



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



MELANIE LOYZIM
COMMISSIONER

February 5, 2024

Senator Nicole Grohoski, Chair
Representative Joe Perry, Chair
131st Legislature
Joint Standing Committee on Taxation
100 State House Station
Augusta, ME 04330

RE: LD 2027 “An Act to Clarify the Property Tax Exemption for Air Pollution Control Facilities”

Dear Senator Grohoski, Representative Perry, and Members of the Committee,

The Maine Department of Environmental Protection is commenting neither for nor against L.D. 2027, which seeks to specify the applicability of a property tax exemption for equipment located at a facility that stores spent nuclear fuel or greater than Class C waste.

The current statutory scheme for tax exemption for air and water pollution control equipment began in the 1970’s around the time the federal Clean Air Act and Clean Water Act were first passed, and companies faced new regulatory requirements under these acts.

Pursuant to 36 M.R.S § 656(1)(E)(2), facilities that are certified by the Commissioner of the Department of Environmental Protection as air pollution control facilities are property that is exempt from taxation. Such facilities must be installed primarily for the purpose of reducing, controlling, eliminating, or disposing of industrial air pollutants.

The statute does not instruct the Department about how to determine the purpose for which a facility is primarily installed. The courts have interpreted the law on several occasions, requiring the Department to consider all functions of the relevant equipment, to determine what function is primary, and in some cases, to consider the taxpayer’s motivation for installing the facility. The statute also does not define the term “industrial air pollutant”; it is the Department’s longstanding interpretation that industrial air pollutants include any criteria air pollutants or hazardous air pollutants under state law.

In closing, I appreciate the opportunity to provide the Committee background information on the pollution control equipment tax exemption program and its administration by the Department.

Sincerely,

Jeffrey S. Crawford, Director
Bureau of Air Quality

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