

MAINE STATE LEGISLATURE

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L.D. 2362

(Filing No. H-537)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
113TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "B" to S.P. 907, L.D. 2362, Bill,
"AN ACT to Require Testing for Dioxin and Toxic Metals
at Energy Recovery Facilities."

Amend the bill by striking everything after the
enacting clause and inserting in its place:

'38 MRSA §590-B is enacted to read:

§590-B. Testing at resource recovery facilities

1. Testing; first 2 years of commercial
operation. The board shall require testing 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 shall be paid by
the applicant or permittee.

2. Testing after first 2 years of licensure.
After the facility has been in operation and licensed
for 2 years, the board shall require testing 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 shall be paid by the
applicant or permittee.

1 A. The rules adopted by the board under this
2 section shall establish a system of monitoring the
3 overall air emission performance of these types of
4 facilities employing surrogate measures of
5 combustion efficiency and other parameters which,
6 in the judgment of the board, may affect the
7 creation of dioxin emissions and the emission of
8 heavy metals. The board shall provide for minimum
9 acceptable operating conditions as indicated by
10 the surrogate measures. Failure to achieve and
11 maintain these conditions shall result in testing
12 for dioxin and heavy metals as indicated by the
13 surrogate measures.

14 B. Scheduling of tests required by this
15 subsection shall reflect the operating conditions
16 which originally required the testing to ensure
17 the greatest protection of public health and the
18 environment. Seasonal differences in waste stream
19 composition and atmospheric and climatic
20 conditions shall be taken into account in
21 conducting the tests.

22 C. The board shall adopt rules under this section
23 on or before January 1, 1989.

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

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

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1 4. Authority for further tests. The board shall
2 have the authority to make such further tests for
3 compliance as the board deems necessary and may
4 reinstate a license when tests indicate compliance.'

5 STATEMENT OF FACT

6 The purpose of this amendment is to clarify that
7 the requirements of the bill apply only to resource
8 recovery facilities which burn municipal solid waste
9 as fuel. The amendment also modifies the testing
10 requirements for the period following the first 2
11 years of operation.

12 The amendment eliminates the arbitrary and rigid
13 testing schedule of the original bill and substitutes
14 a procedure to require testing for dioxin and heavy
15 metals in air emissions only when operating conditions
16 at the facility indicate the need for such testing.
17 For example, combustion efficiency and temperature may
18 correlate with the production and emission of dioxin.
19 These and other similar parameters can be measured and
20 used as indicators of when dioxin testing is
21 appropriate. Similarly, the processing and combustion
22 of certain waste products, such as batteries, may
23 correlate with the emission of certain heavy metals.
24 Sampling of the processed waste stream prior to
25 combustion and of the ash stream following combustion
26 may provide indicators of the need to test air
27 emissions for heavy metals.

28 The advantage to this approach is that it provides
29 an incentive for the plant operator to maintain the
30 facility as closely as possible to the original design
31 specifications so as to avoid the need for expensive
32 testing and possible closure. Furthermore, the
33 "indicator" parameters can be tracked at lower cost

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1 and, in some cases, may already be monitored. The
2 Department of Environmental Protection is allowed to
3 exercise its best professional judgment, through
4 rulemaking, to establish the appropriate "indicator"
5 parameters.

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Filed by Rep. Jacques of Waterville
Reproduced and distributed under the direction of the Clerk of the
House
3/28/88 (Filing No. H-537)