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Date: (Filing No. H-)

ENVIRONMENT AND NATURAL RESOURCES

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

COMMITTEE AMENDMENT “ ” to H.P. 119, L.D. 163, “An Act To Revise
Maine’s Environmental Laws”

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

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

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

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

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

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

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

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

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

'Sec. 1. 38 MRSA §590, sub-§1, as amended by PL 2001, c. 626, §16, is repealed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

COMMITTEE AMENDMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

25 E. An incinerator may not be used to dispose of solid waste without a license from the
26 department, except an incinerator with a primary chamber volume no greater than 133
27 cubic feet or 1,000 gallons that burns only wood waste as defined in Title 12, section
28 9324, subsection 7-A and painted and unpainted wood from construction and
29 demolition debris.

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

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

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

1 **Sec. 3. Department of Environmental Protection; report.** On or before March
2 1, 2022, the Department of Environmental Protection shall submit a report to the Joint
3 Standing Committee on Environment and Natural Resources that includes:

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

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

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

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

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

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

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

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

41 **Sec. 4. Appropriations and allocations.** The following appropriations and
42 allocations are made.

43 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

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Air Quality 0250

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

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

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

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

SUMMARY

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

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

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

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

The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)