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §160 (RP).]  
[PL 2015, c. 250, Pt. C, §9 (AMD).]



**SECTION HISTORY**

PL 1983, c. 835, §2 (NEW). PL 1989, c. 890, §§A40,B160 (AMD). PL 1995, c. 313, §1 (AMD). PL 2015, c. 250, Pt. C, §9 (AMD).

**§585-D. New motor vehicle emission standards**

Subject to the provisions of this section, the board may adopt and enforce standards that meet the requirements of the federal Clean Air Act, Section 177, 42 United States Code, Section 7507 relating to control of emissions from new motor vehicles or new motor vehicle engines. These standards, known as a "low-emission vehicle program," must be designed to prevent air pollution and achieve and maintain ambient air quality standards within the State. [PL 2005, c. 245, §1 (AMD).]

**1. New England states adoption.**

[PL 1999, c. 582, §1 (RP).]

**2. Ozone transport region adoption.**

[PL 1999, c. 582, §1 (RP).]

The department may not implement the low-emission vehicle program if the implementation of that program includes the adoption, sale or use of the reformulated gasoline approved for sale and use in California. [PL 2005, c. 245, §1 (AMD).]

Rules adopted or amended by the board on or after August 1, 2024 pursuant to this section, including, but not limited to, rules to establish zero-emission requirements, are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 624, §1 (NEW).]

By January 1, 2025, and annually thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding the status of the regulatory program adopted by the California Air Resources Board for new motor vehicle emissions, known as the Advanced Clean Cars II program, and the adoption of that program by other states, as well as any updates regarding federal motor vehicle emissions control requirements. After reviewing the report, the committee may report out legislation relating to the report to the Legislature in the legislative session in which the report is submitted. [PL 2023, c. 624, §2 (NEW).]

**SECTION HISTORY**

PL 1993, c. 358, §1 (NEW). PL 1997, c. 364, §§37,38 (AMD). PL 1999, c. 582, §1 (AMD). PL 2005, c. 245, §1 (AMD). PL 2007, c. 619, §7 (AMD). PL 2011, c. 120, §8 (AMD). PL 2023, c. 624, §§1, 2 (AMD).

**§585-E. Gasoline station vapor recovery requirements**

**(REPEALED)**

**SECTION HISTORY**

PL 1995, c. 493, §15 (NEW). PL 2001, c. 233, §§1,2 (AMD). PL 2007, c. 559, §§1-5 (AMD). MRSA T. 38 §585-E, sub-§6 (RP).

**§585-F. Motor vehicle emissions labeling program**

The board may adopt rules to implement a motor vehicle emissions labeling program for all new vehicles sold within the State in order to educate the public about the types and amounts of motor vehicle emissions. Rules adopted pursuant to this section are routine technical rules under Title 5, chapter 375, subchapter II-A. [PL 1997, c. 500, §8 (NEW).]

**SECTION HISTORY**

PL 1997, c. 500, §8 (NEW).

**§585-G. Motor vehicle inspection and maintenance program requirement**

The department shall submit to the United States Environmental Protection Agency a revision to the state implementation plan, required in the federal Clean Air Act, Section 110, 42 United States Code, Section 7410, that incorporates the motor vehicle inspection program under Title 29-A, chapter 15, subchapter 1, to meet the requirement for a vehicle emission control inspection and maintenance program in the federal Clean Air Act, Section 184, 42 United States Code, Section 7511c. [PL 1997, c. 786, §8 (NEW).]

## SECTION HISTORY

PL 1997, c. 786, §8 (NEW).

**§585-H. MTBE monitoring and reductions**

**(REPEALED)**

## SECTION HISTORY

PL 1999, c. 709, §2 (NEW). PL 2003, c. 638, §3 (AMD). PL 2011, c. 120, §9 (RP).

**§585-I. MTBE**

The following provisions apply to the sale of MTBE in the State. [PL 2003, c. 638, §4 (NEW).]

**1. Definition.** For purposes of this section, "MTBE" means the gasoline oxygenate methyl tertiary butyl ether.

[PL 2003, c. 638, §4 (NEW).]

**2. Prohibition on sale.** Beginning January 1, 2007, a person may not sell, offer for sale, distribute or blend in this State gasoline that contains more than 1/2 of 1% by volume MTBE that is intended for sale to ultimate consumers in this State.

[PL 2003, c. 638, §4 (NEW).]

**3. Emergency order.** Notwithstanding subsection 2, whenever the commissioner finds that a danger to public health or safety exists due to low supply of gasoline in the State, the commissioner may issue an emergency order waiving the sales prohibition in subsection 2.

[PL 2003, c. 638, §4 (NEW).]

## SECTION HISTORY

PL 2003, c. 638, §4 (NEW).

**§585-J. Architectural coatings**

**1. Manufactured on or after January 1, 2006.** A person may not manufacture, blend or repack for sale within the State, supply, sell or offer for sale within the State or solicit for application or apply within the State, any architectural or industrial maintenance coating manufactured on or after January 1, 2006 that contains volatile organic compounds in excess of limits specified in this subsection. Limits are expressed in grams of volatile organic compounds per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds or colorant added to tint bases. "Manufacturer's maximum recommendation" means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

A. Interior wood clear and semitransparent stains may not contain volatile organic compounds in excess of 550 grams per liter. [PL 2005, c. 181, §1 (NEW).]

B. Varnishes may not contain volatile organic compounds in excess of 450 grams per liter. Effective January 1, 2011, varnishes may not contain volatile organic compounds in excess of 350 grams per liter. [PL 2005, c. 181, §1 (NEW).]

[PL 2005, c. 181, §1 (NEW).]

**2. Manufactured prior to January 1, 2006.** An architectural or industrial maintenance coating manufactured prior to January 1, 2006 may be sold, supplied, offered for sale or applied after January 1, 2006 as long as the architectural or industrial maintenance coating complies with the standards in effect at the time the coating was manufactured, and the coating displays the date of manufacture on the lid, label or bottom of the container.

[PL 2005, c. 181, §1 (NEW).]

**3. Rulemaking.** The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 181, §1 (NEW).]

#### SECTION HISTORY

PL 2005, c. 181, §1 (NEW).

#### §585-K. Greenhouse gas emission standards; moratorium

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Coal gasification facility" means a facility that uses a process other than the biological degradation of waste to convert coal or coal-derived materials into a synthesis gas or a product made from synthesis gas, including, without limitation, electricity, liquid fuels and chemicals. [PL 2009, c. 306, §1 (AMD).]

B. "Greenhouse gas" has the same meaning as set forth in section 574. [PL 2007, c. 584, §1 (NEW).]

[PL 2009, c. 306, §1 (AMD).]

**2. Greenhouse gas emission standards.** The board shall establish by rule, and may thereafter amend, standards for the emission of greenhouse gases derived from coal gasification facilities that commence operations after August 1, 2008. Rules established pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 584, §1 (NEW).]

**3. Moratorium.** Between the effective date of this subsection and the earlier of the effective date of rules authorized pursuant to subsection 2 and August 1, 2011, the department may not issue any license or permit to a coal gasification facility that is not licensed under this chapter prior to August 1, 2008.

[PL 2007, c. 584, §1 (NEW).]

**4. Net emissions and carbon capture and sequestration.** In calculating greenhouse gas emissions, carbon dioxide that is captured and used for a commercial purpose or that is permanently disposed of in geological formations in compliance with all applicable laws and rules may not be counted as emissions from the emission source.

[PL 2007, c. 584, §1 (NEW).]

**5. Air emission license requirements apply.** The licensing requirements in section 590 and the prohibition in section 591 apply with regard to the standards established by the board pursuant to subsection 2. The lack of ambient air quality standards for greenhouse gases does not supersede or invalidate this section.

[PL 2007, c. 584, §1 (NEW).]

**6. Criteria and procedures.** The criteria and procedures in sections 585 and 585-A govern the establishment of greenhouse gas emission standards under this section. Emission standards established pursuant to subsection 2 must be designed to achieve the goals of this chapter and chapter 3-A.

[PL 2007, c. 584, §1 (NEW).]

**7. Construction; absence of limitation.** Nothing in this section may be construed to limit the authority of the department or any agency or any political subdivision of the State to regulate any pollutant or air contaminant or to establish emission standards pursuant to section 585. [PL 2007, c. 584, §1 (NEW).]

**REVISOR'S NOTE:** §585-K. Idling requirements for motor vehicles (As enacted by PL 2007, c. 582, §1 is REALLOCATED TO TITLE 38, SECTION 585-L)

#### SECTION HISTORY

RR 2007, c. 2, §26 (RAL). PL 2007, c. 582, §1 (NEW). PL 2007, c. 584, §1 (NEW). PL 2009, c. 306, §1 (AMD).

#### §585-L. Idling requirements for motor vehicles

##### (REALLOCATED FROM TITLE 38, SECTION 585-K)

**1. Applicability.** This section applies to:

- A. Commercial motor vehicles, as defined in 49 Code of Federal Regulations, Section 390.5 (2007), and commercial motor vehicles used on a highway in intrastate commerce; [RR 2007, c. 2, §26 (RAL).]
- B. Locations where commercial motor vehicles load or unload; and [RR 2007, c. 2, §26 (RAL).]
- C. Gasoline-powered motor vehicles except private passenger vehicles. [RR 2007, c. 2, §26 (RAL).]

[RR 2007, c. 2, §26 (RAL).]

**2. General requirement for loading and unloading locations.** A person who owns a location where a commercial motor vehicle that is not subject to an exemption under subsection 4 loads or unloads may not cause a driver of that vehicle to idle for a period longer than 30 minutes by requesting that the vehicle continue running while waiting to load or unload at that location. To the maximum extent practical, a person subject to this subsection shall minimize delays in loading and unloading operations in order to reduce idling times.

[RR 2007, c. 2, §26 (RAL).]

**3. General requirement for vehicles.** An owner or operator of a commercial motor vehicle may not cause or permit such a vehicle to idle for more than 5 minutes in any 60-minute period except as provided in subsection 4. An owner or operator of a gasoline-powered motor vehicle, except a private passenger vehicle, may not cause or permit such a vehicle to idle for more than 5 minutes in any 60-minute period except as provided in subsection 4.

[RR 2007, c. 2, §26 (RAL).]

**4. Exemptions.** Subsection 3 does not apply for the period or periods when:

- A. A motor vehicle idles while forced to remain motionless because of traffic or an official traffic control device or signal or at the direction of a law enforcement official; [RR 2007, c. 2, §26 (RAL).]
- B. A motor vehicle idles when operating a defroster, heater, air conditioner or installing equipment solely to prevent a safety or health emergency and not as part of a rest period; [RR 2007, c. 2, §26 (RAL).]
- C. A police, fire, ambulance, public safety, military or other emergency or law enforcement vehicle idles while being used in the course of official business; [RR 2007, c. 2, §26 (RAL).]
- D. The primary propulsion engine idles for maintenance, servicing, repair or diagnostic purposes if idling is required for such an activity; [RR 2007, c. 2, §26 (RAL).]

E. A motor vehicle idles as part of a state or federal inspection to verify that all equipment is in good working order if idling is required as part of the inspection; [RR 2007, c. 2, §26 (RAL).]

F. Idling of the primary propulsion engine is necessary to power work-related mechanical or electrical operations other than propulsion, including, but not limited to, mixing, dumping or processing cargo, straight truck refrigeration or to protect prescription or over-the-counter drug products. This exemption does not apply when idling for cabin comfort or to operate nonessential on-board equipment; [RR 2007, c. 2, §26 (RAL).]

G. A utility vehicle idles during electric utility service restoration operations or when needed to protect temperature-sensitive electrical testing equipment; [RR 2007, c. 2, §26 (RAL).]

H. An armored vehicle idles when a person remains inside the vehicle to guard the contents or the vehicle is being loaded or unloaded; [RR 2007, c. 2, §26 (RAL).]

I. An occupied commercial motor vehicle with a sleeper berth compartment idles for purposes of air conditioning or heating during a rest or sleep period; [RR 2007, c. 2, §26 (RAL).]

J. An occupied commercial motor vehicle idles for purposes of air conditioning or heating while waiting to load or unload; [RR 2007, c. 2, §26 (RAL).]

K. A passenger bus idles a maximum of 15 minutes in any 60-minute period to maintain passenger comfort while nondriver passengers are on board; [RR 2007, c. 2, §26 (RAL).]

L. A motor vehicle idles due to mechanical difficulties over which the operator has no control if the vehicle owner submits the repair paperwork or product receipt by mail within 30 days to the appropriate authority verifying that the mechanical problem has been fixed. If no repair paperwork is submitted within 30 days, the vehicle owner is subject to penalties as provided in subsection 5; [RR 2007, c. 2, §26 (RAL).]

M. A motor vehicle idles for not longer than an additional 10 minutes beyond the limit imposed in subsection 3 to operate heating equipment when the ambient air temperature is 32 degrees Fahrenheit or below; or [RR 2007, c. 2, §26 (RAL).]

N. A motor vehicle idles as needed for the purpose of providing heat when the ambient air temperature is below 0 degrees Fahrenheit. [RR 2007, c. 2, §26 (RAL).]  
[RR 2007, c. 2, §26 (RAL).]

**5. Penalties.** A person who violates this section is subject to the following penalties.

A. A person who violates this section commits a traffic infraction under Title 29-A, chapter 23, subchapter 6. [RR 2007, c. 2, §26 (RAL).]

B. A vehicle operator who violates this section after having previously violated this section commits a civil violation for which a fine of \$150 must be adjudged. A vehicle owner or a person who owns a location where a commercial motor vehicle loads or unloads who violates this section after having previously violated this section commits a civil violation for which a fine of \$500 must be adjudged. [RR 2007, c. 2, §26 (RAL).]

[RR 2007, c. 2, §26 (RAL).]

## SECTION HISTORY

RR 2007, c. 2, §26 (RAL).

### §585-M. Prohibition on sale of gasoline containing corn-based ethanol

**1. Prohibition on sale.** A person may not sell or offer for sale gasoline that contains corn-based ethanol as an additive at a level greater than 10% by volume.

[PL 2013, c. 69, §1 (NEW).]

**2. Effective date.** This section does not take effect until at least 2 of the 6 New England states in addition to this State have enacted laws that prohibit the sale of gasoline that contains corn-based ethanol as an additive at a level greater than 10% by volume. The commissioner shall notify the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes when at least 2 New England states in addition to this State have enacted laws that prohibit the sale of gasoline that contains corn-based ethanol at a level greater than 10% by volume. In no event may this section take effect until 90 days after adjournment of the First Regular Session of the 126th Legislature.

[PL 2013, c. 69, §1 (NEW).]

#### SECTION HISTORY

PL 2013, c. 69, §1 (NEW).

#### **§585-N. Reformulated gasoline**

**(REPEALED)**

#### SECTION HISTORY

PL 2013, c. 221, §2 (NEW). PL 2013, c. 453, §1 (AMD). PL 2019, c. 55, §1 (AMD). MRSA T. 38 §585-N (RP).

#### **§585-O. Motor vehicle emission control system tampering**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dealer" means a person engaged in the business of buying, selling, exchanging or offering to negotiate, negotiating or advertising the sale, lease or rental of a motor vehicle at retail and that has:

- (1) An established place of business for those purposes in this State; and
- (2) A current dealer license issued by the Secretary of State.

"Dealer" does not include the State when selling state-owned motor vehicles; a vehicle auction business as defined in Title 29-A, section 851, subsection 14; an insurance salvage pool as defined in Title 29-A, section 602, subsection 6; or a franchisee as defined in Title 10, section 1171, subsection 7. [PL 2021, c. 119, §1 (NEW).]

B. "Emission control system" means a device or element of design installed on or in a motor vehicle or engine by the original manufacturer and certified to comply with pollutant emission standards established by federal or state law. [PL 2021, c. 119, §1 (NEW).]

C. "Motor vehicle" means a self-propelled vehicle intended for operation on roads. "Motor vehicle" does not include a salvage vehicle, as defined in Title 29-A, section 602, subsection 13, or a vehicle sold for parts or scrap. [PL 2021, c. 119, §1 (NEW).]

D. "Person" means an individual, corporation, firm, partnership, joint venture, association, fiduciary, trust, estate or any other legal or commercial entity. [PL 2021, c. 119, §1 (NEW).]

E. "Tamper" means to deactivate, dismantle, defeat, bypass, alter, modify, remove or otherwise render inoperable, in whole or in part, mechanical or electronic components of the emission control system that is installed on or in a motor vehicle by the original manufacturer of the motor vehicle. [PL 2021, c. 119, §1 (NEW).]

[PL 2021, c. 119, §1 (NEW).]

**2. Tampering prohibited.** Tampering with the emission control system of a motor vehicle is prohibited as provided in this subsection.

A. A person may not tamper with the emission control system of a motor vehicle for compensation, except to repair or replace a part or all of the emission control system to return the emission control system to its original manufacturer's certified specifications. [PL 2021, c. 119, §1 (NEW).]

B. A dealer may not sell, lease or rent, or offer to sell, lease or rent, or transfer title or right of possession of a motor vehicle if a person has tampered with the emission control system of the motor vehicle. [PL 2021, c. 119, §1 (NEW).]  
[PL 2021, c. 119, §1 (NEW).]

**3. Penalties.** A person that violates this section is subject to penalties under section 349. [PL 2021, c. 119, §1 (NEW).]

**4. Rulemaking.** The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 119, §1 (NEW).]

#### SECTION HISTORY

PL 2021, c. 119, §1 (NEW).

#### §586. Subpoena power

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 618, §12 (AMD). PL 1985, c. 746, §26 (RP).

#### §587. Variances

Any person who owns or is in control of any source for which an air emission license was granted and construction was commenced prior to January 6, 1975, or a source other than a new or modified major stationary source for which an air emission license is granted after January 6, 1975, may apply to the department for a variance from ambient air quality standards or emission standards promulgated under this chapter. The application must be accompanied by such information and data as the department may reasonably require. The department may grant the variance if it finds that: [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §161 (AMD).]

**1. No danger to human health or safety.** The emissions occurring or proposed to occur do not endanger human health or safety; [PL 1979, c. 381, §9 (AMD).]

**2. Compliance to produce hardship.** Compliance with the rules or regulations from which variance is sought would produce serious hardships; and [PL 1979, c. 381, §9 (AMD).]

**3. Violation.** The variance will not cause or contribute to a violation of the applicable ambient air increment. [PL 1983, c. 566, §41 (AMD).]

No variance may be granted except after opportunity for a public hearing in the municipality where the applicant maintains the building or business in connection with which the variance is sought. [PL 1983, c. 566, §41 (AMD).]

If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it is good only until the necessary means for prevention, abatement or control become known and available and subject to the taking of such reasonable substitute or alternate measures as the department may prescribe. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §162 (AMD).]

If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will necessitate the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it is for a period not to exceed such reasonable time as the department finds is requisite for the taking of the necessary measures. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §162 (AMD).]

If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in subsections 1 and 2, it is only for such time as the department considers reasonable. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §162 (AMD).]

Any variance may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the department on account of the variance, no renewal of the variance may be granted, unless following public hearing on the complaint on due notice, the department finds that renewal is justified. No renewal may be granted except on application therefor. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §162 (AMD).]

Any person adversely affected by a variance or renewal granted by the board may obtain judicial review thereof by a proceeding in the Superior Court. Judicial review of the denial of a variance or denial of renewal thereof may be had only on the ground that the denial was arbitrary or capricious. [PL 1971, c. 618, §12 (AMD).]

Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures of section 347-A, subsection 3, to any person or that person's property. [PL 1989, c. 878, Pt. A, §115 (AMD).]

Any owner or operator of a new or modified major emitting source who applies for an air emission license after January 6, 1975, shall not be eligible for a variance from ambient air quality standards, including applicable ambient air increments, except that the source may apply for a variance to increments applicable to mandatory federal Class I areas under the terms and conditions set forth in section 165(d) of the Federal Clean Air Act, 42 United States Code Annotated, section 7475(d). [PL 1979, c. 381, §11 (NEW).]

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 618, §12 (AMD). PL 1973, c. 682 (AMD). PL 1975, c. 282, §3 (AMD). PL 1977, c. 300, §42 (AMD). PL 1979, c. 381, §§8-11 (AMD). PL 1983, c. 566, §41 (AMD). PL 1989, c. 878, §A115 (AMD). PL 1989, c. 890, §§A40,B161, 162 (AMD).

#### **§588. Transcript to be made**

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1977, c. 300, §43 (RP).

#### **§589. Registration; penalties**

The commissioner may require the registration of persons or air contamination sources, of a type the board may by rule prescribe, engaged in activities that emit air contaminants and may also require persons operating stationary air contamination sources to install, maintain and use reasonable emission monitoring devices as the board by rule may prescribe. [PL 1991, c. 384, §9 (RPR); PL 1991, c. 384, §16 (AFF).]

**1. Reporting requirements.** Persons may be required by the commissioner to periodically report on the location, size of outlet, height of outlet, rate and period of emission and composition of air contaminants, location and type of air pollution control apparatus and other information as prescribed by rule of the board.



A. The commissioner shall establish procedures for reporting ambient air quality data, including reporting violations of ambient air quality standards and emission standards. [PL 1991, c. 384, §9 (NEW); PL 1991, c. 384, §16 (AFF).]

B. A person may not be required to submit to the commissioner more than one copy of ambient air monitoring data or meteorological data more frequently than quarterly unless required by the federal Environmental Protection Agency. [PL 1991, c. 384, §9 (NEW); PL 1991, c. 384, §16 (AFF).]

[PL 1991, c. 384, §9 (NEW); PL 1991, c. 384, §16 (AFF).]

**2. Stack tests.** A person is not required to conduct stack tests for chlorine or chlorine dioxide more frequently than once every 5 years unless visible emissions, operating parameters or other information indicates the source may be operating out of compliance with any applicable emission standard or unless there are more stringent federal requirements. A person is not required to conduct stack tests for particulate matter on a source monitored by a continuous monitoring device for opacity as specified by 40 Code of Federal Regulations, Part 60, Appendix B, specification 1 or appropriate surrogate parameters as required by the commissioner more frequently than once every 5 years unless visible emissions, operating parameters or other information indicates the source may be operating out of compliance with any applicable emission standard or unless there are more stringent federal requirements. If visible emissions, operating parameters or other information indicates potential noncompliance with an air emission standard or if there are more stringent federal requirements, the department may require additional stack tests.

[PL 2007, c. 589, §6 (AMD); PL 2007, c. 589, §9 (AFF).]

**3. Emission monitoring devices.** Except as provided in this subsection, failure by a person to register, install, maintain and use emission monitoring devices or to file reports from those devices renders that person liable to the penalties prescribed in section 349. Emission monitoring devices must record accurate and reliable data during all source-operating time except for periods when emission monitoring devices are subject to established quality assurance and quality control procedures or to unavoidable malfunction. In any enforcement action brought by the department, the burden of proof is on the licensee to demonstrate that the failure of emission monitoring devices to record accurate and reliable data was due to an unavoidable malfunction or the performance of established quality assurance and quality control procedures on the monitoring system.

A. The department may not initiate enforcement action pursuant to section 349 against any person for failure to operate a continuous emission monitoring system for gaseous emissions as long as the system is recording accurate and reliable data at least 90% of the source-operating time in each quarter of the calendar year. If the continuous emission monitoring system for gaseous emissions is recording accurate and reliable data less than 90% of source-operating time within any quarter of the calendar year, the department may initiate enforcement action and may include in that enforcement action any period of time that the continuous emission monitoring system was not recording accurate and reliable data during that quarter unless the licensee can demonstrate to the satisfaction of the department that the failure of the system to record accurate and reliable data was due to the performance of established quality assurance and quality control procedures or unavoidable malfunctions. [PL 1993, c. 464, §1 (NEW).]

B. The department may not initiate enforcement action pursuant to section 349 against any person for failure to operate a continuous opacity monitoring system as long as the system is recording accurate and reliable data at least 95% of the source-operating time in each quarter of the calendar year, excluding time periods when the licensee is performing quality assurance and quality control procedures on the system that are required by the department. If the continuous opacity monitoring system is recording accurate and reliable data less than 95% of the source-operating time within any quarter of the calendar year, the department may initiate enforcement action and may include in that enforcement action any period of time that the continuous opacity monitoring system was

not recording accurate and reliable data during that quarter unless the licensee can demonstrate to the satisfaction of the department that the failure of the system to record accurate and reliable data was due to the performance of established quality assurance and quality control procedures or unavoidable malfunctions. [PL 1993, c. 464, §1 (NEW).]

[PL 1993, c. 464, §1 (AMD).]

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 462, §4 (RPR). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §44 (AMD). PL 1989, c. 890, §§A40,B163 (AMD). PL 1991, c. 384, §9 (RPR). PL 1991, c. 384, §16 (AFF). PL 1993, c. 464, §1 (AMD). PL 2007, c. 589, §6 (AMD). PL 2007, c. 589, §9 (AFF).

#### §589-A. Notification of violation to affected municipality

When the department issues a notice of violation for a violation of this chapter pursuant to section 347-A or receives an air quality-related notice of violation from the United States Environmental Protection Agency, the department shall provide notice of that violation to each municipality in which the violation occurred. The department may provide the information required under this section electronically. [PL 2019, c. 321, §1 (NEW).]

#### SECTION HISTORY

PL 2019, c. 321, §1 (NEW).

#### §590. Licensing

**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 quarterly 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 5 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 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 fenceline monitoring program and a copy of all data collected under the program, which the department shall make available on its publicly accessible website. [PL 2021, c. 294, §1 (NEW).]

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. [PL 2021, c. 294, §1 (NEW).]

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. [PL 2021, c. 294, §1 (NEW).]

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. [PL 2021, c. 294, §1 (NEW).]

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. [PL 2021, c. 294, §1 (NEW).]

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.

[PL 2021, c. 294, §1 (RPR).]

**2. Applications.** Applications for air emission licenses must be made in a form prescribed by the commissioner and contain the information related to the proposed air contamination source and emission of air contaminants required by rule of the board. All hearings under this section must be held in a municipality within the region where the proposed emission is to be located. At this hearing, the department shall solicit and receive testimony concerning the nature of the proposed emissions; their effect on existing ambient air quality standards within the region; the availability and effectiveness of air pollution control apparatus designed to maintain the emission for which a license is sought at the levels required by law; and the expense of purchasing and installing this apparatus. The department shall grant the license and may impose appropriate and reasonable conditions as necessary to secure compliance with ambient air quality standards if the department finds that the proposed emission will:

- A. Receive the best practical treatment; [PL 1991, c. 658, §1 (NEW).]
  - B. Not violate or be controlled so as not to violate applicable emission standards; and [PL 1991, c. 658, §1 (NEW).]
  - C. Either alone or in conjunction with existing emissions, not violate or be controlled so as not to violate applicable ambient air quality standards. [PL 1991, c. 658, §1 (NEW).]
- [PL 1991, c. 658, §1 (NEW).]

**3. Best practical treatment.** Emissions from existing sources undergoing license renewal are receiving best practical treatment if those emissions are being controlled by an air pollution control apparatus installed less than 15 years prior to the date of license application approval or an accepted best practical treatment analysis shows that those emissions are being controlled in a manner consistent with emission controls commonly used in sources of similar age and design in similar industries, unless:

- A. The applicant is proposing replacement of the existing air pollution control apparatus; [PL 1991, c. 658, §1 (NEW).]
- B. Additional reductions are necessary to achieve or maintain ambient air quality standards; [PL 1991, c. 658, §1 (NEW).]
- C. The department determines that emissions of air contaminants for which an ambient air quality standard has not been adopted pose an unreasonable risk to the environment or public health; or [PL 1991, c. 658, §1 (NEW).]
- D. Additional reductions are necessary to restore ambient air quality increments, even if the applicant has been previously authorized to use that increment. [PL 1991, c. 658, §1 (NEW).]

The department may at the time of the license renewal require additional instrumentation; operating practices; automated process controls; replacement of component parts; emission testing, including requirements for continuous emission monitors; equipment maintenance programs; or record keeping to increase the efficiency of existing air pollution control apparatus or other pollution mitigating measures.

[PL 1991, c. 658, §1 (NEW).]

**4. Low sulfur fuel.** Best practical treatment does not include the use of fuel with a lower sulfur content than that specified in section 603-A unless a lower sulfur fuel is required to comply with applicable emission standards or applicable ambient air quality standards.

[PL 1991, c. 658, §1 (NEW).]

**5. License conditions for start-up, shutdown and malfunctions.** In making license decisions and conditions, the department shall consider the extent to which operation of the licensed facility requires an allowance for excess emissions during cold start-ups and shutdowns of the facility as long as that facility is operated to minimize emissions and is otherwise subject to applicable standards. When the applicant demonstrates to the department that, consistent with best practical treatment requirements

and other applicable standards, infrequent emissions are unavoidable during these periods, the department shall establish appropriate license allowances and conditions.

[PL 1993, c. 232, §3 (AMD).]

**6. Installation period.** If an air emission license renewal or amendment can be granted only if the licensee installs additional emission controls or other mitigating measures, then the licensee may continue to emit pollutants from air contaminant sources that will receive these controls or measures up to the same level allowed in its existing air emission license as long as the additional emission controls or mitigating measures are fully operational as soon as practicable but in no case later than 24 months after the department issues the license renewal or amendment, except as provided in this subsection. After a showing by the licensee that it can not install and bring to full operation required emission controls or mitigating measures within the 24-month period, the department may establish a later date for the installation and operation.

[PL 1991, c. 658, §1 (NEW).]

**7. Compliance with federal law.** The department has the authority to deny an air emission license for a new or modified major emitting source when it determines that the source will not comply with the requirements imposed pursuant to the Federal Clean Air Act, Title 1, Part C, subpart 2, as amended, related to the impairment of visibility in mandatory Class 1 federal areas.

[PL 1991, c. 658, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 462, §5 (AMD). PL 1971, c. 618, §12 (AMD). PL 1975, c. 282, §4 (AMD). PL 1979, c. 381, §§12-14 (AMD). PL 1985, c. 745, §§1,2 (AMD). PL 1989, c. 890, §§A40,B164 (AMD). PL 1991, c. 384, §§10,11 (AMD). PL 1991, c. 384, §16 (AFF). PL 1991, c. 483, §3 (AMD). PL 1991, c. 658, §1 (RPR). PL 1993, c. 232, §3 (AMD). PL 2001, c. 626, §16 (AMD). PL 2021, c. 294, §1 (AMD).

#### §590-A. License terms

The term of air emission licenses is 10 years, except that the term of licenses for air contaminant sources subject to the state permitting provisions of 40 Code of Federal Regulations, Part 70 is 5 years and licenses issued pursuant to rules adopted pursuant to section 580-B, subsection 4, paragraph D have no term. The board may establish, by rule, shorter license terms for the following source categories as it considers necessary to protect the public health, safety and welfare: [PL 2011, c. 538, §13 (AMD).]

**1. Waste incinerators.** Sources designed to burn solid waste for which a municipality is responsible pursuant to section 1305;

[PL 1987, c. 279 (NEW).]

**2. Innovative control.** Sources utilizing new or innovative air pollution control technology; and

[PL 1987, c. 279 (NEW).]

**3. New sources.** New sources that have not previously received an air emissions license from the department and those individual emission sources that have not previously been included in an air emissions license.

[PL 1987, c. 279 (NEW).]

#### SECTION HISTORY

PL 1987, c. 279 (NEW). PL 2011, c. 538, §13 (AMD).

#### §590-B. Testing at resource recovery facilities

**1. Testing; first 2 years of commercial operation.** Testing is required at each resource recovery facility burning municipal solid waste at least once in every 6-month period during the first 2 years of commercial operation for the presence of dioxin and heavy metals, including, but not limited to, lead,

cadmium and chromium in the emissions of the facility. The cost of these tests must be paid by the applicant or permittee.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §165 (AMD).]

**2. Testing after first 2 years of licensure.** After the facility has been in operation and licensed for 2 years, testing is required for dioxin and heavy metals, including, but not limited to, lead, cadmium and chromium in the emissions of the facility at a frequency determined by the board by rule. The cost of these tests must be paid by the applicant or permittee.

A. The rules adopted by the board under this section establish a system of monitoring the overall air emission performance of resource recovery facilities employing surrogate measures of combustion efficiency and other parameters that, in the judgment of the board, may affect the creation of dioxin emissions and the emission of heavy metals. The board shall provide for minimum acceptable operating conditions as indicated by the surrogate measures. Failure to achieve and maintain these conditions will result in testing for dioxin and heavy metals as indicated by the surrogate measures. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §165 (AMD).]

B. Scheduling of tests required by this subsection must reflect the operating conditions that originally required the testing to ensure the greatest protection of public health and the environment. Seasonal differences in waste stream composition and atmospheric and climatic conditions must be taken into account in conducting the tests. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §165 (AMD).]

C. The board shall adopt rules under this section on or before January 1, 1989. [PL 1987, c. 688 (NEW).]

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §165 (AMD).]

**2-A. Testing results.** The results of all tests required under this section must be submitted to the commissioner within 30 days of testing.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §165 (NEW).]

**3. Public and local participation.** The municipal officers, or their designees, of the municipality within which the facility is located or, in the case of a facility located within an unorganized territory or plantation, the county commissioners, or their designees, may conduct an independent review of any testing protocol, test results and their interpretations and any standards or assumptions upon which the test protocol or results are based, which items are required by this section.

The review authorized in this subsection may make use of the services of independent consultants and may include, without limitation, review of the testing protocol, test results and their interpretations and any standards or assumptions upon which the test protocol or results are based. The cost of each review must be paid by the applicant or permittee in an amount not to exceed \$1,000 per test.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §165 (AMD).]

**4. Authority for further tests.** The department shall have the authority to make such further tests for compliance as the department determines necessary and the board may reinstate a license when tests indicate compliance.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §165 (AMD).]

#### SECTION HISTORY

PL 1987, c. 688 (NEW). PL 1989, c. 890, §§A40,B165 (AMD).

#### §590-C. Incinerator classification

**(REPEALED)**

#### SECTION HISTORY

PL 1989, c. 546, §12 (NEW). PL 1991, c. 171, §1 (RP).

**§590-D. Waste classification**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 546, §12 (NEW). PL 1991, c. 171, §1 (RP).

**§590-E. Combustion of material-separated, refuse-derived fuel**

A facility may not burn any material-separated, refuse-derived fuel in fuel-burning equipment with a total heat input capacity of 500,000 British thermal units per hour or less. A facility may burn material-separated, refuse-derived fuel in fuel-burning equipment with a total heat input capacity of greater than 500,000 British thermal units per hour, if: [PL 1991, c. 220, §5 (NEW).]

**1. Registration.** The fuel-burning equipment is registered with the Maine Fuel Board; [PL 2013, c. 300, §14 (AMD).]

**2. Automatic stoker.** The fuel-burning equipment has a total heat input capacity of less than 10,000,000 British thermal units per hour and is equipped with an automatic stoker that has a feed rate of at least 50 pounds per hour; and [PL 1991, c. 220, §5 (NEW).]

**3. No ambient air quality violation.** The department determines that the facility has demonstrated that the facility will not violate ambient air quality standards. In making this demonstration, the owner or operator of the facility shall use the department's meteorological model used for screening sources, or its equivalent as approved by the department, and submit all air quality modeling results required to make this determination to the department. The department shall notify the facility of its determination on air quality impacts in writing within 60 days of receiving the air quality modeling results from the facility. If the department fails to act within this 60-day period, the determination is deemed to be in favor of the facility. A facility or fuel-burning equipment that requires an air emission license under this chapter is exempt from this subsection. [PL 1991, c. 220, §5 (NEW).]

SECTION HISTORY

PL 1991, c. 220, §5 (NEW). PL 2013, c. 300, §14 (AMD).

**§590-F. Safety precautions for children touring incinerator facilities**

A resource recovery facility burning municipal solid waste may not permit students who have not yet entered 7th grade to enter the facility for the purpose of touring the facility. Prior to allowing 7th grade, 8th grade and secondary school students of a public or private school to enter a resource recovery facility that burns municipal solid waste for the purpose of touring the facility: [PL 2003, c. 441, §1 (NEW).]

**1. List of violations to superintendent or headmaster.** The facility shall send to the office of the superintendent within the school administrative unit or to the headmaster of the private school a list of air quality violations issued to the facility by the federal Occupational Safety and Health Administration within the last 2 years; and [PL 2003, c. 441, §1 (NEW).]

**2. List to parents.** The office of the superintendent or the headmaster shall send the list of violations under subsection 1 to the parent or guardian of any participating student. [PL 2003, c. 441, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 441, §1 (NEW).

**§591. Prohibitions**

No person may discharge air contaminants into ambient air within a region in such manner as to violate ambient air quality standards established under this chapter or emission standards established pursuant to section 585, 585-B or 585-K. [PL 2007, c. 584, §2 (AMD).]

When the board, pursuant to section 590, has by rule provided that no person may operate or maintain within a region any air contamination source or emit any air contaminants without an emission license from the department, the operation or maintenance without that license is prohibited. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §166 (AMD).]

**SECTION HISTORY**

PL 1969, c. 474, §1 (NEW). PL 1971, c. 462, §7 (AMD). PL 1971, c. 618, §12 (AMD). PL 1983, c. 835, §3 (AMD). PL 1989, c. 890, §§A40,B166 (AMD). PL 2007, c. 584, §2 (AMD).

**§591-A. Modifications to a licensed source**

**1. Modifications.** Modification of a licensed source means any physical or operational change in an emission unit or emission source that:

- A. Increases the quantity of any air contaminant emitted; [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]
  - B. Increases the impact of the emissions of that emission unit or source on ambient air quality due to changes in stack height, physical building characteristics or plume characteristics unless the commissioner finds that the change will not cause a violation of ambient air quality standards and ambient increment standards; [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]
  - C. Results in the emission of any air contaminant not previously emitted; [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]
  - D. Constitutes construction of a new emission unit; or [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]
  - E. Constitutes the reconstruction of a new emission unit as defined in 40 Code of Federal Regulations, 60.15 (1990). [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]
- [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

**2. Changes not considered modifications.** The following changes are not modifications to a licensed source:

- A. Routine maintenance, repair and replacement; [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]
- B. An increase in the production rate at an existing source if the increase does not exceed the operating design capacity of the source, unless that change is prohibited under any federally enforceable permit condition established after January 6, 1975 pursuant to 40 Code of Federal Regulations, 52.21 (1990) or under regulations approved pursuant to 40 Code of Federal Regulations, Part 51, Subpart I or 40 Code of Federal Regulations, 51.166 (1990); [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]
- C. An increase in the hours of operation at an existing source, unless that change is prohibited under any federally enforceable permit condition established after January 6, 1975 pursuant to 40 Code of Federal Regulations, 52.21 (1990) or under regulations approved pursuant to 40 Code of Federal Regulations, Part 51, Subpart I or 40 Code of Federal Regulations, 51.166 (1990); [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]



D. Use of an alternative fuel or raw material if the source is designed to accommodate that alternative fuel or raw material and if prior to January 6, 1975, the source is licensed to use that alternative fuel or raw material; or [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

E. Replacement of an air pollution control apparatus if the replacement is found by the department to be the best practical treatment for the emission. [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

[PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

#### SECTION HISTORY

PL 1991, c. 384, §12 (NEW). PL 1991, c. 384, §16 (AFF).

#### §591-B. Meteorological data collection

**1. Data requirements.** A minimum of one year of acceptable on-site meteorological data is required for any modeling analysis. If more than one year of on-site data is available, all acceptable data must be used, up to a maximum of 5 years of data. If less than 5 consecutive years of acceptable on-site data is available, the source must continue to collect meteorological data to obtain an acceptable 5-year data base. Acceptable data means that the data meets the department's requirements based on the federal Environmental Protection Agency's guidelines on air quality models.

[PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

**2. New data collection requirements.** Once an acceptable on-site 5-year data base has been approved by the commissioner, it is acceptable for modeling purposes until:

A. The department's requirements based on federal requirements for meteorological data change; [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

B. Sufficient ambient air quality violations occur to make collection of additional meteorological data necessary; or [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

C. The emission source configuration is significantly changed. [PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

[PL 1991, c. 384, §12 (NEW); PL 1991, c. 384, §16 (AFF).]

#### SECTION HISTORY

PL 1991, c. 384, §12 (NEW). PL 1991, c. 384, §16 (AFF).

#### §592. Violations; general procedures

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §45 (RP).

#### §592-A. Soiling of property; nuisance

**1. Total suspended particulate matter.** No person may discharge total suspended particulate matter to the ambient air in an amount or concentration that soils property or creates a nuisance condition. Total suspended particulate matter concentrations of less than 150 micrograms per cubic meter for any 24-hour period in the ambient air are presumed not to constitute soiling or nuisance conditions. Any person who demonstrates on the basis of total suspended particulate ambient air quality monitoring information acceptable to the commissioner that emissions discharged by that person have not substantially caused or contributed to total suspended particulate matter concentrations in excess of 150 micrograms per cubic meter over a 24-hour period at any applicable location may not be held in violation of this subsection.

[PL 1989, c. 155, §2 (NEW); PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §167 (AMD).]

**2. Fugitive emissions.** Any commercial and industrial source or facility, all municipalities and all state or federal facilities, whether or not requiring a license pursuant to this chapter, that cause or contribute to the discharge of fugitive emissions that the commissioner determines to constitute a nuisance are required to establish and maintain a continuing program for best management practices for suppression of fugitive emissions during any periods of construction, renovation or normal operation. The commissioner shall determine those procedures which constitute best management practices. A description of a source's program for suppression of fugitive emissions must be made available to the commissioner upon request. Public or private roads that are not part of a commercial and industrial source or facility are not subject to the requirements of this subsection.

[PL 1991, c. 138 (AMD).]

#### SECTION HISTORY

PL 1989, c. 155, §2 (NEW). PL 1989, c. 890, §§A40,B167 (AMD). PL 1991, c. 138 (AMD).

#### **§593. Violations; emergency procedures**

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 618, §12 (AMD). PL 1973, c. 438, §7 (AMD). PL 1977, c. 300, §46 (RP).

#### **§594. Appeals**

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 618, §12 (AMD). PL 1977, c. 300, §47 (RP).

#### **§595. Enforcement; violations**

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 256, §6 (AMD). PL 1971, c. 618, §12 (AMD). PL 1975, c. 282, §5 (RPR). PL 1977, c. 300, §48 (RP).

#### **§596. Violations of orders and regulations; penalties**

**(REPEALED)**

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW). PL 1971, c. 256, §6 (AMD). PL 1971, c. 618, §12 (AMD). PL 1975, c. 282, §5 (RPR). PL 1977, c. 300, §48 (RP).

#### **§597. Municipal air pollution control**

Nothing in this chapter shall be construed as a preemption of the field of air pollution study and control on the part of the State. Municipalities may study air pollution and adopt and enforce air pollution control and abatement ordinances, to the extent that these ordinances are not less stringent than this chapter or than any standard, order or other action promulgated pursuant to this chapter. Local ordinance provisions which touch on matters not dealt with by this chapter or which are more stringent than this chapter shall bind persons residing in the municipality. [PL 1969, c. 474, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 474, §1 (NEW).

#### **§598. Visible emissions**

**(REPEALED)**

## SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1979, c. 476, §3 (AMD). PL 1979, c. 718, §6 (RPR). PL 1989, c. 890, §§A40,B168 (AMD). PL 1991, c. 171, §2 (RP).

**§599. Open burning****(REPEALED)**

## SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1975, c. 228, §§2,3 (AMD). PL 1977, c. 300, §49 (AMD). PL 1979, c. 127, §214 (AMD). PL 1979, c. 556, §8 (AMD). PL 1981, c. 273, §§1-3 (AMD). PL 1983, c. 504, §7 (RPR). PL 1983, c. 703, §§2,3 (AMD). PL 1983, c. 743, §14 (AMD). PL 1985, c. 188 (AMD). PL 1989, c. 174, §§10-13 (AMD). PL 1989, c. 890, §§A40,B169 (RP).

**§600. Fuel-burning equipment particulate emission standard****(REPEALED)**

## SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1979, c. 476, §§4,5 (AMD). PL 1983, c. 504, §8 (RPR). PL 1989, c. 890, §§A40,B170 (AMD). PL 1991, c. 171, §3 (RP).

**§601. Incinerator particulate emission standard****(REPEALED)**

## SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1975, c. 669, §§2,3 (AMD). PL 1977, c. 602, §§1-3 (AMD). PL 1977, c. 696, §345 (AMD). PL 1989, c. 890, §§A40,B171 (AMD). PL 1991, c. 171, §4 (RP).

**§602. General process source particulate emissions****(REPEALED)**

## SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1989, c. 890, §§A40,B172 (AMD). PL 1991, c. 171, §5 (RP).

**§603. Low sulfur fuel****(REPEALED)**

## SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1975, c. 669, §4 (RPR). PL 1983, c. 504, §9 (RP).

**§603-A. Low sulfur fuel**

**1. Scope.** This section applies to those fuel-burning sources in the State that 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 or best available retrofit technology. [PL 2007, c. 95, §4 (AMD).]

**2. Prohibitions.** Except as provided in subsections 4 and 9, a person may not import, distribute or offer for sale 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 and the Metropolitan Portland Air Quality Control Region outside the Portland

Peninsula Air Quality Control Region, a person may not distribute or offer for sale any residual fuel oil with a sulfur content greater than 2.0% by weight; beginning July 1, 2018, the limit for those regions is 0.5% by weight.

(2) In the Portland Peninsula Air Quality Control Region, a person may not distribute or offer for sale any residual fuel oil with a sulfur content greater than 1.5% by weight; beginning July 1, 2018, the limit for that region is 0.5% by weight.

(3) Statewide, a person may not import, distribute or offer for sale a distillate fuel:

(b) Beginning July 1, 2018, with a sulfur content greater than 0.0015% by weight.

The sulfur content requirements in this subparagraph do not apply to the use of distillate fuel for manufacturing purposes. [PL 2015, c. 66, §1 (AMD).]

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

(1) One and two-tenths pounds sulfur per million British Thermal Units until November 1, 1991, and .96 pounds sulfur per million British Thermal Units thereafter, 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 Metropolitan Portland Air Quality Region outside the Portland Peninsula Air Quality Region. A calendar quarter is composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December; and

(2) Seventy-two hundredths pounds sulfur per million British Thermal Units calculated as a calendar quarter average for sources in the Portland Peninsula Air Quality Region. A calendar quarter is composed of the months as follows: (1) January, February, March; (2) April, May, June; (3) July, August, September; and (4) October, November, December. [PL 2007, c. 95, §5 (AMD).]

[PL 2015, c. 66, §1 (AMD).]

### 3. Records.

[PL 1991, c. 663, §1 (RP).]

**4. Flue gas desulfurization.** Any source that installs any approved flue gas desulfurization system or other prescribed sulfur removal device must 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 1.92 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.

Except for lime kilns at pulp and paper mills, the department may require any person achieving compliance by means of an approved flue gas desulfurization system or other prescribed sulfur removal device to operate a continuous emission monitoring device for sulfur dioxide.

[PL 1993, c. 464, §2 (AMD).]

#### 4-A. Electrical generating facilities.

[PL 1999, c. 657, §25 (RP).]

#### 5. Fuel blending.

[PL 1991, c. 663, §2 (RP).]

#### 6. Test methods and procedures.

[PL 1991, c. 663, §2 (RP).]

#### 7. Emergency variance.

[PL 1991, c. 663, §2 (RP).]

**7-A. Emergency variance.** The commissioner, without hearing, may suspend any of the sulfur content requirements of subsection 2 if the commissioner finds that the expected availability of fuel

that complies with those requirements is inadequate to meet the needs of residential, commercial or industrial users in this State and that such expected unavailability constitutes an immediate threat to public health, safety or the general welfare. The commissioner shall specify in writing the period during which the suspension is in effect.

[PL 2023, c. 1, Pt. E, §1 (NEW).]

**8. Best available retrofit technology or BART requirements.** For those BART eligible units determined by the department to need additional sulfur air pollution controls to improve visibility, the controls must:

A. Be installed and operational no later than January 1, 2013; and [PL 2007, c. 95, §6 (NEW).]

B. Either:

(1) Require the use of sulfur oil having 1% or less of sulfur by weight; or

(2) Be equivalent to a 50% reduction in sulfur emissions from a BART eligible unit based on a BART eligible unit source emission baseline determined by the department under 40 Code of Federal Regulations, Section 51.308 (d)(3)(iii)(2006) and 40 Code of Federal Regulations, Section 51 Appendix Y (2006). [PL 2007, c. 95, §6 (NEW).]

[PL 2007, c. 95, §6 (NEW).]

**9. Equivalent alternative sulfur reduction application.** The department shall adopt major substantive rules as defined in Title 5, chapter 375, subchapter 2-A that provide an opportunity for a licensed air contamination source that holds a license on the effective date of this subsection to apply for an equivalent alternative sulfur reduction strategy to the residual fuel oil and distillate fuel requirements in subsection 2. The rules must provide for the achievement of equivalent sulfur emission reductions through other means, including, but not limited to, reductions in consumption of residual fuel oil and distillate fuel, early sulfur emission reductions from a baseline emissions inventory year of 2002 and conversions to alternative fuels. The department shall submit the major substantive rules to the Legislature by January 31, 2014. Approved alternate sulfur reduction strategies must be in effect by July 1, 2018.

[PL 2015, c. 66, §2 (AMD).]

## SECTION HISTORY

PL 1983, c. 504, §10 (NEW). PL 1985, c. 162, §9 (AMD). PL 1989, c. 501, §§CC1-3 (AMD). PL 1989, c. 890, §§A40,B173 (AMD). PL 1991, c. 663, §§1,2 (AMD). PL 1993, c. 464, §2 (AMD). PL 1999, c. 657, §§24,25 (AMD). PL 2007, c. 95, §§4-6 (AMD). PL 2009, c. 604, §§1, 2 (AMD). PL 2013, c. 300, §15 (AMD). PL 2015, c. 66, §§1, 2 (AMD). PL 2023, c. 1, Pt. E, §1 (AMD).

## §603-B. Acid deposition control

**1. Legislative findings and intent.** The Legislature finds that acid deposition, commonly referred to as "acid rain," resulting from commercial, industrial or other emissions of sulfur dioxide and nitrogen oxides, is occurring in the State. The Legislature also finds that acid deposition poses a present and severe threat to the State's natural resources, including its fish and wildlife, agriculture and water resources, as well as to the State's economy and public health. Increasing evidence suggests that acid deposition also affects the State's economy by reducing the growth productivity of the State's forest resources.

[PL 1985, c. 498, §1 (NEW).]

**2. Nitrogen oxides emission inventory.** The department shall prepare an inventory of both current and potential nitrogen oxide emission sources in the State. The department shall also evaluate the contribution of nitrogen oxide emissions to acid deposition and other air pollution problems in the State. The inventory and evaluation shall be completed and submitted to the Legislature by January 31, 1987.

[PL 1985, c. 498, §1 (NEW).]

**3. Acid rain impact study.** The department shall complete a study covering the following areas:

A. A resampling and measuring of the response of the State's lakes located in sensitive geologic areas; [PL 1985, c. 498, §1 (NEW).]

B. An identification of sensitive receptor areas throughout the State based on, but not limited to, the following criteria: Geology; elevation; lake size; watershed area; and aquatic and terrestrial flora; [PL 1985, c. 498, §1 (NEW).]

C. An assessment of the impact of acid deposition on the growth and productivity of the State's forest resources; and [PL 1985, c. 498, §1 (NEW).]

D. A determination through long-range modeling techniques of the contribution of both in-state sources and out-of-state sources to acid rain deposition in the State. [PL 1985, c. 498, §1 (NEW).]

In preparing this study, the department shall coordinate with and utilize as fully as possible the research being conducted at the University of Maine and research conducted by the United States Environmental Protection Agency regarding the acid rain problem. Results of this study shall be reported to the Legislature, together with recommendations for further actions, no later than January 31, 1987.

[PL 1985, c. 779, §84 (AMD).]

#### SECTION HISTORY

PL 1985, c. 498, §1 (NEW). PL 1985, c. 779, §84 (AMD).

#### **§604. Sulfur dioxide emission standard for sulfite pulping processes**

**(REPEALED)**

#### SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1991, c. 171, §6 (RP).

#### **§605. Malfunctions**

Any person owning or operating any emission source that 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 within 48 hours and submit a written report to the department on a quarterly basis. [PL 1995, c. 235, §2 (AMD).]

#### SECTION HISTORY

PL 1973, c. 438, §8 (NEW). PL 1983, c. 566, §42 (AMD). PL 1989, c. 890, §§A40,B174 (AMD). PL 1995, c. 235, §2 (AMD).

#### **§606. Nonpoint sources or indirect sources; review of public ways**

**(REPEALED)**

#### SECTION HISTORY

PL 1975, c. 282, §6 (NEW). PL 1975, c. 570 (NEW). PL 1975, c. 770, §211 (RP). PL 1985, c. 746, §27 (RP).

#### **§606-A. Tire-derived fuel**

Any physical or operational change of an industrial power boiler that does not result in an increase in permitted emissions and that is undertaken for the purpose of allowing the source to burn tire-derived fuel is not a modification of the source or emissions unit pursuant to regulations implementing section 590. [PL 1989, c. 869, Pt. C, §8 (NEW).]

#### SECTION HISTORY

PL 1989, c. 869, §C8 (NEW).

**§607. Municipal alternative**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 770, §212 (NEW). PL 1979, c. 535 (AMD). PL 1989, c. 890, §§A40,B175 (RP).

**§608. Stationary source performance standards**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 669, §5 (NEW). PL 1979, c. 381, §15 (RP).

**§608-A. Soil decontamination**

Any rotary drum mix asphalt plant may process up to 10,000 cubic yards of soil contaminated by gasoline or #2 fuel oil per year without an air emissions license pursuant to section 590. This limit may be exceeded with written authorization from the commissioner. The plant owner or operator shall notify the commissioner at least 24 hours prior to processing the contaminated soil and specify the contaminating fuel and quantity, origin of the soil and fuel and the disposition of the contaminated soil. The owner or operator shall maintain records of these activities for 6 years. [PL 1991, c. 817, §32 (RPR).]

SECTION HISTORY

PL 1989, c. 546, §13 (NEW). PL 1989, c. 869, §C9 (AMD). PL 1989, c. 890, §§A40,B176 (AMD). PL 1991, c. 66, §A34 (RPR). PL 1991, c. 499, §20 (RPR). PL 1991, c. 817, §32 (RPR).

**§609. Petroleum liquid storage vapor control**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 385, §2 (NEW). PL 1989, c. 197, §3 (RPR). PL 1989, c. 890, §§A40,B177 (AMD). PL 1991, c. 171, §7 (RP).

**§609-A. Gasoline service station vapor control**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 197, §4 (NEW). PL 1991, c. 171, §8 (RP).

**§609-B. Motor vehicle fuel volatility limit**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 197, §4 (NEW). PL 1991, c. 171, §8 (RP).

**§609-C. Gasoline tank truck tightness; self-certification**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 197, §4 (NEW). PL 1989, c. 890, §§A40,B178 (AMD). PL 1991, c. 171, §9 (RP).

**§610. Petroleum liquids transfer vapor recovery**

**(REPEALED)**

## SECTION HISTORY

PL 1979, c. 385, §2 (NEW). PL 1981, c. 441 (AMD). PL 1981, c. 580, §§1,2 (AMD). PL 1989, c. 197, §5 (RPR). PL 1989, c. 890, §§A40,B179 (AMD). PL 1991, c. 171, §10 (RP).

**§610-A. Hexavalent chromium particulate emission standard****(REPEALED)**

## SECTION HISTORY

PL 1987, c. 769, §A178 (NEW). PL 1991, c. 171, §11 (RP).

**§610-B. Outdoor wood boilers****1. Phase I emission standard.**

[PL 2007, c. 442, §2 (NEW); MRSA T. 38 §610-B, sub-§1 (RP).]

**2. Phase II emission standard.** A person may not sell or distribute for sale an outdoor wood boiler after April 1, 2010 unless it meets a particulate matter emission limit of 0.32 pounds per million British Thermal Units heat output.

[PL 2007, c. 442, §2 (NEW).]

**2-A. Voluntary, technology-forcing emission standard.** An outdoor wood boiler meeting a particulate matter emission limit of 0.06 pounds per million British Thermal Units heat output is not subject to a setback requirement as long as it meets the stack height requirements for an outdoor wood boiler meeting the emission standard in subsection 2 in accordance with rules adopted by the department.

[PL 2009, c. 209, §4 (NEW).]

**3. Nuisance condition.** A person may not operate an outdoor wood boiler in a manner that creates a nuisance condition as defined in the department's rules.

[PL 2007, c. 442, §2 (NEW).]

**4. Emergency powers.** If the commissioner finds after investigation that an outdoor wood boiler is being operated in a manner that creates a nuisance condition or may create or creates a danger to public health or safety, the commissioner may order the owner or any person operating that outdoor wood boiler to immediately cease or prevent that operation, and the commissioner may take such action as may be necessary to terminate or mitigate the danger or likelihood of danger.

A. An order issued under this subsection must contain findings of fact describing, insofar as possible, the site of the operation and the nuisance condition or danger to the public health or safety.

[PL 2007, c. 680, §1 (NEW).]

B. Service of a copy of the commissioner's findings and order under this subsection must be made by the sheriff or deputy sheriff or by hand delivery by an authorized representative of the department in accordance with the Maine Rules of Civil Procedure. [PL 2007, c. 680, §1 (NEW).]

C. The person to whom the order is directed shall comply immediately. An order may not be appealed to the Superior Court, but the person to whom the order is directed may apply to the board for a hearing on the order if the application is made within 10 working days after receipt of the order by the person to whom the order was directed. Within 15 working days after receipt of the application, the board shall hold a hearing, make findings of fact and vote on a decision that continues, revokes or modifies the order. That decision must be in writing and signed by the board chair using any means for signature authorized in the department's rules and published within 2 working days after the hearing and vote.

The nature of the hearing before the board is an appeal. At the hearing, all witnesses must be sworn and the commissioner shall first establish the basis for the order and for naming the person to whom



the order is directed. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter 7. [PL 2007, c. 680, §1 (NEW).]  
[PL 2007, c. 680, §1 (NEW).]

The Department of Environmental Protection shall adopt rules to implement this section. Notwithstanding section 592-A, the rules must include a definition of "nuisance condition" specifically relating to the operation of outdoor wood boilers. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 442, §2 (NEW).]

#### SECTION HISTORY

PL 2007, c. 442, §2 (NEW). PL 2007, c. 680, §1 (AMD). PL 2009, c. 209, §4 (AMD).

#### **§610-C. Outdoor Wood Boiler Fund**

**(REPEALED)**

#### SECTION HISTORY

PL 2007, c. 680, §2 (NEW). PL 2009, c. 209, §5 (AMD). MRSA T. 38 §610-C, sub-§4 (RP).

#### **§610-D. Residential Wood Stove Replacement Fund**

**1. Fund established.** The Residential Wood Stove Replacement Fund, referred to in this section as "the fund," is established as a nonlapsing fund administered by the department for the purpose of providing financial incentives for the replacement of wood stoves with cleaner alternatives.  
[PL 2009, c. 653, §1 (NEW).]

**2. Sources of money.** The fund consists of any money received from the following sources:

A. Contributions from any source, both public and private; and [PL 2009, c. 653, §1 (NEW).]

B. [PL 2009, c. 653, §1 (NEW); MRSA T. 38 §610-D, sub2, ¶B (RP).]

Money deposited in the fund must be deposited with the Treasurer of State to the credit of the fund and may be invested as provided by law. Interest on that investment must be credited to the fund.  
[PL 2009, c. 653, §1 (NEW).]

**3. Disbursements from the fund.** The department shall apply the money in the fund toward the award of financial incentives to residents of the State to replace residential wood stoves manufactured prior to 1988 and used as a primary source of heat in an owner's primary residence with residential heating appliances with lower emissions of pollution, such as wood stoves, pellet stoves or vented gas stoves, that have been certified by the United States Environmental Protection Agency. Costs incurred by the department to administer the residential wood stove replacement program under subsection 4 may be paid by the fund.  
[PL 2009, c. 653, §1 (NEW).]

**4. Residential wood stove replacement program.** The department shall establish through rulemaking a residential wood stove replacement program. The program must include, but is not limited to:

A. Public outreach and education; [PL 2009, c. 653, §1 (NEW).]

B. Establishment of eligibility criteria for participating in the program, benefits available under the program and the process for establishing eligibility for benefits; and [PL 2009, c. 653, §1 (NEW).]

C. Approved methods for removal and disposal of the replaced residential wood stoves. [PL 2009, c. 653, §1 (NEW).]

[PL 2009, c. 653, §1 (NEW).]

**5. Rulemaking.** Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.  
[PL 2009, c. 653, §1 (NEW).]

**SECTION HISTORY**

PL 2009, c. 653, §1 (NEW). MRSA T. 38 §610-D, sub2, ¶B (AMD).

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