

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

on or before March 15th of each year. The bureau shall submit the information required under paragraph G to the joint standing committee of the Legislature having jurisdiction over wildlife management matters on or before March 1st of each year.

See title page for effective date.

CHAPTER 565

S.P. 479 - L.D. 1392

An Act To Update the Dioxin Monitoring Program

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

Sec. 1. 38 MRSA §420, sub-§2, ¶I, as amended by PL 2003, c. 165, §1, is further amended 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 ~~H-A~~ 2-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 ~~H-A~~ 2-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 2-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~~ 420-B, subsection 1-A, paragraph A 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, 2004 and annually thereafter 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)~~ and (2) 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. 2. 38 MRSA §420-A, as amended by PL 1997, c. 444, §8 and amended by PL 2001, c. 626, §10, is repealed.

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

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

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

B. The commissioner shall:

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

(2) Sample and test the sludge of selected facilities for dioxin contamination at least once during each season of the year. The commissioner shall specify which 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 consump-

tion 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. The fees assessed under this subparagraph to facilities subject to section 420, subsection 2, paragraph I may not exceed a total of \$10,000 in any fiscal year.

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.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

**ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

Maine Environmental Protection Fund 0421

Initiative: Deallocates funds from the Dioxin Monitoring Program.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$0	(\$10,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$10,000)

See title page for effective date.

**CHAPTER 566
S.P. 738 - L.D. 1931**

**An Act To Protect Employee
Choice of Collective
Bargaining Agents in the
Educational Unit Consolidation
Process**

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

Sec. 1. 20-A MRSA §1464, sub-§2, ¶A, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

A. Merger into regional school unit-wide bargaining units must be completed according to the schedule contained in this section and, except as required by paragraph H, no later than the latest expiration date of any collective bargaining agreement that was in effect on the operational date established pursuant to section 1463, subsection 1 that covered any employees in the merged unit.

Sec. 2. 20-A MRSA §1464, sub-§2, ¶F, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

F. When there are bargaining units that will be merged into a regional school unit-wide bargaining unit in which there are employees who are not represented by any bargaining agent and other employees who are represented either by the same bargaining agent or separate local affiliates of the same state labor organization, the units must be merged as of the operational date pursuant to section 1463, subsection 1 as long as a majority of employees who compose the merged unit were represented by the bargaining agent prior to the merger. The procedures for merger of separate local affiliates of the same state labor organization described in paragraph E must be followed if applicable. If prior to the merger a bargaining agent did not represent a majority of employees who compose the merged unit, a bargaining agent elec-

tion must be conducted by the Maine Labor Relations Board pursuant to paragraph H, except that the petition for an election must be filed not more than 90 days prior to the expiration date of the agreement having the latest expiration date among the bargaining units that will be merged into the regional school unit-wide bargaining unit.

Sec. 3. 20-A MRSA §1464, sub-§2, ¶H, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

H. When bargaining units with different bargaining agents must be merged into a single regional school unit-wide bargaining unit pursuant to this section, the bargaining agent of the merged bargaining unit must be selected in accordance with Title 26, section 967 except as modified in this section.

(1) A petition for an election to determine the bargaining agent must be filed with the Maine Labor Relations Board by any of the current bargaining agents or the regional school unit.

(2) The petition must be filed not more than 90 days prior to ~~the expiration date of the agreement having the latest expiration date among the bargaining units that will be merged into the regional school unit wide bargaining unit~~ August 31, 2012.

(3) The election ballot may contain only the names of the bargaining agents of bargaining units that will be merged into the regional school unit-wide bargaining unit and the choice of "no representative," but no other choices. No showing of interest is required from any such bargaining agent other than its current status as representative.

(4) The obligation to bargain with existing bargaining agents continues from the operational date established pursuant to section 1463, subsection 1 until the determination of the bargaining agent of the regional school unit-wide bargaining unit under this section; but in no event may any collective bargaining agreement that is executed after the operational date extend beyond ~~the expiration date of the agreement having the latest expiration date among the bargaining units that will be merged into the regional school unit wide bargaining unit that was in effect on the operational date~~ August 31, 2012.

(5) The Maine Labor Relations Board shall expedite to the extent practicable all petitions for determination of the bargaining agent in the regional school unit-wide bargaining unit filed pursuant to this section.