

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Further Reduce Mercury Use and Emissions**

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

**Sec. 1. 38 MRSA §585-B, sub-§5**, as enacted by PL 1997, c. 722, §3, is amended to read:

**5. Standards for mercury.** Notwithstanding subsection 1, an air emission source may not emit mercury in excess of 45.4 kilograms, or 100 pounds, per year after January 1, 2000 ~~and~~; 22.7 kilograms, or 50 pounds, per year after January 1, 2004; 15.9 kilograms, or 35 pounds, after January 1, 2007; and 11.4 kilograms, or 25 pounds, after January 1, 2010. Compliance with these limits must be specified in the license of the air emission source. The board shall establish by rule testing protocols and measurement methods for emissions sources for which the board has not established such protocols and methods for determining compliance with the emission standard for mercury. These rules are routine technical rules under Title 5, chapter 375, subchapter ~~H-A2-A~~.

An air emission source may apply to the board for an extension or modification of the ~~22.7-kilogram, or 50-pound~~11.4-kilogram, or 25-pound, limit as follows.

A. An emission source may submit an application to the board no later than January 1, ~~2003~~2009 for a 6-month extension of the January 1, ~~2004~~2010 deadline to meet the ~~22.7-kilogram, or 50-pound~~11.4-kilogram, or 25-pound, limit. The board shall grant the extension if the board determines, based on information presented by the source, that compliance with the limit is not achievable by the deadline due to engineering constraints, availability of equipment or other justifiable technical reasons.

B. An emission source may submit an application to the board no later than January 1, ~~2003~~2009 for a license modification establishing an alternative emission limit for mercury. The board shall grant the license modification if the board finds that the proposed mercury emission limit meets the most stringent emission limitation that is achievable and compatible with that class of source, considering economic feasibility.

Pending a decision on an application for an extension or a license modification under this subsection, the ~~45.4-kilogram, or 100-pound~~15.9-kilogram, or 35-pound, limit applies to the emission source.

Notwithstanding the January 1, 2000 compliance date in this subsection, a resource recovery facility that is subject to an emissions limit for mercury adopted by rule by the board before January 1, 2000 shall comply with the 45.4-kilogram, or 100-pound, mercury emissions limit after December 19, 2000.

**Sec. 2. 38 MRSA §585-B, sub-§6** is enacted to read:

**6. Mercury reduction plans.** Any air emission source emitting mercury in excess of 10 pounds per year after January 1, 2007 must develop a mercury reduction plan. The mercury reduction plan must be submitted to the department no later than September 1, 2008. The mercury reduction plan must contain:

- A. Identification, characterization and accounting of the mercury used or released at the emission source; and
- B. Identification, analysis and evaluation of any appropriate technologies, procedures, processes, equipment or production changes that may be utilized by the emission source to reduce the amount of mercury used or released by that emission source, including a financial analysis of the costs and benefits of reducing the amount of mercury used or released.
- C. The department may keep information submitted to the department under this subsection confidential as provided under section 1310-B.

The department shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than March 1, 2009 summarizing the mercury emissions and mercury reduction potential from those emission sources subject to this subsection. In addition, the department shall include an evaluation of the appropriateness of the 25-pound mercury standard established in subsection 5. The evaluation must address, but is not limited to, the technological feasibility, cost and schedule of achieving the standards established in subsection 5. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to report out to the 124th Legislature legislation relating to the evaluation.

**Sec. 3. 38 MRSA §1310-B, sub-§2**, as amended by PL 2003, c. 661, §1 and c. 689, Pt. B, §6, is further amended to read:

**2. Hazardous waste information and information on mercury-added products and electronic devices and mercury reduction plans.** Information relating to hazardous waste submitted to the department under this subchapter, information relating to mercury-added products submitted to the department under chapter 16-B or, information relating to electronic devices submitted to the department under section 1609, subsection 6, paragraph B or information relating to mercury reduction plans submitted to the department under section 585-B, subsection 6 may be designated by the person submitting it as being only for the confidential use of the department, its agents and employees, the Department of Agriculture, Food and Rural Resources and the Department of Health and Human Services and their agents and employees, other agencies of State Government, as authorized by the Governor, employees of the United States Environmental Protection Agency and the Attorney General and, for waste information, employees of the municipality in which the waste is located. The designation must be clearly indicated on each page or other portion of information. The commissioner shall establish procedures to insure that information so designated is segregated from public records of the department. The department's public records must include the indication that information so designated has been submitted to the department, giving the name of the person submitting the information and the general nature of the information. Upon a request for information, the scope of which includes information so designated, the commissioner shall notify the submitter. Within 15 days after receipt of the notice, the submitter shall demonstrate to the satisfaction of the department that the designated information should not be disclosed because the information is a trade secret, or production, commercial or financial information, the disclosure of which would impair the competitive position of the submitter and would make available information not otherwise publicly available. Unless such a demonstration is made, the information must be disclosed and becomes a public record. The department may grant or deny disclosure for the whole or any part of the designated information requested and within 15 days shall give written notice of the

decision to the submitter and the person requesting the designated information. A person aggrieved by a decision of the department may appeal only to the Superior Court in accordance with the provisions of section 346. All information provided by the department to the municipality under this subsection must be confidential and not a public record under Title 1, chapter 13. In the event a request for such information is submitted to the municipality, the municipality shall submit that request to the commissioner to be processed by the department as provided in this subsection.