

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2316

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H.P. 1674

House of Representatives, February 14, 1990

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative LORD of Waterboro.

Cosponsored by Representative AULT of Wayne and Senator KANY of Kennebec.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

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**An Act to Establish a Hazardous Waste Minimization Program.**

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2        10. Hazardous waste. "Hazardous waste" means a waste  
4        substance or material, in any physical state, designated as  
6        hazardous by the board under section 1319-O. It does not include  
8        waste resulting from normal household or agricultural activities.  
10       The fact that a hazardous waste or part or constituent of that  
12       hazardous waste may have value or other use or may be sold or  
14       exchanged does not exclude it from this definition.

16       11. Manifest. "Manifest" means the form used for  
18       identifying the quantity and composition, and the origin, routing  
20       and destination of hazardous waste during transport.

22       12. Production unit. "Production unit" means a measure of  
24       output, by a person or facility, such as a manufactured product  
26       or a quantifiable service.

28       13. Recycle. "Recycle" means to recover, separate, collect  
30       and reprocess waste materials for sale or reuse other than use as  
32       a fuel for the generation of heat, steam or electricity.

34       14. Storage. "Storage" means the containment of hazardous  
36       wastes, either on a temporary basis or for a period of years, in  
38       such a manner as not to constitute disposal of the hazardous  
40       wastes.

42       15. Treatment. "Treatment" means any process designed to  
44       change the character or composition of any hazardous waste so as  
46       to render the waste less hazardous.

48       16. Waste assessment. "Waste assessment" means a systematic  
50       planned procedure with the objective of identifying ways to  
52       reduce or eliminate waste. The assessment consists of the  
54       careful review of a plant's operations and waste streams, and the  
56       selection of specific areas to assess. After a specific waste  
58       stream is established as the focus, a number of options with the  
60       potential to minimize waste are developed and the technical and  
62       economic feasibility of each option is evaluated.

64       17. Waste minimization. "Waste minimization" means the  
66       reduction, to the extent feasible, of hazardous waste that is  
68       generated or subsequently treated, stored or disposed. It  
70       includes any source reduction, treatment or recycling activity  
72       undertaken by a generator that results in either the reduction of  
74       total volume or quantity of hazardous waste or the reduction of  
76       toxicity of the hazardous waste, or both, as long as the  
78       reduction is consistent with the goal of minimizing present and  
80       future threats to human health and the environment.

82       18. Waste reduction. "Waste reduction" means an action  
84       that reduces waste at the point of generation and may also be  
86       referred to as "source reduction."

2                   **§2302. Hazardous Waste Minimization Program established**

4                   The Hazardous Waste Minimization Program is established  
6                   within the Department of Environmental Protection for the purpose  
8                   of assisting generators of hazardous waste to eliminate or to  
                    reduce the amounts, toxicity and adverse environmental and public  
                    health effects of wastes produced.

10                   **§2303. Hazardous waste management policy**

12                   It is the policy of the State that the generation of  
14                   hazardous waste is to be eliminated or reduced as expeditiously  
16                   as possible. In accomplishing waste reduction, it is the policy  
18                   of the State to adhere to the following hierarchy of hazardous  
20                   waste prevention and management:

22                    1. Waste reduction. Reduce waste production at the source;

24                    2. Recover and reuse. Recover and reuse waste;

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

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

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

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

38                   **§2304. Hazardous waste reduction goals**

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

48                    Percentage reductions are to be calculated using 1989  
50                    generation rates as a baseline.

52                   **§2305. Department; powers and duties**

                    1. Rules. The board may adopt rules in accordance with the  
                    Maine Administrative Procedure Act, Title 5, chapter 375, to  
                    carry out its responsibilities under this subchapter, including  
                    procedural rules.

                    2. Data collection. The department shall develop the  
                    necessary information base and data collection programs to  
                    establish program priorities and evaluate the progress of  
                    hazardous waste reduction.

2 3. Technical services. The department may disseminate  
4 information concerning hazardous waste minimization through  
6 various means which may include publications, seminars, hazardous  
8 waste minimization plans, recommended waste assessment procedures  
10 and lists of consultants on waste minimization technologies.

12 4. Grant program. The department shall evaluate the need  
14 for a grant program to provide financial and technical assistance  
16 to a business or industry to conduct hazardous waste assessments  
18 and waste minimization studies.

20 5. Contracts. The department may enter into contracts as  
22 funds permit and the department determines necessary to carry out  
24 the purposes of this chapter.

26 6. Funding of demonstration programs. The department may  
28 provide money, from such funds as may be appropriated or  
30 otherwise made available, to academic institutions, businesses or  
32 industries, government agencies or private organizations located  
34 in the State to conduct demonstration or pilot programs utilizing  
36 innovative hazardous waste minimization technologies or  
38 procedures. The results of these programs are to be made  
40 available for use by the public. Information regarded as trade  
42 secrets remain so protected.

44 7. Information exchange. The department may participate in  
46 existing state, federal and industrial networks of individuals  
48 and groups actively involved in waste minimization. Subject to  
50 available funding, the department may contract with technical  
information centers to assist the department in carrying out the  
provisions of this chapter. The assistance emphasizes strategies  
to encourage hazardous waste reduction.

8. Right of entry. For the purposes of enforcing this  
chapter or of developing or enforcing any rule authorized by this  
chapter, the department has a right of entry as established in  
section 1304, subsection 4-A.

9. Fees. The department may establish and collect fees,  
penalties and other charges and expend money received as provided  
in this chapter.

#### §2306. Waste reduction achievement

1. Regulated community. All businesses or facilities that  
generate 100 kilograms or more of hazardous waste in a calendar  
month for more than 3 months of the year are required to meet  
state reduction goals. Facilities constructed after the  
effective date of this section must be designed to minimize  
hazardous waste generation in accordance with the State's  
hazardous waste management policy as set forth in section 2303.

2           2. Establishment of production units. When tracking the  
4           percent reduction achieved by a facility or business, in order to  
6           accurately account for changes in hazardous waste generation due  
8           to business growth or decline, the department shall work with the  
10           Department of Labor to establish a uniform production unit  
12           measure for each standard industrial code. When production units  
14           are not easily established, such as when a business or facility  
16           provides a service rather than a product, the department and the  
              Department of Labor shall work with industry representatives to  
              establish an acceptable accounting method for business activity.

On or before June 15, 1991, the department shall issue a list of  
              the production units to be used in meeting reporting requirements  
              for each standard industrial code category having generators  
              required to meet state reduction goals.

18           3. Progress evaluation. Progress toward meeting the  
20           statewide reduction goals must be evaluated annually by the  
22           department based on manifest data, annual generator reports and  
24           other appropriate available information. By January 1, 1993, or  
26           anytime thereafter, if the department determines that a facility  
28           or business, that has not received an exemption under subsection  
30           4, has not made sufficient progress in minimizing waste  
              generation as evidenced by at least a 10% reduction of its 1989  
              hazardous waste volume and may fail to meet the state reduction  
              goals, the department may require that facility or business to  
              complete a hazardous waste minimization plan within one calendar  
              year.

Facilities constructed after the effective date of this section  
              must be evaluated for volume of hazardous waste generated per  
              production unit. New facilities in which hazardous waste  
              generation is significantly greater per production unit than in  
              similar facilities within the same standard industrial code  
              category may also be required by the department to complete a  
              hazardous waste minimization plan.

Generators required to complete a hazardous waste minimization  
              plan must be notified in writing of the department's  
              determination. The notification must explain the basis for the  
              determination including the specific wastes evaluated and the  
              facility's or business' annual generation trends during the  
              previous 3 years. At that time, if not previously, the  
              department shall also supply the generator with the guidelines  
              for an acceptable hazardous waste minimization plan.

48           4. Exemptions. The following businesses, facilities and  
50           activities are exempt from the provisions of this section:

- 2           A. Commercial hazardous waste treatment or storage  
3           facilities;
- 4           B. Pilot plants or pilot production units;
- 6           C. Hazardous waste transporters;
- 8           D. Hazardous waste generated as a result of remedial or  
9           corrective actions or facility closures;
- 10           E. Households;
- 12           F. Agricultural operations; and
- 14           G. Other entities as set out in this paragraph.

16           (1) A generator may receive an exemption to the  
17           requirement of meeting state reduction goals from the  
18           commissioner if the generator proves the following:

- 20                   (a) Practical hazardous waste minimization  
21                   methods are not technically available;
- 24                   (b) Previously implemented reductions or actions  
25                   have already resulted in the maximum achievable  
26                   waste minimization;
- 28                   (c) Necessary steps to reduce hazardous waste  
29                   will have a significant adverse impact on product  
30                   quality; or
- 32                   (d) Legal or contractual obligations prohibit  
33                   necessary steps that would lead to hazardous waste  
34                   minimization.

36           (2) Generators receiving an exemption under this  
37           paragraph must establish alternate hazardous waste  
38           reduction goals for the exempted facility.

40           (3) If granted, the exemption is valid for a 3-year  
41           period, after which time the generator may apply for an  
42           extension if the generator meets the exemption  
43           criteria. If an exemption is granted solely or in part  
44           on the basis of conditions set forth in subparagraph  
45           (1), division (d), the generator may not be granted a  
46           2nd extension due to a renewed legal or contractual  
47           commitment.

48           **§2307. Generator waste minimization plans**

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2 1. Plan guidelines. The department may establish  
3 guidelines for hazardous waste minimization plans to be prepared  
4 by generators. At a minimum, a plan must include:

6 A. A written policy articulating upper management and  
7 corporate support for the generator's hazardous waste  
8 minimization plan and a commitment to implement plan goals;

10 B. A report on the results of waste assessments performed  
11 for each waste stream generated including the following:

12 (1) Identification of all hazardous wastes and  
13 emissions generated at the facility, including toxic  
14 air emissions and hazardous constituents in waste water  
15 streams;

16 (2) Identification of the regulatory requirements  
17 associated with the storage, treatment or disposal of  
18 all hazardous wastes generated at the facility;

19 (3) Identification and evaluation of any technologies,  
20 procedures, processes, equipment or production changes  
21 that may be utilized by the facility to reduce the  
22 amount or toxicity of hazardous wastes and emissions  
23 generated by that facility;

24 (4) Identification of any potential markets for  
25 hazardous waste generated by the facility; and

26 (5) A hazardous waste accounting system that  
27 identifies waste management costs and factors in  
28 liability, compliance and oversight costs to a  
29 practical extent;

30 C. A strategy for implementing technically and economically  
31 practical hazardous waste minimization options for each  
32 waste stream analyzed. This strategy must include a  
33 description of options considered and an explanation of why  
34 those options were not implemented;

35 D. Performance goals for the reduction of individual waste  
36 streams. Whenever technically and economically practical,  
37 the specific performance goals must be expressed in numeric  
38 terms. When the establishment of numeric performance goals  
39 is not practical, the performance goals shall include a  
40 clearly stated list of objectives designed to lead to the  
41 establishment of numeric goals as soon as practical. The  
42 generator shall explain the rationale for each performance  
43 goal and may include any impediments to hazardous waste  
44 minimization including those provided for in section 2306,  
45 subsection 4, paragraph G, subparagraph (1); and.  
46  
47  
48  
49  
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51  
52

2           E. An employee awareness and training program to involve  
3           employees in hazardous waste minimization planning and  
4           implementation to the maximum extent feasible.

5           The plan must be signed by a principal executive officer of at  
6           least the level of vice-president, if the generator is a  
7           corporation; a general partner or a proprietor, if the generator  
8           is a partnership or sole proprietorship; or a principal executive  
9           officer or ranking elected official, if the generator is a  
10           municipal, state, federal or other public agency. This chapter  
11           does not prohibit the department from seeking additional  
12           information from a generator in order to review the adequacy of a  
13           plan or plan update.

14           2. Submission of plan. Upon completion of the hazardous  
15           waste minimization plan, the generator shall notify the  
16           department in writing on a form supplied by the department. The  
17           generator shall provide the department with a summary of the  
18           scope of the plan, the evaluation methods used, the findings and  
19           conclusions and the generator's implementation schedule. A  
20           generator may designate information as confidential under section  
21           1310-B.

22           3. Plan availability. Businesses or facilities required to  
23           complete a hazardous waste minimization plan shall keep a  
24           complete copy and any back-up data on the premises of that  
25           facility and make the copy and data available to the department  
26           upon request.

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

31           5. Employee notification. Six months prior to the date  
32           when the initial hazardous waste minimization plan or an update  
33           must be completed, each business or facility shall notify all of  
34           its employees of the requirements for the plan or updates,  
35           identify the hazardous substances and production units for which  
36           a plan or update will be submitted, provide the criteria for  
37           plans specified by the department and solicit comments or  
38           suggestions from all employees on waste minimization options.

39           6. Review and approval of plan. The department may review  
40           a plan or update to determine whether it is adequate according to  
41           the guidelines established under this chapter.

42           A. If a plan or update is determined inadequate, the  
43           department shall notify the generator of the inadequacy,  
44           identifying the specific deficiencies. The department may  
45           specify a reasonable time period of not less than 90 days,  
46           within which the generator shall submit a modified plan or  
47           update.

2 update addressing the specified deficiencies. The  
3 department may, upon request, provide technical assistance,  
4 if available, to aide the generator in modifying the plan or  
5 update.

6 B. If the department determines that a modified plan or  
7 update is inadequate, the department may either require  
8 further modification or seek penalties as provided in  
9 section 2311. If the generator fails to submit a modified  
10 plan or update within the required time period, the  
11 department shall seek penalties as provided in section 2311.

12 C. In reviewing the adequacy of any plan or update, the  
13 department shall base its determination on whether the plan  
14 or update is complete and prepared in accordance with the  
15 guidelines established pursuant to this chapter.

## 18 **§2308. Confidentiality**

19 1. Retention at facility. A hazardous waste minimization  
20 plan developed under this section must be retained at the  
21 facility.

22 2. Hazardous waste information. Upon a satisfactory  
23 showing to the commissioner by the facility management that a  
24 plan or update developed under this chapter, if made public,  
25 would divulge methods, processes or other information entitled to  
26 protection, the department shall hold as confidential that plan,  
27 update or portion of the plan or update pursuant to section  
28 1310-B.

## 32 **§2309. Cross media pollution control**

33 1. Prohibition. A generator is prohibited from using any  
34 change in a process or material that results in new or increased  
35 air or waste water toxic releases in order to meet state  
36 hazardous waste reduction goals.

37 2. Exemptions. A generator may apply for an exemption from  
38 subsection 1 if the generator shows that the change resulting in  
39 the toxic release or toxic release increase results in a  
40 long-term benefit to public health and the environment which  
41 outweighs the benefits from other management techniques and:

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

45 B. If the toxic emission is new to a facility's existing  
46 air or waste water stream, or both, the facility must  
47 possess and comply with all necessary federal, state and  
48 local licenses or permits applicable for the release.

2           3. Exemption renewal. If granted, the exemption is valid  
4           for a 3-year period. Renewal of the exemption may be granted  
6           only if the generator meets the criteria set forth in subsection  
8           2.

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

24           **§2310. Generator registration**

26           1. Registration program. All generators of hazardous waste  
28           other than households and agricultural operations shall register  
30           with the department. Registration forms and an accompanying fee  
32           of \$25 are due to the department by January 1, 1991. Subsequent  
34           registration forms and fees are due on January 1st of each year.

36           The department shall deposit all money received in payment of  
38           fees under this subsection to the Maine Hazardous Waste Fund to  
40           meet costs incurred by the department in the administration of  
42           this chapter.

44           2. Fee reassessment. The department, on a annual basis,  
46           shall reassess the generator registration fee schedule and make  
48           necessary recommendations to the Legislature for adjustments.

50           **§2311. Enforcement; penalties**

52           Generators who fail to meet any requirements set forth in  
54           this chapter including, but not limited to, achievement of  
56           hazardous waste reduction goals and the preparation and  
58           submission of required plans, are subject to enforcement action  
60           and penalty fees. The fees set forth in section 1319-I,  
62           subsection 2, are increased 10 times for wastes from that  
64           generator's company or facility for the period of noncompliance.  
66           If penalties are imposed, fees beyond those normally assessed  
68           under section 1319-I, subsection 2, must be paid by the generator  
70           directly to the department according to a schedule established by  
72           the department. This section does not preclude the department  
74           from seeking civil penalties from any person for failure to  
76           comply with this chapter.

78           **Sec. 2. Report to the Legislature.** On or before April 1, 1992,  
80           the department shall report to the Joint Standing Committee

2 on Energy and Natural Resources on the status of implementing  
3 this Act. This report must include information regarding:

4 1. Progress in reducing the quantities of hazardous wastes  
5 generated in the State; and

6 2. An analysis and recommendations for changes to the  
7 program including, but not limited to, the need for any  
8 additional enforcement provisions and for the establishment of a  
9 hazardous waste assessment grant program.

12 **Sec. 3. Allocation.** The following funds are allocated from the  
13 Maine Hazardous Waste Fund to the Department of Environmental  
14 Protection to carry out the purposes of this Act.

	1990-91
18 ENVIRONMENTAL PROTECTION, 19 DEPARTMENT OF	
20 All Other	\$65,000
22 Capital Expenditures	10,000
24 DEPARTMENT OF ENVIRONMENTAL PROTECTION 25 TOTAL	<hr/> \$75,000

28 STATEMENT OF FACT

30 In the public interest of the State and its citizens, this  
31 bill creates new state policy, goals and a new program to ensure  
32 that the generation of hazardous waste is minimized as  
33 expeditiously as possible. The bill provides the Department of  
34 Environmental Protection with the authority to create a hazardous  
35 waste minimization program:

- 38 1. To register generators with the department; and  
39 2. To require and oversee hazardous waste reduction by  
40 generators of more than 100 kilograms of hazardous waste per  
calendar month.