

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2507

S.P. 1011

In Senate, April 12, 1990

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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

Joy J. O'Brien
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DUTREMBLE of York.

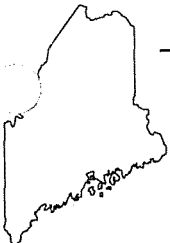
Cosponsored by Representative LUTHER of Mexico, Senator KANY of Kennebec and Representative MICHAUD of East Millinocket.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Clean the Environment by the Reduction of Toxics Use, Waste and Release.

(AFTER DEADLINE)



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

2
4 Sec. 1. 5 MRSA §12004-I, sub-§22-A is enacted to read:

6 22-A. En- Toxics Expenses 38 MRSA
7 vironment: Nat- Reduc- Only \$2310
8 ural Resources Lion
9 Advisory
10 Council

12 Sec. 2. 37-B MRSA §797, sub-§§6 and 7, as enacted by PL 1989,
13 c. 464, §3, are amended to read:

14 6. **Information withholding.** An indication if the person is
15 electing to withhold information from disclosure under section
16 800; and

18 7. **Transportation.** A description of the manner in which
19 the substance is shipped to the facility; and

20 Sec. 3. 37-B MRSA §797, sub-§8 is enacted to read:

22 8. Progress toward toxics use reduction goals. For those
23 persons required to submit a form under this section for
24 extremely hazardous substances, a report on the progress made by
25 the facility toward meeting the toxics use reduction goals
26 established in Title 38, section 2303.

28 Sec. 4. 37-B MRSA §799, as enacted by PL 1989, c. 464, §3, is
29 amended to read:

32 **§799. Toxic chemical release forms**

34 Under this section, the owner or operator of every facility
35 with 10 or more employees and within Standard Industrial
36 Classification Codes 20-39 must file toxic chemical release forms
37 for routine releases with the United States Environmental
38 Protection Agency, the commission and the local emergency
39 planning committee by October 1, 1989, and annually thereafter
40 consistent with the Superfund Amendments and Reauthorization Act
41 of 1986, Public Law 99-499, Title III, Section 313, and 40 Code
42 of Federal Regulations, Part 372. Those forms shall must be made
43 available to the public by the commission and the local emergency
44 planning committee. The owner or operator of every facility
45 required to report under this section must also submit a report
46 on the progress made by the facility toward meeting the toxics
47 release reduction goals established in Title 38, section 2303.

48 Sec. 5. 38 MRSA §1303-C, sub-§13-A is enacted to read:

50 13-A. Generator. "Generator" means a person whose act or
51 process produces a waste that is hazardous.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50
52

Sec. 6. 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 must 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¢ a pound.

Sec. 7. 38 MRSA c. 26 is enacted to read:

CHAPTER 26

TOXICS USE AND 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. Extremely hazardous substance. "Extremely hazardous substance" has the same meaning set forth in the SARA, Title III, Section 302, and listed in 40 Code of Federal Regulations, Part 355.

5. Facility. "Facility" means the place of business or site where toxics are used, toxics are released or hazardous waste is generated.

6. Generation. "Generation" has the same meaning as in section 1303-C, subsection 13.

2 7. Generator. "Generator" means the owner or operator of a
3 facility that generates more than 100 kilograms of hazardous
4 waste in a calendar month for more than 3 months of the year.

6 8. Hazardous waste. "Hazardous waste" means those wastes
7 determined by the Board of Environmental Protection to be
8 hazardous pursuant to section 1319-O, subsection 1.

10 9. Manifest. "Manifest" has the same meaning as in section
11 1303-C, subsection 19.

12 10. Pilot plant or pilot production unit. "Pilot plant or
13 pilot production unit" means a small scale model or a temporary
14 change in the production process undertaken to test or develop a
15 new technology.

16 11. Practicable. "Practicable" means available and capable
17 of accomplishment after taking into consideration the existing
18 state of technology and economic feasibility for the facility
19 involved.

22 12. Production unit. "Production unit" means a measure of
23 output of a manufactured product or a quantifiable service by a
24 facility.

26 13. Recycle. "Recycle" has the same meaning as in section
27 1303-C, subsection 21.

28 14. SARA. "SARA" means the Superfund Amendments and
29 Reauthorization Act of 1986, Public Law 99-499.

32 15. Storage. "Storage" has the same meaning as in section
33 1303-C, subsection 36.

34 16. Toxic substance or toxics. "Toxic substance" or
35 "toxics" means any substance in a gaseous, liquid or solid state
36 listed pursuant to the SARA, Title III, Section 313, and any
37 extremely hazardous substance.

40 17. Toxics releaser. "Toxics releaser" means an owner or
41 operator of a facility that is required to report under the SARA,
42 Title III, Section 313.

44 18. Toxics use reduction. "Toxics use reduction" means
45 front-end substitution, product reformulation or in-plant changes
46 in production processes or raw materials that reduce, avoid or
47 eliminate the use of toxic or hazardous substances or the
48 generation of hazardous by-products per unit of product to reduce
49 risks to the health of workers, consumers or the environment,
50 without shifting risks among workers, consumers or parts of the
51 environment.

2 19. Toxics user. "Toxics user" means a person that is
3 required to report the presence of extremely hazardous substances
4 under the SARA, Title III, Section 312.

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

8 21. Waste assessment. "Waste assessment" means a systematic
9 planned procedure to identify ways to reduce or eliminate waste.
10 The assessment consists of the review and evaluation of a
11 facility's operations and waste streams and the selection of
12 specific waste streams to be evaluated.

14 §2302. Toxics use reduction and hazardous waste management policy

16 It is the policy of the State to reduce the volume of the
17 toxic materials used in the State, to reduce worker and
18 environmental exposure to the release of toxic materials and to
19 reduce the hazardous waste generated within the State. The State
20 encourages an integrated approach to toxics use reduction, toxics
21 release reduction and hazardous waste reduction based on the
22 hierarchies of management strategies included in this section.

24 1. Toxics use reduction. The State encourages reducing the
25 use of toxic materials through changes in production or other
26 processes or operations, in products or in raw materials that
27 reduce, avoid or eliminate the use or production of toxic
28 substances without creating substantial new risks to public
29 health, safety and the environment. These changes may be made
30 through the application of any of the following techniques:

32 A. Input substitution, which refers to replacing a toxic
33 substance or raw material used in a production or other
34 process or operation with a nontoxic or less toxic substance;

36 B. Product reformulation, which refers to substituting for
37 an existing end product an end product that is nontoxic or
38 less toxic upon use, release or disposal;

40 C. Production or other process or operation redesign or
41 modification;

42 D. Production or other process or operation modernization,
43 which refers to upgrading or replacing existing equipment
44 and methods; and

46 E. Improved operation and maintenance controls of
47 production or other process or operation equipment and
48 methods including, but not limited to, improved housekeeping
49 practices, system adjustments, product and process
50 inspections or production or other process or operation
51 control equipment or methods.

2 Toxics use reduction includes proportionate changes in the usage
4 of a particular toxic substance by any of the methods set forth
6 in this subsection as a result of production changes or other
8 business changes.

10 2. Toxics release reduction. The State encourages reducing
12 the release of toxics during manufacturing and other processes
14 through, in addition to toxics use reduction techniques, in-plant
16 changes in production or other processes or operations that
18 reduce or avoid exposure of workers and the environment to toxics
20 through the application of the following techniques:

22 A. Improved operation and maintenance controls of
24 production or other process or operation equipment and
26 methods including, but not limited to, improved housekeeping
28 practices, system adjustments, product and process
30 inspections or production or other process or operation
32 control equipment or methods; and

34 B. Upgrading, redesigning or replacing existing equipment
36 and methods with other equipment and methods.

38 3. Hazardous waste reduction. The State encourages
40 reducing the generation of hazardous waste through, in addition
42 to toxics use and release reduction techniques, the application
44 of the following techniques:

46 A. Recovery of toxics from production and other processes
48 for reuse;

50 B. On-site recycling of hazardous waste;

52 C. Off-site recycling of hazardous waste;

54 D. Treatment of hazardous waste to reduce volume or
56 toxicity or both; and

58 E. Safe disposal.

60 §2303. Toxics use, toxics release and hazardous waste reduction
62 goals

64 The State's goals for reduction of the volume of toxics used
66 and released and hazardous waste that is generated within the
68 State are as follows.

70 1. Toxics use reduction goals. The goals for toxics use
72 reduction are a 10% reduction in the volume of toxic substances
74 used in the State by July 1, 1993, a 20% reduction by July 1,
76 1995, and a 30% reduction by July 1, 1997. Owners or operators
78 of facilities subject to reporting requirements for extremely

2 hazardous substances under the SARA, Title III, Section 312, are
4 not required to meet these goals, but must examine, plan and
6 implement means of reducing the use of toxics within their
8 facilities without impairing the production or quality of their
10 products or services.

12 2. **Toxics release reduction goals.** Using an average of the
14 volumes of toxics released in the State in 1988 and 1989 as a
16 base line figure, the goals for reducing the volume of toxics
18 released to the environment are a 10% volume reduction by July 1,
20 1993, a 20% volume reduction by July 1, 1995 and a 30% volume
22 reduction by July 1, 1997. Those owners and operators required
24 to report under the SARA, Title III, Section 313, are required to
26 meet these goals. These reduction requirements do not apply for
28 toxics regulated by the department through a toxics releaser's
30 air emissions or wastewater discharge license. Until a base year
32 and measurement techniques are established, there are no specific
34 goals for worker exposure to toxics releases, but owners or
36 operators of those facilities regulated by this chapter must
38 examine means to reduce exposure. For purposes of this
40 subsection, toxics refers to substances listed pursuant to the
42 SARA, Title III, Section 313. To assist facilities in complying
44 with this subsection, the Commissioner of Environmental
46 Protection shall develop a methodology to measure volume
48 reductions for toxics releases. This methodology may be based on
50 reports filed with the Maine Emergency Management Agency pursuant
to the SARA, Title III, Section 313, and other available data.

30 3. **Hazardous waste generation minimization goals.** The
32 goals for minimizing the amount of hazardous waste generated at a
34 facility are a 10% volume reduction by January 1, 1993, a 20%
36 volume reduction by July 1, 1995, and a 30% volume reduction by
38 July 1, 1997. Reductions must be based on a facility's average
40 generation rate for the years 1987, 1988 and 1989.

36 4. **Establishment of production units.** When tracking the
38 percent reduction achieved by a facility, the Commissioner of
40 Environmental Protection shall work with the Department of Labor
42 to establish a uniform production unit measure for each standard
44 industrial code to account accurately for changes in toxics use,
46 toxics release and hazardous waste generation due to business
48 growth or decline. When production units are not easily
50 established, such as when a facility provides a service rather
than a product, the commissioner and the Department of Labor
shall work with industry representatives to establish an
acceptable accounting method for business activity.

48 5. **Progress evaluation.** Progress toward meeting the toxics
50 release and hazardous waste reduction goals must be evaluated
annually by the commissioner based on manifest data, progress
reports submitted under Title 37-B, sections 797 and 799, annual

2 hazardous waste generator reports and other appropriate available
3 information.

4 6. New facilities. Facilities constructed after the
5 effective date of this chapter must be designed to minimize
6 toxics use, toxics release and hazardous waste generation in
7 accordance with the State's policies as set forth in section 2302
8 and must be evaluated on the basis of production units for the
9 volume of toxics use, toxics release and hazardous waste
10 generated.

11 **§2304. Regulated community**

12 Toxics users, toxics releasers and generators must meet the
13 applicable requirements under this chapter.

14 1. Hazardous waste reduction exemptions. The following are
15 exempt from the hazardous waste reduction goal requirements for
16 large-quantity generators:

17 A. Commercial hazardous waste treatment or storage
18 facilities;

19 B. Pilot plants or pilot production units;

20 C. Hazardous waste transporters;

21 D. Hazardous waste generated as a result of remedial or
22 corrective actions or facility closures required by law or
23 undertaken to protect employee health and safety, public
24 health and safety or the environment;

25 E. Households;

26 F. Agricultural operations; and

27 G. Generators exempted under this paragraph. To qualify
28 for an exemption under this paragraph, a generator must
29 demonstrate to the commissioner that all practicable
30 reduction has been implemented or scheduled for
31 implementation. The commissioner may establish alternate
32 hazardous waste reduction goals for the facility when
33 appropriate.

34 (1) A generator must receive an exemption from the
35 requirement of meeting state reduction goals from the
36 commissioner if the generator proves that:

37 (a) Practicable hazardous waste reduction methods
38 do not exist;

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

(b) Previously implemented reductions or actions have already resulted in all practicable waste reduction;

(c) Steps necessary to reduce hazardous waste would have a significant adverse impact on product quality; or

(d) Legal or contractual obligations prohibit steps necessary to reduce hazardous waste generation.

(2) The commissioner shall review exemptions under this paragraph at 3-year intervals. Renewals may be granted for hazardous waste generators that demonstrate that they still meet the requirements set forth in subparagraph (1). If an exemption has been granted based on legal or contractual obligations, the generator may be granted an exemption for the term of that obligation only. An exemption or renewal for a new or renewed legal or contractual commitment may not be granted by the commissioner. A generator that has received an exemption based on legal or contractual obligations may apply for a renewal based on subparagraph (1), division (a), (b) or (c).

2. Toxics release reduction exemptions. The following are exempt from the reduction requirements for toxics release:

- A. Water supply treatment facilities;
- B. Municipal wastewater treatment facilities;
- C. Retail and wholesale motor fuel and heating oil distributors;
- D. Agricultural operations; and
- E. Toxics releasers exempted under this paragraph. To qualify for an exemption under this paragraph, a toxics releaser must demonstrate to the commissioner that all practicable reductions have been implemented or scheduled for implementation. The commissioner may establish alternate toxics release reduction goals for the facility when appropriate.

(1) A toxics releaser must receive an exemption from the requirement of meeting state reduction goals from the commissioner if the generator proves that:

2 (a) Practicable toxics release reduction methods
do not exist;

4 (b) Previously implemented reductions or actions
have already resulted in all practicable toxics
6 release reduction;

8 (c) Steps necessary to reduce toxics release
would have a significant adverse impact on product
10 quality or quantity; or

12 (d) Legal or contractual obligations prohibit
steps necessary to reduce toxics release.

14 (2) The commissioner shall review exemptions under
16 this paragraph at 3-year intervals. Renewals must be
18 granted for toxics releasers that demonstrate that they
still meet the requirements set forth in subparagraph
20 (1). If an exemption has been granted based on legal
or contractual obligations, the toxics releaser may be
22 granted an exemption for the term of that obligation
only. An exemption or renewal for a new or renewed
24 legal or contractual obligation may not be granted by
the commissioner. A generator that has received an
26 exemption based on legal or contractual obligations may
apply for a renewal based on subparagraph (1), division
28 (a), (b) or (c).

30 **§2305. Guidelines for toxics use reduction, toxics release**
reduction and hazardous waste reduction plans

32 Those facilities subject to regulation under this chapter
34 shall develop and update every 2 years plans for their own use in
meeting the State's goals. The board may establish by rule,
36 guidelines for toxics use, toxics release and hazardous waste
reduction plans to be prepared pursuant to this section. A plan
must include:

38 1. Management policy. A statement of facility-wide
40 management policy regarding toxics use, toxics release and
hazardous waste reduction;

42 2. Production unit analysis. The following information for
44 each production unit:

46 A. Identification and characterization of the types and
amounts of all toxics used, toxics released and hazardous
48 wastes generated at the facility;

50 B. Identification, analysis and evaluation of any
appropriate technologies, procedures, processes, equipment

2 or production changes that may be utilized by the facility
3 to reduce the amount or toxicity of toxics used, toxics
4 released or hazardous wastes generated by that facility;

6 C. A strategy and schedule for implementing practicable
7 reduction options for each production process utilized to
8 meet reduction goals;

10 D. Identification of any reasonably available markets or
11 recycling opportunities for hazardous waste generated by the
12 facility; and

14 E. A program for maintaining records on toxics use, toxics
15 release and hazardous waste generation rates and management
16 costs;

18 3. Internal plan approval. The signature of a principal
19 executive officer of at least the level of vice-president, if the
20 toxics user, toxics releaser or generator is a corporation; a
21 general partner or a proprietor, if the toxics user, toxics
22 releaser or generator is a partnership or sole proprietorship; or
23 a principal executive officer or ranking elected official, if the
24 toxics user, toxics releaser or generator is a municipal, state,
25 federal or other public agency; and

26 4. Employee awareness and training. An employee awareness
27 and training program to involve employees in toxics use, toxics
28 reduction and hazardous waste reduction planning and
29 implementation to the maximum amount feasible.

30 Owners and operators of facilities shall keep a complete
31 copy of the plan and any back-up data on the premises of that
32 facility for at least 5 years and make the copy and data
33 available to the commissioner or the commissioner's designee upon
34 request.

36 **§2306. Employee notification**

38 The owner or operator of each facility must notify all of
39 its employees of the requirements for the plans, identify the
40 toxic and hazardous substances and production units for which
41 plans must be developed and solicit comments or suggestions from
42 all employees on toxics use, toxics release and hazardous waste
43 reduction options.

46 **§2307. Reporting requirements**

48 1. Toxics use reduction reports. As set forth in Title
49 37-B, section 797, toxics users must report their progress toward
50 meeting the toxics use reduction goals as part of their reporting
51 requirements to the State Emergency Response Commission.

2 2. Toxics release reduction reports. As set forth in Title
3 37-B, section 799, toxics releasers must report their progress
4 toward meeting the toxics release reduction goals as part of
5 their reporting requirements to the State Emergency Response
6 Commission. After January 1, 1993, the commissioner may require
7 a toxics releaser to submit a summary of the toxics release
8 reduction plan required under section 2305 within one year when:

9
10 A. A facility has not made sufficient progress in reducing
11 toxics release as evidenced by failure to meet the toxics
12 release reduction goals;

13
14 B. A facility has received an exemption under section 2304,
15 subsection 2, and has not made sufficient progress toward
16 meeting the alternate toxics release reduction goals
17 established by the commissioner in section 2304, subsection
18 2, paragraph G; or

19
20 C. A new facility has toxics release rates that are
21 significantly greater per production unit than in similar
22 facilities within the same standard industrial code category.

23 If a plan summary is required under this subsection, the
24 commissioner shall notify the owner or operator of that facility
25 of that requirement.

26
27 3. Hazardous waste reduction reports. After January 1,
28 1993, the commissioner may require a facility to submit a summary
29 of the hazardous waste reduction plan required under section 2305
30 within one year when:

31
32 A. A facility has not made sufficient progress in reducing
33 hazardous waste generated at the facility as evidenced by a
34 failure to meet the hazardous waste reduction goals;

35
36 B. A facility has received an exemption under section 2304,
37 subsection 1, and has not made sufficient progress toward
38 meeting the alternate hazardous waste reduction goals
39 established by the commissioner under section 2304,
40 subsection 1, paragraph G; or

41
42 C. A new facility generates hazardous waste in a
43 significantly greater amount per production unit than is
44 generated in similar facilities within the same standard
45 industrial code category.

46
47 If a plan summary is required under this subsection, the
48 commissioner shall notify the owner or operator of the facility
49 of that requirement.

50
51 4. Plan summary. The plan summary submitted to the
52 commissioner pursuant to subsection 2 or 3, must include, without

2 limitation, the evaluation methods used, the findings and
4 conclusions and the implementation schedule. An owner or
operator may designate information as confidential under section 1310-B.

6 5. Review of plan summary. The commissioner may review a
8 plan summary to determine whether it meets the guidelines
established under this chapter.

10 A. In reviewing the adequacy of any plan summary, the
12 commissioner shall base a determination on whether the plan
14 summary is complete and prepared in accordance with the
goals and guidelines established pursuant to this chapter.

16 B. If the commissioner determines that a plan summary is
18 inadequate, the commissioner shall notify the toxics
20 releaser or generator of the inadequacy, identifying the
22 specific deficiencies. The commissioner may specify a
24 reasonable time period of not less than 90 days within which
the toxics releaser or generator must submit a modified plan
summary addressing the specified deficiencies. The
commissioner may, upon request, provide technical
assistance, if available, to aid the toxics releaser or
generator in modifying the plan summary.

26 C. If the commissioner determines that a modified plan
28 summary is inadequate, the commissioner may either require
30 further modification or assess fees as provided in section
32 2312. If the generator fails to submit a modified plan
summary within the required time period, the commissioner
may assess additional fees as established in section 1319-I,
subsection 2-A.

34 6. Confidentiality. Upon a satisfactory showing to the
36 commissioner by the owners or operators of a facility required to
38 submit information under this chapter, if made public, would divulge
40 methods, processes or other information entitled to protection,
the commissioner shall hold as confidential that plan summary, or
a portion of that plan summary, pursuant to section 1310-B.

42 7. Additional information. This chapter does not prohibit
44 the commissioner from seeking additional information from a
46 toxics releaser or generator in order to review the adequacy of a
plan or plan summary required by this chapter.

48 **§2308. Cross-media pollution control**

50 1. Prohibition. A facility subject to regulation under
this chapter is prohibited from using any change in a process or
material that results in new or increased toxics release or

2 hazardous waste generation to meet the goals as set forth in
3 section 2303.

4 2. Exemptions. A facility subject to regulation under this
5 chapter may apply to the commissioner for an exemption from
6 subsection 1 if the owner or operator demonstrates that the
7 change resulting in the toxic release or hazardous waste increase
8 results in a long-term benefit to public health and the
9 environment that outweighs the benefits of other reduction
10 techniques and:

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

16 B. If the toxics release is new to a facility's existing
17 air or wastewater stream, or both, the facility possesses
18 and complies with all necessary federal, state and local
19 licenses or permits applicable for the release.

20 3. Exemption renewal. If granted, the exemption is valid
21 for a 3-year period. Renewal of the exemption may be granted
22 only if the toxics releaser or generator meets the criteria set
23 forth in subsection 2.

26 4. Department authority. This section does not diminish
27 the existing authority of the Department of Environmental
28 Protection, pursuant to any laws, to establish by rule, permit,
29 license or order, any treatment technology standards, emission or
30 discharge limits, operation and maintenance requirements or
31 management practices for abating, controlling or preventing a
32 release or threat of release of hazardous substances to the
33 environment.

34 **§2309. Program; powers and duties**

36 The Toxics Use, Toxics Release and Hazardous Waste Reduction
37 Program is established within the department in the office of the
38 commissioner to assist toxics users, toxics releasers and
39 hazardous waste generators to eliminate or reduce the amounts,
40 toxicity and adverse environmental and public health effects of
41 toxics used, toxics released and hazardous wastes generated.

44 1. Data collection. The commissioner shall develop the
45 necessary information base and data collection programs to
46 establish program priorities and evaluate the progress of toxics
47 use, toxics release and hazardous waste reduction goals.

48 2. Technical services. The commissioner may disseminate
49 information concerning toxics use, toxics release and hazardous
50 waste reduction through various means including publications,
51 seminars, model plans, recommended waste assessment procedures
52 and other means.

2 and lists of consultants on toxics use, toxics release and
3 hazardous waste reduction technologies.

4 3. Grant program. The commissioner shall evaluate the need
5 for a grant program to provide financial and technical assistance
6 for a facility subject to this chapter.

8 4. Information exchange. The commissioner may participate
9 in existing state, federal and industrial networks of individuals
10 and groups actively involved in toxics use, toxics release and
11 hazardous waste reduction. Subject to available funding, the
12 commissioner may contract with technical information centers to
13 assist the department in carrying out the provisions of this
14 chapter.

16 5. Production units. On or before June 15, 1991, the
17 commissioner shall publish a list of the production units to be
18 used in meeting reporting requirements for each standard
19 industrial code category for which there are toxics releasers or
20 generators required to meet state reduction goals.

22 6. Contracts. The commissioner may enter into contracts to
23 carry out the purposes of this chapter.

24 **§2310. Toxics Reduction Advisory Committee**

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

32 1. Membership. The Governor shall appoint the chair of the
33 committee. The committee consists of 12 voting members.

36 A. The Governor shall appoint 4 representatives from the
37 business community and 2 representatives of organized labor.

38 B. The President of the Senate shall appoint one member
39 from a public health organization, one member from an
40 environmental organization and one public member.

42 C. The Speaker of the House of Representatives shall
43 appoint one member from a public health organization, one
44 member from an environmental organization and one public
45 member.

48 D. The Commissioner of Environmental Protection, the
49 Commissioner of Labor, the Director of the Maine Emergency
50 Management Agency and the Executive Director of the Maine
51 Waste Management Agency shall serve as ex officio members
52 and do not vote on committee matters.

2 2. Terms. All appointed members are appointed for
4 staggered terms of 3 years. The President of the Senate and the
6 Speaker of the House of Representatives shall appoint each one
8 member for a one-year initial term, one member for a 2-year
10 initial term and one member for a 3-year initial term. The
12 Governor shall appoint 2 members for one-year initial terms, 2
14 members for 2-year initial terms and 2 members for 3-year initial
16 terms. A vacancy must be filled by the same appointing authority
18 which made the original appointment. No appointed member may
20 serve more than 2 4-year terms.

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

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

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

40 6. Staff support. The commissioner shall provide the
42 committee with staff support.

44 7. Duties; powers. The committee may:

46 A. Review priorities for toxics use, toxics release and
48 hazardous waste reduction and may identify user groups as
50 priorities for department activities;

52 B. Review the criteria for the submission of toxics use,
54 toxics release and hazardous waste reduction plans;

56 C. Study and evaluate the practicability of achieving
58 reductions in the use or release of specific substances
60 through the use of substitutes, alternate procedures or
62 processes, or other means of achieving toxics use, toxics
64 release and hazardous waste reduction;

66 D. Recommend revisions to the department, if appropriate,
68 to toxics use, toxics release and hazardous waste reduction
70 goals and to the Toxics Use, Toxics Release and Hazardous
72 Waste Reduction Program;

74 E. Evaluate existing programs relating to chemical
76 production and use, hazardous waste generation, industrial
78 hygiene, worker safety, public exposure to toxics and toxics
80 releases and recommend coordination of information and
82 program changes or development; and

2 F. Submit any recommendations for statutory changes to the
3 joint standing committee of the Legislature having
4 jurisdiction over energy and natural resources matters.

6 **§2311. Fees**

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

12 1. Hazardous waste generators. All owners or operators of
13 facilities that generate hazardous waste other than households
14 and agricultural operations shall register annually with the
15 commissioner. Registration forms and an accompanying fee of \$50
16 are due to the commissioner by March 1, 1991. Subsequent
17 registration forms and fees are due on March 1st of each year.

18 2. Toxics user. All toxics users must submit \$25 per
19 facility in addition to fees assessed under Title 37-B, section
20 801, when submitting reports required under the SARA, Title III,
21 Section 312, for extremely hazardous substances to the State
22 Emergency Response Commission. These funds must be transferred
23 by the State Emergency Response Commission to the Maine Hazardous
24 Waste Fund within 60 days of receipt.

25 3. Toxics releaser. All toxics releasers must submit \$25
26 per facility in addition to fees assessed under Title 37-B,
27 section 801, when submitting reports required under the SARA,
28 Title III, Section 313, to the State Emergency Response
29 Commission. These funds must be transferred by the State
30 Emergency Response Commission to the Maine Hazardous Waste Fund
31 within 60 days of receipt.

32 **§2312. Enforcement; penalties**

33 1. Toxics users. Toxics users are not subject to penalties
34 pursuant to this chapter, except for the requirement to pay the
35 fee under section 2311, subsection 2.

36 2. Toxics releasers. Toxics releasers that fail to meet
37 any requirements set forth in this chapter including, but not
38 limited to, achievement of toxics release reduction goals and the
39 preparation and submission of required plan summaries, are
40 subject to enforcement action and penalty fees. Toxics releasers
41 are subject to the general penalties in chapter 2.

42 3. Hazardous waste generators. Generators that fail to
43 meet any requirements set forth in this chapter including, but
44 not limited to, achievement of hazardous waste reduction goals
45 and the preparation and submission of required plans, may be
46 subject to enforcement action and penalty fees.

2 subject to enforcement action, civil or criminal penalties and
3 fees assessed in section 1319-I, subsection 2-A.

4 **Sec. 8. Allocation.** The following funds are allocated from the
5 Maine Hazardous Waste Fund to carry out the purposes of this Act.

6 1990-91

8
9
10 **ENVIRONMENTAL PROTECTION,
DEPARTMENT OF**

11
12 **Maine Hazardous Waste Fund**

14	Positions	(4)
15	Personal Services	\$110,417
16	All Other	21,821
17	Capital Expenditures	10,000

18
19 Provides funds for an Environmental
20 Specialist IV; an Environmental Specialist
21 III, a Data Control Clerk, a Civil Engineer
22 II and general operating expenses to
23 implement the Toxics Use, Toxics Release and
24 Hazardous Waste Reduction Program.

25	DEPARTMENT OF ENVIRONMENTAL PROTECTION	
26	TOTAL	<u>\$142,238</u>

27

28
29
30 **FISCAL NOTE**

31
32 If enacted, this bill will result in:

33
34 1. An increase in dedicated revenue to the State Emergency
35 Response Commission in the amount of \$25,000 for fiscal year
36 1990-91. These funds would be collected by the State Emergency
37 Response Commission and transferred to the Department of
38 Environmental Protection to be deposited in the Maine Hazardous
39 Waste Fund;

40
41 2. An increase in dedicated revenue to the Department of
42 Environmental Protection, Maine Hazardous Waste Fund, in the
43 amount of \$150,000 for fiscal year 1990-91. This increase in
44 dedicated revenue will be derived from the proposed \$25 fee on
45 toxics users and toxics releasers and a \$50 registration fee on
46 hazardous waste generators. These fees will be collected in
47 March of each year and could result in a potential cash flow
48 problem; and

49
50 3. An allocation of Other Special Revenue to the Department
of Environmental Protection, Maine Hazardous Waste Fund, in the

2 amount of \$142,238 for fiscal year 1990-91. This allocation will
provide funds for required staff, advisory committee expenses and
4 other general operating expenses.

6
8 **STATEMENT OF FACT**

10 This bill establishes a program to reduce toxics use, toxics
release and hazardous waste generation. The bill establishes a
12 hierarchy of techniques and goals to reduce the use and release
of toxic substances as well as the generation of hazardous
14 waste. Facilities are required to develop plans to meet these
goals. The bill applies to those facilities that use extremely
16 hazardous substances, release more than 10,000 pounds of toxic
substances to the environment annually and are in specific
18 manufacturing sectors or generate more than 100 kilograms of
hazardous waste for 3 or more months per year.

20 If a facility does not meet the goals set for toxics release
or hazardous waste reduction by 1993, the Commissioner of
22 Environmental Protection may require a facility to submit a
summary of its reduction plan within one year. Plans remain
24 confidential and only summaries are submitted to the
commissioner. A number of exemptions are established in
26 recognition that some facilities may not be able to reduce or may
have already instituted the maximum reductions currently
28 available.

30 If a hazardous waste generator does not comply with
requirements under this program, the commissioner may assess
32 higher fees for disposing of hazardous waste.

34 The Toxics Use, Toxics Release and Hazardous Waste Reduction
Program is established under the Commissioner of Environmental
36 Protection to collect data, exchange information and provide
technical services. The Toxics Reduction Advisory Committee is
38 established to advise the Department of Environmental Protection
on the implementation of this program.

40 This program is funded through fees assessed on hazardous
42 waste generators, toxics users and toxics releasers.