

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1986

6
7 H.P. 1406 House of Representatives, February 7, 1986
8 Submitted by the Department of Environmental Protection pursuant to
Joint Rule 24.

9 Reference to the Committee on Energy and Natural Resources suggested
and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Michaud of Medway.

Cosponsored by Representative Jacques of Waterville, Senator Usher of
Cumberland and Representative Ridley of Shapleigh.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Amend the Laws Administered by
18 the Department of Environmental
19 Protection.
20

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

23 Sec. 1. 4 MRSA §152, sub-§6, as amended by PL
24 1985, c. 162, §1, is further amended to read:

25 6. Land use laws. Original jurisdiction, con-
26 current with that of the Superior Court, to grant equi-
27 table relief in proceedings involving alleged vio-
28 lations of a local land use ordinance or regulation
29 or a state land use statute or regulation, which
30 shall include, but shall not be limited to, the fol-
31 lowing: The laws pertaining to the Maine Land Use
32 Regulation Commission, Title 12, chapter 206-A; mini-
33 mum lot size law, Title 12, sections 4807 to 4807-G;
34 shoreland zoning ordinances adopted pursuant to Title
35 12, sections 4811 to 4817; the Alteration of Rivers,
36 Streams and Brooks law, Title ~~12~~ 38, sections ~~7776~~ ~~te~~

1 7780 425 to 431; the plumbing and subsurface
2 wastewater disposal rules adopted by the Department
3 of Human Services pursuant to Title 22, section 42;
4 laws pertaining to public water supplies, Title 22,
5 sections 2642, 2647 and 2648; local ordinances pursu-
6 ant to Title 22, section 2642; local ordinances
7 adopted pursuant to Title 30, section 1917; local
8 building codes adopted pursuant to Title 30, sections
9 1917 and 2151; Title 30, chapter 215, subchapter I,
10 automobile junkyards and subchapter X, regulation and
11 inspection of plumbing; Title 30, section 4359,
12 malfunctioning domestic sewage disposal units; Title
13 30, section 4956, the subdivision law, and local sub-
14 division ordinances adopted pursuant to Title 30,
15 section 1917 and subdivision regulations adopted pur-
16 suant to Title 30, section 4956; local zoning ordi-
17 nances adopted pursuant to Title 30, section 1917 and
18 in accordance with Title 30, section 4962; the Great
19 Ponds Act, Title 38, sections 386 to 396; laws per-
20 taining to the discharge of wastes, Title 38, sec-
21 tions 413, 414, 417, 418 and 420; the Alteration of
22 Coastal Wetlands Act, Title 38, sections 471 to 476
23 and 478; the Site Location of Development Act, Title
24 38, sections 481 to 485 and 488 to 490; and the Oil
25 Discharge Prevention and Pollution Control laws, Ti-
26 tle 38, sections 543, 545, 545-A and 560 563, 564,
27 565, 566, 567 and 568.

28 Sec. 2. 38 MRSA §344, sub-§1, ¶¶A and B, as en-
29 acted by PL 1983, c. 453, §1, are amended to read:

30 A. For those applications delegated to the com-
31 missioner under subsection 2 which do not fall
32 under the permit by rule provisions of subsection
33 7, the commissioner shall, if requested by the
34 applicant or any interested party, issue a draft
35 permit or license and shall give reasonable no-
36 tice to the applicant and to any other person who
37 has notified the commissioner of his interest in
38 the application before he takes final action on
39 the application. The draft permit or license
40 shall be made available to the applicant and to
41 all interested persons at the Augusta office of
42 the department at least 5 working days before the
43 commissioner takes final action on the applica-
44 tion.

1 B. For those applications not delegated to the
2 commissioner under subsection 2, the commissioner
3 shall provide a summary of the application to the
4 board and all interested governmental agencies
5 and other interested parties in a manner pre-
6 scribed by the board in the regulations. At least
7 10 working days shall be provided for the receipt
8 of comments on the application prior to the prep-
9 aration of a draft permit or license. The commis-
10 sioner shall, if requested by the applicant or
11 any interested party, prepare a draft permit or
12 license and shall give reasonable notice to the
13 applicant and to any other person who has noti-
14 fied the commissioner of his interest in the ap-
15 plication of the date the board will act on the
16 application. The draft permit or license shall be
17 made available to the applicant and to all inter-
18 ested persons at the Augusta office of the de-
19 partment at least 15 working days before the
20 board acts on the application.

21 Sec. 3. 38 MRSA §345-A, sub-§4 is enacted to
22 read:

23 4. Subpoena power. The department may issue
24 subpoenas to compel the production of books, records
25 and other data related to the matters in issue at any
26 hearing. If any person served with a subpoena demon-
27 strates to the satisfaction of the board that the
28 production of the information would, if made public,
29 divulge methods or processes which are entitled to
30 protection as trade secrets, the information shall be
31 disclosed only at a nonpublic portion of the hearing
32 and shall be confidential and not available for pub-
33 lic inspection. If any person fails or refuses to
34 obey such a subpoena, the board may apply to any Jus-
35 tice of the Superior Court for an order compelling
36 that person to comply with the subpoena. The Superi-
37 or Court may issue an order and may punish failure to
38 obey the order as civil contempt.

39 Sec. 4. 38 MRSA §347, sub-§5, as enacted by PL
40 1977, c. 300, §9, is repealed:

41 Sec. 5. 38 MRSA §349, sub-§3, as amended by PL
42 1977, c. 510, §90, is further amended to read:

1 3. Falsification and tampering. Notwithstanding
2 Title 17-A, section 4-A, any person who knowingly
3 makes any false statement, representation or certifi-
4 cation in any application, record, report, plan or
5 other document filed or required to be maintained by
6 any provision of law administered by the department,
7 or by any rule, regulation, license, permit, approval
8 or decision of the board, or who tampers with or ren-
9 ders inaccurate any monitoring devices or method re-
10 quired by any provision of law, or any rule, regula-
11 tion, license, permit, approval or decision of the
12 board or who fails to comply with any information
13 submitted as required by the commissioner pursuant to
14 section 1364, subsection 3, shall, upon conviction,
15 be subject to a fine of not more than \$10,000, or by
16 imprisonment for not more than 6 months, or both.

17 Sec. 6. 38 MRSA §352, sub-§2, ¶D is enacted to
18 read:

19 D. Certification fees shall be assessed for di-
20 rect costs incurred in issuing a certification.

21 Sec. 7. 38 MRSA §352, sub-§4, as amended by PL
22 1983, c. 743, §5, is repealed and the following en-
23 acted in its place:

24 4. Accounting system. In order to determine the
25 extent to which the functions set out in this section
26 are necessary for the licensing process, or are being
27 performed in an efficient and expeditious manner, the
28 board shall require that all employees of the depart-
29 ment involved in any aspect of these functions shall
30 keep accurate and regular daily time records describ-
31 ing the matters worked on, services performed and
32 amount of time devoted to those matters and services,
33 as well as amounts of money expended in performing
34 these functions.

1

TABLE I

2

MAXIMUM FEES IN DOLLARS

3	4			
5	<u>Title 36</u>	<u>FILING</u>	<u>PROCESSING</u>	<u>CERTI-</u>
	<u>SECTION</u>	<u>FEE</u>	<u>FEE</u>	<u>FICATION</u>
				<u>FEE</u>
6	<u>656, sub-§1, NE, Pollution</u>			
7	<u>Control Facilities</u>			
8	<u>A. Water pollution control</u>			
9	<u>facilities with capacities</u>			
10	<u>at least 4,000 gallons of</u>			
11	<u>waste per day</u>	<u>\$20.00</u>	<u>\$ 200.00</u>	<u>\$ 20.00</u>
12	<u>B. Air pollution control</u>			
13	<u>facilities</u>	<u>20.00</u>	<u>200.00</u>	<u>20.00</u>
14	<u>1760, sub-§29, Water pollution</u>			
15	<u>control facilities</u>	<u>20.00</u>	<u>200.00</u>	<u>20.00</u>
16	<u>1760, sub-§30, Air pollution</u>			
17	<u>control facilities</u>	<u>20.00</u>	<u>200.00</u>	<u>20.00</u>
18	<u>Title 38</u>	<u>FILING</u>	<u>PROCESSING</u>	<u>LICENSE</u>
19	<u>SECTION</u>	<u>FEE</u>	<u>FEE</u>	<u>FEE</u>
20	<u>362-A, Experiments</u>	<u>\$10.00</u>	<u>\$ 30.00</u>	<u>\$ 160.00</u>
21	<u>393, Great Ponds</u>	<u>10.00</u>	<u>65.00</u>	<u>50.00</u>
22	<u>410-E, Freshwater wetlands</u>	<u>10.00</u>	<u>65.00</u>	<u>50.00</u>
23	<u>413, Waste Discharge license</u>			
24	<u>A. Residential</u>	<u>5.00</u>	<u>15.00</u>	<u>10.00</u>
25	<u>B. Commercial</u>	<u>10.00</u>	<u>30.00</u>	<u>160.00</u>
26	<u>C. Industrial minor</u>			
27	<u>(based upon EPA list of</u>			
28	<u>major and minor source</u>			
29	<u>discharges)</u>			
30	<u>1. Discharges of cooling</u>	<u>25.00</u>	<u>450.00</u>	<u>160.00</u>
31	<u>water, sanitary waste</u>			
32	<u>water or treated storm</u>			
33	<u>water only</u>			
34	<u>2. All Others</u>	<u>25.00</u>	<u>450.00</u>	<u>1,985.00</u>
35	<u>D. Industrial major (based</u>			
36	<u>upon EPA list of major and</u>			
37	<u>minor source discharges</u>			
38	<u>1. Discharges of cooling</u>	<u>35.00</u>	<u>1,130.00</u>	<u>750.00</u>
39	<u>water or sanitary waste</u>			
40	<u>water only</u>			
41	<u>2. All others</u>	<u>35.00</u>	<u>1,130.00</u>	<u>2,170.00</u>

1	E. Publicly owned treatment			
2	works			
3	1. Flow of less than 0.5	15.00	40.00	10.00
4	million gallons/day and			
5	no significant industrial			
6	component			
7	2. Flow of at least 0.5	15.00	60.00	1,785.00
8	million gallons/day but			
9	less than 5 million gal-			
10	lons/ day and no signifi-			
11	cant industrial component			
12	3. Flow of at least 5	15.00	80.00	1,785.00
13	million gallons/day or a			
14	significant industrial			
15	component			
16	F. Special discharges			
17	1. Aquatic pesticides	10.00	30.00	10.00
18	2. Dredge spoils	10.00	30.00	10.00
19	418, Log storage	10.00	45.00	5.00
20	421, Solid waste disposal areas	12.00	1,375.00	100.00
21	427, Alteration of rivers,	10.00	65.00	50.00
22	streams and brooks			
23	451, Mixing zones	35.00	1,130.00	2,170.00
24	451-A, Time schedule variances	5.00	10.00	5.00
25	471, Coastal wetlands and sand	10.00	115.00	100.00
26	dunes			
27	483, Site location			
28	A. Subdivisions	25.00	25.00/lot	25.00
29	B. Structures	25.00	1,000.00	500.00
30	C. Mining	25.00	750.00	500.00
31	D. Other	25.00	750.00	500.00
32	543, Oily waste discharge	10.00	30.00	160.00
33	560, Vessels at anchorage	10.00	115.00	100.00
34	587, Ambient air quality or	50.00	5,000.00	50.00
35	emissions standards			
36	variances			
37	590, Air emissions licenses			
38	A. Greater than or equal	50.00	10,000.00	1,200.00
39	to 1,000 tons/year of any			
40	criteria air pollutant			
41	B. Greater than or equal	50.00	5,000.00	400.00
42	to 100 tons/year but less			
43	than 1,000 tons/year of			
44	any criteria air pollutant			
45	C. Greater than or equal	50.00	1,000.00	100.00
46	to 50 tons/year but less			
47	than 100 tons/year of any			

1	<u>criteria air pollutant</u>			
2	<u>D. Less than 50 tons/year</u>	<u>25.00</u>	<u>500.00</u>	<u>50.00</u>
3	<u>of any criteria air</u>			
4	<u>pollutant</u>			
5	<u>633, Hydropower projects</u>			
6	<u>A. New or expanded</u>	<u>25.00</u>	<u>300.00/MW</u>	<u>200.00/MW</u>
7	<u>generating capacity</u>		<u>up to</u>	<u>up to</u>
8			<u>\$1,500</u>	<u>\$1,000</u>
9	<u>B. Maintenance and re-</u>	<u>10.00</u>	<u>40.00</u>	<u>10.00</u>
10	<u>pair or other structural</u>			
11	<u>alterations not involving</u>			
12	<u>an increase in generating</u>			
13	<u>capacity</u>			
14	<u>1101, Sanitary districts</u>	<u>50.00</u>	<u>100.00</u>	<u>50.00</u>
15	<u>1304, Waste facilities</u>			
16	<u>A. Septage facilities,</u>	<u>12.00</u>	<u>250.00</u>	<u>250.00</u>
17	<u>other than landfill or</u>			
18	<u>landspreading sites</u>			
19	<u>B. Sludge facilities,</u>	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
20	<u>other than landfill or</u>			
21	<u>landspreading sites</u>			
22	<u>C. Landspreading sites</u>	<u>12.00</u>	<u>35.00</u>	<u>35.00</u>
23	<u>D. Transfer stations</u>	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
24	<u>E. Landfills</u>	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
25	<u>F. Resources recovery and</u>	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
26	<u>volume reduction</u>			
27	<u>facilities</u>			
28	<u>G. Other, including land-</u>	<u>12.00</u>	<u>500.00</u>	<u>250.00</u>
29	<u>applied waste utilization</u>			
30	<u>programs</u>			

31 Sec. 8. 38 MRSA §353, sub-§3-A is enacted to
32 read:

33 3-A. Certification fee. A certification fee
34 shall be paid prior to the issuance of any certifica-
35 tion. If the certification fee is paid prior to the
36 certification and the certification is not issued,
37 the department shall refund the certification fee.

38 Sec. 9. 38 MRSA §353, sub-§8 is enacted to read:

39 8. Processing fee for certification. The pro-
40 cessing fee for certification shall be assessed on
41 the actual direct costs incurred by the department,
42 but not greater than the processing fee found on Ta-
43 ble I, section 352. The processing fee found on Ta-

1 ble I shall be due according to subsection 2. Upon
2 completion of processing, where direct costs are less
3 than the processing fee found in section 352 on Table
4 I, a refund shall be made to the applicant.

5 Sec. 10. 38 MRSA §410-E is enacted to read:

6 §410-E. Fees

7 The department shall charge applicants for actual
8 direct costs incurred in reviewing permit applica-
9 tions. The maximum allowable fees shall not exceed
10 the following: Filing fee, \$10; processing fee, \$65;
11 and license fee, \$50.

12 Sec. 11. 38 MRSA §484, first ¶, as repealed and
13 replaced by PL 1977, c. 300, §30, is amended to read:

14 In the event that the board determines to hold a
15 hearing on a notification submitted to it pursuant to
16 section 483, it shall hold ~~such the~~ hearing ~~within 30~~
17 ~~days of such determination,~~ and shall ~~cause notice of~~
18 ~~the date, time and place thereof to be given in ac-~~
19 ~~cordance with the Maine Administrative Procedure Act,~~
20 Title 5, chapter 375.

21 Sec. 12. 38 MRSA §583, sub-§1-A, as enacted by
22 PL 1975, c. 669, §1, is amended to read:

23 1-A. Portland Peninsula Air Quality Region. The
24 Portland Peninsula Air Quality Region shall consist
25 of that section of the City of Portland bordered on
26 the west by Interstate ~~95~~ 295, on the south and east
27 by the Fore River and on the north by Casco Bay and
28 the inlet to Back Bay.

29 Sec. 13. 38 MRSA §586, as amended by PL 1971, c.
30 618, §12, is repealed.

31 Sec. 14. 38 MRSA §606, as enacted by PL 1975, c.
32 282, §6, is repealed.

33 Sec. 15. 38 MRSA §611, sub-§4, as enacted by PL
34 1983, c. 359, §2, is amended to read:

35 4. Exemptions. Chromium emissions resulting
36 from ~~metal plating operations,~~ the preparation of

1 chrome tanning liquors or from processes, including
2 leather processing, in which chromium is present only
3 in the trivalent oxidation state processes, including
4 leather processing, in which chromium is present only
5 in the trivalent oxidation state; from metal plating
6 operations; and from the preparation of chrome tan-
7 ning liquors shall not be subject to these emission
8 requirements.

9 Sec. 16. 38 MRSA §1304, sub-§12 is enacted to
10 read:

11 12. Compliance orders. Whenever, after investi-
12 gation, or on the basis of information received by
13 the department, the commissioner determines that
14 there is or has been a discharge of hazardous waste
15 constituents of hazardous waste or waste oil into the
16 environment or that any person has violated or is in
17 violation of any requirement of this subchapter, in-
18 cluding rules adopted under this chapter, relating to
19 hazardous waste or waste oil activities, he may issue
20 an order requiring compliance immediately or within a
21 specified time period, requiring corrective action or
22 other response measures as he deems necessary to pro-
23 tect public health and safety or the environment, as-
24 sessing a civil penalty for the violation or all of
25 the violations.

26 The commissioner may require assurance of financial
27 responsibility for completing corrective action and
28 may require that corrective action be taken beyond a
29 facility or site where necessary to protect the pub-
30 lic health or the environment unless the person to
31 whom the order is directed demonstrates to the satis-
32 faction of the commissioner that, despite that
33 person's best efforts, he was unable to obtain the
34 necessary permission to undertake the action.

35 A. Any order issued under this subsection may be
36 directed to any person who causes or caused or
37 contributes or contributed to the discharge or
38 violation. The order shall contain findings of
39 fact describing, insofar as possible and with
40 reasonable specificity, the nature of the dis-
41 charge or violation, the waste involved, the site
42 of the activity, the required action, the time
43 period for compliance and the danger, if known,

1 to the public health or safety of the environ-
2 ment.

3 B. Service of the commissioner's findings and an
4 order shall be made by hand delivery by an autho-
5 riized representative of the department or by cer-
6 tified mailing, return receipt requested, in ac-
7 cordance with the Maine Rules of Civil Procedure.

8 C. Any penalty assessed in the order shall not
9 exceed \$10,000 a day for each violation. Prior
10 to assessing a penalty, the commissioner shall
11 consult with the Department of the Attorney Gen-
12 eral and shall take into account the seriousness
13 of the violation, prior violations, the degree of
14 environmental damage and any actions taken to
15 comply with applicable requirements.

16 D. The person to whom the order is directed
17 shall comply immediately. A person to whom it is
18 directed may apply to the board within 14 days
19 after receipt of the order for a hearing on the
20 order. The hearing shall be held by the board
21 within 14 days after receipt of application.
22 Within 5 days after the hearing, the board shall
23 make findings of fact and continue, revoke or
24 modify the order. In appeal, the burden of proof
25 shall be upon the person appealing to demon-
26 strate, based upon a preponderance of the evi-
27 dence, that the order should be modified or re-
28 scinded. The decision of the board may be ap-
29 pealed to the Superior Court in accordance with
30 the Maine Administrative Procedure Act, Title 5,
31 chapter 375, subchapter VII.

32 Sec. 17. 38 MRSa §1362, sub-§1, as enacted by PL
33 1983, c. 569, §1, is amended to read:

34 1. Hazardous substance. "Hazardous substance"
35 means:

36 A. Any substance identified by the board under
37 section 1303-A;

38 B. Any substance identified by the board under
39 section 1319;

- 1 C. Any substance designated pursuant to the
2 ~~Federal~~ United States Comprehensive Environmental
3 Response, Compensation and Liability Act of 1980,
4 Public Law 96-510, ~~Section~~ Sections 101 and 102
5 (Superfund);
- 6 D. Any toxic pollutant listed under the United
7 States Federal Water Pollution Control Act, Sec-
8 tion 307(a);
- 9 E. Any hazardous air pollutant listed under the
10 United States Clean Air Act, Section 112; ~~and~~
- 11 F. Any imminently hazardous chemical substance
12 or mixture with respect to which the Administra-
13 tor of the United States Environmental Protection
14 Agency has taken action pursuant to the United
15 States Toxic Substances Control Act, Section 7-;
16 and
- 17 G. Waste oil as defined in section 1303 of this
18 chapter.

19 Sec. 18. 38 MRSA §1364, sub-§§3 and 4, as en-
20 acted by PL 1983, c. 569, §1, are amended to read:

21 3. Investigation and evaluation. The department
22 may investigate and sample sites where hazardous sub-
23 stances are stored or handled to identify uncon-
24 trolled hazardous substance sites. During the course
25 of the investigation, the department may require sub-
26 mission of the information or documents requested by
27 the commissioner which relate or may relate to the
28 site under investigation from any person who the de-
29 partment has reason to believe may be a responsible
30 party. The information may include, among other
31 things, the nature and amounts of hazardous sub-
32 stances or other wastes which arrived or may have ar-
33 rived at the site, manner of transportation, treat-
34 ment or disposal of the hazardous substances or other
35 wastes and any other information relating to the site
36 or to threats posed by the potential site.

37 4. Designation. In accordance with section
38 1365, the commissioner may declare a site to be an
39 uncontrolled hazardous substance site. The designa-
40 tion may be appealed only upon the issuance of an or-
41 der pursuant to section 1365, subsection 5.

1 days for those to be acted upon by the board prior to
2 final action, whether or not any party has requested
3 a copy. This section eliminates the requirement of
4 issuing a draft permit in those instances where no
5 one has requested a copy, thereby shortening the re-
6 view process.

7 Sections 3 and 4: These sections consolidate
8 subpoena power in the Maine Revised Statutes, Title
9 38. Currently, it is found in 2 sections of Title
10 38. It clarifies that the commissioner and the board
11 have subpoena power and deletes one of the 2 repeti-
12 tive sections in Title 38.

13 Section 5: This section specifies judicial reme-
14 dies for persons not complying with the commis-
15 sioner's information request. The remedies are equiva-
16 lent to those for falsifying or misrepresenting any
17 application or report required by the department.

18 Sections 6 to 9: These sections amend certain
19 sections of the law which established the Maine Envi-
20 ronmental Protection Fund. The changes bring the law
21 up-to-date with recent authorized programs in the de-
22 partment and also adds a fee for processing tax cer-
23 tification applications.

24 Section 10: The Legislature enacted laws that
25 allow the department to collect application fees to
26 recover the direct costs of processing applications.
27 This section corrects an oversight of not including a
28 fee when the Freshwater Wetlands Law was passed dur-
29 ing the First Regular Session of the 112th Legisla-
30 ture. This section establishes fees for freshwater
31 wetlands applications consistent with fees charged
32 for great ponds applications.

33 Section 11: This section deletes the 30-day pe-
34 riod between notification of a public hearing to the
35 holding of a hearing for site location applications.
36 For public hearings concerning complex applications,
37 a longer period of time may be necessary. This
38 change is also necessary so that department rules and
39 laws are consistent.

40 Section 12: This section clarifies the existing
41 boundary of the Portland Peninsula Air Quality Re-

1 gion. The Maine Revised Statutes, Title 38, section
2 1538, subsection 1, states Interstate 95 as one of
3 the boundary lines rather than Interstate 295. This
4 section clarifies the boundary line.

5 Section 13: This section deletes one of the 2
6 repetitive sections in the Maine Revised Statutes,
7 Title 38.

8 Section 14: Construction of any 4 or more lane
9 highway projects is permitted only after the Board of
10 Environmental Protection determines that the project
11 will not violate ambient air quality standards. Af-
12 ter 10 years of analyzing 4-lane highway projects,
13 the department has found that 4-lane highway projects
14 facilitate traffic movement and improve air quality.
15 This section repeals 4-lane highway review.

16 Section 15: This is simply a rewording of the
17 exemption clause to make it clear that metal plating
18 operations and the preparation of chrome tanning li-
19 quors are exempt, regardless of whether chrome is
20 present in the hexavalent state. This does not
21 change the intent or the administration of the exemp-
22 tion.

23 Section 16: The intention of this section is to
24 incorporate provisions of federal law, Resource Con-
25 servation and Recovery Act Amendments of 1984, which
26 provide for compliance orders allowing the department
27 to implement a comprehensive hazardous waste manage-
28 ment program. Under the Maine Revised Statutes, Ti-
29 tle 38, section 1304, subsection 12, the department
30 may issue compliance orders to assure corrective ac-
31 tion or cleanup from hazardous waste or waste oil
32 discharges and may require penalties for violations,
33 subject to a defined appeals procedure. These
34 changes are required by the United States Environmen-
35 tal Protection Agency in order for the State to ob-
36 tain final authorization to run the federal hazardous
37 waste program in lieu of the United States Environ-
38 mental Protection Agency.

39 Section 17: This section corrects an inconsis-
40 tency in the uncontrolled hazardous substance site
41 law with respect to listing of hazardous substances.
42 The intent is to reference the relevant sections of

1 the Superfund law which specifies the hazardous sub-
2 stances. United States Comprehensive Environmental
3 Response Compensation and Liability Act of 1980, Pub-
4 lic Law 96-510, Section 101, the primary listing by
5 the United States Environmental Protection Agency,
6 apparently had been inadvertently omitted when the
7 state law was first drafted. Section 102 of the
8 Superfund law refers to a special listing by the
9 United States Environmental Protection Agency. Cur-
10 rently, no substances are listed in Section 102 of
11 the Superfund law. The bill also identifies waste
12 oil, as defined under existing law, as a hazardous
13 substance which will allow uncontrolled sites contam-
14 inated by waste oil to be cleaned up.

15 Section 18: This section allows the commissioner
16 to gather information from potentially responsible
17 parties regarding the activities which occurred at
18 uncontrolled hazardous substance sites and to aid in
19 evaluating potential threats posed by those uncon-
20 trolled sites. This requirement parallels existing
21 United States Environmental Protection Agency law for
22 hazardous waste, including the Superfund law. It al-
23 so clarifies that the uncontrolled site designation
24 may be appealed when an order to a responsible party
25 is issued.

26 Section 19: This section clarifies the appeal
27 procedures and appeal time with respect to uncon-
28 trolled site orders.

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