MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



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



116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1757

H.P. 1302

House of Representatives, January 20, 1994

An Act to Amend Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Hazardous Materials and Solid Waste Control.

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24. Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

JOSEPH W. MAYO, Clerk

Presented by Representative ANDERSON of Woodland. Cosponsored by Senator: LUDWIG of Aroostook.

2	Den	enacted by the reopte of the State of Maine as follows:
2 4	355,	Sec. 1. 38 MRSA $\S564$, sub- $\S2$ -A, \PH , as amended by PL 1993, c. $\S14$, is further amended to read:
6		H. Reporting to the commissioner any of the following indications of a possible leak or discharge of oil:
10		(1) Unexplained differences in daily inventory reconciliation values that, over a 30-day period, exceed 1.0% of the product delivered throughput;
12 14		(2) Unexplained losses detected through statistical analysis of inventory records;
16 18		(3) Detection of product in a monitoring well or by other leak detection methods;
20	t. • •	(4) Failure of a tank or piping precision test, hydrostatic test or other tank or piping tightness test approved by the department; and
22		(5) Discovery of oil off site on or under abutting properties, including nearby utility conduits, sewer
26		lines, buildings, drinking water supplies and soil. The rules may not require the reporting of any leak or
30		discharge of oil above ground of 10 gallons or less that occurs on the premises, including, but not limited to, spills, overfills and leaks, when those leaks or discharges
32	e.	do not reach ground water or surface waters of the State and are cleaned up within 24 hours of discovery, provided that a written log is maintained at the facility or the owner's
34 36		place of business in this State. For each discharge the log must record the date of discovery, its source, the general location of the discharge at the facility, the date and
38		method of cleanup and the signature of the facility owner or operator certifying the accuracy of the log;
40	§14,	Sec. 2. 38 MRSA $\S564$, sub- $\S2$ -A, as amended by PL 1993, c. 355, is further amended by adding at the end the following:
42 44		requirements in paragraphs A and B do not apply to the owing tanks provided the associated piping has secondary
46	<u>conta</u> leak	ainment or a suction pump product delivery system or another detection system approved by the commissioner and provided
48	opera	the tank and associated piping have been installed and are ated in accordance with the requirements of this subchapter, ading rules adopted under this subchapter: tanks providing
50 52	inter	act to a generator; double-walled tanks with continuous estitial space monitoring; and existing tanks constructed of calls.

•	
	commissioner-approved noncorrosive material that are monitored
2	continuously for a leak by a method able to detect a product loss
	of 0.1 gallons or less per hour.
4	C
	Sec. 3. 38 MRSA §1303-C, sub-§12, as amended by PL 1993, c.
б	424, $\S1$ and affected by $\S3$, is further amended to read:
8	12. Disposal. "Disposal" means the discharge, deposit,
O	dumping, spilling, leaking or placing of any hazardous,
10	biomedical or solid waste, waste oil, refuse-derived fuel, sludge
10	or septage into or on any land, air or water and the incineration
12	of any hazardous-or solid waste, refuse-derived fuel, sludge or
	septage so that the hazardous, biomedical or solid waste, waste
14	oil, refuse-derived fuel, sludge or septage or any constituent
	thereof may enter the environment or be emitted into the air, or
16	discharged into any waters, including ground waters.
18	Sec. 4. 38 MRSA §1303-C, sub-§39, as amended by PL 1993, c.
•	424, §2 and affected by §3, is further amended to read:
20	
	39. Treatment. "Treatment" means any process, including
22	but not limited to incineration, designed to change the character
	or composition of any hazardous waste, waste oil or biomedical
24	waste so as to render the waste less hazardous or infectious.
3.6	Sec. 5. 38 MRSA §1319-U, sub-§5, as reallocated by PL 1987, c.
26	517, \\$20, is amended to read:
28	317, 920, is amended to read.
	5. Civil liability. A person who disposes of or treats
30	hazardous waste, when that disposal or treatment, in fact,
	endangers the health, safety or welfare of another, is liable in
32	a civil suit for all resulting damages. It is not necessary to
	prove negligence.
34	
	For the purposes of this section, damages shall be limited to
36	damages to real estate or personal property or loss of income
•	directly or indirectly as a result of a disposal or treatment of
38	hazardous wastes. Damages awarded may be mitigated if the
	disposal or treatment is the result of an act of war or an act of
40	God.
4.2	Soc 6 39 MDSA \$1367 cmb \$2 dD amouded by DI 1001 d
42	Sec. 6. 38 MRSA §1362, sub-§2, ¶D, as amended by PL 1991, c.
44	811, §2, is further amended to read:
44	D. Any person who accepted a hazardous substance for
46	transport, provided that the substance arrived at the
	uncontrolled site. After April 1, 1992, any person who
48	accepts a hazardous substance for transport and delivers
	that substance to a licensed hazardous waste storage,
50	treatment or disposal facility according to the manifest
	signed by the generator is not a responsible party.

	Sec. 7. 38 MRSA §1367-A, as enacted by PL 1991, c. 811, §4
2	and affected by $\S7$, is repealed.
4	Sec. 8. 38 MRSA $\S2302$, sub- $\S3$, \PD , as amended by PL 1991, c. 520, $\S10$, is further amended to read:
6	D. Marchard without has indicamelian of brandous waste
8	D. Treatment, other than incineration, of hazardous waste to reduce volume or toxicity or both.
10	
12	STATEMENT OF FACT
14	This bill amends a provision of the underground oil storage facility laws, Maine Revised Statutes, Title 38, section 564,
16	subsection 2-A, pertaining to requirements for reporting a possible leak to clarify that unexplained differences in daily
1.8	inventory are calculated on the basis of product throughput, not product delivered.
20	The bill also amends the monitoring requirements for
22	underground oil storage facilities to exempt certain tanks from the daily inventory and annual statistical inventory analysis
24	because the inventory and analysis are either unnecessary or not technically feasible.
26	
28	"treatment" in Title 38, section 1303-C to specify that incineration of hazardous waste is a method of treatment, not
30	disposal. The civil liability provisions of section 1319-U, the definition of "responsible party" in section 1362 and the
	hazardous waste reduction techniques in section 2302 are amended
32	to reflect the changes in the definitions of "disposal" and "treatment."
34	
36	The bill repeals a provision of the uncontrolled hazardous substance site laws, Title 38, section 1367-A, which grants a
20	limited liability exemption for financial institutions and
38	federal and state banking or lending agencies. This provision was made obsolete by passage of a similar but more comprehensive
40	liability exemption provision in Public Law 1993, chapter 355.
42	
44	
46	This document has not yet been reviewed to determine the
	need for cross-reference, stylistic and other technical
48	amendments to conform existing law to current drafting standards.