

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 1633

S.P. 528

In Senate, March 21, 1997

**An Act to Make Fish in Maine Rivers Safe to Eat and Reduce Color  
Pollution.**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator NUTTING of Androscoggin. (GOVERNOR'S BILL).  
Cosponsored by Representative CAMERON of Rumford and  
Senators: HARRIMAN of Cumberland, MICHAUD of Penobscot, MITCHELL of Penobscot,  
RUHLIN of Penobscot, Representatives: COWGER of Hallowell, DONNELLY of Presque  
Isle, NICKERSON of Turner, USHER of Westbrook.

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

2  
3       **Sec. 1. 38 MRSA §414-C, sub-§2, ¶A,** as enacted by PL 1989, c.  
4 864, §1, is repealed and the following enacted in its place:

6       A. For discharges licensed and in existence prior to July  
7 1, 1989:

8  
9           (1) On July 1, 1998 and until December 31, 2000, 225  
10 pounds or less of color pollutants per ton of  
11 unbleached pulp produced, measured on a quarterly  
12 average basis; and

13  
14           (2) On and after January 1, 2001, 150 pounds or less  
15 of color pollutants per ton of unbleached pulp  
16 produced, measured on a quarterly average basis; and

17       **Sec. 2. 38 MRSA §414-C, sub-§3,** as enacted by PL 1989, c. 864,  
18 §1, is amended to read:

19  
20       **3. Instream color pollution standard.** An individual waste  
21 discharge may not increase the color of any water body by more  
22 than 20 color pollution units. The total increase in color  
23 pollution units caused by all waste discharges to the water body  
24 must be less than 40 color pollution units. ~~Color-increases-are~~  
25 ~~measured-on-a-calendar-quarterly-basis.~~ This subsection applies  
26 to all flows greater than the minimum 30-day low flow that can be  
27 expected to occur with a frequency of once in 10 years. A  
28 discharge that is in compliance with this subsection is exempt  
29 from the provisions of subsection 2, paragraph A. Such a  
30 discharge may not exceed 175 pounds of color pollutants per ton  
31 of unbleached pulp produced after January 1, 2001.

32  
33       **Sec. 3. 38 MRSA §414-C, sub-§4,** as enacted by PL 1989, c. 864,  
34 §1, is repealed.

35  
36       **Sec. 4. 38 MRSA §414-C, sub-§§4-A and 4-B,** as enacted by PL  
37 1991, c. 835, §1, are repealed.

38  
39       **Sec. 5. 38 MRSA §414-C, sub-§4-C** is enacted to read:

40  
41       4-C. Color reduction evaluation. If a discharge is not in  
42 compliance with either subsection 2 or 3 after January 1, 2001,  
43 the kraft pulp mill with a noncompliant discharge shall evaluate  
44 the potential for further color reductions. This evaluation must  
45 include the identification of each internal source of color, the  
46 contribution of color from each internal source, the options  
47 available for further color reductions for each internal source,  
48 the cost of these options for each internal source, the estimated  
49 final color discharge after implementation of the options given  
50

2 in pounds of color per ton of unbleached product and an  
3 assessment of the final impact on the in-stream color after  
4 implementation of the options including the amount of change  
5 expressed in color pollution units. This evaluation must be  
6 submitted to the commissioner for review no later than July 1,  
7 2001 and by September 1, 2001 the commissioner shall modify the  
8 license to provide for a mill-specific best practicable treatment  
9 and compliance schedule.

10 **Sec. 6. 38 MRSA §414-C, sub-§6**, as enacted by PL 1989, c. 864,  
11 §1, is amended to read:

12  
13 **6. Monitoring established.** The commissioner shall  
14 incorporate as part of the department's ongoing water quality  
15 monitoring program, monitoring of color, odor and foam  
16 pollutants. ~~The commissioner shall report to the joint standing~~  
17 ~~committee of the Legislature having jurisdiction over natural~~  
18 ~~resources matters on the progress achieved to meet the~~  
19 ~~requirements of this section. The commissioner shall determine~~  
20 ~~whether the standards established under this section permit the~~  
21 ~~attainment of the designated uses of the surface waters receiving~~  
22 ~~discharges from kraft pulp mills. If these designated uses are~~  
23 ~~not being attained, the commissioner shall recommend standards~~  
24 ~~sufficient to attain these uses and an estimate of any further~~  
25 ~~costs required to implement the recommended standards. As part~~  
26 ~~of this report, the commissioner shall hold hearings within each~~  
27 ~~river basin affected by the discharge of color, odor and foam~~  
28 ~~pollutants. The report must be given to the joint standing~~  
29 ~~committee of the Legislature having jurisdiction over natural~~  
30 ~~resources matters on or before January 1, 1994, and periodically~~  
31 ~~thereafter as part of the review of water quality classifications~~  
32 ~~under section 464, subsection 3, paragraph B.~~

33 **Sec. 7. 38 MRSA §420, sub-§2, ¶I** is enacted to read:

34  
35 I. Notwithstanding any other provision of this section, the  
36 following standards apply only to a bleach kraft pulp mill,  
37 referred to in this paragraph as a "mill."

38  
39 (1) After July 31, 1998, a mill may not have a  
40 detectable quantity of 2, 3, 7, 8 -  
41 tetrachlorodibenzo-p-dioxin as measured in any internal  
42 waste stream of its bleach plant. For purposes of  
43 compliance, the detection level is 10 picograms per  
44 liter, unless the department adopts a lower detection  
45 level by rule, which is a routine technical rule  
46 pursuant to Title 5, chapter 375, subchapter II-A, or a  
47 lower detection level by incorporation of a method in  
48 use by the United States Environmental Protection  
49 Agency.

2           (2) After December 31, 1999, a mill may not have a  
3           detectable quantity of 2, 3, 7, 8 -  
4           tetrachlorodibenzo-p-furan as measured in any internal  
5           waste stream of its bleach plant. For purposes of  
6           compliance, the detection level is 10 picograms per  
7           liter, unless the department adopts a lower level of  
8           detection by rule, which is a routine technical rule  
9           pursuant to Title 5, chapter 375, subchapter II-A, or a  
10           lower detection level by incorporation of a method in  
11           use by the United States Environmental Protection  
12           Agency. If a mill fails to achieve this requirement,  
13           as documented by confirmatory sampling, it shall  
14           conduct a site-specific evaluation of feasible  
15           technologies or measures to achieve it. This  
16           evaluation must be submitted to the commissioner within  
17           6 months of the date of confirmatory sampling and  
18           include a timetable for implementation, acceptable to  
19           the commissioner, with an implementation date no later  
20           than December 31, 2002. The commissioner may establish  
21           a procedure for confirmatory sampling.

22           (3) After December 31, 2002, a mill may not discharge  
23           dioxin into its receiving waters. For purposes of this  
24           subparagraph, a mill is considered to have discharged  
25           dioxin into its receiving waters if 2, 3, 7, 8 -  
26           tetrachlorodibenzo-p-dioxin or 2, 3, 7, 8 -  
27           tetrachlorodibenzo-p-furan is detected in any of the  
28           mill's internal waste streams of its bleach plant and  
29           in a confirmatory sample at levels exceeding 10  
30           picograms per liter, unless the department adopts a  
31           lower detection level by rule, which is a routine  
32           technical rule pursuant to Title 5, chapter 375,  
33           subchapter II-A, or a lower detection level by  
34           incorporation of a method in use by the United States  
35           Environmental Protection Agency, or if levels of  
36           dioxin, as defined in section 420-A, subsection 1  
37           detected in fish tissue sampled below the mill's  
38           wastewater outfall are higher than levels in fish  
39           tissue sampled at an upstream reference site not  
40           affected by the mill's discharge or on the basis of a  
41           comparable surrogate procedure acceptable to the  
42           commissioner. The commissioner shall consult with the  
43           technical advisory group established in section 420-B,  
44           subsection 1, paragraph B, subparagraph (5) in making  
45           this determination and in evaluating surrogate  
46           procedures. If the mill fails to meet the fish-tissue  
47           sampling-result requirements in this subparagraph and  
48           does not demonstrate by December 31, 2003 to the  
49           commissioner's satisfaction that its wastewater  
50           discharge is not the source of elevated dioxin

2 concentrations in fish below the mill, then the  
3 commissioner may pursue any remedy authorized by law.

4 (4) For subparagraphs (1) to (3), a mill shall report  
5 to the department for informational purposes the actual  
6 laboratory analytical results including sample  
7 detection limits on a frequency to be established by  
8 the commissioner.

10 **Sec. 8. Report; color.** The Commissioner of Environmental  
11 Protection shall report to the joint standing committee of the  
12 Legislature having jurisdiction over natural resources matters on  
13 the progress achieved to meet the requirements of the Maine  
14 Revised Statutes, Title 38, section 414-C. The commissioner  
15 shall determine whether the standards established under that  
16 section permit the attainment of the designated uses of the  
17 surface waters receiving discharges from kraft pulp mills. If  
18 these designated uses are not being attained, the commissioner  
19 shall recommend standards sufficient to attain these uses and an  
20 estimate of any further costs required to implement the  
21 recommended standards. As part of this report, the commissioner  
22 shall hold hearings within each river basin affected by the  
23 discharge of color, odor and foam pollutants. The report must be  
24 given periodically to the joint standing committee of the  
25 Legislature having jurisdiction over natural resources matters as  
26 part of the review of water quality classifications under Title  
27 38, section 464, subsection 3, paragraph B.

28 **9. Report; dioxin.** The Commissioner of Environmental  
29 Protection and the Commissioner of Human Services shall report to  
30 the Governor and the joint standing committee of the Legislature  
31 having jurisdiction over natural resources matters by May 1,  
32 2001, and every January 1st thereafter, on progress made in  
33 achieving the requirements specified in the Maine Revised  
34 Statutes, Title 38, section 420, subsection 2. On May 1, 2003,  
35 the Commissioner of Environmental Protection and the Commissioner  
36 of Human Services shall present to the Governor and the joint  
37 standing committee of the Legislature having jurisdiction over  
38 natural resources matters a comprehensive assessment on the  
39 progress in eliminating the discharge of dioxin from bleach kraft  
40 pulp mills in this State. The assessment must report on:

41 1. Dioxin concentrations in fish above and below mills and  
42 the health implications of those concentrations;

43 2. Any evidence that dioxin is being discharged from any  
44 mill;

45 3. Current technology that achieves no discharge of dioxin;  
46  
47  
48  
49  
50

2                   4.   The need for continuing the dioxin monitoring program;  
and

4                   5.   Other known sources of dioxin polluting rivers in this  
State.

6                   The commissioners shall make recommendations regarding any  
8 additional action that may be warranted.

10   **SUMMARY**

12                   This bill sets standards for the elimination of discharges  
14 of dioxin from bleach kraft pulp mills. It requires these mills  
16 to achieve nondetectable levels of dioxin inside the mill at the  
bleach plant by 1998 and to eliminate discharges of dioxin by  
18 2002. The bill provides that elimination of these discharges is  
indicated when measurement of fish tissue levels of dioxin  
20 downstream from the mill are no higher than those upstream. The  
bill also requires that the Commissioner of Environmental  
22 Protection and the Commissioner of Human Services perform a  
thorough assessment on the progress of achieving the total  
24 elimination of the discharge of dioxin and to report on these  
matters to the Legislature in 2003.

26                   The bill amends the color pollution control standard to  
require older facilities, those in existence and licensed prior  
28 to July 1, 1989, to meet a more stringent standard than current  
law requires. The color pollution control standard in this bill  
30 is a water quality standard that specifies the river flow to be  
used for determination of compliance.