

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1392

S.P. 479

March 13, 2007

An Act To Update the Dioxin Monitoring Program

Submitted by the Department of Environmental Protection pursuant to Joint Rule 204.
Reference to the Committee on Natural Resources suggested and ordered printed.

A handwritten signature in black ink, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.
Cosponsored by Representative HOTHAM of Dixfield and Senators: BRYANT of Oxford,
NUTTING of Androscoggin, Representatives: EBERLE of South Portland, MIRAMANT of
Camden.

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

2 **Sec. 1. 38 MRSA §420, sub-§2, ¶I,** as amended by PL 2003, c. 165, §1, is
3 further amended to read:

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

6 (1) After July 31, 1998, a mill may not have a detectable quantity of 2, 3, 7, 8 -
7 tetrachlorodibenzo-p-dioxin as measured in any internal waste stream of its
8 bleach plant. For purposes of compliance, the detection level is 10 picograms per
9 liter, unless the department adopts a lower detection level by rule, which is a
10 routine technical rule pursuant to Title 5, chapter 375, subchapter ~~H-A~~ 2-A, or a
11 lower detection level by incorporation of a method in use by the United States
12 Environmental Protection Agency.

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

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

1 in making this determination and in evaluating surrogate procedures. The fish-
2 tissue sampling test must be performed with differences between the average
3 concentrations of dioxin in the fish samples taken upstream and downstream
4 from the mill measured with at least 95% statistical confidence. If the mill fails
5 to meet the fish-tissue sampling-result requirements in this subparagraph and
6 does not demonstrate by December 31, 2004 and annually thereafter to the
7 commissioner's satisfaction that its wastewater discharge is not the source of
8 elevated dioxin concentrations in fish below the mill, then the commissioner may
9 pursue any remedy authorized by law.

10 (4) For purposes of documenting compliance with subparagraphs (1) ~~to (3)~~ and
11 (2) the internal waste stream of a bleach plant must be sampled twice per quarter
12 by the mill. The department may conduct its own sampling and analysis of the
13 internal waste stream of a bleach plant. Analysis of the samples must be
14 conducted by a 3rd-party laboratory using methodology approved by the United
15 States Environmental Protection Agency. A mill shall report to the department
16 for informational purposes the actual laboratory results including sample
17 detection limits on a frequency to be established by the commissioner.

18 The commissioner shall assess the mill for the costs of any sampling performed
19 by the department and any analysis performed for the department under this
20 paragraph and credit funds received to the Maine Environmental Protection Fund.

21 The commissioner may reduce the frequency of sampling required by a mill after
22 3 consecutive years of sampling have demonstrated the mill does not have a
23 detectable quantity of 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin or 2, 3, 7, 8-
24 tetrachlorodibenzo-p-furan.

25 **Sec. 2. 38 MRSA §420-A**, as amended by PL 2001, c. 626, §10, is repealed.

26 **Sec. 3. 38 MRSA §420-B, sub-§1-A** is enacted to read:

27 **1-A. Dioxin monitoring.** In order to determine the nature of dioxin contamination
28 in the waters and fisheries of the State, the commissioner shall conduct a monitoring
29 program as described in this subsection. This monitoring must be undertaken to
30 determine the need for fish consumption advisories on affected waters.

31 A. As used in this subsection, the term "dioxin" means any polychlorinated dibenzo-
32 para-dioxins, PCDDs, and any polychlorinated dibenzo-para-furans, PCDFs.

33 B. The commissioner shall:

34 (1) Select a representative sample of wastewater treatment plant sludges from
35 municipal wastewater treatment plants, bleached pulp mills or other sources.
36 These facilities must be selected on the basis of known or likely dioxin
37 contamination of their discharged effluent;

38 (2) Sample and test the sludge of selected facilities for dioxin contamination at
39 least once during each season of the year. The commissioner shall specify which
40 congeners of dioxin will be analyzed;

(3) At appropriate intervals, sample and test for dioxin contamination in a selection of fish representative of those species present in the receiving waters or where there are consumption advisories for dioxin. Sufficient numbers of fish must be analyzed to provide a reasonable estimate of the level of contamination in the population of each water body affected; and

(4) Assess the selected facilities for the costs of sample collection and analysis except that, if the selected facility is a publicly owned treatment works, the commissioner may assess the primary industrial generator discharging effluent into the treatment facility if the generator is known or likely to be discharging dioxin into the treatment facility. Fees received under this subparagraph must be credited to the Maine Environmental Protection Fund. Payment of these fees is a condition of the discharge license issued pursuant to section 413 for continued operation of the selected facilities, except that, if the selected facility is a publicly owned treatment works and the commissioner assesses the fee on an industrial generator, payment of the fee is not a condition of the discharge license of the selected facility. The fees assessed under this subparagraph may not exceed a total of \$250,000 in any fiscal year. A facility subject to section 420, subsection 2, paragraph I may not be assessed a fee under this subparagraph.

Sec. 4. 38 MRSA §420-B, sub-§3, as enacted by PL 1993, c. 720, §1, is amended to read:

3. Coordination and notice of monitoring. The commissioner shall coordinate the monitoring program established under this section with other toxics monitoring programs conducted by the department, the Maine Center for Disease Control and Prevention, the United States Environmental Protection Agency and other federal agencies or dischargers of wastewater. At least 30 days prior to submitting the plan described under subsection 1, paragraph A to the technical advisory group, the commissioner shall notify the owners or operators of each selected facility proposed for dioxin monitoring of the facility's inclusion in the plan.

Sec. 5. 38 MRSA §420-B, sub-§4, ¶E, as enacted by PL 1997, c. 179, §4, is amended to read:

E. ~~The report on the~~ results of the dioxin monitoring program required under section 420 A, subsection 4 subsection 1-A.

SUMMARY

This bill repeals the laws governing the dioxin monitoring program, which under current law are scheduled to be repealed on December 31, 2007.

The bill changes the laws governing the surface water ambient toxic monitoring program to include the relevant portions of the laws governing the dioxin monitoring program. Certain provisions of the dioxin monitoring program are continued in order to determine the status of fish consumption advisories on Maine rivers, streams and lakes.

1 The bill provides that the Commissioner of Environmental Protection shall notify the
2 owners or operators of selected facilities proposed for dioxin monitoring of each facility's
3 inclusion in the commissioner's plan for monitoring pollutants.