

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

Sec. 1. 36 MRSA §1760, sub-§49, as amended by PL 1995, c. 281, §15, is repealed and the following enacted in its place:

49. Child abuse and neglect councils; child advocacy organizations; community action agencies. Except for the sale, storage or use for activities that are mainly commercial enterprises, sales to:

A. Incorporated, nonprofit child abuse and neglect councils as defined in Title 22, section 3872, subsection 1-A;

B. Statewide organizations that advocate for children and that are members of the Medicaid Advisory Committee; and

C. Community action agencies designated in accordance with Title 22, section 5324.

See title page for effective date.

CHAPTER 500

S.P. 716 - L.D. 2038

An Act to Amend the Water Quality Laws to Establish a New Standard for Mercury Discharges

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

Whereas, current law prohibits the discharge of mercury into water in any concentration that increases the natural concentration of mercury in the receiving waters; and

Whereas, new methods for testing mercury discharges now enable mercury to be detected at much lower levels than was previously possible; and

Whereas, it is necessary to immediately establish facility-specific standards for mercury discharges that prevent wastewater dischargers from increasing their mercury discharges and to require dischargers to implement pollution prevention measures to reduce the mercury load while statewide, risk-based criteria are being developed; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §420, sub-§1, as amended by PL 1997, c. 722, §§1 and 2, is repealed.

Sec. 2. 38 MRSA §420, sub-§1-A is enacted to read:

1-A. Mercury. Mercury or any compound containing mercury, whether organic or inorganic, as provided in this subsection.

A. After October 1, 2001, a person, firm, corporation or other legal entity may not discharge mercury or any compound containing mercury, whether organic or inorganic, in any concentration that increases the natural concentration of mercury in the receiving waters.

B. Until October 1, 2001, a person, firm, corporation or other legal entity may not discharge mercury or any compound containing mercury in a concentration greater than the concentration discharged as of the effective date of this paragraph.

The department shall establish interim discharge limits, based on procedures specified in rule, for each facility licensed under section 413 and subject to this paragraph. The discharge limits may not be less stringent statistically than the facility's discharge levels as of the effective date of this paragraph, except that the department shall take into account factors such as reduction in flow due to implementation of a wastewater conservation plan, seasonal variations and changes in levels of production. When the department has established an interim discharge limit for a facility, that limit is deemed to be the concentration discharged as of the effective date of this paragraph, and a facility shall comply with that interim discharge limit.

When considering an enforcement action in response to a violation of this paragraph before the department establishes an interim discharge limit for the facility, the commissioner shall consider factors such as reduction in flow due to implementation of a wastewater conservation plan, seasonal variations and changes in levels of production.

A person, firm, corporation or other legal entity that discharges mercury shall implement a mercury pollution prevention plan consistent with model plans developed by the department. The facility shall provide information concerning the status of implementation of the mercury pollution prevention plan to the department by December 15, 1999 and December 15, 2000. A mercury pollution prevention plan must include monitoring for mercury as required by the de-

partment, and the monitoring information must be provided to the department.

This paragraph is repealed October 1, 2001.

C. A person, firm, corporation or other legal entity who, on January 1, 1971, was discharging any of the substances mentioned in this subsection in connection with an industrial process and, on or before December 31, 1971, filed with the board a statement indicating the amount of the substance so discharged on that date may not be considered in violation of this subsection as long as any discharge of mercury by that person, firm, corporation or other legal entity is less than 454 grams, or one pound, per year after January 1, 2000 and less than 45 grams, or 0.1 pound, per year after January 1, 2002. This paragraph is repealed January 1, 2004.

D. Notwithstanding this subsection, whenever the commissioner finds that a concentration of 10 parts per billion of mercury or greater is present in any waters of this State or that danger to public health exists due to mercury concentrations of less than 10 parts per billion in any waters of this State, the commissioner may issue an emergency order to all persons discharging to those waters prohibiting or curtailing the further discharge of mercury and compounds containing mercury into those waters. These findings and the order must be served in a manner similar to that described in section 347-A, subsection 3, and the parties affected by that order have the same rights and duties as are described in section 347-A, subsection 3;

Sec. 3. Rulemaking; interim mercury discharge limits. The Department of Environmental Protection shall promptly adopt rules, including emergency rules as necessary, that specify procedures, including statistically valid sampling procedures, to be used in establishing interim discharge limits pursuant to the Maine Revised Statutes, Title 38, section 420, subsection 1-A, paragraph B. The procedures may provide for the use of sampling data collected prior to adoption of the rules as long as the United States Environmental Protection Agency's Methods 1631 and 1669 were used. It is not necessary for the department to amend existing waste discharge licenses in order to establish these interim discharge limits. The discharge limits remain in effect until October 1, 2001. Rules adopted pursuant to this section are routine technical rules under Title 5, chapter 375, subchapter II-A.

Sec. 4. Pollution prevention plans. The Department of Environmental Protection shall work with a representative stakeholder group, including direct and indirect dischargers, to develop model

pollution prevention plans by December 31, 1999 for mercury dischargers to meet the requirements of the Maine Revised Statutes, Title 38, section 420, subsection 1-A, paragraph B. The stakeholder group also shall develop recommendations regarding how the plans should be implemented by facilities.

The model plans must take into account facility size and levels of mercury in effluent and must provide for the following, as appropriate for the class of facility: identification of known and potential sources of mercury to the facility, including sources in the treatment process; assessment of the relative significance of the sources; identification of alternatives for and costs of reducing the mercury from those sources; implementation of reasonable measures to reduce mercury discharges; and implementation of an education program for the public that is intended to assist in the reduction of sources of mercury to the facility and to the environment.

Recommendations from the stakeholder group are advisory to the department.

Sec. 5. Reports. The Department of Environmental Protection shall submit reports to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 14, 2000 and January 15, 2001 on the status of mercury discharges from facilities subject to mercury discharge limits pursuant to the Maine Revised Statutes, Title 38, section 420, subsection 1-A, paragraph B and the status of the facilities' efforts to implement mercury pollution prevention plans.

Sec. 6. Statewide criteria for mercury. The Department of Environmental Protection shall develop proposed statewide criteria for mercury that are protective of human health, aquatic life and wildlife. In developing the criteria, the department shall consider all available information, including standards developed by other states, the Great Lakes region and the United States Environmental Protection Agency and any information provided by the Department of Human Services, Bureau of Health. The department shall submit its recommendations to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2001, together with any implementing legislation. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation regarding mercury to the First Regular Session of the 120th Legislature.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1999-00

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Land and Water Quality

Personal Services	\$15,273
All Other	23,000

Appropriates funds to establish one Environmental Specialist III project position for 4 months to develop proposed rules and mercury pollution prevention plans, to provide funding for certain baseline testing and to provide funding for necessary training.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

TOTAL \$38,273

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 11, 1999.

CHAPTER 501

S.P. 392 - L.D. 1171

An Act to Provide for Management of the Harvest of Seaweed

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

Sec. 1. 12 MRSA §6803, sub-§1, as enacted by PL 1989, c. 523, §2, is amended to read:

1. Permit required. It is unlawful for any person to harvest, possess, ship, transport or sell seaweed without a current seaweed permit ~~or supplemental seaweed permit.~~ As, except that an employee or immediate relation of a seaweed permit holder may harvest, possess, ship, or transport or sell seaweed for commercial purposes with a supplemental seaweed permit.

Sec. 2. 12 MRSA §6803, sub-§3, as amended by PL 1991, c. 591, Pt. T, §13, is further amended to read:

3. Fees. The fee schedule for seaweed permits is as follows:

- A. ~~Ten~~ Fifty dollars for a resident seaweed permit;
- B. ~~Eighty-four~~ Two hundred dollars for a non-resident seaweed permit; ~~and~~
- C. ~~Three~~ Twenty-five dollars for a resident supplemental seaweed permit; ~~and~~
- D. Fifty dollars for a nonresident supplemental seaweed permit.

Sec. 3. 12 MRSA §6803, sub-§4 is enacted to read:

4. Disposition of fees. All fees collected under this section accrue to the Seaweed Management Fund established in section 6804.

Sec. 4. 12 MRSA §§6804 and 6805 are enacted to read:

§6804. Seaweed Management Fund

1. Fund established. The Seaweed Management Fund, referred to in this section as the "fund," is established as a dedicated, nonlapsing fund.

2. Permissible uses. The commissioner shall use the fund in accordance with a plan required under subsection 3 to research and manage the State's seaweed resources and to enforce the laws and rules related to seaweed.

3. Plan required. Beginning in calendar year 2000, the commissioner shall by May 1st of each year present a plan for expenditures from the fund for the next fiscal year to the joint standing committee of the Legislature having jurisdiction over marine resource matters. When developing the plan, the commissioner shall consult with harvesters and seaweed dealers.

§6805. Seaweed harvesting rules

The commissioner may adopt rules regulating the harvest of seaweed on a species-specific basis, including, but not limited to, the total number of licenses that may be issued, the designation of a harvesting season or seasons, the quantity of the resource that may be harvested in a season, areas that may be open or closed to harvest and gear and techniques that may be used in harvesting. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. 5. Report; legislation. The Commissioner of Marine Resources shall submit a report by December 31, 1999 to the Joint Standing Committee on Marine Resources regarding seaweed permits and