

# MAINE STATE LEGISLATURE

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NATURAL RESOURCES

Reported by: *Report A*

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STATE OF MAINE  
SENATE  
118TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 528, L.D. 1633, Bill, "An Act to Make Fish in Maine Rivers Safe to Eat and Reduce Color Pollution"

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

'An Act to Make Fish in Maine Rivers Safe to Eat, Reduce Color Pollution and Reduce Effluent'

Further amend the bill by striking out all of section 7 and inserting in its place the following:

'Sec. 7. 38 MRSA §414-D is enacted to read:

§414-D. Control of dioxin discharges

The following requirements apply to a bleach kraft pulp mill, referred to in this section as a "mill."

1. Standards for dioxin compounds. The following standards apply to discharges of dioxin compounds by mills.

A. After July 31, 1998, a mill may not have a quantity of 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin detected at a level exceeding 10 picograms per liter as measured in any internal waste stream of its bleach plant. The department may adopt a lower detection level by rule, which is a routine technical rule pursuant to Title 5, chapter 375, subchapter II-A, or a lower detection level by incorporation of a method in use by the United States Environmental Protection Agency.

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2 B. After December 31, 1999, a mill may not have a quantity  
4 of 2, 3, 7, 8-tetrachlorodibenzo-p-furan detected at a level  
6 exceeding 10 picograms per liter as measured in any internal  
8 waste stream of its bleach plant. The commissioner may  
10 extend this time frame up to 6 months for a mill if the  
12 commissioner determines, based on information presented by  
14 the mill, that compliance is not achievable by the deadline  
16 due to engineering constraints, availability of equipment or  
18 other justifiable technical reasons. The department may  
20 adopt a lower level of detection by rule, which is a routine  
22 technical rule pursuant to Title 5, chapter 375, subchapter  
24 II-A, or a lower detection level by incorporation of a  
method in use by the United States Environmental Protection  
Agency. If a mill fails to achieve this requirement, as  
documented by confirmatory sampling, it shall conduct a  
site-specific evaluation of feasible technologies or  
measures to achieve it. This evaluation must be submitted  
to the commissioner within 6 months of the date of  
confirmatory sampling and include a timetable for  
implementation, acceptable to the commissioner, with an  
implementation date no later than December 31, 2002. The  
commissioner may establish a procedure for confirmatory  
sampling.

26 C. After December 31, 2002, a mill may not discharge dioxin  
28 into its receiving waters. For purposes of this paragraph,  
a mill is considered to have discharged dioxin into its  
receiving waters:

30 (1) If 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin or 2, 3,  
32 7, 8-tetrachlorodibenzo-p-furan is detected in any of  
34 the mill's internal waste streams of the mill's bleach  
36 plant and in a confirmatory sample at levels exceeding  
38 10 picograms per liter, unless the department adopts a  
40 lower detection level by rule, which is a routine  
technical rule pursuant to Title 5, chapter 375,  
subchapter II-A, or a lower detection level by  
incorporation of a method in use by the United States  
Environmental Protection Agency; or

42 (2) If levels of any polychlorinated  
44 dibenzo-para-dioxins or any polychlorinated  
46 dibenzo-para-furans are detected in fish tissue sampled  
48 below the mill's wastewater outfall are higher than  
50 levels in fish tissue sampled at an upstream reference  
site not affected by the mill's discharge or on the  
basis of a comparable surrogate procedure acceptable to  
the commissioner. The commissioner shall consult with  
the technical advisory group established in section  
420-B, subsection 1, paragraph B, subparagraph (5) in

2 making this determination and in evaluating surrogate  
4 procedures. The fish-tissue sampling test must be  
6 performed with differences between the average  
8 concentrations of polychlorinated dibenzo-para-dioxins  
10 and polychlorinated dibenzo-para-furans in the fish  
12 samples taken upstream and downstream from the mill  
14 measured with at least 95% statistical confidence. If  
the mill fails to meet the fish-tissue sampling-result  
requirements in this subparagraph and does not  
demonstrate by December 31, 2003 to the commissioner's  
satisfaction that its wastewater discharge is not the  
source of elevated dioxin concentrations in fish below  
the mill, then the commissioner may pursue any remedy  
authorized by law.

16 2. Compliance testing. For purposes of documenting  
18 compliance with subsection 1, the internal waste stream of a  
20 bleach plant must be sampled twice per quarter by the mill. The  
22 department may conduct its own sampling and analysis of the  
24 internal waste stream of a bleach plant. Analysis of the samples  
26 must be conducted by a 3rd-party laboratory using methodology  
approved by the United States Environmental Protection Agency. A  
mill shall report to the department for informational purposes  
the actual laboratory analytical results including sample  
detection limits on a frequency to be established by the  
commissioner. The actual detection levels are public information.

28 The commissioner shall assess the mill for the costs of any  
30 sampling performed by the department and any analysis performed  
32 for the department under this subsection and credit funds  
34 received to the Maine Environmental Protection Fund. The fees  
assessed under this subsection may exceed the amount allowed  
under section 420-A if necessary to achieve the purposes of this  
section.

36 The commissioner may reduce the frequency of sampling required by  
38 a mill after 3 consecutive years of sampling have demonstrated  
40 the mill does not have a detectable quantity of 2, 3, 7,  
42 8-tetrachlorodibenzo-p-dioxin or 2, 3, 7,  
8-tetrachlorodibenzo-p-furan in any of the mill's internal waste  
streams of the mill's bleach plant.

44 3. Monitoring. For purposes of monitoring levels of dioxin  
46 compounds in the bleaching process, a mill must sample for  
48 polychlorinated dibenzo-para-dioxins, and polychlorinated  
dibenzo-para-furans, in the internal waste stream of the bleach  
plant. The sampling and analysis must be conducted in accordance  
with subsection 2. The actual detection levels are public  
information.

50

2 4. Reduced flow requirements. After December 31, 2005, a  
 4 mill may not have an average bleach plant wastewater flow of more  
 6 than 10 m<sup>3</sup>/kkg of air-dried bleached pulp. The commissioner may  
 8 extend this time frame to no later than December 31, 2007 for a  
 10 mill if the commissioner determines, based on information  
 12 presented by the mill, that compliance is not achievable by the  
deadline due to engineering constraints, availability of  
equipment or other justifiable technical reasons. The department  
shall adopt rules to establish appropriate flow limitations,  
which may include a maximum monthly average flow and a maximum  
daily average flow, to account for variability around the average  
flow standard.

14 The objective of reducing bleach plant wastewater flow is to  
 16 reduce the aggregate impact of dioxin on all environmental  
 18 media. The department shall adopt rules establishing standards  
for dioxin levels in air emissions or sludge from mills that are  
consistent with this objective.

20 Rules adopted pursuant to this subsection are routine technical  
 22 rules pursuant to Title 5, chapter 375, subchapter II-A.

24 5. Conditions of license. The requirements in subsections  
 26 1 to 4 must be incorporated as conditions of a mill's waste  
discharge license when it is relicensed or modified.

28 6. Enforcement. If a mill fails to meet the requirements  
 30 in this section for dioxin detection levels or reduced flow, the  
commissioner may pursue any remedy authorized by law, including  
seeking injunctive relief.

32 Sec. 8. 38 MRSA §420-A, sub-§4, as amended by PL 1997, c. 179,  
 34 §1, is further amended to read:

36 4. Report. The commissioner shall report by March 31st of  
 38 each year on the results of the monitoring program to the joint  
 40 standing committee of the Legislature having jurisdiction over  
 42 natural resources matters. The annual report must contain the  
 44 commissioner's conclusions as to the levels of dioxin  
 46 contamination in the sample subjects and the likely scope of  
dioxin contamination in the State's waters. The report must also  
contain an evaluation of the department's progress toward  
establishing a fish-tissue sampling test as required in section  
414-D, including selection of reference sites, methods of sample  
standardization and the levels of detection and statistical  
confidence limits.'

48 Further amend the bill in section 9 in the 4th line (page 4,  
 50 line 32 in L.D.) by striking out the following: "May" and  
 inserting in its place the following: 'February'

R. W. S.

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2 Further amend the bill in section 9 in the 7th line (page 4,  
line 35 in L.D.) by striking out the following: "May" and  
4 inserting in its place the following: 'February'

6 Further amend the bill by inserting after section 9 the  
following:

8  
10 **Sec. 10. Report; financial incentives.** The Commissioner of  
Environmental Protection and the Commissioner of Economic and  
12 Community Development shall report to the joint standing  
committee of the Legislature having jurisdiction over natural  
14 resources matters by January 15, 1999 on recommendations relating  
to assistance in the financing of capital investments to assist  
16 mills in achieving the requirement in the Maine Revised Statutes,  
Title 38, section 414-D, subsection 4, for reduced bleach plant  
wastewater flow.

18  
20 **Sec. 11. Report; reduced flow targets.** The Commissioner of  
Environmental Protection shall report to the joint standing  
22 committee of the Legislature having jurisdiction over natural  
resources matters by February 1, 2002 and by February 1st of  
24 every even-numbered year thereafter on the following: an  
evaluation of the progress of each bleach kraft pulp mill in  
26 moving toward the reduced flow requirement in the Maine Revised  
Statutes, Title 38, section 414-D, subsection 4; an assessment of  
the technologies and costs required to achieve further reductions  
28 in bleach plant wastewater flow; a feasible time frame for  
achieving further reductions in flow; and recommendations for  
30 financial or other incentives to encourage mills to achieve  
further reductions in flow.'

32  
34 Further amend the bill by relettering or renumbering any  
nonconsecutive Part letter or section number to read  
consecutively.

36  
38 Further amend the bill by inserting at the end before the  
summary the following:

40  
42 **'FISCAL NOTE**

44 Allowing the Department of Environmental Protection to  
recover certain sampling and analysis costs will result in  
46 offsetting increases in expenditures and revenues to the Maine  
Environmental Protection Fund. The amounts will depend on the  
frequency and types of sampling done which can not be estimated  
48 at this time.

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2 The Department of Environmental Protection, the Department  
of Economic and Community Development and the Department of Human  
4 Services will incur some minor additional costs to submit certain  
reports to the Legislature. These costs can be absorbed within  
the departments' existing budgeted resources.

6  
8 The Department of Environmental Protection will incur some  
minor additional costs to adopt certain rules. These costs can  
be absorbed within the department's existing budgeted resources.

10  
12 This bill may increase prosecutions for Class E crimes. If  
a jail sentence is imposed, the additional costs to the counties  
are estimated to be \$83.78 per day per prisoner. These costs are  
14 not reimbursed by the State. The number of prosecutions that may  
result in a jail sentence and the resulting costs to the county  
16 jail system are expected to be insignificant.

18 The additional workload and administrative costs associated  
with the minimal number of new cases filed in the court system  
20 can be absorbed within the budgeted resources of the Judicial  
Department. The collection of additional fines may increase  
22 General Fund revenue by minor amounts.'

24  
26 **SUMMARY**

28 This amendment, which is one of 3 reports of the committee,  
makes a technical change to the bill by allocating it to a  
different section in the statutes. The amendment strikes  
30 references to a detectable quantity of 2, 3, 7,  
8-tetrachlorodibenzo-p-dioxin or 2, 3, 7, 8-  
32 tetrachlorodibenzo-p-furan and establishes the maximum detection  
level at 10 picograms per liter. The amendment authorizes the  
34 Commissioner of Environmental Protection to extend the date by  
which a mill may not have a quantity of 2, 3, 7, 8-  
36 tetrachlorodibenzo-p-furan exceeding that level for up to 6  
months if the commissioner determines, based on information  
38 presented by the mill, that compliance is not achievable by the  
deadline due to engineering constraints, availability of  
40 equipment or other justifiable technical reasons.

42 The amendment also requires that the fish-tissue sampling  
test used to determine whether a mill is discharging dioxin into  
44 its receiving waters be performed with differences between the  
average concentrations of dioxin in the fish samples taken  
46 upstream and downstream from the mill measured with at least 95%  
statistical confidence. The amendment requires that for purposes  
48 of measuring compliance with the dioxin standards, a mill must  
sample the internal waste stream of its bleach plant twice per  
50 quarter. It also authorizes the Department of Environmental

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2 Protection to conduct its own sampling and analysis of the  
3 internal waste stream of a bleach plant and to assess the mill  
4 for the costs of sampling and analysis. Analysis of the samples  
5 must be conducted by a 3rd-party laboratory using methodology  
6 approved by the United States Environmental Protection Agency.  
7 The amendment specifies that the actual detection levels are  
8 public information. The amendment authorizes the Commissioner of  
9 Environmental Protection to reduce the frequency of sampling  
10 after 3 consecutive years of sampling have demonstrated that the  
11 mill does not have a detectable quantity of 2, 3, 7,  
12 8-tetrachlorodibenzo-p-dioxin or 2, 3, 7,  
13 8-tetrachlorodibenzo-p-furan.

14 The amendment requires a mill to sample for polychlorinated  
15 dibenzo-para-dioxins, and polychlorinated dibenzo-para-furans in  
16 the internal waste stream of the mill's bleach plant for purposes  
17 of monitoring levels of dioxin compounds in the bleaching process.

18 The amendment requires that after December 31, 2005, a mill  
19 not have an average bleach plant wastewater flow of more than 10  
20 m<sup>3</sup>/kkg of air-dried bleached pulp. The commissioner may extend  
21 this time frame to no later than December 31, 2007 for a mill if  
22 the commissioner determines, based on information presented by  
23 the mill, that compliance is not achievable by the deadline due  
24 to engineering constraints, availability of equipment or other  
25 justifiable technical reasons. The amendment requires the  
26 department to adopt rules to establish appropriate flow  
27 limitations to account for variability around the average flow  
28 standard. The amendment also requires the department to adopt  
29 rules establishing standards for dioxin levels in air emissions  
30 and sludge from mills that are consistent with the objective of  
31 reducing the aggregate impact of dioxin on all environmental  
32 media.

33 The amendment requires that the standards for dioxin levels,  
34 bleach plant wastewater flow, compliance testing, monitoring and  
35 reporting be incorporated as conditions of a mill's waste  
36 discharge license when it is relicensed or modified. The  
37 amendment also authorizes the commissioner to pursue any remedy  
38 authorized by law, including seeking injunctive relief, if a mill  
39 fails to meet the requirements for dioxin levels or reduced flow.

40 The amendment requires the department to include in its  
41 annual report on the dioxin monitoring program an evaluation of  
42 the department's progress toward establishing a fish-tissue  
43 sampling test.

44 The amendment changes the reporting date for certain reports  
45 required in the bill. It also requires the Commissioner of  
46 Environmental Protection and the Commissioner of Economic and  
47 Development to report to the Legislature on the progress of the  
48 department in implementing the provisions of the bill.

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R & S

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2 Community Development to report to the joint standing committee  
of the Legislature having jurisdiction over natural resource  
4 matters by January 15, 1999 on recommendations relating to  
assistance in the financing of capital investments to assist  
6 mills in achieving the requirement for reduced bleach plant  
wastewater flow. The amendment also requires the Commissioner of  
Environmental Protection to report to the same committee by  
8 February 1, 2002 and by February 1st of every even-numbered year  
thereafter on the progress of mills in moving toward the reduced  
10 flow requirement and on other issues related to achieving further  
reductions in flow.  
12

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