

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1239

S.P. 463

In Senate, March 21, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GAUVREAU of Androscoggin  
Cosponsored by Representative PARADIS of Augusta and Representative COTE of Auburn.

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STATE OF MAINE

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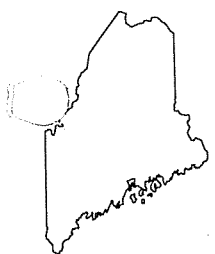
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act to Remedy Statutory Inconsistencies.**

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(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and the confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

## PART A

Sec. A-1. 38 MRSA §342, sub-§6, as repealed by PL 1989, c. 869, Pt. A, §2 and as affected by c. 890, Pt. A, §40 and amended by Pt. B, §2, is repealed.

Sec. A-2. 38 MRSA §342, sub-§8, as enacted by PL 1989, c. 836, §3 and c. 890, Pt. A, §18 and affected by §40, is repealed and the following enacted in its place:

8. Data base. The commissioner shall develop by January 1, 1991, and maintain a data base of license applications received and decisions made by the department. The data base must include information on all applications pending or received after January 1, 1990. For each application the data base must include:

A. The type of license sought;

B. The name and address of the applicant and the name of a natural person who is the representative of the applicant;

C. The location of the project;

D. The date of acceptance of the application for processing;

E. The current processing status of the application;

F. An indication of whether the commissioner or the board will decide the application;

2 G. A brief description of the project, including any  
substantial issues raised during the licensing process; and

4 H. A brief description of the final action taken by the  
department, either by the commissioner or the board, on the  
6 application.

8 The commissioner shall maintain a central archive of all  
applications received and licenses issued by the department.

10 **Sec. A-3. 38 MRSA §342, sub-§13 is enacted to read:**

12 13. Agricultural impacts. The commissioner shall notify  
14 and regularly inform the Commissioner of Agriculture, Food and  
Rural Resources on proposed legislation or rules that may affect  
16 agricultural activity.

18 **Sec. A-4. 38 MRSA §353, sub-§2, as amended by PL 1989, c. 874,**  
20 **§4 and affected by c. 890, Pt. A, and amended by Pt. B, §13, is**  
**repealed and the following is enacted in its place:**

22 2. Processing fee. A processing fee must be paid at the  
24 time of filing the application. Failure to pay the processing  
fee at the time of filing the application results in the  
26 application being returned to the applicant. The commissioner may  
not refund the processing fee if the application is denied by the  
28 board or the commissioner. If the application is withdrawn by the  
applicant within 30 days of the start of processing, the  
30 processing fee must be refunded, except in the case of nonferrous  
metal mining applications. If an application for nonferrous  
32 metal mining is withdrawn by the applicant within 30 days of the  
date of filing, 1/2 of the application fee must be refunded.

34 **Sec. A-5. 38 MRSA §353, sub-§3, as amended by PL 1989, c. 874,**  
36 **§5 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §13,**  
**is repealed and the following enacted in its place:**

38 3. License fee. A license fee must be paid at the time of  
40 filing the application. Failure to pay the license fee at the  
time of filing results in the application being returned to the  
42 applicant. The commissioner shall refund the license fee if the  
board or commissioner denies the application or if the  
44 application is withdrawn by the applicant. Notwithstanding the  
provisions of this subsection, the license fee for a subdivision  
46 must be paid prior to the issuance of the license.

48 The license fees for nonferrous metal mining must be paid  
annually on the anniversary date of the license for the life of  
the project, up to and including the period of closure and  
50 reclamation.

2           **Sec. A-6. 38 MRSA §414, sub-§3-A**, as repealed and replaced by  
3 PL 1989, c. 807 and as amended by c. 890, Pt. B, §29, is repealed  
4 and the following enacted in its place:

5           **3-A. Inspection of overboard discharges.** At least twice  
6 each calendar year, the commissioner shall inspect all licensed  
7 overboard discharges operated on a year-round basis. At least  
8 once each calendar year, the commissioner shall inspect all  
9 licensed overboard discharges operated no more than 6 months of a  
10 calendar year. The commissioner shall assess the costs of  
11 inspection as an annual license fee payable by the license holder  
12 based on the adjusted gross income of the license holder under  
13 the federal Internal Revenue Code of 1986, as amended, according  
14 to the following schedule:

15           **A. For residential overboard discharges:**

16                   (1) License holders with an adjusted gross income  
17 equal to or greater than \$30,000 annually - \$100;

18                   (2) License holders with an adjusted gross income  
19 equal to or greater than \$15,000 and less than \$30,000  
20 annually - \$75;

21                   (3) License holders with an adjusted gross income  
22 equal to or greater than \$7,500 and less than \$15,000  
23 annually - \$50; and

24                   (4) License holders with an adjusted gross income less  
25 than \$7,500 - no fee; and

26           **B. For commercial overboard discharge license holders at**  
27 all income levels - \$100.

28           **Sec. A-7. 38 MRSA §414-A, sub-§2**, as amended by PL 1989, c.  
29 856, §1 and affected by §7 and c. 890, Pt. A, §40 and as amended  
30 by Pt. B, §30, is repealed and the following enacted in its place:

31           **2. Schedules of compliance.** The department may establish  
32 schedules, within the terms and conditions of licenses, for  
33 compliance with best practicable treatment, as defined in  
34 subsection 1, paragraph D, which includes the application of best  
35 conventional pollutant control technology or best available  
36 technology economically achievable, and for compliance with  
37 section 420, subsection 2. Schedules must be consistent with the  
38 times permitted for compliance with the Federal Water Pollution  
39 Control Act, Public Law 92-500, as amended, and may include such  
40 interim and final dates for attainment of specific standards as  
41 are necessary to carry out the purposes of this subchapter. The  
42 schedules must be as short as possible and based on a  
43 consideration of the technological and economic impact of the  
44 steps necessary to attain these standards.

2           **Sec. A-8. 38 MRSA §420-A, first ¶**, as amended by PL 1989, c.  
3 856, §3 and affected by §7 and c. 890, Pt. A, §40 and amended by  
4 Pt. B, §39, is repealed and the following enacted in its place:

6           In order to determine the nature of dioxin contamination in  
7 the waters and fisheries of the State, the commissioner shall  
8 conduct a monitoring program as described in this section.

10           **Sec. A-9. 38 MRSA §420-A, sub-§4**, as amended by PL 1989, c.  
11 856, §4 and affected by §7 and c. 890, Pt. A, §40 and amended by  
12 Pt. B, §40, is repealed and the following enacted in its place:

14           4. Report. The commissioner shall report by December 1,  
15 1990, and annually thereafter on December 1st, on the results of  
16 the monitoring program to the joint standing committee of the  
17 Legislature having jurisdiction over natural resources. The  
18 annual report must contain the commissioner's conclusions as to  
19 the levels of dioxin contamination in the sample subjects and the  
20 likely scope of dioxin contamination in the State's waters.

22           **Sec. A-10. 38 MRSA §439-A, sub-§5**, as amended by PL 1989, c.  
23 803, §1; c. 838, §2; and c. 878, Pt. G, §7, is repealed and the  
24 following enacted in its place:

26           5. Timber harvesting. Municipal ordinances must regulate  
27 timber harvesting within the shoreland area, except surrounding  
28 existing forested wetlands or harvested forested wetlands that  
29 are not zoned for resource protection. Notwithstanding any  
30 provision in a local ordinance to the contrary, standards for  
31 timber harvesting activities may not be less restrictive than the  
32 following:

34           A. Selective cutting of no more than 40% of the trees 4  
35 inches or more in diameter, measured at 4 1/2 feet above  
36 ground level, in any 10-year period, provided that a  
37 well-distributed stand of trees and other natural vegetation  
38 remains;

40           B. Within a shoreland area zoned for resource protection  
41 abutting a great pond there may not be timber harvesting  
42 within the strip of land extending 75 feet inland from the  
43 normal high-water line except to remove safety hazards; and

44           C. Any site within a shoreland area zoned for resource  
45 protection abutting a great pond, beyond the 75-foot strip  
46 restricted in paragraph B, where timber is harvested must be  
47 reforested within 2 growing seasons after the completion of  
48 the harvest, according to guidelines adopted by the board.  
49 The board shall adopt guidelines consistent with minimum  
50 stocking standards established under Title 12, section 8869.

52

2 The board may adopt more restrictive guidelines consistent with  
3 the purposes of this subchapter that must then be incorporated  
4 into local ordinances.

5 Sec. A-11. 38 MRSA §451, 2nd ¶, as amended by PL 1989, c.  
6 878, Pt. B, §39 and c. 890, Pt. B, §50, is repealed and the  
7 following enacted in its place:

8 The department may establish a mixing zone for any discharge  
9 at the time of application for a waste discharge license. The  
10 department shall attach a description of the mixing zone as a  
11 condition of a license issued for that discharge. After  
12 opportunity for a hearing in accordance with section 345-A, the  
13 department may establish by order a mixing zone with respect to  
14 any discharge for which a license has been issued pursuant to  
15 section 414 or for which an exemption has been granted by virtue  
16 of section 413, subsection 2. Prior to the commencement of any  
17 enforcement action to abate a classification violation, the  
18 department shall establish in the manner provided in this  
19 paragraph a mixing zone with respect to the discharge sought to  
20 be affected.

21 Sec. A-12. 38 MRSA §451-A, sub-§1-A, as affected by PL 1989,  
22 c. 890, Pt. A, §40 and amended by Pt. B, §52 and c. 926, §1, is  
23 repealed and the following enacted in its place:

24 1-A. Time schedule for salt and sand-salt storage program.  
25 An owner or operator of a salt or sand-salt storage area is not  
26 in violation of any ground water classification or  
27 reclassification adopted on or after January 1, 1980, at any time  
28 prior to October 1, 1997, with respect to discharges to the  
29 ground water from those facilities, if by that time the owner or  
30 operator has completed all steps then required to be completed by  
31 the schedules set forth in this subchapter. The commissioner  
32 shall administer this schedule according to the project priority  
33 list adopted by the board pursuant to section 411 and the  
34 provisions of this subsection.

35 A. Preliminary plans and engineers' estimates must be  
36 completed and submitted to the Department of Transportation  
37 by the following dates:

- 38  
39  
40  
41  
42 (1) For Priority 1 and 2 projects - January 1990;  
43  
44 (2) For Priority 3 project - January 1991;  
45  
46 (3) For Priority 4 project - January 1992; and  
47  
48 (4) For Priority 5 project - January 1993.  
49  
50

2 B. Arrangements for administration and financing must be  
3 completed within 12 months of the dates established in  
4 paragraph A for each priority category.

6 C. Detailed engineering and final plan formulation must be  
7 completed within 24 months of the dates established in  
8 paragraph A for each priority category.

10 D. Review of final plans with the Department of  
11 Transportation must be completed and construction commenced  
12 within 36 months of the dates established in paragraph A for  
13 each priority category. The Department of Transportation  
14 shall consult with the commissioner in reviewing final plans.

16 E. Construction must be completed and in operation on or  
17 before January 1, 1997.

18 In no case may violations of the lowest ground water  
19 classification be allowed. In addition, no violations of any  
20 ground water classifications adopted after January 1, 1980, may  
21 be allowed for more than 3 years from the date of an offer of a  
22 state grant for the construction of those facilities or after  
23 January 1, 1997, whichever is earlier.

24 The department may not issue time schedule variances under  
25 subsection 1 to owners or operators of salt or sand-salt storage  
26 areas.

28 An owner or operator of a salt or sand-salt storage area who is  
29 in compliance with this section is exempt from the requirements  
30 of licensing under section 413, subsection 2-D.

32 An owner or operator is not in violation of a schedule  
33 established pursuant to this subsection if the owner or operator  
34 is eligible for a state grant to implement the schedule and the  
35 state grant is not available.

38 **Sec. A-13. 38 MRSA §464, sub-§4, ¶A,** as amended by PL 1989, c.  
39 856, §6 and affected by §7 and c. 890, Pt. A, §40 and amended by  
40 Pt. B, §56, is repealed and the following enacted in its place:

42 A. Notwithstanding section 414-A, the department may not  
43 issue a water discharge license for any of the following  
44 discharges:

46 (1) Direct discharge of pollutants to waters having a  
47 drainage area of less than 10 square miles, except that  
48 discharges into these waters that were licensed prior  
49 to January 1, 1986, are allowed to continue only until  
50 practical alternatives exist;



2           (2) New direct discharge of domestic pollutants to  
3           tributaries of Class-GPA waters;

4           (3) Any discharge into a tributary of GPA waters that  
5           by itself or in combination with other activities  
6           causes water quality degradation which would impair the  
7           characteristics and designated uses of downstream GPA  
8           waters or causes an increase in the trophic state of  
9           those GPA waters;

10           (4) Discharge of pollutants to waters of the State  
11           that imparts color, taste, turbidity, toxicity,  
12           radioactivity or other properties that cause those  
13           waters to be unsuitable for the designated uses and  
14           characteristics ascribed to their class;

15           (5) Discharge of pollutants to any water of the State  
16           that violates sections 465, 465-A and 465-B, except as  
17           provided in section 451; causes the "pH" of fresh  
18           waters to fall outside of the 6.0 to 8.5 range; or  
19           causes the "pH" of estuarine and marine waters to fall  
20           outside of the 7.0 to 8.5 range; and

21           (6) New discharges of domestic pollutants to the  
22           surface waters of the State that are not conveyed and  
23           treated in municipal or quasi-municipal sewage  
24           facilities. For the purposes of this subparagraph,  
25           "new discharge" means any overboard discharge that was  
26           not licensed as of June 1, 1987, except those  
27           discharges that were in continuous existence for the 12  
28           months preceding June 1, 1987, as demonstrated by the  
29           applicant to the department with clear and convincing  
30           evidence. For purposes of licensing, the department  
31           shall treat an increase in the licensed volume or  
32           quantity of an existing discharge or an expansion in  
33           the months during which the discharge will take place  
34           as a new discharge of domestic pollutants.

35           Sec. A-14. 38 MRSA §464, sub-§6, ¶A, as amended by PL 1989, c.  
36           878, Pt. B, §40 and affected by c. 890, Pt. A, §40 and amended by  
37           Pt. B, §59, is repealed and the following enacted in its place:

38           A. At any time during the term of a valid wastewater  
39           discharge license that was issued prior to the effective  
40           date of this article, the board may modify that license in  
41           accordance with section 341-D, subsection 3 if the  
42           discharger is not in compliance with the water quality  
43           criteria pertaining to the protection of the resident  
44           biological community. When a discharge license is modified  
45           under this subsection, the board shall establish a  
46           reasonable schedule to bring the discharge into compliance  
47           with the water quality criteria.

2 with the water quality criteria pertaining to the protection  
3 of the resident biological community.

4 **Sec. A-15. 38 MRSA §467, sub-§7, ¶A,** as repealed and replaced  
5 by PL 1989, c. 764, §7 and affected by c. 890, Pt. A, §40 and  
6 amended by Pt. B, §69, is amended by repealing and replacing  
7 subparagraph (3) to read:

8 (3) From the confluence of Cambolasse Stream to the  
9 confluence of the Piscataquis River, including all  
10 impoundments - Class C.

11 **Sec. A-16. 38 MRSA §467, sub-§15, ¶C,** as amended by PL 1989,  
12 c. 746 and repealed and replaced by c. 764, §16, is repealed and  
13 the following enacted in its place:

14 C. Aroostook River Drainage.

15 (1) Aroostook River, main stem.

16 (a) From the confluence of Millinocket Stream and  
17 Munsungan Stream to its confluence with the  
18 Machias River - Class AA.

19 (b) From its confluence with the Machias River to  
20 the Sheridan Dam - Class B.

21 (c) From the Sheridan Dam to its confluence with  
22 Presque Isle Stream, including all impoundments -  
23 Class B.

24 (d) From its confluence with Presque Isle Stream  
25 to a point located 3.0 miles upstream of the  
26 intake of the Caribou water supply, including all  
27 impoundments - Class C.

28 (e) From a point located 3.0 miles upstream of  
29 the intake of the Caribou water supply to a point  
30 located 100 yards downstream of the intake of the  
31 Caribou water supply, including all impoundments -  
32 Class B.

33 (f) From a point located 100 yards downstream of  
34 the intake of the Caribou water supply to the  
35 international boundary, including all impoundments  
36 - Class C.

37 (2) Aroostook River, tributaries, those waters lying  
38 within the State - Class A unless otherwise specified.

- 2                   (a) All tributaries of the Aroostook River  
3                   entering below the confluence of the Machias River  
4                   that are not otherwise classified - Class B.
- 6                   (b) Little Machias River and its tributaries -  
7                   Class A.
- 8                   (c) Little Madawaska River and its tributaries,  
9                   including Madawaska Lake tributaries above the  
10                   Route 161 bridge in Stockholm - Class A.
- 12                   (d) Machias River, from the outlet of Big Machias  
13                   Lake to the Garfield Plantation-Ashland boundary -  
14                   Class AA.
- 16                   (e) Millinocket Stream, from the outlet of  
17                   Millinocket Lake to its confluence with Munsungan  
18                   Stream - Class AA.
- 20                   (f) Munsungan Stream, from the outlet of Little  
21                   Munsungan Lake to its confluence with Millinocket  
22                   Stream - Class AA.
- 24                   (g) Presque Isle Stream and its tributaries above  
25                   its confluence with, but not including, the North  
26                   Branch of the Presque Isle Stream - Class A.
- 28                   (h) St. Croix Stream from its confluence with  
29                   Hall Brook in T.9, R.5, W.E.L.S. to its confluence  
30                   with the Aroostook River - Class AA.
- 32                   (i) Squa Pan Stream and its tributaries above the  
33                   B&A Railroad bridge - Class A.
- 34
- 36                   (i) The Legislature recognizes that at  
37                   certain times the waters of Squa Pan Stream  
38                   may not meet either the antidegradation  
39                   standards of section 464, subsection 4,  
40                   paragraph F, or the water quality  
41                   classification standards of section 465 due  
42                   to the operation of the Squa Pan Hydro  
43                   Project as a generator of hydroelectric  
44                   peaking power. The Legislature further finds  
45                   that there are currently no available  
46                   modifications or alterations to the operation  
47                   of this existing hydro project that would  
48                   allow water quality standards to be met while  
49                   allowing the Squa Pan Hydro Project to  
50                   continue as a source of peaking power or to  
51                   be altered and otherwise used as a source of  
52                   power. Accordingly, the board may not  
                    consider the impact to the waters of the Squa

2 Pan Stream caused by the operation of Squa  
4 Pan Hydro Project in the production of  
6 hydroelectric power in determining whether  
8 those waters satisfy any designated uses of  
10 water quality standards set forth in section  
12 464, subsection 4, paragraph F or section  
14 465. As used in this subdivision, "operation  
16 of the Squa Pan Hydro Project" means the  
18 actual, established use of that project's  
20 operation since January 4, 1965.

22 **Sec. A-17. 38 MRSA §480-H**, as amended by PL 1989, c. 814, §2  
24 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §75, is  
26 repealed and the following enacted in its place:

28 **§480-H. Rules; performance and use standards**

30 In fulfilling its responsibilities to adopt rules pursuant  
32 to section 341-D, subsection 1, the board, to the extent  
34 practicable, shall adopt performance and use standards for  
36 activities regulated by this article. These standards at a  
38 minimum must include:

40 **1. Department of Transportation projects.** By February 15,  
42 1991, requirements for projects that are under the direction and  
44 supervision of the Department of Transportation that do not  
46 affect coastal wetlands or coastal sand dune systems and that  
48 involve only maintenance or repair of public transportation  
50 facilities or structures or transportation reconstruction or  
52 replacement projects.

**A.** The Department of Transportation shall meet the  
following conditions for any project undertaken pursuant to  
this subsection after February 15, 1991.

(1) All projects must be performed in a manner  
consistent with this article and in compliance with  
rules adopted by the board.

(2) The project may not unreasonably harm the  
protected natural resources covered by this article.

(3) The Department of Transportation and its  
contractors shall use erosion control measures to  
prevent sedimentation of any surface waters.

(4) The project may not block any fish passage in any  
watercourse.

(5) The project may not result in any excessive  
intrusion of the project into the protected natural  
resources.

2           B. Those activities that are exempt from permitting  
3           requirements under section 480-Q are not subject to this  
4           subsection.

6           C. The Department of Transportation must notify the  
7           commissioner before construction activities begin if the  
8           provisions of this subsection are utilized.

10          Sec. A-18. 38 MRSA §482-A, sub-§2, as amended by PL 1989, c.  
11          680 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §87,  
12          is repealed and the following enacted in its place:

14          2. Consideration of local ordinance. In determining  
15          whether a developer has made adequate provision for the control  
16          of noise generated by a commercial or industrial development, the  
17          department shall consider rules adopted under this section and  
18          the quantifiable noise standards of the municipality in which the  
19          development is located and of any municipality that may be  
20          affected by the noise.

22          Sec. A-19. 38 MRSA §550, as amended by PL 1989, c. 868, §3  
23          and affected by c. 890, Pt. A, §40 and amended by Pt. B, §116, is  
24          repealed and the following enacted in its place:

26          §550. Enforcement; penalties

28          Any person who causes or is responsible for a discharge in  
29          violation of section 543 is not subject to any fines or civil  
30          penalties if that person:

32          1. Report and remove. Reports within 2 hours and promptly  
33          removes the discharge in accordance with the rules and orders of  
34          the board or commissioner; and

36          2. Reimburse. Reimburses the department for any  
37          disbursement made from the fund in connection with the discharge  
38          pursuant to section 551, subsection 5, paragraph B within 30 days  
39          of demand.

40          Sec. A-20. 38 MRSA §551, sub-§4, ¶A, as amended by PL 1989, c.  
41          868, §4 and affected by §19 and c. 890, Pt. A, §40 and amended by  
42          Pt. B, §119, is repealed and the following enacted in its place:

44          A. License fees are determined on the basis of 4¢ per  
45          barrel until February 1, 1991 and 3¢ per barrel after  
46          February 1, 1991, of unrefined crude oil and all other  
47          refined oil, including #6 fuel oil, #2 fuel oil, kerosene,  
48          gasoline, jet fuel and diesel fuel, transferred by the  
49          licensee during the licensing period and must be paid  
50          monthly by the licensee on the basis of records certified to

2 the commissioner. License fees must be paid to the  
3 department and upon receipt by it credited to the Maine  
4 Coastal and Inland Surface Oil Clean-up Fund.

5 **Sec. A-21. 38 MRSA §551, sub-§4, ¶D,** as amended by PL 1989, c.  
6 868, §5 and affected by §19 and c. 890, Pt. A, §40 and amended by  
7 Pt. B, §120, is repealed and the following enacted to read:

8  
9 D. Any person who is required to register with the  
10 commissioner pursuant to section 545-B and who first  
11 transports oil in Maine shall pay fees that are determined  
12 on the basis of 4¢ per barrel until February 1, 1991 and 3¢  
13 per barrel after February 1, 1991, for all refined oil,  
14 including #6 fuel oil, #2 fuel oil, kerosene, gasoline, jet  
15 fuel, diesel fuel and liquid asphalt transported by the  
16 registrant during the period of registration. Fees must be  
17 paid monthly by the registrant on the basis of records  
18 certified to the commissioner. Fees must be paid to the  
19 department and upon receipt by it credited to the Maine  
20 Coastal and Inland Surface Oil Clean-up Fund. The  
21 registrant shall make available to the commissioner and the  
22 commissioner's authorized representatives all documents  
23 relating to the oil transported by the registrant during the  
24 period of registration. This paragraph does not apply to  
25 waste oil transported into Maine in any motor vehicle that  
26 has a valid license issued by the department for the  
27 transportation of waste oil pursuant to section 1319-O and  
28 is subject to fees established under section 1319-I.

29 **Sec. A-22. 38 MRSA §551, sub-§6,** as repealed and replaced by  
30 PL 1989, c. 868, §9 and affected by c. 890, Pt. A, §40 and  
31 amended by Pt. B, §122, is repealed and the following enacted in  
32 its place:

33 **6. Reimbursements to Maine Coastal and Inland Surface Oil**  
34 **Clean-up Fund.** The commissioner shall seek recovery for the use  
35 of the fund all disbursements from the fund, for the following  
36 purposes including overdrafts and interest computed at 15% a year  
37 from the date of expenditure, unless the commissioner finds the  
38 amount involved too small or the likelihood of success too  
39 uncertain; provided that recoveries resulting from damage due to  
40 an oil pollution disaster declared by the Governor pursuant to  
41 section 547 are apportioned between the Maine Coastal and Inland  
42 Surface Oil Clean-up Fund and the General Fund so as to repay the  
43 full costs to the General Fund of any bonds issued as a result of  
44 the disaster:

45 A. All disbursements made by the fund pursuant to  
46 subsection 5, paragraphs B, D, E, H and I in connection with  
47 a prohibited discharge; and  
48

2 B. In the case of a licensee promptly reporting a discharge  
3 as required by this subchapter, disbursements made by the  
4 fund pursuant to subsection 5, paragraphs B, D and E in  
5 connection with any single prohibited discharge including  
6 3rd-party claims in excess of \$15,000, except to the extent  
7 that the costs are covered by payments received under any  
8 federal program.

9  
10 Requests for reimbursement to the fund if not paid within 30 days  
11 of demand must be turned over to the Attorney General for  
12 collection. The commissioner may file claims with appropriate  
13 federal agencies to recover for the use of the fund all  
14 disbursements from the fund in connection with a prohibited  
15 discharge.

16 Requests for reimbursement to the fund for disbursements pursuant  
17 to subsection 5, paragraph B, if not paid within 60 days of  
18 demand, are subject to a penalty not to exceed twice the total  
19 amount of reimbursement requested. This penalty is in addition  
20 to the reimbursement requested and any other fines or civil  
21 penalties authorized by this Title.

22  
23 Sec. A-23. 38 MRSA §563, sub-§2, as amended by PL 1989, c.  
24 865, §3 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
25 §133, is repealed and the following enacted in its place:

26  
27 2. Information required for registration. The owner or  
28 operator of an underground oil storage facility shall provide the  
29 commissioner with the following information on a form in  
30 triplicate to be developed and provided by the commissioner; one  
31 copy to be submitted to the commissioner, one copy to be promptly  
32 submitted upon completion to the fire department in whose  
33 jurisdiction the underground tank is located and one copy to be  
34 retained by the owner or operator:

35 A. The name, address and telephone number of the owner of  
36 the underground oil storage tank to be registered;

37  
38 B. The name, address and telephone number of the person  
39 having responsibility for the operation of the tank to be  
40 registered;

41  
42 C. The location of the facility shown on a United States  
43 Geological Survey topographic map for facilities located in  
44 rural areas or in relation to the nearest intersection for  
45 facilities located in urban areas and the location of the  
46 tank or tanks at that facility;

47  
48 D. Whether the location of any tank at the facility is  
49 within 1,000 feet of a public drinking water supply or  
50 within 300 feet of a private drinking water supply;

51  
52

- 2           E. The size of the tank to be registered;
- 4           F. The type of tank or tanks and piping at the facility and  
the type of product stored or contained in the tank or tanks  
and piping;
- 6
- 8           G. For new, replacement or retrofitted facilities, the name  
of the installer, the expected date of installation or  
retrofit, the nature of any emergency pursuant to subsection  
10 1, paragraph A, if applicable, and a description or plan  
showing the layout of the facility or tank, including the  
12 form of secondary containment, other forms of leak detection  
or equipment to be installed pursuant to section 564,  
14 subsection 1, paragraph A and, when applicable, the method  
of retrofitting leak detection pursuant to section 564,  
16 subsection 1 or 1-A;
- 18           H. For existing facilities and tanks, the best estimate of  
the age and type of tank or tanks at the facility; and
- 20
- 22           I. Expiration date of tank manufacturer's warranty.

24           The owner or operator shall comply with the requirements of  
paragraph C by January 1, 1991.

26           **Sec. A-24. 38 MRSA §563, sub-§3,** as amended by PL 1989, c.  
28 865, §4 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
§134, is repealed and the following enacted in its place:

30           **3. Amended registration required.** The owner or operator of  
an underground oil storage facility shall file an amended  
32 registration form with the commissioner immediately upon any  
change in the information required pursuant to subsection 2,  
34 including any modifications to the facility or a change of  
ownership. The board may establish, by rule, a late registration  
36 period not to exceed 10 business days in duration. A fee may not  
be charged for filing an amended registration.

38           **Sec. A-25. 38 MRSA §563, sub-§5,** as repealed and replaced by  
40 PL 1989, c. 865, §6 and affected by c. 890, Pt. A, §40 and  
42 amended by Pt. B, §135, is repealed and the following enacted in  
its place:

44           **5. Penalty for failure to submit amended registration.** Any  
person who has not submitted an amended registration form in  
46 accordance with subsection 3 shall pay a late fee of \$100. This  
does not preclude the commissioner from seeking civil penalties  
48 from any person who fails to register a facility or tank.

50           **Sec. A-26. 38 MRSA §565, sub-§2, ¶B,** as repealed by PL 1989,  
52 c. 865, §11 and as affected by c. 890, Pt. A, §40 and amended by  
Pt. B, §143, is repealed.



2           **Sec. A-27. 38 MRSA §565, sub-§2, ¶C**, as amended by PL 1989, c.  
3 865, §11 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
4 §144, is repealed and the following enacted in its place:

6           C. When a monitoring well is installed at an existing  
7 facility governed by this section, the owner or operator of  
8 the facility is required to sample that well at least every  
9 6 months; to maintain records of all sampling results at the  
10 facility or at the facility owner's place of business; and  
11 to report to the commissioner any sampling results showing  
12 evidence of a possible leak or discharge of oil.

14           **Sec. A-28. 38 MRSA §566-A, sub-§2**, as amended by PL 1989, c.  
15 865, §12 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
16 §145, is repealed and the following enacted in its place:

18           2. Notice of intent. The owner or operator of an  
19 underground oil storage facility or tank or, if the owner or  
20 operator is unknown, the current owner of the property where the  
21 facility or tank is located shall provide written notice of an  
22 intent to abandon an underground oil storage facility or tank to  
23 the commissioner and the fire department in whose jurisdiction  
24 the underground oil facility or tank is located at least 30 days  
25 prior to abandonment.

26           **Sec. A-29. 38 MRSA §568**, as amended by PL 1989, c. 865, §14  
27 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §146, is  
28 repealed and the following enacted in its place:

30           **§568. Cleanup and removal of prohibited discharges**

32           1. Removal. Any person discharging or suffering a  
33 discharge of oil to ground water in the manner prohibited by  
34 section 543 and any responsible party shall immediately undertake  
35 to remove that discharge to the commissioner's satisfaction.  
36 Notwithstanding this requirement, the commissioner may order the  
37 removal of that discharge pursuant to subsection 3, or may  
38 undertake the removal of that discharge and retain agents and  
39 contractors for that purpose who shall operate under the  
40 direction of the commissioner. Any unexplained discharge of oil  
41 to ground water within state jurisdiction must be removed by or  
42 under the direction of the commissioner. Any expenses involved  
43 in the removal of discharges, whether by the person causing the  
44 discharge, the person reporting the discharge, the commissioner  
45 or the commissioner's agents or contractors, may be paid in the  
46 first instance from the Ground Water Oil Clean-up Fund, including  
47 any expenses incurred by the State under subsection 3, and any  
48 reimbursements due that fund must be collected in accordance with  
49 section 569.

2        2. Restoration of water supplies. The commissioner may  
4        clean up any discharge of oil and take temporary and permanent  
6        remedial actions at locations threatened or affected by the  
8        discharge of oil, including restoring or replacing water supplies  
10       contaminated or threatened by oil with alternatives the  
12       commissioner finds are cost effective, technologically feasible  
14       and reliable and that effectively mitigate or minimize damage to  
16       and provide adequate protection of the public health, welfare and  
18       the environment. When the remedial action taken includes the  
20       installation of a public water supply, the fund may be used to  
22       pay costs of operation, maintenance and depreciation of the water  
24       supply for a period not exceeding 20 years. The commissioner  
26       shall consult with the affected party prior to selecting the  
28       alternative to be implemented.

30       3. Issuance of clean-up orders. The commissioner may  
32       investigate and sample sites where an oil discharge has or may  
34       have occurred to identify the source and extent of the  
36       discharge. During the course of the investigation, the  
38       commissioner may require submission of information or documents  
40       that relate or may relate to the discharge under investigation  
42       from any person who the commissioner has reason to believe may be  
44       a responsible party. If the commissioner finds, after  
46       investigation, that a discharge of oil has occurred and may  
48       create a threat to public health or the environment, including,  
50       but not limited to, contamination of a water supply, the  
      commissioner may issue a clean-up order requiring the responsible  
      party to cease the discharge immediately or to take action to  
      prevent further discharge and to mitigate or terminate the threat  
      of human exposure to contamination or to explosive vapors. In  
      addition to other actions, the commissioner may, as part of any  
      clean-up order, require the responsible party to provide  
      temporary drinking water and water treatment systems approved by  
      the commissioner, to sample and analyze wells and to compensate  
      3rd-party damages resulting from the discharge. The commissioner  
      may also order that the responsible party take temporary and  
      permanent remedial actions at locations threatened or affected by  
      the discharge of oil, including a requirement that the  
      responsible party restore or replace water supplies contaminated  
      with oil with water supplies the commissioner finds are cost  
      effective, technologically feasible and reliable and that  
      effectively mitigate or minimize damage to, and provide adequate  
      protection of, the public health, welfare and the environment.  
      Clean-up orders may be issued only in compliance with the  
      following procedures.

A. Any orders issued under this section must contain  
      findings of fact describing the manner and extent of oil  
      contamination, the site of the discharge and the threat to  
      the public health or environment.

2 B. A responsible party to whom such an order is directed  
3 may apply to the board for a hearing on the order if the  
4 application is made within 10 working days after receipt of  
5 the order by a responsible party. The board shall appoint  
6 an independent hearing examiner to hold a hearing as soon as  
7 possible after receipt of the application. The nature of  
8 the hearing must be an appeal. At the hearing, all  
9 witnesses must be sworn and the commissioner shall first  
10 establish the basis for the order and for naming the person  
11 to whom the order was directed. The burden of going forward  
12 then shifts to the person appealing to demonstrate, based  
13 upon a preponderance of the evidence, that the order should  
14 be modified or rescinded. Within 7 days after the hearing,  
15 the hearing examiner shall make findings of fact. The board  
16 shall vote to accept, reject or modify the findings of the  
17 hearing examiner at the next regularly scheduled board  
18 meeting and shall continue, revoke or modify the  
19 commissioner's order. The decision of the board may be  
20 appealed to the Superior Court in accordance with the Maine  
21 Administrative Procedure Act, Title 5, chapter 375,  
22 subchapter VII.

23 4. Enforcement; penalties; punitive damages. Enforcement,  
24 penalties and punitive damages are as follows.

25 A. Any person who causes, or is responsible for, a  
26 discharge to ground water in violation of section 543 is  
27 not subject to any fines or penalties for a violation of  
28 section 543 for the discharge if that person promptly  
29 reports and removes that discharge in accordance with the  
30 rules and orders of the department.

31 B. Any responsible party who fails without sufficient cause  
32 to undertake removal or remedial action promptly in  
33 accordance with a clean-up order issued pursuant to  
34 subsection 3 is not eligible for coverage under the fund  
35 pursuant to section 568-A, subsection 1, and may be liable  
36 to the State for punitive damages in an amount at least  
37 equal to, and not more than 3 times, the amount of any sums  
38 expended from the fund in addition to reasonable attorney's  
39 fees as a result of failure to take prompt action.

40 C. Notwithstanding paragraphs A and B, a person who  
41 violates any laws or rules administered by the department  
42 under this subchapter is subject to the fines and penalties  
43 in section 349.

44 5-A. Land acquisition. Upon approval of the board by 2/3  
45 majority vote, the department may acquire by purchase, lease,  
46 condemnation, donation or otherwise, any real property or any  
47 interest in real property, to undertake remedial actions in  
48 response to a discharge of oil, including, but not limited to:  
49  
50  
51  
52

2           A. Actions to prevent further discharge and to mitigate or  
4           terminate the threat of a discharge of oil;

6           B. Actions to clean up and remove oil from the site; and

8           C. Replacement of water supplies contaminated by or at  
significant risk of contamination by a discharge of oil.

10       The department may exercise the right of eminent domain in the  
12       manner described in Title 35-A, chapter 65, to take and hold real  
14       property to provide drinking water supplies to replace those  
16       contaminated by a discharge and to undertake soil and ground  
18       water remediation to protect water supplies that are at  
significant risk of contamination. The department may transfer  
or convey to any person real property or any interest in real  
property once acquired.

20       Sec. A-30. 38 MRSA §569, sub-§2-A, as amended by PL 1989, c.  
22       865, §16 and affected by §§24 and 25 and c. 890, Pt. A, §40 and  
amended by Pt. B, §148, is repealed and the following enacted in  
its place:

24       2-A. Third-party damages. Any person claiming to have  
26       suffered actual economic damages, including, but not limited to,  
28       property damage, loss of income and medical expenses directly or  
30       indirectly as a result of a discharge of oil to ground water  
32       prohibited by section 543, in this subsection called the  
34       claimant, may apply within 2 years after the occurrence or  
36       discovery of the injury or damage, whichever date is later, to  
38       the commissioner stating the amount of damage alleged to be  
40       suffered as a result of that discharge. The commissioner shall  
42       prescribe appropriate forms and details for the applications.  
The commissioner may contract with insurance professionals to  
process claims. The board, upon petition and for good cause  
shown, may waive the 2-year limitation for filing damage claims.  
For claims made on discharges eligible for coverage by the  
3rd-party commercial risk pool account, the commissioner shall  
pay the first \$100,000 per claimant out of the 3rd-party  
commercial risk pool account as long as funds are available. The  
commissioner shall pay any claims that exceed \$100,000 or  
available money in the 3rd-party commercial risk pool account  
from the fund.

44           A. If a claimant is not compensated for 3rd-party damages  
46           by the responsible party or the expenses are above the  
48           applicant's deductible and the claimant and the commissioner  
50           agree as to the amount of the damage claim, the commissioner  
52           shall certify the amount of the claim and the name of the  
claimant to the Treasurer of State and the Treasurer of  
State shall pay the amount of the claim from the Ground  
Water Oil Clean-up Fund.

2           B. If the claimant and the commissioner are not able to  
4           agree as to the amount of the damage claim, the claim is  
              subject to subsection 3-A.

6           C. A claimant shall take all reasonable measures to  
8           minimize damages suffered by the claimant as a result of a  
              discharge of oil.

10          D. Third-party damage claims must be stated in their  
12          entirety in one application. Damages omitted from any claim  
              at the time the award is made are deemed waived.

14          F. Awards from the fund on damage claims may not include  
16          any amount the claimant has recovered, on account of the  
18          same damage, by way of settlement with or judgment of a  
              court of competent jurisdiction against the person causing  
              or otherwise responsible for the discharge.

20          G. It is the intent of the Legislature that the remedies  
22          provided for 3rd-party damage claims compensated under this  
24          subchapter are nonexclusive. A court awarding damages to a  
26          claimant as a result of a discharge of oil to ground water  
              prohibited by section 543 shall reduce damages awarded by  
              any amounts received from the fund to the extent these  
              amounts are duplicative.

28          H. Payments from the fund for 3rd-party damage claims may  
              not exceed \$200,000 per claimant.

30          This subsection is repealed December 31, 1999.

32                    Sec. A-31. 38 MRSA §569, sub-§4, as repealed by PL 1989, c.  
34                    865 §16 and affected by §§24 and 25 and c. 890, Pt. A, §40 and  
                      amended by Pt. B, §149, is repealed.

36                    Sec. A-32. 38 MRSA §569, sub-§6, as amended by PL 1989, c.  
38                    865, §16 and affected by §§24 and 25 and c. 890, Pt. A, §40 and  
40                    amended by Pt. B, §150, is repealed and the following enacted in  
                      its place:

42                    6. Reimbursements to the Ground Water Oil Clean-up Fund.  
44                    The commissioner shall seek recovery for the use of the fund of  
46                    all sums greater than \$1,000,000 per occurrence, expended from  
48                    the fund pursuant to subsection 5, paragraph I, for an applicant  
50                    for coverage by the fund found by the commissioner to be eligible  
52                    under section 568-A, subsection 1, and all sums expended from the  
                      fund when no applicant was found by the commissioner to be  
                      eligible under section 568-A, subsection 1, including overdrafts,  
                      for the purposes described in subsection 5, paragraphs B, D, E, G  
                      and I, or for other damage incurred by the State, in connection  
                      with a prohibited discharge, including interest computed at 15% a

2 year from the date of expenditure, unless the commissioner finds  
3 the amount involved too small or the likelihood of success too  
4 uncertain. If a request for reimbursement to the fund is not  
5 paid within 30 days of demand the commissioner shall refer the  
6 request to the Attorney General for collection.

7 This subsection is repealed December 31, 1999.

8  
9 **Sec. A-33. 38 MRSA §570-A**, as amended by PL 1989, c. 865,  
10 §18 and affected by §§24 and 25 and c. 890, Pt. A, §40 and  
11 amended by Pt. B, §151, is repealed and the following enacted in  
12 its place:

13 **§570-A. Budget approval**

14  
15 The commissioner shall submit budget recommendations for  
16 disbursements from the fund in accordance with section 569,  
17 subsection 5, paragraphs A, C, F, G and H for each biennium. The  
18 budget must be submitted in accordance with Title 5, sections  
19 1663 to 1666. The State Controller shall authorize expenditures  
20 from the fund as approved by the commissioner. Expenditures  
21 pursuant to section 569, subsection 5, paragraphs B, D, E, E-1  
22 and I may be made as authorized by the State Controller following  
23 approval by the commissioner.

24  
25 This section is repealed December 31, 1999.

26  
27 **Sec. A-34. 38 MRSA §570-B**, as amended by PL 1989, c. 865, §19  
28 and affected by §§24 and 25 and c. 890, Pt. A, §40 and amended by  
29 Pt. B, §152, is repealed and the following enacted in its place:

30  
31 **§570-B. Personnel and equipment**

32  
33 The commissioner shall establish and maintain at appropriate  
34 locations employees and equipment necessary to carry out this  
35 subchapter. The commissioner, subject to the Civil Service Law,  
36 may employ personnel necessary to carry out the purposes of this  
37 subchapter and shall prescribe the duties of those employees.  
38 The salaries of those employees and the cost of that equipment  
39 must be paid from the Ground Water Oil Clean-up Fund established  
40 by this subchapter.

41  
42 This section is repealed December 31, 1999.

43  
44 **Sec. A-35. 38 MRSA §608-A**, as amended by PL 1989, c. 869,  
45 Pt. C, §9 and affected by c. 890, Pt. A, §40 and amended by Pt.  
46 B, §176, is repealed and following enacted in its place:

47  
48 **§608-A. Soil decontamination**

49  
50

2 Any rotary drum mix asphalt plant may process up to 500  
4 cubic yards of soil contaminated by gasoline or #2 fuel oil per  
6 year. The 500 cubic yards per year limit may be exceeded with  
8 written authorization from the commissioner based on air  
10 emissions testing results for volatile organic compounds and  
12 particulates. The plant owner or operator shall notify the  
14 commissioner at least 24 hours prior to processing the  
16 contaminated soil and specify the contaminating fuel and  
18 quantity, origin of the soil and fuel and the disposition of the  
20 contaminated soil. The owner or operator shall maintain records  
22 of these activities for 6 years.

24 **Sec. A-36. 38 MRSA 1310-F, first ¶,** as amended by PL 1989, c.  
26 869, Pt. A, §6 and affected by c. 890, Pt. A, §40 and amended by  
28 Pt. B, §238, is repealed and the following enacted in its place:

30 The commissioner shall administer a closure and remediation  
32 grants program to assist municipalities and other public entities  
34 as provided in subsection 3 in the implementation of the closure  
36 and remediation plans. The program is subject to the following  
38 provisions.

40 **Sec. A-37. 38 MRSA §1310-F, sub-§3,** as enacted by PL 1989, c.  
42 869, Pt. A, §7 and c. 870, §4, is repealed and the following  
44 enacted in its place:

46 **3. Sanitary and refuse disposal districts.** Any of the  
48 following public entities owning a solid waste landfill for which  
50 a remediation or closure plan has been adopted is eligible for  
grants under this section:

A. A sanitary district created under chapter 11 or by  
special act of the Legislature; or

B. A regional association as defined in section 1303-C,  
subsection 24.

38 **Sec. A-38. 38 MRSA §1310-F, sub-§4** is enacted to read:

40 **4. Insurance.** Notwithstanding subsection 1, the  
42 commissioner may not issue a grant under this section to a  
44 municipality for the costs of closure unless the municipality  
46 demonstrates to the commissioner that each person who performs  
work to implement the closure plan is self-insured or is covered  
by a workers' compensation insurance policy in accordance with  
Title 39.

48 **Sec. A-39. 38 MRSA §1310-U, 2nd ¶,** as amended by PL 1989, c.  
50 869, Pt. A, §8 and affected by c. 890, Pt. A, §40 and amended by  
Pt. B, §251, is repealed and the following enacted in its place:

2           Under the municipal home rule authority granted by the  
4           Constitution of Maine, Article VIII, Part Second and Title 30-A,  
6           section 3001, municipalities, except as provided in this section,  
8           may enact ordinances with respect to solid waste facilities that  
10           contain standards the municipality finds reasonable, including,  
12           without limitation, conformance with federal and state solid  
14           waste rules; fire safety; traffic safety; levels of noise heard  
16           outside the facility; distance from existing residential,  
18           commercial or institutional uses; ground water protection; and  
20           compatibility of the solid waste facility with local zoning and  
22           land use controls, provided that the standards are not more  
24           strict than those contained in this chapter and in chapter 3,  
26           subchapter I, articles 5-A and 6 and the rules adopted under  
28           these articles. Municipal ordinances must use definitions  
30           consistent with those adopted by the board.

32           **Sec. A-40. 38 MRSA §1310-X**, as repealed and replaced by PL  
34           1989, c. 869, Pt. A, §9 and c. 878, Pt. H, §8, is repealed and  
36           the following enacted in its place:

38           **§1310-X. Future commercial landfills**

40           **1. New facilities.** Notwithstanding the provisions of Title  
42           1, section 302, the board may not approve an application for a  
44           new commercial solid waste or biomedical waste disposal facility  
46           after September 30, 1989, including any applications pending  
48           before the board on or after September 30, 1989.

50           **2. Relicense or transfer of license.** The board may  
52           relicense or approve a transfer of license for commercial solid  
54           waste disposal facilities or biomedical waste disposal facilities  
56           after September 30, 1989, if those facilities had been previously  
58           licensed by the board prior to September 30, 1989, and all other  
60           provisions of law have been satisfied.

62           **3. Expansion of facilities.** The board may license  
64           expansions of commercial solid waste disposal facilities or  
66           biomedical waste disposal facilities after September 30, 1989, if:

68           **A. The board has previously licensed the facility prior to**  
70           **September 30, 1989;**

72           **B. The board determines that the proposed expansion is**  
74           **contiguous with the existing facility and is located on**  
76           **property owned by the licensee on September 30, 1989; and**

78           **C. For commercial solid waste disposal facilities and prior**  
80           **to the adoption of the state plan and siting criteria under**  
82           **chapter 24, the board determines that the proposed expansion**  
84           **is consistent with the provisions of section 1310-R,**  
86           **subsection 3, paragraph A-1 or, after the adoption of the**



2           state plan and siting criteria under chapter 24, the agency  
3           determines that the provisions of section 2157 are met.

4           **Sec. A-41. 38 MRS §1319-R, sub-§1, as amended by PL 1989, c.**  
5           **794, §5 and affected by c. 890, Pt. A, §40 and amended by Pt. B,**  
6           **§263, is repealed and the following enacted in its place:**

8           **1. Licenses for hazardous waste facilities.** The department  
9           shall issue a license for a hazardous waste facility whenever the  
10           department finds that the facility will not pollute any water of  
11           the State, contaminate the ambient air, constitute a hazard to  
12           health or welfare or create a nuisance. Licenses must be issued  
13           under the terms and conditions as the department prescribes and  
14           for a term not to exceed 5 years. The department may establish  
15           reasonable time schedules for compliance with this subchapter and  
16           rules promulgated by the board.

17           **A. The department must find that:**

18                   (1) The applicant presents evidence of sufficient  
19                   financial capacity, including projections of  
20                   utilization of the facility by hazardous waste  
21                   generators, to justify granting the license;

22                   (2) Issuing the license is consistent with the  
23                   applicable standards, requirements and procedures of  
24                   this chapter;

25                   (3) In the case of a disposal facility, the volume of  
26                   the waste and the risks related to its handling have  
27                   been reduced to the maximum practical extent by  
28                   treatment and volume reduction prior to disposal; and

29                   (4) If corrective action required by section 1319-V  
30                   can not be completed by an applicant prior to issuance  
31                   of a license, the applicant has the financial capacity  
32                   to undertake and complete the corrective action.

33           **B. The department shall issue an interim license for a**  
34           waste facility for hazardous waste or shall deem the  
35           facility to be so licensed if:

36                   (1) The waste facility is in existence on April 1,  
37                   1980, or the waste facility is in existence on the  
38                   effective date of statutory or regulatory changes that  
39                   first render the facility subject to the requirement to  
40                   have a license under this subchapter;

41                   (2) The owner or operator has within 60 days of first  
42                   becoming subject to the license requirements of this  
43                   subchapter;

44

- 2                   (a) Notified the commissioner of the location of  
3                   the facility;
- 4                   (b) Provided a detailed description of the  
5                   operation of the facility;
- 6                   (c) Identified the hazardous waste that the  
7                   facility handles; and
- 8                   (d) Applied for a license to handle hazardous  
9                   waste;
- 10                   (3) The waste facility is not altered or operated  
11                   except in accordance with the board's rules;
- 12                   (4) The waste facility has a discharge or emission  
13                   license under section 414 or 591 and the facility is  
14                   operated in accordance with that license; and
- 15                   (5) The facility was not previously denied a  
16                   noninterim hazardous waste license or an interim  
17                   license has not expired pursuant to paragraph C,  
18                   subparagraphs (2) to (6).

19                   C. Interim licenses expire on the earliest of the following  
20                   dates:

- 21                   (1) The date of the final administrative disposition  
22                   of the application for a hazardous waste facility  
23                   license;
- 24                   (2) The date of a finding of the department that the  
25                   disposition referred to in subparagraph (1) was not  
26                   made because of the applicant's failure to furnish  
27                   information reasonably required or requested to process  
28                   the application;
- 29                   (3) The date of expiration of the license issued under  
30                   section 414 or 591;
- 31                   (4) The date on which the application for a noninterim  
32                   hazardous waste facility license is due if the person  
33                   operating under the interim license fails to apply for  
34                   that noninterim license;
- 35                   (5) For interim licenses issued prior to November 8,  
36                   1984, unless the owner or operator of the facility has  
37                   filed a complete application with the commissioner  
38                   before one of the following dates and that application  
39                   demonstrates compliance with all applicable ground  
40                   water and financial responsibility requirements:

- 2                   (a) November 8, 1985, for a land disposal  
3                   facility;
- 4                   (b) November 8, 1986, for a hazardous waste  
5                   incinerator;
- 6                   (c) November 8, 1989, for any facility other than  
7                   a land disposal facility or hazardous waste  
8                   incinerator; or
- 9
- 10
- 11                   (6) Twelve months after the facility first becomes  
12                   subject to the permit requirements of this subchapter  
13                   unless the owner or operator of the facility has filed  
14                   a complete application with the commissioner before  
15                   that date and that application demonstrates compliance  
16                   with all applicable ground water and financial  
17                   responsibility requirements.

18                   **Sec. A-42. 38 MRSA §1364, sub-§5,** as amended by PL 1989, c.  
19                   792, and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
20                   §267, is repealed and the following enacted in its place:  
21

22                   **5. Mitigation.** The commissioner may take whatever action  
23                   necessary to abate, clean up or mitigate the threats or hazards  
24                   posed or potentially posed by an uncontrolled site or to protect  
25                   the public health, safety or welfare or the environment,  
26                   including administering or carrying out measures to abate, clean  
27                   up or mitigate the threats or hazards, and implementing remedies  
28                   to remove, store, treat, dispose of or otherwise handle hazardous  
29                   substances located in, on or over an uncontrolled site, including  
30                   soil and water contaminated by hazardous substances. When the  
31                   necessary action includes the installation of a public water  
32                   supply, the department may pay the costs of operation,  
33                   maintenance and depreciation of the water supply for a period not  
34                   exceeding 20 years if funds are available from Other Special  
35                   Revenue or proceeds from the sale of bonds.  
36

37                   **Sec. A-43. 38 MRSA §2157, first ¶,** as amended by PL 1989, 869,  
38                   Pt. C, §11 and affected by c. 890, Pt. A, §40 and as amended by  
39                   Pt. B, §289, is repealed and the following is enacted in its  
40                   place:  
41

42                   Subsequent to the adoption of the state plan, the Department  
43                   of Environmental Protection may not approve an application of a  
44                   new or expanded solid waste disposal facility requiring review  
45                   under this section until the agency has approved the proposed  
46                   facility under this section. An expansion of a solid waste  
47                   disposal facility owned by a municipality or a regional  
48                   association or a sanitary district created under chapter 11 or by  
49                   special act of the Legislature is not subject to paragraph C,  
50                   subparagraph (2), if the facility was licensed and in existence

2 as of October 1, 1989, and at the time of application for the  
3 expansion.

4 **Sec. A-44. PL 1989, c. 868, §19 is repealed.**

6 **Sec. A-45. Applicability.** Notwithstanding the Maine Revised  
7 Statutes, Title 1, section 302, sections 7, 8, 9 and 13 of this  
8 Part apply to all license applications pending before the  
9 Department of Environmental Protection on or after January 1,  
10 1990.

12 **PART B**

14 **Sec. B-1. 38 MRSA §464, sub-§4, ¶F,** as amended by PL 1989, c.  
16 764, §1 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
17 §58, is further amended by repealing and replacing sub-¶(3) to  
18 read:

20 (3) The department may only issue a discharge license  
21 pursuant to section 414-A or approve water quality  
22 certification pursuant to the Federal Water Pollution  
23 Control Act, Section 401, Public Law 92-500, as  
24 amended, if the standards of classification of the  
25 water body and the requirements of this paragraph are  
26 met. The department may issue a discharge license or  
27 approve water quality certification for a project  
28 affecting a water body in which the standards of  
29 classification are not met if the project does not  
30 cause or contribute to the failure of the water body to  
31 meet the standards of classification.

32 **Sec. B-2. 38 MRSA §563-A, sub-§1,** as affected by PL 1989, c.  
34 890, Pt. A, §40 and amended by Pt. B, §136 and c. 926, §2, is  
35 repealed and the following enacted in its place:

36 **1. Compliance schedule.** Except as provided in subsections  
38 1-A and 1-B, a person may not operate, maintain or store oil in a  
39 registered underground oil storage facility or tank that is not  
40 constructed of fiberglass, cathodically protected steel or other  
41 noncorrosive material approved by the department after:

42 A. October 1, 1989, if that facility or tank is more than  
44 15 years old and is located in a sensitive geological area;

46 B. October 1, 1991, if that facility or tank is more than  
48 25 years old or if that facility or tank is more than 15  
49 years old and is located in a sensitive geological area;

50 C. October 1, 1994, if that facility or tank is more than  
52 20 years old or if that facility or tank is more than 15  
53 years old and is located in a sensitive geological area; and

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D. October 1, 1997.

Sec. B-3. 38 MRSA §563-A, sub-§1-A, as enacted by PL 1989, c. 865, §8 and c. 926, §3, is repealed and the following enacted in its place:

1-A. Compliance schedule for municipalities and school administrative units. A municipality or school administrative unit may not operate, maintain or store oil in a registered underground oil storage facility or tank that is not constructed of fiberglass, cathodically protected steel or other noncorrosive material approved by the department after:

A. October 1, 1992, if that facility or tank is more than 25 years old or if that facility or tank is more than 15 years old and is located in a sensitive geological area;

B. October 1, 1994, if that facility or tank is more than 20 years old or if that facility or tank is 15 years old and is located in a sensitive geological area; or

C. October 1, 1997.

Sec. B-4. 38 MRSA §563-A, sub-§1-B is enacted to read:

1-B. Exception. Airport aviation fuel hydrant piping systems are exempt from the schedule in subsection 1 provided that corrosion-induced leaks have not occurred and the system is not located in a sensitive geological area. Owners and operators of airport aviation fuel hydrant piping systems must meet all applicable requirements of section 564 and of this subchapter.

Sec. B-5. 38 MRSA §564, sub-§1, as amended by PL 1989, c. 865, §10 and affected by c. 890, Pt. A, §40 and amended by Pt. B. §§137 and 138, is repealed and the following enacted in its place:

1. Design and installation standards for new and replacement facilities. Design and installation standards for new and replacement facilities are as follows.

A. All new and replacement tanks, piping and below ground ancillary equipment must be constructed of fiberglass, cathodically protected steel or other equally noncorrosive material approved by the department. All new and replacement tanks must include secondary containment, monitoring of the interstitial spaces for all piping and below ground ancillary equipment, except for suction piping systems installed in accordance with subsection 1-A. Both tanks and piping must be constructed of materials compatible with the product to be stored. Anchoring is required of tanks when located in a site where the ground water is

2 expected to reach the bottom of the tank or in a 100-year  
3 flood plain.

4 B. All new and replacement facilities must be installed in  
5 accordance with the equipment manufacturer's specifications  
6 and nationally accepted standards and by an underground oil  
7 storage tank installer who has been properly certified  
8 pursuant to Title 32, chapter 104-A, and must be registered  
9 with the commissioner prior to installation pursuant to  
10 section 563. Underground gasoline storage tanks may be  
11 removed by an underground gasoline storage tank remover who  
12 has been properly certified pursuant to Title 32, chapter  
13 104-A. New and replacement impressed current cathodic  
14 protection systems must be designed by a corrosion expert.

15 Sec. B-6. 38 MRSA §564, sub-§2, as amended by PL 1989, c. 865,  
16 §10 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
17 §139, is repealed.

18 Sec. B-7. 38 MRSA §564, sub-2-A is enacted to read:

19 2-A. Monitoring, maintenance and operating procedures for  
20 existing, new and replacement facilities and tanks. The board's  
21 rules must require:

22 A. Collection of inventory data for each day that oil is  
23 being added to or withdrawn from the facility or tank,  
24 reconciliation of the data, with monthly summaries, and  
25 retention of records containing all such data for a period  
26 of at least 3 years either at the facility or at the  
27 facility owner's place of business;

28 B. Annual statistical inventory analysis, the results of  
29 which must be reported to the commissioner. Annual  
30 statistical inventory analysis is not required for  
31 double-walled tanks equipped with interstitial space  
32 monitors;

33 C. Voltage readings for cathodically protected systems by a  
34 cathodic protection tester 6 months after installation and  
35 annually thereafter;

36 D. Monthly inspections by a cathodic protection tester of  
37 the rectifier meter on impressed current systems;

38 E. Precision testing of any tanks and piping showing  
39 evidence of a possible leak. Results of all tests conducted  
40 must be submitted to the commissioner by the facility owner  
41 and the person who conducted the test;

42 F. Proper calibration, operation and maintenance of leak  
43 detection devices;

2 G. Evidence of financial responsibility for taking  
4 corrective action and for compensating 3rd parties for  
6 bodily injury and property damage caused by sudden and  
nonsudden accidental discharges from an underground oil  
storage facility or tank;

8 H. Reporting to the commissioner any of the following  
10 indications of a possible leak or discharge of oil:

12 (1) Unexplained differences in daily inventory  
14 reconciliation values that, over a 30-day period,  
16 exceed .5% of the product delivered;

18 (2) Unexplained losses detected through statistical  
20 analysis of inventory records;

22 (3) Detection of product in a monitoring well or by  
24 other leak detection methods;

26 (4) Failure of a tank or piping precision test,  
28 hydrostatic test or other tank or piping tightness test  
30 approved by the department;

32 (5) Discovery of oil off site on or under abutting  
34 properties, including nearby utility conduits, sewer  
36 lines, buildings, drinking water supplies and soil; and

38 (6) Notwithstanding this paragraph, any actual leaks  
40 or discharges of oil that occur on the premises,  
42 including, but not limited to, spills, overfills and  
44 leaks, whether or not cleaned up;

46 I. Compatibility of the materials from which the facility  
48 is constructed and the product to be stored;

50 J. Owners and operators, upon request by the commissioner,  
to sample their underground oil tanks, to maintain records  
of all monitoring and sampling results at the facility or  
the facility owner's place of business and to furnish  
records of all monitoring and sampling results to the  
commissioner or to permit the commissioner or the  
commissioner's representative to inspect and copy those  
records; and

K. Owners and operators to permit the commissioner or the  
commissioner's designated representatives, including  
contractors, access to all underground oil storage  
facilities for all purposes connected with administering  
this subchapter, including, but not limited to, for sampling  
the contents of underground oil tanks and monitoring wells.

2           This right of access is to be in addition to any other  
3           granted by law.

4           **Sec. B-8. 38 MRSA §564, sub-§3**, as amended by PL 1989, c. 865,  
5           §10 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
6           §140, is repealed and the following enacted in its place:

8           3. Replacement of tanks at facilities where leaks have been  
9           detected. If replacement or removal is required as a result of a  
10           corrosion-induced leak in an unprotected steel tank, the owner or  
11           operator of the facility may either replace all other tanks and  
12           piping at that facility not meeting the design and installation  
13           standards promulgated pursuant to subsection 1 or comply with the  
14           following:

16           A. Remove all bare steel and asphalt-coated steel tanks and  
17           all piping that is not constructed of noncorrosive material  
18           or is not cathodically protected against corrosion that are  
19           more than 20 years old;

20           B. Perform a statistical inventory analysis of the entire  
21           facility and submit the results of that analysis to the  
22           commissioner. If a statistical inventory analysis of the  
23           entire facility was performed within 60 days prior to the  
24           required replacement, then the results of that analysis may  
25           be submitted to the commissioner instead. If the results of  
26           the statistical inventory analysis indicate evidence of a  
27           leak at the facility or that the inventory data is not  
28           available or is not sufficiently reliable to make a  
29           determination that the facility is or is not leaking, the  
30           commissioner may require that all remaining tanks and piping  
31           at the facility be precision tested, except that precision  
32           testing is not required when it can be demonstrated that the  
33           same tanks and piping passed a precision test conducted  
34           within the previous 6 months; and

35           C. Install a minimum of 2 ground water monitoring wells, as  
36           determined necessary by the commissioner to monitor the  
37           facility, unless all remaining tanks and piping at the  
38           facility were installed in accordance with the standards  
39           promulgated pursuant to subsection 1.

40           Results of all precision tests conducted pursuant to paragraph B  
41           must be submitted to the commissioner, and all tanks and piping  
42           found to be leaking must be removed pursuant to section 566-A, or  
43           repaired to the satisfaction of the commissioner.

44           **Sec. B-9. 38 MRSA §564, sub-§4**, as amended by PL 1989, c. 865,  
45           §10 and affected by c. 890, Pt. A, §40 and amended by Pt. B,  
46           §141, is repealed and the following enacted in its place:  
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2           4. Sampling of monitoring wells. When a monitoring well is  
4 installed at an underground oil storage facility storing motor  
6 fuel or used for the marketing and distribution of oil, the owner  
8 or operator is required to sample that well at least weekly; to  
maintain records of all sampling results at the facility or at  
the facility owner's place of business; and to report to the  
commissioner any sampling results showing evidence of a possible  
leak or discharge of oil.

10           **Sec. B-10. 38 MRSA §1721, sub-§§1 to 6,** as amended by PL 1989,  
12 c. 869, Pt. B, §2 and affected by c. 890, Pt. A, §40 and amended  
14 by Pt. B, §276, are repealed and the following enacted in their  
place:

16           1. Application by municipal officers. The municipal  
18 officers of the municipality or municipalities that desire to  
20 form a disposal district shall file an application with the  
22 agency, after notice and hearing in each municipality, on a form  
24 or forms prepared by the agency, setting forth the name or names  
26 of the municipality or municipalities and furnishing such other  
28 data as the agency determines necessary and proper. The  
application must contain, but is not limited to, a description of  
the territory of the proposed district, the name proposed for the  
district that includes the words "disposal district," a statement  
showing the existence in that territory of the conditions  
requisite for the creation of a disposal district as prescribed  
in section 1702, and other documents and materials required by  
the agency. The agency may adopt rules under this chapter.

30           2. Public hearing. Upon receipt of the application, the  
32 agency shall hold a public hearing on the application within 60  
34 days of the date of receipt of the application, at some  
36 convenient place within the boundaries of the proposed district.  
At least 14 days prior to the date of the hearing, the agency  
shall publish notice of the hearing at least once in a newspaper  
of general circulation in the area encompassed by the proposed  
district.

38           3. Approval of application. After the public hearing, on  
40 consideration of the evidence received, the agency shall, in  
42 accordance with section 1702 and rules adopted by the agency,  
44 make findings of fact and a determination of record whether or  
46 not the conditions requisite for the creation of a disposal  
48 district exist in the territory described in the application. If  
the agency finds that the conditions do exist, it shall issue an  
order approving the proposed district as conforming to the  
requirements of this chapter and designating the name of the  
proposed district. The agency shall give notice to the municipal  
officers within the municipality or municipalities involved of a  
date, time and place of a meeting of the representative of the  
municipality or municipalities involved. The municipal officers  
shall elect a representative to attend the meeting who may

2 represent the municipality in all matters relating to the  
3 formation of the district. A return receipt properly endorsed is  
4 evidence of the receipt of notice. The notice must be mailed at  
5 least 10 days prior to the date set for the meeting.

6 4. Denial of application. If the agency determines that  
7 the creation of a disposal district in the territory described in  
8 the application is not warranted for any reason, it shall make  
9 findings of fact and enter an order denying its approval. The  
10 agency shall give notice of the denial by mailing certified  
11 copies of the decision and order to the municipal officers of the  
12 municipality or municipalities involved. An application for the  
13 creation of a disposal district, consisting of exactly the same  
14 territory, may not be entertained within one year after the date  
15 of the issuance of an order denying approval of the formation of  
16 that disposal district, but this provision does not preclude  
17 action on an application for the creation of a disposal district  
18 embracing all or part of the territory described in the original  
19 application, provided that another municipality or fewer  
20 municipalities are involved.

21 5. Joint meeting. The persons selected by the municipal  
22 officers, to whom the notice described in subsection 3 is  
23 directed, shall meet at the time and place appointed. When more  
24 than one municipality is involved, they shall organize by  
25 electing a chair and a secretary. An action may not be taken at  
26 any such meeting unless, at the time of convening, there are  
27 present at least a majority of the total number of municipal  
28 representatives eligible to attend and participate at the  
29 meeting, other than to report to the agency that a quorum was not  
30 present and to request the agency to issue a new notice for  
31 another meeting. A quorum is a simple majority of  
32 representatives eligible to attend the meeting. The purpose of  
33 the meeting is to determine the number of directors, subject to  
34 section 1724, to be appointed by and to represent each  
35 participating municipality and to determine the duration of terms  
36 to be served by the initial directors so that, in ensuing years,  
37 1/3 of the directors and their alternates are appointed or  
38 reappointed each year, to serve until their respective successors  
39 are duly appointed and qualified. Subject to section 1724, the  
40 number of directors to represent each municipality is subject for  
41 negotiation among the municipal representatives. When a decision  
42 has been reached on the number of directors and the number to  
43 represent each municipality and the initial terms of the  
44 directors, subject to the limitations provided, this decision  
45 must be reduced to writing by the secretary and must be approved  
46 by a 2/3 vote of those present. The vote so reduced to writing  
47 and the record of the meeting must be signed by the chair,  
48 attested by the secretary and filed with the agency. Any  
49 agreements among the municipal representatives that are  
50 considered essential prerequisites to the formation of the  
51 district, whether concerning payments in lieu of taxes to a  
52

2 municipality in which a waste facility is to be located, or any  
3 other matter, must be in writing and included in the record filed  
4 with the agency. Subsequent to district formation, the board of  
5 directors of the district shall execute all documents necessary  
6 to give full effect to the agreements reached by the municipal  
7 representatives and filed with the agency. When a single  
8 municipality is involved, a copy of the vote of the municipal  
9 officers, duly attested by the clerk of the municipality, must be  
10 filed with the agency.

11 6. Submission. When the record of the municipality, or the  
12 record of the joint meeting, when municipalities are involved, is  
13 received by the agency and found to be in order, the agency shall  
14 order the question of the formation of the proposed disposal  
15 district and other questions relating to the formation to be  
16 submitted to the legal voters residing within the municipalities,  
17 except as provided in subsection 7, in which case the municipal  
18 officers may determine the questions. The order must be directed  
19 to the municipal officers of the municipality or municipalities  
20 that propose to form the disposal district, directing them to  
21 call, within 60 days of the date of the order, town meetings or  
22 city elections for the purpose of voting in favor of or in  
23 opposition to each of the following articles or questions, as  
24 applicable, in substantially the following form:

25 A. Whether the town (or city) of (name of town or city)  
26 will vote to incorporate as a disposal district to be called  
27 (name) Disposal District;

28 B. Whether the residents of (name of town or city) will  
29 vote to join with the residents of the (name of town or  
30 city) to incorporate as a disposal district to be called  
31 (name) Disposal District: (legal description of the bounds  
32 of the proposed disposal district). At a minimum, the  
33 district must consist of (names of essential  
34 municipalities); and

35 C. Whether the residents of (name of town or city) will  
36 vote to approve the total number of directors and the  
37 allocation of representation among the municipalities on the  
38 board of directors, as determined by the municipal officers  
39 and listed as follows: Total number of directors is \_\_\_\_\_  
40 (number of directors) and the residents of (town or city)  
41 are entitled to ( ) directors. (The number of directors to  
42 which each municipality is entitled must be listed.)

43 Directors must be chosen to represent municipalities in the  
44 manner provided in section 1725.

45 **Sec. B-11. 38 MRSA §1722, as amended by PL 1989, c. 869, Pt.**  
46 **B, §3 and affected by c. 890, Pt. A, §40 and amended by Pt. B,**  
47 **§277, is repealed and the following enacted in its place:**

2        §1722. Approval and organization

4            When the residents of the municipality, or each municipality  
6        when more than one is involved, or the municipal officers, as the  
8        case may be, have voted upon the formation of a proposed disposal  
10       district and all of the other questions submitted, the clerk of  
12       each of the municipalities shall make a return to the agency in  
14       such form as the agency may determine. If the agency finds from  
16       the returns that each of the municipalities involved, voting on  
18       each of the articles and questions submitted to them, has voted  
20       in the affirmative, and that the municipalities have appointed  
22       the necessary directors and listed the names of the directors to  
24       represent each municipality, and that all other steps in the  
26       formation of the proposed disposal district are in order and in  
28       conformity with law, the agency shall make a finding to that  
30       effect and record the finding upon its records. When 3 or more  
      municipalities are concerned in the voting, and at least 2 have  
      voted to approve each of the articles and questions submitted,  
      appointed the necessary directors and listed the names of the  
      directors to represent each municipality, rejection of the  
      proposed disposal district by one or more does not defeat the  
      creation of a district composed of the municipalities voting  
      affirmatively on the question, if the agency determines and  
      issues an order stating that it is feasible or practical to  
      constitute the district as a geographic unit composed of the  
      municipalities voting affirmatively, unless the vote submitted to  
      the municipalities provided that specific participants or a  
      minimum number of participants must approve the formation of the  
      district.

32            The agency shall, immediately after making its findings,  
34        issue a certificate of organization in the name of the disposal  
36        district in such form as the agency determines. The original  
38        certificate must be delivered to the directors on the day that  
40        they are directed to organize and a copy of the certificate duly  
42        attested by the executive director of the agency must be filed  
      and recorded in the office of the Secretary of State. The  
      issuance of the certificate by the agency is conclusive evidence  
      of the lawful organization of the disposal district. The  
      disposal district is not operative until the date set by the  
      directors under section 1726.

44            **Sec. B-12. 38 MRSA §1725, first ¶, as amended by PL 1989, c.**  
46        **869, Pt. B, §4 and affected by c. 890, Pt. A, §40 and amended by**  
      **Pt. B, §278, is repealed and the following enacted in its place:**

48            Directors are appointed by the municipal officers of the  
50        municipality they represent. Alternate directors may be  
      appointed by the municipal officers to act in the absence of a  
      director. To the extent possible, the board of directors must

2 include a mix of individuals with sufficient managerial,  
3 technical, financial or business experience to execute their  
4 duties efficiently and effectively. Appointments must be by vote  
5 of the municipal officers, attested to by the municipal clerk and  
6 presented to the clerk of the district. The municipal officers,  
7 by majority vote, may remove their appointed representatives  
8 during their term for stated reasons, but directors may not be  
9 removed except for neglect of duty, misconduct or other acts that  
10 indicate an unfitness to serve. Upon receipt of the names of all  
11 the directors, the agency shall set a time, place and date for  
12 the first meeting of the directors, notice of the meeting to be  
13 given to the directors by certified or registered mail, return  
14 receipt requested and mailed at least 10 days prior to the date  
15 set for the meeting.

16 **Sec. B-13. 38 MRSA §1727, as amended by PL 1989, c. 869, Pt.**  
17 **B, §5 and affected by c. 890, Pt. A, §40 and amended by Pt. B,**  
18 **§279, is repealed and the following enacted in its place:**

20 **§1727. Admission of new member municipalities**

22 The board of directors may authorize the inclusion of  
23 additional member municipalities in the district upon the terms  
24 and conditions as the board, in its sole discretion, determines  
25 to be fair, reasonable and in the best interest of the district,  
26 except that on proper application any municipality that is host  
27 to a waste facility of the district shall be admitted on equal  
28 terms with existing members, provided that the new member  
29 municipality assumes or becomes responsible for a proportionate  
30 share of liabilities of the district in a manner similar to that  
31 of existing municipalities. The legislative body of any  
32 nonmember municipality that desires to be admitted to the  
33 district shall make application for admission to the board of  
34 directors of the district. The directors shall determine the  
35 effects and impacts that are likely to occur if the municipality  
36 is admitted and shall either grant or deny authority for  
37 admission of the petitioning municipality. If the directors  
38 grant the authority, they shall also specify any terms and  
39 conditions, including, but not limited to, financial obligations  
40 upon which the admission is predicated. The petitioning  
41 municipality shall comply with the voting procedures specified in  
42 section 1721. The vote, if in the affirmative, must be certified  
43 by the clerk of that municipality to the board of directors and  
44 to the agency. Upon satisfactory performance of the terms and  
45 conditions of admission, the municipality shall by resolution of  
46 the board of directors become and thereafter be a member  
47 municipality of the district. The clerk of the district shall  
48 promptly certify to the agency and the Secretary of State that  
49 the municipality has become a member of the district. The  
50 certification is conclusive evidence that the municipality is a  
51 lawful member of the district. Upon admission of a municipality  
52 to a district, the provisions of section 1724 determine the

2 number of votes to be cast by the director or directors  
3 representing that municipality.

4  
5 **PART C**

6  
7 **Sec. C-1. 38 MRSA §569, sub-§§2-B, 4-C and 6-A** are enacted to  
8 read:

10 2-B. Third-party damages. Any person claiming to have  
11 suffered actual damages to real estate or personal property or  
12 loss of income directly or indirectly as a result of a discharge  
13 of oil to ground water prohibited by section 543, in this  
14 subsection called the claimant, may apply within 6 months after  
15 the occurrence or discovery of the discharge to the commissioner  
16 stating the amount of damage alleged to be suffered as a result  
17 of that discharge. The commissioner shall prescribe appropriate  
18 forms and details for the applications. The board, upon petition  
19 and for good cause shown, may waive the 6-month limitation for  
20 filing damage claims.

22 A. If the claimant and the commissioner are able to agree  
23 as to the amount of the damage claim, the commissioner shall  
24 certify the amount of the claim and the name of the claimant  
25 to the Treasurer of State and the Treasurer of State shall  
26 pay the amount of the claim from the Ground Water Oil  
27 Clean-up Fund.

28  
29 B. If the claimant and the commissioner are not able to  
30 agree as to the amount of the damage claim, the commissioner  
31 shall forthwith transmit the claim for action to the  
32 department as provided in this subchapter.

34 C. A claimant shall take all reasonable measures to  
35 minimize damages suffered by the claimant as a result of a  
36 discharge of oil.

38 D. Third-party damage claims must be stated in their  
39 entirety in one application. Damages omitted from any claim  
40 at the time the award is made are deemed waived.

42 E. Damage claims arising under this subchapter are  
43 recoverable only in the manner provided under this  
44 subchapter. It is the intent of the Legislature that the  
45 remedies provided for such damage claims in this subchapter  
46 are exclusive.

48 F. Awards from the fund on damage claims may not include  
49 any amount that the claimant has recovered, on account of  
50 the same damage, by way of settlement with or judgment of a  
51 court of competent jurisdiction against the person causing  
52 or otherwise responsible for the discharge.

2 This subsection is effective December 31, 1999.

4 4-C. Funding. A fee of 9¢ per barrel of gasoline and 8¢  
6 per barrel of refined petroleum products and their by-products  
8 other than gasoline and liquid asphalt, including #6 fuel oil, #2  
10 fuel oil, kerosene, jet fuel and diesel fuel, is assessed on the  
12 transfer of those products by oil terminal facility licensees, as  
14 defined in section 542, subsection 7. These fees must be paid  
16 monthly by the oil terminal facility licensees on the basis of  
records certified to the commissioner and credited to the Ground  
Water Oil Clean-up Fund upon receipt by the department, except  
that the commissioner shall transfer the amount of these fees in  
excess of 3¢ per barrel of gasoline and 2¢ per barrel of refined  
petroleum products and their by-products, other than gasoline and  
liquid asphalt, as follows.

18 A. Sixty-two and one half percent of the excess must be  
20 transferred to the Finance Authority of Maine for deposit in  
the Underground Oil Storage Replacement Fund.

22 B. Thirty-seven and one half percent of the excess must be  
24 transferred to the Maine State Housing Authority for deposit  
26 in the Housing Opportunities for Maine Fund to be used  
28 initially for loans and grants to finance the costs of  
30 removal, disposal, replacement or abandonment of underground  
oil storage facilities and tanks located on owner-occupied  
or residential rental property, which facilities and tanks  
have been identified by the department as leaking or posing  
an environmental threat or as having been abandoned.

32 After an aggregate sum of \$5,000,000 has been transferred to the  
34 Finance Authority of Maine and an aggregate sum of \$3,000,000 has  
36 been transferred to the Maine State Housing Authority pursuant to  
this subsection, the per barrel fee assessed pursuant to this  
subsection must be reduced by 6¢ per barrel.

38 This subsection is effective December 31, 1999.

40 6-A. Reimbursements to the Ground Water Oil Clean-up Fund.  
42 The commissioner shall seek recovery for the use of the fund of  
44 all sums expended from the fund, including overdrafts, for the  
46 purposes described in subsection 5, paragraphs B, D, E and G, or  
48 for other damage incurred by the State, in connection with a  
50 prohibited discharge, including interest computed at 15% a year  
from the date of expenditure, unless the commissioner finds the  
amount involved too small or the likelihood of success too  
uncertain. Requests for reimbursement to the fund if not paid  
within 30 days of demand must be turned over to the Attorney  
General for collection.

52 This subsection is effective December 31, 1999.

2           **Sec. C-2. 38 MRSA §§570-I and 570-J** are enacted to read:

4           **§570-I. Budget approval**

6           The commissioner shall submit budget recommendations for  
8           disbursements from the fund in accordance with section 569,  
10           subsection 5, paragraphs A, C, F and G for each biennium. The  
12           budget must be submitted in accordance with Title 5, sections  
14           1663 to 1666. The State Controller shall authorize expenditures  
          from the fund as approved by the commissioner. Expenditures  
          pursuant to section 569, subsection 5, paragraphs B, D and E may  
          be made as authorized by the State Controller following approval  
          by the commissioner.

16           This section is effective December 31, 1999.

18           **§570-J. Personnel and equipment**

20           The commissioner shall establish and maintain at appropriate  
22           locations employees and equipment that, in the commissioner's  
24           judgment, are necessary to carry out this subchapter. The  
26           commissioner, subject to the Civil Service Law, may employ  
28           personnel necessary to carry out the purposes of this subchapter  
          and shall prescribe the duties of those employees. The salaries  
          of those employees and the cost of that equipment must be paid  
          from the Ground Water Oil Clean-up Fund established by this  
          subchapter.

30           This section is effective December 31, 1999.

32

**PART D**

34

36           **Legislative intent.** The purpose of this Act is to resolve  
38           conflicts created by 2 or more chapters of Public Law 1989 that  
40           amended or affected the same section, subsection, paragraph or  
42           subparagraph without reference to each other. Each conflict is  
44           resolved by reading the public law chapters together, consistent  
          with the legislative purpose and intent for each chapter. If any  
          Act of the 115th Legislature amends or affects the same section,  
          subsection, paragraph or subparagraph without reference to this  
          Act, and the statutory provisions can not be read together, it is  
          the intent of the Legislature that the provisions of the other  
          Act be given effect over the provisions of this Act.

46

48           **Emergency clause.** In view of the emergency cited in the  
          preamble, this Act takes effect when approved.



## STATEMENT OF FACT

2

4 This bill resolves conflicts created by several chapters of  
6 Public Law 1989. The bill is divided into 3 parts. Part A  
8 consists of sections in which the resolutions of the conflicts  
10 make only technical changes. Part B consists of sections in  
12 which, to resolve the conflicts consistent with the original  
14 purposes of the chapters in conflict, substantive changes are  
16 made. Part C enacts language with a future effective date to  
18 carry out the review of the underground tank laws intended by the  
20 114th Legislature. Part D describes the legislative intent for  
22 the entire bill. The intent is to resolve conflicts in the  
24 natural resources laws. If any law enacted by the 115th  
Legislature amends, repeals or affects a provision of law  
included in this bill, without reference to this bill, the other  
law will be given effect as if the section of this bill in  
conflict with the other bill were not enacted.

18

20 Section A-1 repeals the Maine Revised Statutes, Title 38,  
22 section 342, subsection 6. Public Law 1989, chapter 869 repealed  
24 Title 38, section 342, subsection 6 and Public Law 1989, chapter  
890 amended Title 38, section 342, subsection 6 to clarify the  
authority of the commissioner to issue orders regarding solid  
waste standard compliance.

26

28 Sections A-2 and A-3 retain the Department of Environmental  
30 Protection application data base as Title 38, section 342,  
32 subsection 8 and enact the agricultural effects notification  
34 requirement as Title 38, section 342, subsection 13. Public Law  
36 1989, chapter 836, enacted Title 38, section 836, subsection 8,  
requiring the Commissioner of Environmental Protection to notify  
the Commissioner of Agriculture, Food and Rural Resources of any  
legislation that may affect agriculture. Public Law 1989,  
chapter 890, added 5 new subsections, Title 38, section 342,  
subsections 8 to 12, regarding the use of a data base for  
license applications.

38

40 Sections A-4 and A-5 correct 2 subsections that were  
42 affected by 2 public laws. Public Law 1989, chapter 874 amended  
44 Title 38, section 353, subsections 2 and 3 to make technical  
46 corrections and to cover nonferrous metal mining license fees.  
Public Law 1989, chapter 890 amended Title 38, section 353,  
subsections 2 and 3 to make technical corrections and to transfer  
the authority regarding refunding of license fees from the  
department to the commissioner. These sections of this Act  
repeal and replace both versions of both subsections and replace  
them to incorporate the changes made by both chapters.

48

50 Section A-6 clarifies the role of the commissioner in the  
52 inspection of overboard discharge systems as revised by Public  
Law 1989, chapter 890. Public Law 1989, chapter 807 repealed and  
replaced Title 38, section 414, subsection 3-A to change

2 inspection period requirements and base fees on income. It did  
not indicate commissioner responsibility.

4 Section A-7 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 856 amended Title 38,  
6 section 414-A, subsection 2 to require that the schedule for  
compliance meet the requirements of Title 38, section 420. It  
8 also corrects the reference to the Federal Water Pollution  
Control Act. Public Law 1989, chapter 890, amended Title 38,  
10 section 414-A, subsection 2, to allow both the commissioner and  
the board to establish compliance schedules.

12 Section A-8 incorporates changes made by Public Law 1989,  
14 chapter 856 and Public Law 1989, chapter 890. Public Law 1989,  
chapter 856 amended Title 38, section 420-A, by removing the  
16 one-year limitation on the dioxin program. Public Law 1989,  
chapter 890, amended Title 38, section 420-A, requiring the  
18 commissioner, rather than the department, to conduct the dioxin  
monitoring program.

20 Section A-9 incorporates changes made by Public Law 1989,  
22 chapter 856 and Public Law 1989, chapter 890. Public Law 1989,  
chapter 856, amended Title 38, section 420-A, subsection 4, to  
24 change the single report requirement to an annual report. Public  
Law 1989, chapter 890, amended Title 38, section 420-A,  
26 subsection 4 to require the commissioner, rather than the  
department, to report to the Legislature on dioxin levels.

28 Section A-10 incorporates changes made by 3 public laws.  
30 Public Law 1989, chapter 803, amended Title 38, section 439-A,  
subsection 5, to add a new paragraph requiring compliance with  
32 requirements concerning reforestation. Public Law 1989, chapter  
838, amended Title 38, section 439-A, subsection 5, to exempt  
34 certain forested wetlands. Public Law 1989, chapter 878, amended  
Title 38, section 439-A, subsection 5, to make technical  
36 corrections.

38 Section A-11 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 878 was amended to correct  
40 a cross-reference in the 2nd paragraph of Title 38, section 451.  
Public Law 1989, chapter 890 expanded responsibility for  
42 establishing mixing zones to the department and corrected the  
cross-reference.

44 Section A-12 corrects a section that was affected by 2  
46 public laws. Public Law 1989, chapter 890 amended Title 38,  
section 451-A, subsection 1-A to transfer an administrative duty  
48 to the commissioner. Public Law 1989, chapter 926 amended this  
same subsection to delay each deadline for one year.

50

2 Section A-13 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 856, amended Title 38,  
4 section 464, subsection 4, paragraph A, by removing provisions  
concerning particular risks associated with discharges. Public  
6 Law 1989, chapter 890, amended this same paragraph to clarify the  
permit issuing authority.

8 Section A-14 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 878, amended a reference.  
10 Public Law 1989, chapter 890, amended Title 38, section 464,  
subsection 6, paragraph A to make technical changes and relocate  
12 the laws describing the procedure for modifying a license.

14 Section A-15 corrects a section that was affected by 2  
public laws. Public Law 1989, c. 764 repealed and replaced all  
16 of Title 38, section 467, subsection 7, paragraph A, subparagraph  
(3), classifying all portions, including impoundments, of the  
18 main stem of the Penobscot River. Public Law 1989, chapter 890  
amended this subparagraph to show that the department, including  
20 both the commissioner and the board, is responsible for  
determining the effects of discharges.

22 Section A-16 corrects a conflict created by 2 public laws.  
24 Public Law 1989, chapter 746 amended the water quality  
classifications for the tributaries of the Aroostook River  
26 Drainage of the St. John River Basin to prohibit the Department  
of Environmental Protection from considering the effects on the  
28 water quality caused by the operation of the Squa Pan Hydro  
Project. Public Law 1989, chapter 764 reclassified the waters of  
30 the St. John River Basin, but did not include specific mention of  
Squa Pan Stream. This section reenacts the Public Law 1989,  
32 chapter 764 version and includes the Squa Pan Stream  
prohibitions from Public Law 1989, chapter 746.

34 Section A-17 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 814 amended Title 38,  
36 section 480-H to include Department of Transportation projects.  
Public Law 1989, chapter 890 amended Title 38, section 480-H to  
38 correct a reference.

40 Section A-18 corrects a section that was affected by 2  
42 public laws. Public Law 1989, chapter 680 amended Title 38,  
section 482-A, subsection 2, to apply noise control requirements  
44 to industrial and commercial development only. Public Law 1989,  
chapter 890 amended this subsection to expand the review of noise  
46 control measures from the Board of Environmental Protection to  
the department.

48 Section A-19 corrects a section that was affected by 2  
50 public laws. Public Law 1989, chapter 868, amended Title 38,  
section 550, to revise the exemption from penalty for persons  
52 responsible for oil spills. Public Law 1989, chapter 890,

2 amended this section to clarify that the commissioner, in  
3 addition to the board, issues orders.

4 Section A-20 corrects a section that was affected by 2  
5 public laws. Public Law 1989, chapter 868 amended Title 38,  
6 section 551, subsection 4, paragraph A, raising the license from  
7 3¢ per barrel to 4¢ per barrel until February 1, 1991, and  
8 requiring the records be certified to the commissioner, not the  
9 department. Public Law 1989, chapter 890, amended that  
10 paragraph, by deleting reference to petroleum products and their  
11 by-products as a basis for the license fee since the definition  
12 of oil includes these terms. It also required that records be  
13 certified to the commissioner rather than the department.

14 Section A-21 corrects a section that was affected by 2  
15 public laws. Public Law 1989, chapter 868 amended Title 551,  
16 subsection 4, paragraph D, by requiring that registration be  
17 filed with the commissioner, rather than the department, and  
18 raising the fee on transported oil from 3¢ per barrel to 4¢ per  
19 barrel until February 1, 1991. Public Law 1989, chapter 890,  
20 amended this same paragraph to require that registration be filed  
21 with the commissioner rather than the department.

22 Section A-22 corrects a section that was affected by 2  
23 public laws. Public Law 1989, chapter 868 repealed and replaced  
24 Title 38, section 551, subsection 6, for clarification purposes.  
25 In addition, it changed responsibility to the commissioner and  
26 added a paragraph on penalties for delinquent payments. Public  
27 Law 1989, chapter 890, amended this same subsection to change  
28 responsibility for seeking reimbursement to the commissioner from  
29 the department.

30 Section A-23 corrects a section that was affected by 2  
31 public laws. Public Law 1989, chapter 865 amended Title 38,  
32 section 563, subsection 2, to require a description of the  
33 location of the tanks to include a United States Geological  
34 Survey map. Title 38, section 563, subsection 2, paragraph G,  
35 dealing with new, replacement and retrofitted tanks to cover leak  
36 detection requirements was amended. A new paragraph I was added  
37 to include the expiration of the tank manufacturer's warranty.  
38 Public Law 1989, chapter 865 and chapter 890 amended Title 38,  
39 section 563, subsection 2 to require that the information be  
40 submitted to the Commissioner of Environmental Protection rather  
41 than the department generally.

42 Section A-24 corrects a section that was affected by 2  
43 public laws. Public Law 1989, chapter 865 amended Title 38,  
44 section 563, subsection 3 to specifically require an amended tank  
45 registration when there are changes in the facility or the  
46 facility ownership. It also changes the recipient of the amended  
47 registration from the department generally to the commissioner,  
48 as does Public Law 1989, chapter 890.

2 Section A-25 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 865 repealed and replaced  
4 Title 38, section 563, subsection 5. The new version imposes a  
penalty for failure to submit an amended registration. Public  
6 Law 1989, c. 890 amended this subsection by changing the  
recipient of the registration and fees from the department to the  
8 commissioner.

10 Sections A-26 and A-27 correct a section that was affected  
by 2 public laws. Public Law 1989, chapter 865 repealed Title  
12 38, section 565, subsection 2, paragraph B and amended paragraph  
C to apply only to existing facilities. Public Law 1989, chapter  
14 865 also made the same corrections as Public Law 1989, chapter  
890, which made technical corrections and clarified that the  
16 commissioner, not the department, receives test results and leak  
reports, and clarifies that repairs must be made to the  
18 commissioner's satisfaction.

20 Section A-28 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 890 amended Title 38,  
22 section 566-A, subsection 2 to provide that notice of intent to  
abandon a tank must be given to the commissioner, not the  
24 department. Public Law 1989, chapter 865 amended this same  
subsection to require that notice of intent to abandon an  
26 underground tank be given to the commissioner, not the  
department, at least 30 days, not 10 days, in advance. This  
28 section repeals Title 38, section 566-A, subsection 2 and  
replaces it, incorporating the changes in both public laws.

30  
32 Section A-29 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 865 amended the entire  
Title 38, section 568 to revise how damages from underground  
34 tanks are compensated. It also changes the approval and action  
authority from the department generally to the commissioner.  
36 Public Law 1989, chapter 890 amended all of Title 38, section 568  
to transfer the authority to approve or act from the department  
38 generally to the commissioner and also deletes references to  
petroleum products or their by-products. It changes the power to  
40 acquire real estate from the Board of Environmental Protection to  
the department.

42  
44 Section A-30 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 865 amended Title 38,  
section 569, subsection 2-A to broaden the compensable losses due  
46 to a discharge of oil to ground water, and to transfer the  
3rd-party commercial damages processing and fund management from  
48 the board to the commissioner. Public Law 1989, chapter 865 also  
lengthened the filing period limitation and made the procedure a  
50 nonexclusive remedy. Public Law 1989, chapter 890 amended this  
same subsection to transfer the administrative functions from the  
52 board to the commissioner. The Legislature is aware of the

2 Supreme Judicial Court's preliminary indication, in Sirois v.  
3 Winslow, Dec. No. 5669, Law Docket No. CUM-90-90, decided January  
4 9, 1991, footnote 2, of how the court would resolve the conflict  
5 created by Public Law 1989, chapters 865 and 890 and corrected by  
6 this section. The resolution of the technical conflict in this  
7 Act in no way changes the original legislative intent of the  
8 114th Legislature.

9  
10 Section A-31 corrects a section that was affected by 2  
11 public laws. Public Law 1989, chapter 865 repealed Title 38,  
12 section 569, subsection 4 and enacted new subsections 4-A and  
13 4-B. Public Law 1989, chapter 890 amended this same subsection  
14 to make technical corrections and to clarify that the  
15 commissioner rather than the department receives the certified  
16 records and transfers excess fees.

17  
18 Section A-32 corrects a section that was affected by 2  
19 public laws. Public Law 1989, chapter 865 amended Title 38,  
20 section 569, subsection 6 to require the commissioner rather than  
21 the department to seek recovery of all sums in excess of  
22 \$1,000,000 expended from the Ground Water Oil Clean-up Fund in  
23 some cases, and for the full amount in other situations. Public  
24 Law 1989, chapter 890 amended this same subsection to make  
25 technical corrections and to give the commissioner, rather than  
26 the department, the responsibility to seek recovery for the fund.

27  
28 Section A-33 corrects a section that was affected by 2  
29 public laws. Public Law 1989, chapter 865 amended Title 38,  
30 section 570-A to transfer the budget responsibilities to the  
31 commissioner. It also added references to 3 paragraphs of Title  
32 38, section 569, subsection 5, governing disbursements from the  
33 fund. Public Law 1989, chapter 890 amended this same section to  
34 transfer the budget responsibilities to the commissioner.

35  
36 Section A-34 corrects a section that was affected by 2  
37 public laws. Public Law 1989, chapter 865 amended Title 38,  
38 section 570-B by changing the authority to the commissioner and  
39 also made technical corrections. Public Law 1989, chapter 890  
40 made similar changes but the technical corrections were  
41 inconsistent. This section repeals both versions and replaces it  
42 with the substantive changes made in both public laws.

43  
44 Section A-35 corrects a section that was affected by 2  
45 public laws. Public Law 1989, chapter 869 reduced the limit on  
46 contaminated soils processed from 5,000 cubic yards to 500 cubic  
47 yards. It also restricted the Department of Environmental  
48 Protection authority to allow a processor to exceed the limit by  
49 basing the permission on the results of emissions testing. Public  
50 Law 1989, chapter 890 also amended Title 38, section 608-A for  
51 the purpose of clarifying that the commissioner, not the  
52 Department of Environmental Protection has authority to allow a  
soil processor to exceed the limit and that the processor must

2 notify the commissioner before processing soil. This section  
repeals both versions and replaces them with a new version.

4 Sections A-36 to A-38 correct a section that was affected by  
3 public laws. Public Law 1989, chapter 869 amended Title 38,  
6 section 1310-F by adding a new subsection 3 prohibiting the  
Department of Environmental Protection from awarding grants to  
8 contractors implementing the landfill closure plan for the  
municipalities that are not covered by insurance or workers  
10 compensation. Public Law 1989, chapter 869 amended this same  
section by specifying that the administrator and issuer of  
12 landfill closure grants is the commissioner and, in a new  
subsection 3, that various other nonmunicipal but public entities  
14 are eligible for closure and remediation grants. Public Law  
1989, chapter 890 also designated the commissioner as the grantor  
16 and administrator of the program. Section A-38 enacts a new  
subsection 4.

18 Section A-39 corrects a section that was affected by 2  
20 public laws. Public Law 1989, chapter 869 amended Title 38,  
section 1310-U, 2nd paragraph to clarify which subchapter of  
22 Title 38, chapter 3, the Protection and Improvement of Waters,  
contains articles 5-A and 6 that provide natural resource  
24 protection standards. Public Law 1989, chapter 890 amended the  
same paragraph of Title 38, section 1310-U to make technical  
26 corrections and to clarify that the Board of Environmental  
Protection, not the Department of Environmental Protection,  
28 adopts rules with which municipal ordinances must be consistent.  
This section also requires municipalities to send these  
30 ordinances to the commissioner. Section A-39 repeals and  
replaces Title 38, section 1310-U, 2nd paragraph, to incorporate  
32 changes made by both these public laws.

34 Section A-40 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 869 amended Title 38,  
36 section 1310-X to make technical changes in the format and to  
clarify the requirements for the expansion of commercial solid  
38 waste disposal facilities. It also was amended to apply to  
biomedical waste disposal facilities, whether new or existing on  
40 September 30, 1989, the effective date of the law enacting Title  
38, section 1310-X. Public Law 1989, chapter 878 amended section  
42 1310-X to make technical corrections to the format and to clarify  
requirements for landfill expansion. It did not include specific  
44 mention of biomedical waste disposal facilities. Section A-40  
repeals both versions of section 1310-X and enacts a new version  
46 incorporating the changes from both chapters.

48 Section A-41 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 794 amended Title 38,  
50 section 1319-R, subsection 1, paragraph A to require that the  
applicant demonstrate financial capacity to remove a danger to  
52 public health or the environment if necessary corrective action

2 is not completed before a license is issued. Public Law 1989,  
chapter 794 amended Title 38, section 1319-R, subsection 1,  
4 paragraph B to require interim licenses for hazardous waste  
facilities that become subject to licensure because of statutory  
6 or regulatory changes and to prohibit the issuance of interim  
licenses for some facilities that were previously licensed. This  
8 public law also amended Title 38, section 1319-R, subsection 1,  
paragraph C to clarify when interim licenses expire. Public Law  
10 1989, chapter 890 amended the entire Title 38, section 1319-R to  
broaden the hazardous waste facility licensing authority from the  
12 board to the department. All notice requirements are changed to  
the commissioner. Section A-41 repeals Title 38, section 1319-R,  
14 subsection 1 and replaces it with a version incorporating the  
changes made by both public laws.

16 Section A-42 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 792 amended Title 38,  
18 section 1364, subsection 5 to allow the Department of  
Environmental Protection to pay for the installation of a public  
20 water supply if necessary. Public Law 1989, chapter 890 amended  
Title 38, section 1364, subsection 5 to authorize the  
22 commissioner, rather than the department generally, to take  
necessary remedial action. Section A-42 repeals Title 38,  
24 section 1364, subsection 5 and replaces it with a version  
incorporating the changes made by both public laws.

26 Section A-43 corrects a section that was affected by 2  
public laws. Public Law 1989, chapter 869 amended Title 38,  
28 section 2157, first paragraph to exempt solid waste disposal  
facilities owned by municipalities, regional associations or  
30 sanitary districts if the facilities were licensed and in  
existence as of October 1, 1989 and at the time of application  
32 for expansion. Public Law 1989, chapter 890 amended Title 38,  
section 2157, first paragraph to expand the final approval  
34 authority to the Department of Environmental Protection rather  
than just the board. Section A-43 repeals both versions of this  
36 paragraph and enacts a new version.

38 Section A-44 repeals PL 1989, chapter 868, section 19 which  
40 is an effective date and a repealer for license fees on crude  
oil. See sections A-20 and A-21 of this Act.

42 Section A-45 adds an application date for sections amended  
44 by Public Law 1989, chapter 856 to remain consistent with that  
chapter.

46 Section B-1 corrects a section that was affected by 2 public  
48 laws. Public Law 1989, chapter 764, amended Title 38, section  
464, subsection 4, paragraph F, subparagraph (3), to allow the  
50 Board of Environmental Protection to license or certify projects  
in which the standards are not met provided it still meets  
52 standards of classification. Public Law 1989, chapter 890,



2 amended the same subparagraph to expand the department's issuance  
and approval authority. Section B-1 is included in Part B  
4 because the 2nd sentence was enacted by Public Law 1989, chapter  
764 to permit the board to issue the wastewater discharge license  
6 if the conditions are met. Public Law 1989, chapter 890 changed  
the permitting authority to the department to include the  
8 commissioner as well as the board. This section corrects the 2nd  
sentence to change the reference from the board to the department.

10 Section B-2 corrects a section that was affected by 2 public  
laws. Public Law 1989, c. 890 amended Title 38, section 563-A,  
12 subsection 1 to change the approval authority for oil storage  
tanks from the department to the commissioner. Public Law 1989,  
14 chapter 926 amended this same subsection to refer to municipal  
and school oil storage tanks. This section also corrects the  
16 language to carry out the Legislature's intent to give  
municipalities and school units more time to comply with the  
18 underground tank law. This section is included in Part B  
because, although it carries out the intent behind Public Law  
20 1989, chapters 865 and 926 to provide longer compliance periods  
for municipalities and school administrative units to meet  
22 underground oil tank requirements and an exemption for airport  
facilities, the language included in those chapters was  
24 insufficient. This section deletes the incorrect  
"notwithstanding" language and inserts the "except as provided  
26 in" provisions to cover both exceptions to the general applicable  
removal schedule.

28 Sections B-3 and B-4 correct a section that was affected by  
30 2 public laws. Public Law 1989, chapter 865 added a new  
subsection 1-A to Title 38, section 563-A covering certain  
32 aviation fuel hydrant piping systems. Public Law 1989, chapter  
926 also added a new subsection 1-A covering municipal and school  
34 oil storage tanks. These sections retain the municipal and  
school provisions as subsection 1-A and reallocate the aviation  
36 fuel provisions to subsection 1-B of Title 38, section 563-A.  
These sections are included in Part B because they provide the 2  
38 exceptions to the standard underground oil tank compliance  
schedule referred to in section B-2 of this Act.

40 Sections B-5 to B-9 correct a section that was affected by 2  
42 public laws. Public Law 1989, chapter 865 amended the technical  
requirements for the installation and operation of underground  
44 oil storage tanks. Also, requirements were added governing  
piping. Public Law 1989, chapter 890 changed references from the  
46 department to the commissioner and made technical changes. These  
sections repeal and replace Title 38, section 564, subsections 1,  
48 2, 3 and 4, to carry out the changes made in Public Law 1989,  
chapter 865, but change the registration repository to the  
50 commissioner. These sections are included in Part B because both  
chapters repealed and replaced the words "Department of  
52 Environmental Protection." Public Law 1989, chapter 865 inserted

2 "department," while Public Law 1989, chapter 890 inserted "  
3 commissioner." Section B-5 uses the word "department" because  
4 both the commissioner and the board may specify appropriate  
5 materials for underground tank construction.

6 Section B-10 corrects a section that was affected by 2  
7 public laws. Public Law 1989, chapter 869 shifted the State's  
8 disposal district oversight responsibilities from the Department  
9 of Environmental Protection to the Maine Waste Management  
10 Agency. All references to the department were changed to the  
11 agency. Public Law 1989, chapter 890 transferred most of the  
12 responsibilities of the board to the commissioner. Section B-10  
13 retains the oversight of disposal districts in the Maine Waste  
14 Management Agency and also incorporates technical changes made by  
15 Public Law 1989, chapter 890. Sections B-10 to B-13 are included  
16 in Part B because the 2 chapters repealed and replaced the same  
17 language with different terms. Public Law 1989, chapter 869  
18 changed "board" to "agency," meaning the new Maine Waste  
19 Management Agency. Public Law 1989, chapter 890 changed "board"  
20 to "commissioner." These sections use the term "agency."

21 Section B-11 corrects a section that was affected by 2  
22 public laws. Public Law 1989, chapter 869 amended Title 38,  
23 section 1722 to make technical corrections and transferred the  
24 responsibility of approving disposal districts from the Board of  
25 Environmental Protection to the Maine Waste Management Agency.  
26 Public Law 1989, chapter 890 made similar technical corrections,  
27 but transferred the approval responsibility to the Commissioner  
28 of Environmental Protection. Section B-11 retains the authority  
29 to approve disposal districts in the Maine Waste Management  
30 Agency and incorporates technical changes made by Public Law  
31 1989, chapter 890.

32 Section B-12 corrects a section that was affected by 2  
33 public laws. Public Law 1989, chapter 869 amended Title 38,  
34 section 1725, first paragraph to make technical corrections and  
35 to transfer the responsibility of calling the first  
36 organizational meeting from the Board of Environmental Protection  
37 to the Maine Waste Management Agency. Public Law 1989, chapter  
38 890 amended Title 38, section 1725, first paragraph to make  
39 technical changes, but transferred the duty from the Board of  
40 Environmental Protection to the Commissioner of Environmental  
41 Protection. Section B-12 requires the Maine Waste Management  
42 Agency to call the first meeting of new disposal districts and  
43 incorporates technical changes made by both public laws.

44 Section B-13 corrects a section that was affected by 2  
45 public laws. Public Law 1989, chapter 869 amended Title 38,  
46 section 1727 to make technical corrections and to require the  
47 disposal district to report new member municipalities to the  
48 Maine Waste Management Agency rather than the Board of  
49 Environmental Protection. Public Law 1989, chapter 890 also made  
50  
51  
52

2 technical corrections to Title 38, section 1727, but required  
that the new member municipalities be reported to the  
4 Commissioner of Environmental Protection rather than the board.  
Section B-13 requires that new municipalities in a disposal  
6 district be reported to the Maine Waste Management Agency and  
incorporates technical changes made by both public laws.

8 Part C of this bill reenacts provisions concerning the  
Ground Water Oil Clean-up Fund as these provisions existed prior  
10 to the effective date of Public Law 1989, chapter 865. Public  
Law 1989, chapter 865, section 25 repeals the provisions added by  
12 that chapter on December 31, 1999. Because Part A, sections  
A-30, A-32, A-33 and A-34 repeal and replace language that Public  
14 Law 1989, chapter 865 repeals on December 31, 1999, Part C enacts  
the old language to take effect on December 31, 1999. The  
16 changes of Public Law 1989, chapter 890, revising the authority  
of the Board of Environmental Protection and the Commissioner of  
18 Environmental Protection are included in the language effective  
December 31, 1999.