

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1674, L.D. 2316, Bill, "An Act to Establish a Hazardous Waste Minimization Program"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 5 MRSA §12004-I, sub-§22-A is enacted to read:

22	<u>22-A. Envi-</u>	<u>Hazardous</u>	<u>Expenses</u>	<u>38 MRSA</u>
	<u>ronment: Natural</u>	<u>Waste</u>	<u>Only</u>	<u>\$2310</u>
24	<u>Resources</u>	<u>Reduction</u>		
		<u>Advisory</u>		
26		<u>Committee</u>		

Sec. 2. 38 MRSA §1303-C, sub-§13-A is enacted to read:

13-A. Generator. "Generator" means a person whose act or process produces a waste that is hazardous.

Sec. 3. 38 MRSA §1319-I, sub-§2-A is enacted to read:

2-A. Fees for noncompliance with reduction requirements. Notwithstanding subsection 8, the commissioner may assess and a generator not in compliance with chapter 26 shall pay a fee as follows:

A. For hazardous waste that is transported off the site to a licensed hazardous waste disposal facility for disposal, 18¢ a pound; and

B. For hazardous waste that is transported off the site to a licensed hazardous waste treatment facility for treatment, storage facility for storage or other licensed facility for handling, including beneficial reuse, reclamation or recycling, 13.5¢.

Sec. 4. 38 MRSA c. 26 is enacted to read:

CHAPTER 26

HAZARDOUS WASTE REDUCTION

§2301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Commercial hazardous waste facility. "Commercial hazardous waste facility" has the same meaning as in section 1303-C, subsection 4.

2. Cross-media pollution. "Cross-media pollution" means pollution that has an impact on or degrades more than one environmental resource.

3. Disposal. "Disposal" has the same meaning as in section 1303-C, subsection 12.

4. Facility. "Facility" means the place of business or site where hazardous waste is generated.

5. Generation. "Generation" means the act or process of producing hazardous waste.

6. Generator. "Generator" means a person whose act or process produces a waste that is hazardous.

7. Hazardous waste. "Hazardous waste" means those wastes determined by the board to be hazardous under section 1319-O, subsection 1.

8. Manifest. "Manifest" has the same meaning as in section 1303-C, subsection 19.

9. Pilot plant or pilot production unit. "Pilot plant or pilot production unit" means a small scale model or temporary change in production process to test or develop a new technology.

10. Practicable. "Practicable" means available and capable of accomplishment after taking into consideration the existing state of technology and economic feasibility for the facility involved.

11. Production unit. "Production unit" means a measure of output of a manufactured product or a quantifiable service by a facility.

2        12. Recycle. "Recycle" has the same meaning as in section  
1303-C, subsection 21.

4        13. Source reduction. "Source reduction" means the  
elimination of waste at the source, usually within a process,  
6        including process modifications, feedstock substitutions,  
improvements in feedstock purity, housekeeping and management  
8        practices, increases in the efficiency of machinery and on-site,  
closed-loop recycling, or any action that reduces the amount and  
10       toxicity of the waste generated in the production process.

12       14. State reduction goals. "State reduction goals" means a  
20% volume reduction in hazardous waste generated in the State by  
14       January 1, 1995, and a 30% volume reduction in hazardous waste  
generated in the State by January 1, 1997.

16       15. Storage. "Storage" has the same meaning as in section  
18       1303-C, subsection 36.

20       16. Treatment. "Treatment" has the same meaning as in  
section 1303-C, subsection 39.

22       17. Waste assessment. "Waste assessment" means a systematic  
24       planned procedure with the objective of identifying ways to  
reduce or eliminate waste. The assessment consists of the review  
26       and evaluation of a facility's operations and waste streams and  
the selection of specific waste streams to be evaluated.

28       18. Waste minimization. "Waste minimization" means the  
30       reduction, to the extent practicable, of hazardous waste that is  
generated or subsequently treated, stored or disposed. It  
32       includes any source reduction, treatment or recycling activity  
undertaken by a generator that results in either the reduction of  
34       total volume or quantity of hazardous waste or the reduction of  
toxicity of the hazardous waste, or both, as long as the  
36       reduction minimizes present and future threats to human health  
and the environment.

38       **§2302. Hazardous Waste Minimization Program established**

40       The Hazardous Waste Minimization Program is established  
42       within the Department of Environmental Protection to assist  
generators to eliminate or reduce the amounts, toxicity and  
44       adverse environmental and public health effects of hazardous  
wastes produced.

46       **§2303. Hazardous waste management policy**

48       It is the policy of the State that the generation of  
50       hazardous waste be eliminated or reduced as expeditiously as  
possible. In accomplishing waste reduction, it is the policy of

the State to adhere to the following hierarchy of hazardous waste prevention and management:

1. Source reduction. Reduce waste production at the source;

2. Recover and reuse. Recover and reuse waste;

3. On-site recycling. Recycle waste on-site;

4. Off-site recycling. Recycle waste off-site;

5. Waste treatment. Treat wastes to reduce volume or hazardous characteristics or both; and

6. Disposal. Dispose of any remaining wastes in a manner to protect the public health and environment.

§2304. Hazardous waste reduction goals

It is the State's goal to reduce both the volume and toxicity of hazardous waste that is generated within the State. The goals are a 20% volume reduction by January 1, 1995, and a 30% volume reduction by January 1, 1997.

Percentage reductions are to be calculated using the annual average of hazardous waste generated for the years 1987, 1988 and 1989 as a base line.

§2305. Department; powers and duties

1. Data collection. The Commissioner of Environmental Protection shall develop the necessary information base and data collection programs to establish program priorities and evaluate the progress of hazardous waste reduction.

2. Technical services. The commissioner may disseminate information concerning hazardous waste minimization through various means including publications, seminars, hazardous waste minimization plans, recommended waste assessment procedures and lists of consultants on waste minimization technologies.

3. Grant program. The commissioner shall evaluate the need for a grant program to provide financial and technical assistance for a facility or industry to conduct hazardous waste assessments and waste minimization studies.

4. Funding of demonstration programs. The commissioner may provide money from such funds as may be appropriated or otherwise made available to academic institutions, facilities, industries, government agencies or private organizations located in the State to conduct demonstration or pilot programs utilizing innovative

2 hazardous waste minimization technologies or procedures. The  
3 results of these programs must be made available for use by the  
4 public. The commissioner may allow information to remain  
5 confidential if the commissioner determines that it is a trade  
6 secret.

7 5. Information exchange. The commissioner may participate  
8 in existing state, federal and industrial networks of individuals  
9 and groups actively involved in waste minimization. The  
10 commissioner may contract with technical information centers to  
11 assist the department in carrying out the provisions of this  
12 chapter. The assistance must emphasize strategies to encourage  
13 hazardous waste reduction.

14 6. Right of entry. The department has a right of entry as  
15 established in section 1304, subsection 4-A to enforce this  
16 chapter.

17 7. Contracts. The commissioner may enter into contracts to  
18 carry out the purposes of this chapter.

19 §2306. Waste reduction achievement

20 1. Regulated community. All facilities that generate 100  
21 kilograms or more of hazardous waste in a calendar month for more  
22 than 3 months of the year must meet the state reduction goals.

23 2. New facilities. Facilities constructed after the  
24 effective date of this section must be designed to minimize  
25 hazardous waste generation in accordance with the State's  
26 hazardous waste management policy as set forth in section 2303.

27 3. Establishment of production units. When tracking the  
28 percent reduction achieved by a facility, the commissioner shall  
29 work with the Department of Labor to establish a uniform  
30 production unit measure for each standard industrial code to  
31 account accurately for changes in hazardous waste generation due  
32 to business growth or decline. When production units are not  
33 easily established, such as when a facility provides a service  
34 rather than a product, the commissioner and the Department of  
35 Labor shall work with industry representatives to establish an  
36 acceptable accounting method for business activity.

37 On or before June 15, 1991, the commissioner shall issue a list  
38 of the production units to be used in meeting reporting  
39 requirements for each standard industrial code category for which  
40 there are generators required to meet the state reduction goals.

41 4. Progress evaluation. Progress toward meeting the state  
42 reduction goals must be evaluated annually by the

2 commissioner based on manifest data, annual generator reports and  
3 other appropriate available information. Facilities constructed  
4 after the effective date of this section must be evaluated for  
5 volume of hazardous waste generated per production unit.

6 5. Plan required. After January 1, 1993, the commissioner  
7 may require a facility to complete a hazardous waste minimization  
8 plan within one year when:

10 A. A facility has not made sufficient progress in  
11 minimizing waste as evidenced by achieving less than a 10%  
12 reduction of its base line hazardous waste volume and may  
13 not meet the state reduction goals;

14 B. The facility has received an exemption under subsection  
15 6 and has not made sufficient progress toward meeting any  
16 alternate waste reduction goals established under subsection  
17 6, paragraph G; or

18 C. A new facility generates hazardous waste in a  
19 significantly greater amount per production unit than  
20 similar facilities within the same standard industrial code  
21 category.

22 Generators required to complete a hazardous waste minimization  
23 plan must be notified in writing of the commissioner's  
24 determination. The notification must explain the basis for the  
25 determination, including the specific wastes evaluated and the  
26 annual generation trends of the facility during the previous 3  
27 years. The commissioner shall supply the generator with the  
28 guidelines for an acceptable hazardous waste minimization plan.

29 6. Exemptions. The following are exempt from the  
30 provisions of this section:

31 A. Commercial hazardous waste treatment or storage  
32 facilities;

33 B. Pilot plants or pilot production units;

34 C. Hazardous waste transporters;

35 D. Hazardous waste generated as a result of remedial or  
36 corrective actions or facility closures required by law or  
37 undertaken to protect employee health and safety, public  
38 health and safety or the environment;

39 E. Households;

40 F. Agricultural operations; and

2 G. Generators exempted under this paragraph. To qualify  
3 for an exemption under this paragraph, a generator must  
4 demonstrate to the commissioner that all practicable  
5 reductions have been implemented or scheduled for  
6 implementation. The commissioner may establish alternate  
7 hazardous waste reduction goals for the facility when  
8 appropriate.

9  
10 (1) A generator must receive an exemption from the  
11 requirement of meeting state reduction goals from the  
12 commissioner if the generator proves that:

13 (a) Practicable hazardous waste minimization  
14 methods do not exist;

15 (b) Previously implemented reductions or actions  
16 have resulted in the maximum achievable waste  
17 minimization;

18  
19 (c) Steps necessary to reduce hazardous waste  
20 would have an adverse impact on product quantity  
21 or quality; or

22  
23 (d) Legal or contractual obligations prohibit  
24 steps necessary to minimize hazardous waste.

25  
26 (2) The commissioner shall review exemptions under  
27 this paragraph at 3-year intervals. Renewals must be  
28 granted for generators that demonstrate that they still  
29 meet the criteria in subparagraph 1. If an exemption  
30 was granted based on legal or contractual obligations,  
31 the exemption is only valid for the term of those  
32 obligations. A 2nd exemption may not be granted by the  
33 commissioner based on a new or renewed legal or  
34 contractual agreement.

35 **§2307. Generator waste minimization plans**

36  
37 1. Plan guidelines. The Board of Environmental Protection  
38 may by rule establish guidelines for hazardous waste minimization  
39 plans for facilities. A plan must include:

40  
41 A. A statement of facility-wide management policy regarding  
42 hazardous waste reduction;

43  
44 B. A report on the results of waste assessments performed  
45 for each hazardous waste stream generated, including:

46  
47 (1) Identification and characterization of all  
48 hazardous wastes generated at the facility;  
49  
50



2 (2) Identification and evaluation of any appropriate  
3 technologies, procedures, processes, equipment or  
4 production changes that may be utilized by the facility  
5 to reduce the amount or toxicity of hazardous wastes  
6 and air or water emissions generated by that facility;  
7 and

8 (3) Identification of reasonably available potential  
9 markets for hazardous waste generated by the facility;

10 C. A strategy for implementing practicable hazardous waste  
11 minimization options for each waste stream analyzed;

12 D. Performance goals for the reduction, to the extent  
13 practicable, of individual waste streams. The specific  
14 performance goals must be expressed in numeric terms when  
15 possible. When the establishment of numeric performance  
16 goals is not practicable, the performance goals must include  
17 a clearly stated list of objectives designed to lead to the  
18 establishment of numeric goals as soon as practicable. The  
19 generator shall explain the rationale for each performance  
20 goal and may include any impediments to hazardous waste  
21 minimization including those provided for in section 2306,  
22 subsection 6, paragraph G, subparagraph (1);

23 E. An employee awareness and training program to involve  
24 employees in hazardous waste minimization planning and  
25 implementation to the maximum extent feasible; and

26 F. A program for maintaining records on hazardous waste  
27 generation rates and management costs.

28  
29  
30 The plan must be signed by a principal executive officer of at  
31 least the level of vice-president, if the generator is a  
32 corporation; a general partner or a proprietor, if the generator  
33 is a partnership or sole proprietorship; or a principal executive  
34 officer or ranking elected official, if the generator is a  
35 municipal, state, federal or other public agency.

36  
37  
38 2. Submission of plan. Upon completion of the hazardous  
39 waste minimization plan, the generator shall notify the  
40 commissioner in writing on a form supplied by the commissioner.  
41 The generator shall provide the commissioner with a plan summary,  
42 the evaluation methods used, the findings and conclusions and the  
43 generator's implementation schedule. A generator may designate  
44 information as confidential under section 1310-B.

45  
46  
47 3. Plan availability. Facilities required to complete a  
48 hazardous waste minimization plan shall keep a complete copy and  
49 any back-up data on the premises of that facility for at least 5  
50 years and make the copy and data available to the commissioner or  
51 the commissioner's designee upon request.

2        4. Updates. Hazardous waste minimization plans must be  
3 updated every 2 years by January 1st of the applicable year. The  
4 update must include a summary of the progress made to implement  
5 the plan.

6  
7        5. Employee notification. Six months prior to the date  
8 when the initial hazardous waste minimization plan or an update  
9 must be completed, the owner or operator of each facility  
10 required to develop a plan under this chapter shall notify all of  
11 its employees of the requirements for the plan or updates,  
12 identify the hazardous substances and production units for which  
13 a plan or update must be submitted, provide the criteria for  
14 plans specified by the commissioner and solicit comments and  
15 suggestions on waste minimization options from all employees.

16  
17        6. Review and approval of plan. The commissioner may  
18 review a plan or update to determine whether it is adequate  
19 according to the guidelines established under this chapter. This  
20 chapter does not prohibit the commissioner from seeking  
21 additional information from a generator to review the adequacy of  
22 a plan or plan update.

23        A. If a plan or update is determined inadequate, the  
24 commissioner shall notify the generator of the inadequacy,  
25 and identify the specific deficiencies. The commissioner  
26 may specify a reasonable time period of not less than 90  
27 days within which the generator must submit a modified plan  
28 or update addressing the specified deficiencies. The  
29 commissioner may, upon request, provide technical assistance  
30 to aid the generator in modifying the plan or update.

31        B. If the commissioner determines that a modified plan or  
32 update is inadequate, the commissioner may either require  
33 further modification or seek penalties as provided in  
34 section 2312. If the generator fails to submit a modified  
35 plan or update within the required time period, the  
36 commissioner may assess additional fees as established in  
37 section 1319-I, subsection 2-A until a plan is approved.

38        C. In reviewing the adequacy of any plan or update, the  
39 commissioner shall base a determination on whether the plan  
40 or update is complete and prepared in accordance with the  
41 guidelines established pursuant to this chapter.

42  
43 **§2308. Confidentiality**

44  
45        Upon a satisfactory showing to the commissioner by the  
46 generator that a plan summary or update developed under this  
47 chapter, if made public, would divulge methods, processes or  
48 other information entitled to protection, the commissioner shall  
49 protect such information from public disclosure.

hold as confidential that plan summary or update, or a portion of that plan summary or update, pursuant to section 1310-B.

**§2309. Cross-media pollution control**

**1. Prohibition.** A generator is prohibited from using any change in a process or material that results in new or increased air or wastewater toxic releases to meet state reduction goals.

**2. Exemptions.** A generator may apply to the commissioner for an exemption from subsection 1 if the generator demonstrates that the change resulting in the toxic release or toxic release increase results in a long-term benefit to public health and the environment that outweighs the benefits of other hazardous waste minimization techniques and:

A. The increase in the toxic release does not cause a violation of the facility's existing wastewater discharge or air emission license or permit limits; or

B. If the toxic emission is new to a facility's existing air or wastewater stream, the facility possesses and complies with all necessary federal, state and local licenses or permits applicable for the release.

**3. Exemption renewal.** If granted, an exemption under this section is valid for a 3-year period. Renewal of the exemption may be granted only if the generator meets the criteria set forth in subsection 2.

**4. Department authority.** This section does not diminish the existing authority of the department, pursuant to any laws, to establish by regulation, permit, license or order, any treatment technology standards, emission or discharge limits, operation and maintenance requirements or management practices for abating, controlling or preventing a release or threat of release of hazardous substances to the environment.

**§2310. Hazardous Waste Reduction Advisory Committee**

The Hazardous Waste Reduction Advisory Committee, as authorized in Title 5, section 12004-I, subsection 22-A, shall serve as a review body to assess the progress in implementation of this chapter and shall advise the department in carrying out the policies and purposes of the department.

**1. Membership.** The Governor shall appoint the chair of the committee. The committee consists of 11 voting members.

A. The Governor shall appoint 3 representatives from the business community and 2 representatives of organized

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2 labor. At least one of the representatives from the  
3 business community must represent the interests of toxic  
4 users.

5 B. The President of the Senate shall appoint one member  
6 from a public health organization, one member from an  
7 environmental organization and one public member.

8 C. The Speaker of the House of Representatives shall  
9 appoint one member from a public health organization, one  
10 member from an environmental organization and one public  
11 member.

12 D. The Commissioner of Environmental Protection, the  
13 Commissioner of Labor, the Director of the Maine Emergency  
14 Management Agency and the Executive Director of the Maine  
15 Waste Management Agency shall serve as nonvoting ex officio  
16 members.

17 2. Terms. All appointed members are appointed for  
18 staggered terms of 3 years. The President of the Senate and the  
19 Speaker of the House of Representatives shall each appoint one  
20 member for a one-year initial term, one member of a 2-year  
21 initial term and one member for a 3-year initial term. The  
22 Governor shall appoint one member for a one-year initial term, 2  
23 members for 2-year initial terms and 2 members for 3-year initial  
24 terms. A vacancy must be filled by the same appointing authority  
25 that made the original appointment. An appointed member may not  
26 serve more than 2 4-year terms.

27 3. Compensation. Members are entitled to compensation for  
28 expenses according to Title 5, section 12004-I, subsection 22-A.

29 4. Quorum; actions. A quorum is a majority of the voting  
30 members of the committee. An affirmative vote of the majority of  
31 the members present at a meeting is required for any action.  
32 Action may not be considered unless a quorum is present.

33 5. Meetings. The committee shall meet at least 4 times per  
34 year and at any time at the call of the chair or upon written  
35 request to the chair by 4 of the members.

36 6. Staff support. The commissioner shall provide the  
37 committee with staff support.

38 7. Duties; powers. The committee may:

39 A. Review the priorities for reducing hazardous waste;

2 B. Review the criteria for the submission of hazardous  
waste minimization plans;

4 C. Study and evaluate the practicability of achieving  
reductions in the use or release of specific substances  
6 through the use of substitute substances, alternate  
procedures or processes or other means of achieving toxics  
8 use reduction or hazardous waste minimization;

10 D. Evaluate existing programs relating to chemical  
production and use, hazardous waste generation, industrial  
12 hygiene, worker safety, public exposure to toxics and toxics  
releases and recommend coordination of information and  
14 program changes or development; and

16 E. If appropriate, recommend to the department revisions to  
the state reduction goals.

18 **§2311. Generator registration**

20 1. Registration program. All generators of hazardous waste  
22 other than households and agricultural operations shall register  
annually with the commissioner. Registration forms and an  
24 accompanying fee of \$50 are due to the commissioner by March 1,  
26 1991. Subsequent registration forms and fees are due on March  
1st of each year.

28 The commissioner shall deposit all money received in payment of  
fees under this section to a separate account within the Maine  
30 Hazardous Waste Fund to cover expenses incurred by the department  
in the administration of this chapter.

32 2. Fee reassessment. The commissioner, on an annual basis,  
34 shall reassess the generator registration fee schedule and make  
necessary recommendations to the Legislature for adjustments.

36 **§2312. Enforcement; penalties**

38 Generators that fail to meet any requirements set forth in  
40 this chapter, including, but not limited to, achievement of state  
reduction goals and the preparation and submission of required  
42 plans, are subject to enforcement action, civil or criminal  
penalties and the fees established in section 1319-I, subsection  
44 2-A.

46 **Sec. 5. Report to the Legislature.** On or before March 1, 1992,  
48 the Commissioner of Environmental Protection shall report to the  
50 Joint Standing Committee on Energy and Natural Resources on the  
status of implementing this Act. This report must include:

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1. Information regarding progress in reducing the quantities of hazardous wastes generated in the State; and

2. An analysis and recommendations for changes to the Hazardous Waste Minimization Program, including, but not limited to, the need for any additional enforcement provisions for meeting required goals and for the establishment of a hazardous waste assessment grant program.

Sec. 6. Allocation. The following funds are allocated from the Maine Hazardous Waste Fund to the Department of Environmental Protection to carry out the purposes of this Act.

1990-91

ENVIRONMENTAL PROTECTION,  
DEPARTMENT OF  
Maine Hazardous Waste Fund

Positions	(3)
Personal Services	\$86,915
All Other	25,805
Capital Expenditures	10,000

Provides funds for an Environmental Specialist III, an Environmental Specialist IV, a Data Control Clerk and general operating expenses to administer the Hazardous Waste Minimization Program.

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
TOTAL \$122,720

FISCAL NOTE

If enacted, this legislation will result in:

1. An increase in dedicated revenue to the Department of Environmental Protection (the Maine Hazardous Waste Fund) in the amount of \$125,000 for fiscal year 1990-91. This additional revenue would be derived from the proposed \$50 registration fee on hazardous waste generators. These fees will be collected in March of each year and could result in a potential cash flow problem.

2. An allocation of Other Special Revenue to the Department of Environmental Protection (the Maine Hazardous Waste Fund) in the amount of \$122,720 for fiscal year 1990-91. This allocation

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2 would provide funds for required staff, anticipated costs of the  
Hazardous Waste Reduction Advisory Committee, and general  
4 operating expenses to administer the Hazardous Waste Minimization  
Program.'

6  
8 **STATEMENT OF FACT**

10 This amendment changes the definitions in the original bill  
to cross-reference existing law administered by the Department of  
Environmental Protection. Several definitions are added.

12  
14 The amendment deletes several proposed sections of the law  
that would have empowered the department to undertake actions it  
may already undertake by law.

16  
18 Provisions that allow the Commissioner of Environmental  
Protection to require a plan for hazardous waste reduction are  
clarified. Exemption provisions and plan guidelines for  
20 generator waste minimization are amended.

22 The registration fee for generators of hazardous waste is  
increased to fund the Hazardous Waste Minimization Program and  
24 reporting requirements are changed. The allocation section is  
amended.

26

Reported by the Minority of the Committee on Energy and Natural Resources  
Reproduced and distributed under the direction of the Clerk of the House  
4/5/90 (Filing No. H-1083)