

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)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2223

S.P. 820

In Senate, May 10, 1999

**An Act to Encourage Continuous Improvement in Pollution Prevention
in Maine.**

Reported by Senator Treat of Kennebec for the Joint Standing Committee on Natural Resources pursuant to Joint Order S.P. 806 and printed under Joint Rule 401.

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

JOY J. O'BRIEN
Secretary of the Senate

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

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

Sec. 1. 38 MRSA §2302, first ¶, as amended by PL 1991, c. 520, §10, is further amended to read:

It is the policy of the State to reduce the amount of the toxic substances used in the State, to reduce worker and environmental exposure to the release of toxic substances, to reduce the hazardous waste generated within the State and to minimize the transfer of toxic pollutants from one environmental medium to another. The State encourages an integrated approach to toxics use reduction, toxics release reduction and hazardous waste reduction based on the hierarchies of pollution prevention management strategies included in this section. It is further the policy of the State that the process of reducing the use and release of toxic substances and reducing the generation of hazardous waste through planning and analysis of manufacturing and commercial processes is ongoing and that the principles of continuous improvement in pollution prevention and open, public accountability must be applied to environmental quality management efforts in both public and private facilities.

Sec. 2. 38 MRSA §2302, sub-§2, as amended by PL 1991, c. 520, §10, is further amended to read:

2. Toxics release reduction. The State ~~requires~~ encourages reducing the release of toxics during manufacturing and other processes through, in addition to encouraging the toxics use reduction techniques specified in subsection 1, in-plant changes in production or other processes or operations that reduce or avoid exposure of workers and the environment to toxics.

Sec. 3. 38 MRSA §2302, sub-§3, as amended by PL 1993, c. 732, Pt. A, §12, is further amended to read:

3. Hazardous waste reduction. The State ~~requires~~ encourages reducing the generation of hazardous waste through, in addition to any toxics use and release reduction techniques employed by the facility, the application of the following techniques:

- A. Recovery of toxics from production and other processes for reuse;
- B. On-site recycling of hazardous waste;
- C. Off-site recycling of hazardous waste; and
- D. Treatment, other than incineration, of hazardous waste to reduce volume or toxicity or both.

2 **Sec. 4. 38 MRSA §2302, sub-§4** is enacted to read:

4 **4. State facilities.** The Commissioner of Administrative
6 and Financial Services, in consultation with the commissioner,
8 shall lead the development of a pollution prevention system for
10 state facilities by January 1, 2005 focusing on compliance with
all relevant environmental regulatory and statutory requirements,
improved environmental performance, reduction of toxics use and
pollution prevention opportunities.

12 **Sec. 5. 38 MRSA §2303**, as amended by PL 1991, c. 520, §§11
14 and 12, is further amended to read:

16 **§2303. Toxics use, toxics release and hazardous waste reduction**
18 **goals**

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

26 **1. Toxics use reduction goals.** Using the amount of toxics
28 used statewide in 1990 as a baseline figure, the statewide goals
for toxics use reduction are a ~~10%~~ 40% reduction in the amount of
toxic substances used in the State by January 1, ~~1994~~ 2002, a ~~20%~~
50% reduction by January 1, ~~1996~~ 2004 and a ~~30%~~ 60% reduction by
January 1, ~~1998~~ 2006.

30 **2. Toxics release reduction goals.** Using an average of the
aggregate amounts of toxics released ~~at-a-facility~~ statewide in
calendar years 1990 and 1991 as a baseline figure, the goals for
reducing the aggregate amount of toxics released to the
environment ~~at-the-facility~~ statewide are a ~~10%~~ 40% reduction by
January 1, ~~1994~~ 2002, a ~~20%~~ 50% reduction by January 1, ~~1996~~ 2004
and a ~~30%~~ 60% reduction by January 1, ~~1998~~ 2006. ~~Until-a-base~~
~~year-and-measurement-techniques-are-established,--there-are--no~~
~~specific-goals-for-worker-exposure-to-toxics-releases,--but-owners~~
~~or-operators-of-these-facilities-regulated-by-this-chapter-must~~
~~examine--means--to--reduce--exposure,---For--purposes--of--this~~
subsubsection, ~~toxics~~ refers to substances listed pursuant to the
SARA, Title III, Section 313. ~~To assist facilities in complying~~
~~with--this--subsubsection,--the--Commissioner--of--Environmental~~
~~Protection--shall--develop--a--methodology--to--measure--reductions--for~~
~~toxics--releases,--This--methodology--may--be--based--on--reports--filed~~
~~with--the--Maine--Emergency--Management--Agency--pursuant--to--the--SARA,~~
~~Title--III,--Section--313,--and--other--available--data.~~

42 **3. Hazardous waste generation minimization goals.** The
44 goals for minimizing the amount of hazardous waste generated ~~at-a~~
46 facility statewide are a ~~10%~~ 40% reduction by January 1, 1994

2002, a 20% 50% reduction by January 1, 1996 2004 and a 30% 60%
2 reduction by January 1, 1998 2006. Reductions must be based on a
3 facility's the average generation rate in the State for the years
4 1987 and 1989.

6 **4. Establishment of unit of product.** A facility must
7 establish its own unit of product to aid the department in
8 accounting accurately for changes in toxics use, toxics release
9 and hazardous waste generation due to business growth or
10 decline. Once established and accepted by the commissioner, a
11 facility's unit of product remains constant from year to year.
12 If a facility changes its products or services so that use of the
13 previously accepted unit of product no longer accurately accounts
14 for toxics use, toxics release and hazardous waste reductions,
15 the facility may petition the commissioner to change its unit of
16 product. The commissioner may establish guidelines to aid
17 facilities in the establishment of unit of product.

18 **5. Progress evaluation; report.** Progress toward meeting
19 the statewide toxics use, toxics release and hazardous waste
20 reduction goals may must be evaluated annually by the
21 commissioner based on manifest data, progress reports submitted
22 under ~~Title 37-B, sections 797 and 799~~ section 2305-A, annual
23 hazardous waste generator reports and other appropriate available
24 information. To determine achievement of statewide reduction
25 goals, the commissioner may adjust the baseline figure to account
26 for changes in the statutory or regulatory definitions of toxic
27 substances and hazardous wastes.

30 The commissioner shall report biennially on the progress toward
31 meeting the statewide goals established in this section and the
32 adequacy of the goals set by facilities. In evaluating the
33 adequacy of facility goals, the commissioner may not consider the
34 statewide goals. The report must include a listing of all
35 facilities subject to the requirements of this chapter, the
36 planning status of each facility, the goals set by each facility
37 and the progress made by each facility, excluding any information
38 entitled to protection as confidential information or a trade
39 secret pursuant to section 1310-B; section 2307-A, subsection 5;
40 or Title 37-B, section 800. The report must also include, for
41 informational purposes, summaries of the use and release of toxic
42 and hazardous materials not subject to the provisions of this
43 chapter for which the department maintains informational,
44 planning or regulatory programs. The commissioner shall submit
45 the report to the joint standing committee of the Legislature
46 having jurisdiction over natural resources matters by January
47 15th of each odd-numbered year.

48 **6. New facilities.** Facilities constructed after the
49 effective date of this chapter should be designed to minimize
50

2 toxics use, toxics release and hazardous waste generation in
accordance with the State's policies as set forth in section 2302
4 and may be evaluated on the basis of units of product for the
amount of toxics used, toxics released and hazardous waste
6 generated. New facilities that are described in section 2304-A
are subject to the requirements of this chapter.

8 **7. Petition.** A toxics releaser may petition the
commissioner to eliminate a substance from the total volume of
10 toxics release subject to the reductions ~~required~~ under
subsection 2 when the toxics releaser demonstrates that release
12 of the substance does not pose an unreasonable threat to
occupational health, public health or the environment.

14 **Sec. 6. 38 MRSA §2304**, as amended by PL 1995, c. 493, §§16 to
16 18, is repealed.

18 **Sec. 7. 38 MRSA §2304-A** is enacted to read:

20 **§2304-A. Regulated community**

22 **1. Plans and reports required.** Owners or operators of the
following facilities shall prepare pollution prevention plans and
24 biennial progress reports consistent with the requirements of
this chapter, unless exempted under subsection 2:

26 A. Facilities subject to reporting requirements for
28 extremely hazardous substances under the SARA, Title III,
Section 312;

30 B. Facilities required to report under the SARA, Title III,
32 Section 313; and

34 C. Facilities that generate 100 kilograms, or 220 pounds,
36 or more of hazardous waste in a calendar month for more than
3 months of the year.

38 **2. Exemptions.** The following are exempt from the planning,
reporting and fee requirements of this chapter:

40 A. Drinking water supply treatment facilities;

42 B. Municipal wastewater treatment facilities;

44 C. Wholesale distributors of chemicals;

46 D. Hazardous substance transporters;

48

- 2 E. Retail and wholesale distribution facilities of motor
3 fuel, aviation fuel, heating oil or other refined petroleum
4 products;
- 6 F. Agricultural activities;
- 8 G. Commercial hazardous waste treatment or storage
9 facilities;
- 10 H. For purposes of the planning, reporting and fee
11 requirements relating to hazardous waste generation only,
12 pilot plants or pilot production units;
- 14 I. Hazardous waste transporters;
- 16 J. Hazardous waste generated as a result of remedial or
17 corrective actions or facility closures required by law or
18 undertaken to protect employee health and safety, public
19 health and safety or the environment;
- 21 K. Households;
- 23 L. Zinc emissions from tire burning; and
- 25 M. Sulfuric acid emissions from burning fuel that is
26 approved by the department.

28 **Sec. 8. 38 MRSA §2305**, as amended by PL 1991, c. 520, §14, is
29 further amended to read:

30 **§2305. Pollution prevention plans**

32 These Owners or operators of facilities subject to
33 regulation under the requirements of this chapter shall develop
34 by January 1, 1993 2000 and update at least every 2 years
35 thereafter pollution prevention plans for their own use in
36 meeting the State's goals. The board may establish rules for
37 toxics use, toxics release and hazardous waste reduction plans to
38 be prepared pursuant to this section. A plan must include:

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

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

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

2 B. Identification, analysis and evaluation of any
4 appropriate technologies, procedures, processes, equipment
6 or production changes that may be utilized by the facility
8 to reduce the amount or toxicity of toxics used, toxics
10 released or hazardous wastes generated by that facility,
12 including a financial analysis of the costs and benefits of
14 reducing the amount of toxics used, toxics released and
16 hazardous waste generated. This portion of the plan must
18 employ the hierarchy of reduction techniques established
20 under section 2302;

22 C. A strategy and schedule for implementing practicable
24 reduction options for each production process utilized to
26 meet reduction goals;

28 D. Identification of any reasonably available markets or
30 recycling opportunities for hazardous waste generated by the
32 facility; and

34 E. A program for maintaining records on toxics use, toxics
36 release and hazardous waste generation rates and management
38 costs;

40 2-A. Facility goals. The facility's 2-year numeric goals
42 for reducing the aggregate amount of extremely hazardous
44 substances used, the aggregate amount of toxic substances
46 released and the aggregate amount of hazardous waste generated at
48 the facility by 2002, 2004 and 2006. The goals must be
established per unit of product to account for changes in the
level of production activity from year to year;

34 3. Internal plan approval. The signature of a principal
36 executive-officer-of-at-least-the-level-of-vice-president,-if-the
38 toxics-user,-toxics-releaser-or-generator-is-a-corporation;-a
40 general-partner-or-a-proprietor,-if-the-toxics-user,-toxics
42 releaser-or-generator-is-a-partnership-or-sole-proprietorship;-or
44 a-principal-executive-officer-or-ranking-elected-official,-if-the
46 toxics-user,-toxics-releaser-or-generator-is-a-municipal,-state,
48 federal-or-other-public-agency senior official with management
responsibility for the person or persons completing the plan; and

44 4. Employee involvement, awareness and training. An
46 employee awareness and training program consistent with the
48 requirements of section 2306 to involve employees in toxics use,
toxics reduction and hazardous waste reduction planning and
implementation to the maximum amount feasible.

2 The plan may include a description of any pollution
3 prevention strategies implemented at the facility after 1991 and
4 before 1998.

5 Owners and or operators of facilities shall keep a complete
6 copy of the plan and any ~~back-up~~ backup data on the premises of
7 that facility for at least 5 years and make the copy and data
8 available to the commissioner or the commissioner's designee upon
9 request.

10 **Sec. 9. 38 MRSA §2305-A** is enacted to read:

11 **§2305-A. Progress reports**

12 Beginning in 2000, the owner or operator of a facility
13 subject to the requirements of this chapter shall submit a
14 biennial pollution prevention progress report to the department
15 by July 1st of every even-numbered year. The progress report may
16 be submitted to the department in an electronic format. A
17 progress report must include the following:

18 1. Facility goals. Each of the facility's 2-year numeric
19 goals established in the plan. If any of the goals has been
20 revised since the previous progress report was submitted, the
21 report must include an explanation of the revision;

22 2. Progress achieved. A quantitative statement of the
23 facility's progress toward achieving each of its 2-year goals and
24 an identification, in absolute amounts and per unit of product,
25 of the reduction or increase in the amount of each extremely
26 hazardous substance used, toxics released and hazardous waste
27 generated in comparison to the previous 2 years;

28 3. Method. A description of the techniques used to achieve
29 each reduction identified pursuant to subsection 2;

30 4. Explanation. An explanation of why the facility's
31 progress is greater than or less than that anticipated in the
32 pollution prevention plan schedule for implementation;

33 5. Employee involvement. A description of employee
34 notification and involvement in the planning process;

35 6. Future pollution prevention methods. A description, for
36 each production unit, of the pollution prevention techniques that
37 the owner or operator of the facility intends to undertake during
38 the next 2 years to reduce the use of extremely hazardous
39 substances, to reduce the release of toxic substances and to
40 reduce the generation of hazardous waste and a schedule for the
41 implementation of the techniques; and

2 7. Certification. A written certification signed by a
4 senior official with management responsibility for the person or
6 persons completing the progress report that the owner or operator
 of the facility has prepared a pollution prevention plan and that
 the plan is available on site for the department's inspection.

8 A progress report may exclude any information entitled to
10 protection as confidential information or a trade secret pursuant
 to section 1310-B or Title 37-B, section 800.

12 **Sec. 10. 38 MRSA §2306**, as amended by PL 1991, c. 520, §15,
14 is further amended to read:

16 **§2306. Employee and host municipality notification**

18 Six months prior to the date when a ~~reduction~~ pollution
20 prevention plan or update must be completed, the owner or
22 operator of each facility must shall notify all of its employees
24 of the requirements for the plans, identify the toxic substances
26 and hazardous wastes and production units for which plans must be
28 developed and ~~solicit comments or suggestions from all employees~~
30 on involve employees in developing the pollution prevention plan
32 or update, including the identification of toxics use, toxics
34 release and hazardous waste reduction options. In a facility in
 which employees are represented by a labor organization, employee
 representatives who work at the facility and who are selected by
 the labor organization shall be involved in the development of
 the plan. In a facility in which employees are not represented
 by a labor organization, the employee involvement requirement
 must be met through employee representation on committees or
 groups formed to develop the plan. A description of the employee
 notification process and employee involvement must be included in
 the progress report submitted in accordance with section 2305-A.

36 The owner or operator of a facility shall notify the
38 municipal officers of the municipality in which the facility is
40 located of the facility's pollution prevention efforts and shall
 provide the municipal officers with a copy of the progress report
 when it is submitted to the department.

42 **Sec. 11. 38 MRSA §2307**, as amended by PL 1991, c. 520, §16,
44 is repealed.

46 **Sec. 12. 38 MRSA §2307-A** is enacted to read:

48 **§2307-A. Authority to review; modification**

1. Plan summary. The commissioner may require the owner or operator of a facility to submit a summary of the pollution prevention plan required under section 2305 within 60 days when:

A. A facility has not made sufficient progress in reducing toxics use, toxics release or hazardous waste generation as evidenced by the facility's progress report; or

B. A new facility has toxics use, toxics release or hazardous generation rates that are significantly greater per unit of product than in similar facilities within the same standard industrial code category.

A plan summary submitted to the commissioner pursuant to this subsection must include the evaluation methods used, the findings and conclusions and the implementation schedule. An owner or operator may designate information in a plan summary as confidential under section 1310-B.

The commissioner may review a plan summary, pursuant to subsection 2, and require the owner or operator of a facility to make any modifications to the plan summary necessary for compliance with this chapter.

2. Review of plan summary. In reviewing the adequacy of a plan summary, the commissioner shall base a determination on whether the plan summary is complete and prepared in accordance with the facility goals and guidelines established pursuant to this chapter. In reviewing a plan summary, the commissioner has the authority to require the owner or operator of the facility to provide information the commissioner finds necessary to analyze the reviewed document.

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

If the commissioner determines that a modified plan summary is inadequate, the commissioner may either require further modification or assess fees as provided in section 2313. If a generator fails to submit a modified plan summary within the required time period, the commissioner may assess additional fees as established in section 1319-I, subsection 2-A.

2 **3. Review of plan.** The commissioner shall review the
3 pollution prevention plan of a facility when, in the
4 commissioner's judgment, the plan summary indicates significant
5 deficiencies in the pollution prevention efforts at the facility
6 or when the facility fails to reach any of its reduction goals by
7 more than 25%, as indicated in the plan summary. The
8 commissioner may require the owner or operator of a facility to
9 make any modifications to a pollution prevention plan necessary
10 for compliance with this chapter. In reviewing a pollution
11 prevention plan, the commissioner has the authority to require
12 the owner or operator of the facility to provide information the
13 commissioner finds necessary to analyze the reviewed document.
14 If the commissioner requires the owner or operator of the
15 facility to modify a pollution prevention plan, the commissioner
16 shall allow a reasonable time period of not less than 90 days for
17 the modifications to be made and shall consider the financial
18 impact of the changes or modifications on the owner or operator
19 of the facility. The owner or operator of a facility may appeal
20 to the board a decision of the commissioner to require the owner
21 or operator to modify a pollution prevention plan under this
22 subsection or subsection 4.

24 **4. Municipal petition for review of plan.** The commissioner
25 shall review the pollution prevention plan of a facility upon
26 receipt of a petition to review the plan submitted by the
27 municipal officers in the municipality in which the facility is
28 located. The commissioner shall make a written determination on
29 whether the plan meets the facility goals and guidelines of this
30 chapter and explain the reasons for the determination. If the
31 commissioner determines that the plan is inadequate, the
32 commissioner may require the owner or operator of the facility to
33 make modifications pursuant to this section.

34 **5. Confidentiality.** Upon a satisfactory showing to the
35 commissioner by the owner or operator of a facility required to
36 submit information under this chapter that a progress report or
37 plan summary developed under this chapter, if made public, would
38 divulge methods, processes or other information entitled to
39 protection, the commissioner shall hold as confidential that
40 progress report or plan summary or a portion of that progress
41 report or plan summary pursuant to section 1310-B.

44 **Sec. 13. 38 MRSA §2309, sub-§§1 and 2,** as enacted by PL 1989,
45 c. 929, §7, are amended to read:

46 **1. Data collection and dissemination.** The commissioner
47 shall develop the necessary information base and data collection
48 programs to establish program priorities and; evaluate the
49 progress of toxics use, toxics release and hazardous waste
50

2 reduction goals; and fully inform the public of efforts made and
3 progress achieved in reducing toxics use, toxics release and
4 hazardous waste generation. By January 1, 2001, the commissioner
5 shall organize and store the information submitted to the
6 department in biennial progress reports in electronic form in a
7 manner that facilitates public access including, without
8 limitation, making the information available through the
9 Internet. The commissioner shall ensure the confidentiality of
10 any information designated as confidential or a trade secret. At
11 a minimum, the commissioner shall ensure that the following
12 information is readily available to the public:

13 A. The statewide goals and the progress made toward meeting
14 them;

15 B. The name, location and contact information for each
16 facility subject to the requirements of this chapter;

17 C. An indication of the availability of the progress report
18 for each facility;

19 D. The 2-year goals established by each facility for the
20 reduction of toxics used, toxics released and hazardous
21 waste generated at the facility; and

22 E. Each facility's progress made toward meeting each of its
23 goals.

24 **2. Technical services.** The commissioner may shall
25 disseminate information concerning toxics use, toxics release and
26 hazardous waste reduction through various means including
27 publications, the Internet, seminars, model plans, recommended
28 waste assessment procedures and lists of consultants on toxics
29 use, toxics release and hazardous waste reduction technologies.
30 The commissioner shall establish a clearinghouse of technical
31 information on best-of-class methods for toxic use reduction for
32 each of the classes of facilities subject to the requirements of
33 this chapter.

34 **Sec. 14. 38 MRSA §2309, sub-§§7 to 10** are enacted to read:

35 **7. Reports.** In addition to the biennial progress report
36 submitted by the commissioner to the Legislature under section
37 2303 and after public review and comment, the commissioner shall
38 submit the following reports to the joint standing committee of
39 the Legislature having jurisdiction over natural resources
40 matters:

41 A. By January 15, 2001, an evaluation of and
42 recommendations for additional chemicals and classes of

2 facilities to be added to planning and reporting
3 requirements;

4 B. By January 15, 2001, an assessment of and
5 recommendations for focusing use reduction and pollution
6 prevention efforts on the most toxic chemicals and classes
7 of chemicals. The commissioner shall base the assessment on
8 existing toxicity information, and the recommendations may
9 include changes to chemical lists and reporting thresholds;
10 and

11 C. For the preceding 2-year period, a listing of those
12 facilities that have exceeded their goals by more than 25%
13 and those that have failed to meet their goals by at least
14 25%. This report must be submitted on October 1, 2002 and
15 every 2 years thereafter.

16
17 8. Additional facilities; planning requirements. The
18 commissioner may make a finding that participation by a class of
19 facilities in toxics reduction planning pursuant to this chapter
20 could reduce the threat to public health, safety, occupational
21 exposure and risk to the environment. Such a finding must follow
22 public notice and be based on the past performance of that class
23 of facilities and the extent to which that class of facilities
24 contributes to the total amount and overall toxicity of toxics
25 used, toxics released or hazardous waste generated in the State
26 or a region of the State. If the commissioner makes such a
27 finding, the board may by rule designate that class of facilities
28 as subject to this chapter. Such a rule is a major substantive
29 rule under Title 5, chapter 375, subchapter II-A.

30
31 9. Future statewide goals. By January 1, 2007, the
32 commissioner shall report to the joint standing committee of the
33 Legislature having jurisdiction over natural resources matters
34 with recommendations regarding new statewide goals for reducing
35 the amount of toxics used, toxics released and hazardous waste
36 generated consistent with the principles of continuous
37 improvement in environmental management. The commissioner shall
38 base the proposed new goals on the extent of progress achieved by
39 facilities throughout the State, the availability of new
40 reduction methods and the degree of risk and hazard to
41 occupational health, public health and safety and environmental
42 quality posed by the use or release of toxic substances in the
43 State and by the generation of hazardous waste in the State. At
44 the expiration of the time periods for the goals established
45 under this subsection, the commissioner shall repeat the process.

46
47 10. Performance recognition program. The commissioner
48 shall establish a biennial recognition program for facilities
49 achieving a minimum reduction of 40%, 50% and 60% in toxics use,
50

2 toxics release or hazardous waste generation by 2002, 2004 and
3 2006, respectively.

4 **Sec. 15. 38 MRSA §2311**, as amended by PL 1997, c. 643, Pt. L,
5 §1, is repealed.

6 **Sec. 16. 38 MRSA §2311-A** is enacted to read:

7 **§2311-A. Fees**

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

13
14 **1. Toxics users.** Toxics users shall submit \$100 for each
15 extremely hazardous substance reported by the facility under this
16 chapter to the department annually by April 15th.

17
18 **2. Toxics releasers.** Toxics releasers shall submit \$100
19 for each toxic substance reported by the facility under this
20 chapter to the department annually by July 1st.

21
22 **3. Hazardous waste generators.** Generators that ship 300
23 kilograms, or 661 pounds, or more of hazardous waste in a
24 calendar year shall pay the following fees to the department
25 annually by April 15th: for generators that ship 2,268.0
26 kilograms, or 5,000 pounds, or more of hazardous waste in a
27 calendar year, the fee is \$1,000; for generators that ship
28 between 1,197.5 kilograms and 2,267.5 kilograms, or 2,640 pounds
29 and 4,999 pounds, per calendar year, the fee is \$500; and for
30 generators that ship between 300 kilograms and 1,197.0 kilograms,
31 or 661 pounds and 2,639 pounds, per calendar year, the fee is
32 \$100. Generators that ship less than 300 kilograms, or 661
33 pounds, of hazardous waste in a calendar year are not required to
34 pay fees under this section.

35
36 **4. Fee limitation.** A facility subject to fees under this
37 section may not be assessed more than \$1,000 per year.

38
39 **Sec. 17. 38 MRSA §2312**, as amended by PL 1991, c. 520, §§24
40 and 25, is repealed.

41 **Sec. 18. 38 MRSA §2313** is enacted to read:

42 **§2313. Penalties**

43 **1. General.** The owner or operator of a facility subject to
44 the requirements of this chapter that fails to meet any
45 requirement of this chapter is subject to penalties under section
46

2 349 and, as applicable, fees assessed under section 1319-I,
3 subsection 2-A.

4 2. Trade secrets; unlawful disclosure. It is unlawful to
5 disclose any information designated as confidential or a trade
6 secret under this chapter to an unauthorized person. A person
7 who violates this subsection is subject to the penalties
8 specified in section 1310-B, subsection 6.

10 **Sec. 19. Interim report; statewide goals.** The Commissioner of
11 Environmental Protection shall submit an interim report to the
12 Joint Standing Committee on Natural Resources by February 15,
13 2000 with the commissioner's recommendations regarding the
14 statewide reduction goals established in the Maine Revised
15 Statutes, Title 38, section 2303 and whether those goals should
16 be revised. In developing the recommendations, the commissioner
17 shall consult with regulated facilities regarding their facility
18 goals.

20 **Sec. 20. Allocation.** The following funds are allocated from
21 Other Special Revenue funds to carry out the purposes of this
22 Act.

24 **1999-00** **2000-01**

26 **ENVIRONMENTAL PROTECTION,**
27 **DEPARTMENT OF**

28 **Remediation and Waste Management**

30	Positions - Legislative Count	(1,000)	(1,000)
32	Personal Services	\$37,969	\$52,044
	All Other	7,500	10,000
34	Capital Expenditures	3,000	

36 Allocates funds for one
37 additional Environmental
38 Specialist III position and
39 operating costs necessary for
40 implementing additional
41 review responsibilities,
42 adopting certain rules and
43 submitting certain reports to
44 the Legislature.

46 **DEPARTMENT OF ENVIRONMENTAL**
47 **PROTECTION**

48 **TOTAL** \$48,469 \$62,044

50

FISCAL NOTE

2

1999-00

2000-01

4

APPROPRIATIONS/ALLOCATIONS

6

Other Funds

\$48,469

\$62,044

8

REVENUES

10

Other Funds

\$62,000

\$62,000

12

14

The changes in the toxic waste fee structure will increase dedicated revenue to the Maine Hazardous Waste Fund within the Department of Environmental Protection in the amount of \$62,000 beginning in fiscal year 1999-00.

16

18

The Remediation and Waste Management program within the Department of Environmental Protection will require additional Other Special Revenue funds allocations of \$48,469 and \$62,044 in fiscal years 1999-00 and 2000-01, respectively, for one additional Environmental Specialist III position and operating costs necessary for implementing additional review responsibilities, adopting certain rules and submitting required reports to the Legislature.

26

28

The additional costs associated with leading the development of an environmental management system for state facilities and implementing that system by 2005 can be absorbed by the Department of Administrative and Financial Services and other agencies responsible for managing state facilities utilizing existing budgeted resources.

30

32

34

This bill may increase the number of civil violations filed in the court system. The additional workload and administrative costs associated with the minimal number of new cases filed can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue by minor amounts.

36

38

40

42

SUMMARY

44

This bill amends the laws relating to toxics use, toxics release and hazardous waste reduction in the following ways.

46

48

1. It adds to the State's toxics use reduction and hazardous waste management policy the objectives of continuous improvement in pollution prevention and open, public

2 accountability in the environmental quality management efforts of
3 public and private facilities.

4 2. It requires the Commissioner of Administrative and
5 Financial Services to lead the development of a pollution
6 prevention system for state facilities by 2005, in consultation
7 with the Commissioner of Environmental Protection.

8
9 3. It revises the toxics use, toxics release and hazardous
10 waste reduction goals by establishing statewide goals of a 40%
11 reduction by January 1, 2002, a 50% reduction by January 1, 2004
12 and a 60% reduction by January 1, 2006. It requires the
13 Commissioner of Environmental Protection to report to the Joint
14 Standing Committee on Natural Resources by February 15, 2000 with
15 the commissioner's recommendations regarding the statewide
16 reduction goals and whether those goals should be revised.

17 4. It requires the Commissioner of Environmental Protection
18 to submit a biennial report to the joint standing committee of
19 the Legislature having jurisdiction over natural resources
20 matters on the progress toward meeting the statewide goals for
21 toxics use, toxics release and hazardous waste reduction and the
22 adequacy of the reduction goals set by facilities.

23 5. It clarifies that new facilities are also subject to the
24 pollution prevention planning, reporting and fee requirements.

25 6. It clarifies which facilities are required to prepare
26 pollution prevention plans and progress reports and which
27 facilities are exempt from planning, reporting and fee
28 requirements.

29 7. It requires facilities to prepare pollution prevention
30 plans by January 1, 2000 and every 2 years thereafter. In
31 addition to the current plan requirements, a plan must include a
32 financial analysis of the costs and benefits of reducing the
33 amount of toxics used, toxics released and hazardous waste
34 generated and the facility's 2-year goals for reducing the amount
35 of extremely hazardous substances used, toxics released and
36 hazardous waste generated.

37 8. It requires facilities to submit biennial pollution
38 prevention progress reports to the Department of Environmental
39 Protection and specifies what must be included in the reports.

40 9. It requires facilities to involve employees in
41 developing pollution prevention plans and plan updates. It also
42 requires facilities to notify the municipal officers in the
43 municipality in which a facility is located of pollution

2 prevention efforts and to provide the municipal officers with a
3 copy of progress reports.

4 10. It authorizes the Commissioner of Environmental
5 Protection to require the owner or operator of a facility to
6 submit a plan summary if the facility has not made sufficient
7 progress in reducing toxics use, toxics release or hazardous
8 waste generation as evidenced by the facility's progress report.
9 It requires the commissioner to review a pollution prevention
10 plan in the following situations: if the plan summary indicates
11 significant deficiencies in the facility's pollution prevention
12 efforts; if the facility fails to reach any of its reduction
13 goals by more than 25%, as indicated in the plan summary; or if
14 the municipal officers in the municipality in which the facility
15 is located submit a petition to review the plan. It also
16 authorizes the commissioner to require the owners or operators of
17 a facility to modify a pollution prevention plan and authorizes
18 the owner or operator of a facility to appeal to the Board of
19 Environmental Protection a decision of the commissioner to
20 require the facility to modify its plan.

22 11. It requires the Commissioner of Environmental
23 Protection to organize and store in electronic form the
24 information submitted to the department in progress reports, in
25 order to facilitate public access.

26 12. It requires the Commissioner of Environmental
27 Protection to offer technical services over the Internet and to
28 establish a clearinghouse of technical information on toxic use
29 reduction.

32 13. It requires the Commissioner of Environmental
33 Protection to submit the following reports to the joint standing
34 committee of the Legislature having jurisdiction over natural
35 resources matters: a one-time report with recommendations for
36 additional chemicals and classes of facilities to be added to
37 planning and reporting requirements; a one-time report with
38 recommendations for focusing pollution prevention efforts on the
39 most toxic chemicals; and a biennial report listing those
40 facilities that exceed their goals and those facilities that fail
41 to meet their goals by at least 25%.

42 14. It authorizes the Commissioner of Environmental
43 Protection to designate by rule a class of facilities as subject
44 to planning and reporting requirements if the commissioner makes
45 a finding that participation by that class of facilities could
46 reduce threats to public health and the environment. Adding such
47 a class of facilities requires review by the Legislature.
48

2 15. It requires the Commissioner of Environmental
4 Protection to recommend, by January 1, 2007, new statewide goals
 for reducing the amount of toxics used, toxics released and
 hazardous waste generated.

6 16. It requires the Commissioner of Environmental Protection
8 to establish a biennial performance recognition program for high
 performers.

10 17. It revises the fees required to be paid to the
12 department by toxics users, toxics releasers and hazardous waste
 generators.

14 18. It clarifies the penalties for failure to meet
16 requirements under the toxics use and hazardous waste reduction
 laws.

18 19. It allocates funds to the Department of Environmental
 Protection for implementing additional responsibilities.