

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1997

complaints of alleged violations of subsection 1; and

B. Regular employees at a worksite where a person required to work as a condition of receiving public assistance works have access to a grievance procedure for the purpose of resolving complaints of alleged violations of subsection 1.

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

3. Penalty. Employers who do not comply with the requirements of this section may not participate in any work program for individuals required to work as a condition of receiving public assistance.

Sec. 2. Report. The Department of Human Services and the Department of Labor shall report to the Joint Standing Committee on Labor by February 1, 1998 on any activities at the United States Department of Labor or any other federal agency to develop labor standards regarding workfare participants. The Joint Standing Committee on Labor is authorized to report out legislation on this issue during the Second Regular Session of the 118th Legislature.

See title page for effective date.

CHAPTER 444

S.P. 528 - L.D. 1633

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

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

Sec. 1. 38 MRSA §414-C, sub-§2, ¶A, as enacted by PL 1989, c. 864, §1, is repealed and the following enacted in its place:

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

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

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

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

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

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

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

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

4-C. Color reduction evaluation. If a discharge is not in compliance with either subsection 2 or 3 after January 1, 2001, the kraft pulp mill with a noncompliant discharge shall evaluate the potential for further color reductions. This evaluation must include the identification of each internal source of color, the contribution of color from each internal source, the options available for further color reductions for each internal source, the cost of these options for each internal source, the estimated final color discharge after implementation of the options given in pounds of color per ton of unbleached product and an assessment of the final impact on the in-stream color after implementation of the options including the amount of change expressed in color pollution units. This evaluation must be submitted to the commissioner for review no later than July 1, 2001 and by September 1, 2001 the commissioner shall modify the license to provide for a mill-specific best practicable treatment and compliance schedule.

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

6. Monitoring established. The commissioner shall incorporate as part of the department's ongoing water quality monitoring program, monitoring of color, odor and foam pollutants. ~~The commissioner shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the progress achieved to meet the requirements of this section. The commissioner shall determine whether the standards established under this section permit the attainment of the designated uses of the surface waters receiving discharges from kraft pulp mills. If these designated uses are not being attained, the commissioner shall recommend standards~~

sufficient to attain these uses and an estimate of any further costs required to implement the recommended standards. As part of this report, the commissioner shall hold hearings within each river basin affected by the discharge of color, odor and foam pollutants. The report must be given to the joint standing committee of the Legislature having jurisdiction over natural resources matters on or before January 1, 1994, and periodically thereafter as part of the review of water quality classifications under section 464, subsection 3, paragraph B.

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

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

(1) After July 31, 1998, a mill may not have a detectable quantity of 2, 3, 7, 8 - tetrachlorodibenzo-p-dioxin as measured in any internal waste stream of its bleach plant. For purposes of compliance, the detection level is 10 picograms per liter, unless the department adopts 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.

(2) After December 31, 1999, a mill may not have a detectable quantity of 2, 3, 7, 8 - tetrachlorodibenzo-p-furan as measured in any internal waste stream of its bleach plant. The commissioner may extend this time frame up to 6 months for a mill if the commissioner determines, based on information presented by the mill, that compliance is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons. For purposes of compliance, the detection level is 10 picograms per liter, unless the department adopts a lower level of detection 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. 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.

(3) After December 31, 2002, a mill may not discharge dioxin into its receiving waters. For purposes of this subparagraph, a mill is considered to have discharged dioxin into its receiving waters if 2, 3, 7, 8 - tetrachlorodibenzo-p-dioxin or 2, 3, 7, 8 - tetrachlorodibenzo-p-furan is detected in any of the mill's internal waste streams of its bleach plant and in a confirmatory sample at levels exceeding 10 picograms per liter, unless the department adopts 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, or if levels of dioxin, as defined in section 420-A, subsection 1 detected in fish tissue sampled below the mill's wastewater outfall are higher than 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 making this determination and in evaluating surrogate procedures. The fish-tissue sampling test must be performed with differences between the average concentrations of dioxin in the fish samples taken upstream and downstream from the mill 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.

(4) For purposes of documenting compliance with subparagraphs (1) to (3) the internal waste stream of a bleach plant must be sampled twice per quarter by the mill. The department may conduct its own sampling and analysis of the internal waste stream of a bleach plant. Analysis of the samples 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 results including sample detection limits on a frequency to be established by the commissioner.

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

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

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

4. Report. The commissioner shall report by March 31st of each year on the results of the monitoring program to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The annual report must contain the commissioner's conclusions as to the levels of dioxin 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 420, subsection 2, including selection of reference sites, methods of sample standardization and the levels of detection and statistical confidence limits.

Sec. 9. Report; color. The Commissioner of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the progress achieved to meet the requirements of the Maine Revised Statutes, Title 38, section 414-C. The commissioner shall determine whether the standards established under that section permit the attainment of the designated uses of the surface waters receiving discharges from kraft pulp mills. If these designated uses are not being attained, the commissioner shall recommend standards sufficient to attain these uses and an estimate of any further costs required to implement the recommended standards. As part of this report, the commissioner shall hold hearings within each river basin affected by the discharge of color, odor and foam pollutants. The report must be given periodically to the joint standing committee of the Legislature having jurisdiction over natural resources matters as part of the review of water quality

classifications under Title 38, section 464, subsection 3, paragraph B.

Sec. 10. Report; dioxin. The Commissioner of Environmental Protection and the Commissioner of Human Services shall report to the Governor and the joint standing committee of the Legislature having jurisdiction over natural resources matters by May 1, 2001, and every January 1st thereafter, on progress made in achieving the requirements specified in the Maine Revised Statutes, Title 38, section 420, subsection 2. On May 1, 2003, the Commissioner of Environmental Protection and the Commissioner of Human Services shall present to the Governor and the joint standing committee of the Legislature having jurisdiction over natural resources matters a comprehensive assessment on the progress in eliminating the discharge of dioxin from bleach kraft pulp mills in this State. The assessment must report on:

1. Dioxin concentrations in fish above and below mills and the health implications of those concentrations;
2. Any evidence that dioxin is being discharged from any mill;
3. Current technology that achieves no discharge of dioxin;
4. The need for continuing the dioxin monitoring program; and
5. Other known sources of dioxin polluting rivers in this State.

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

See title page for effective date.

CHAPTER 445

H.P. 1278 - L.D. 1808

An Act to Make Maine Health Insurance Laws Consistent with Federal Laws

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the United States Congress enacted and the President signed the Health Insurance Portability and Accountability Act of 1996; and

Whereas, portions of that law become effective on July 1, 1997 and preempt conflicting state laws; and