

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

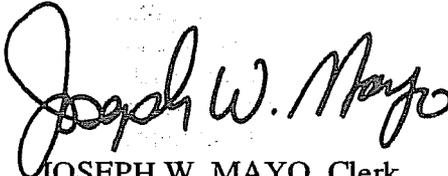
No. 1446

H.P. 1080

House of Representatives, May 5, 1993

An Act to Establish an Ambient Water Toxins Program.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative COLES of Harpswell.
Cosponsored by Representatives: CONSTANTINE of Bar Harbor, GOULD of Greenville,
JACQUES of Waterville, MARSH of West Gardiner, MITCHELL of Freeport, WENTWORTH
of Arundel, Senators: LAWRENCE of York, PEARSON of Penobscot, TITCOMB of
Cumberland.

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

4 Sec. 1. 38 MRSA §420-B is enacted to read:

6 §420-B. Surface water ambient toxic monitoring program

8 The discharge of pollutants from certain direct and indirect
10 sources into the State's waters introduces toxic substances, as
12 defined under section 420, into the environment. In order to
14 determine the nature, scope and severity of toxic contamination
in the surface waters and fisheries of the State, the
commissioner shall conduct a scientifically valid monitoring
program.

16 The program must be designed to comprehensively monitor the
18 lakes, rivers and streams and marine and estuarine waters of the
20 State on an ongoing basis. The program must incorporate testing
22 for suspected toxic contamination in biological tissue and
24 sediment, may include testing of the water column and must
include biomonitoring and the monitoring of the health of
individual organisms that may serve as indicators of toxic
contamination. This program must collect data sufficient to
support assessment of the risks to human and ecological health
posed by the direct and indirect discharge of toxic contaminants.

26 1. Development of monitoring plans and work programs. The
28 commissioner shall:

30 A. Prepare a plan every 5 years that outlines the monitoring
32 objectives for the following 5 years, resources to be
34 allocated to those objectives and a plan for conducting the
monitoring, including methods, scheduling and quality
assurance; and

36 B. Prepare a work program each year that defines the work
38 to be conducted that year toward the objectives of the
40 5-year plan. This work program must identify specific
sites, the sampling media and the contaminants that will be
tested.

42 (1) The commissioner shall consider the following
44 factors when selecting monitoring sites for the annual
work program:

46 (a) The importance of the water body to fisheries,
wildlife and humans;

48 (b) Known or likely sources of contamination and
50 their relative risk to human or ecological health;

52 (c) The existence of pending waste discharge
licenses affecting the water body;

- 2 (d) The availability of reference sites that are
4 relatively unaffected by human activity;
- 6 (e) Anticipated improvement or degradation of the
8 water body; and
- 10 (f) The availability of current, valid data from
12 other sources on the level of toxic contamination
14 of the water body.
- 16 (2) The commissioner shall incorporate the following
18 types of testing in the program:
- 20 (a) Monitoring of toxic contaminant levels in
22 biological tissue and water body sediments, and
24 monitoring of the water column may be included;
- 26 (b) Analysis of the resident biological community
28 in the monitored water body; and
- 30 (c) Monitoring of the health of individual
32 organisms that may serve as indicators of toxic
34 contamination.
- 36 (3) When selecting the specific toxic substances to be
38 monitored in the annual program, the commissioner shall
40 consider:
- 42 (a) Toxic substances that have the potential to
44 affect human or ecological health at expected
46 concentrations;
- 48 (b) Toxic substances from both natural and human
50 sources;
- 52 (c) Toxic substances that serve as tracers for
 human sources of pollution; and
- (d) Toxic substances or measures of contamination
 that may be more cost-effective indicators of
 other toxic substances.
- (4) When determining the intensity of the monitoring
 effort in the annual program, the commissioner shall
 consider:
- (a) The potential for annual variation in toxic
 contamination at a monitoring site;
- (b) The degree of homogeneity in the materials to
 be sampled; and

2 effort to protect human and ecological health and to provide a
3 scientifically sound basis for risk assessment, environmental
4 priority setting and general environmental decision-making.

6 In 1992, the Legislature decided that the State needed a
7 scientifically valid water toxics monitoring program to monitor
8 for the presence of toxic substances in the ambient environment
9 of all the surface waters of the State. The Legislature stated
10 that this program should be distinct from testing performed on
11 the effluent of individual discharges. The Legislature
12 determined that testing of tissue, sediments and the water
13 column, along with biomonitoring, was necessary. The Legislature
14 further determined that while various entities had collected data
15 over the years, there had been only limited compilation and
16 systematic cataloging of the existing data or evaluation of the
17 adequacy of past efforts. Finally, the Legislature found that,
18 except for the limited dioxin monitoring program, the State
19 currently has no formal ongoing program to monitor toxic
20 substances in the ambient aquatic environment. In light of these
21 findings, the Legislature directed the Commissioner of
22 Environmental Protection to assess past and current data
23 collection efforts and to recommend the necessary steps to
24 implement a water toxins monitoring program.

26 The commissioner and his advisory committee, by majority
27 vote, have found that the State does not have a comprehensive
28 ambient surface water toxic monitoring program to assess
29 contamination. This bill implements the commissioner's
30 recommendations.