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Report on the Chemical Substance Identification Law 26 MRSA, Chapter 22 to the First Regular Session of the One Hundred and Thwelfth Legislature

Maine Department of Labor

Maine Bureau of Labor Standards

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MAINE DEPARTMENT OF LABOR
Bureau of Labor Standards

REPORT ON THE CHEMICAL SUBSTANCE IDENTIFICATION LAW

26 MRSA, Chapter 22

TO

THE FIRST REGULAR SESSION OF

THE ONE HUNDRED AND TWELFTH LEGISLATURE
March 22, 1985

Members of the 112th Legislature:

In accordance with the provisions of Title 26, MRSA Section 1724 the following Report is respectfully submitted for your review and consideration on behalf of the Director of the Department's Bureau of Labor Standards.

This report contains information on the experience of the Bureau of Labor Standards under the Chemical Substance Identification Law and a recommendation on a fee structure as required by the law.

Sincerely,

Patricia M. McDonough
COMMISSIONER

PMM/Idl
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Letter of Transmittal</td>
<td>1</td>
</tr>
<tr>
<td>Table of Contents</td>
<td>ii</td>
</tr>
<tr>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>Chemical Substance Legislation</td>
<td>1</td>
</tr>
<tr>
<td>Implementation of the 1984 Amendments</td>
<td>2</td>
</tr>
<tr>
<td>Present Status</td>
<td>5</td>
</tr>
<tr>
<td>Funding</td>
<td>7</td>
</tr>
<tr>
<td>Recommended Fee Structure</td>
<td>8</td>
</tr>
<tr>
<td>Original Chemical Substance Identification Law (Attachment #1)</td>
<td>10</td>
</tr>
<tr>
<td>1983 Amendments (Attachment #2)</td>
<td>14</td>
</tr>
<tr>
<td>1983 Rules Governing the Chemical Substance Identification Law (Attachment #3)</td>
<td>24</td>
</tr>
<tr>
<td>Letter to All Employers, May 1984, (Attachment #4)</td>
<td>28</td>
</tr>
<tr>
<td>Employer Informational Packet (Attachment #5)</td>
<td>30</td>
</tr>
<tr>
<td>Letter of Explanation</td>
<td>31</td>
</tr>
<tr>
<td>Copy of the new Chemical Substance Identification Law</td>
<td>39</td>
</tr>
<tr>
<td>Copy of the new Rules</td>
<td>42</td>
</tr>
<tr>
<td>Substance Report Form</td>
<td>44</td>
</tr>
<tr>
<td>Hazardous Substance List</td>
<td></td>
</tr>
<tr>
<td>Recommended Fee Structure Draft Legislation (Attachment #6)</td>
<td>49</td>
</tr>
</tbody>
</table>
INTRODUCTION

Pursuant to the provisions of 26 MRSA §1724, this report is respectfully submitted to the First Regular Session of the 112th Legislature by the Bureau of Labor Standards of the Department of Labor. This report outlines the Bureau's experience under the Chemical Substance Identification Law and includes a recommendation for an adequate fee structure.

CHEMICAL SUBSTANCE LEGISLATION

In 1979, the 109th Legislature enacted Maine's original Chemical Identification Law, 1979 PL, c. 500 (Attachment #1). This law, which became effective on January 1, 1980, addressed the concerns raised because of the proliferation of hazardous substances in the workplace and the potential hazards these substances may create for workers.

In 1983, the 111th Legislature substantially amended the Chemical Substance Identification Law by 1983 PL, c. 568 (Attachment #2). These amendments, which became effective on September 23, 1983, required employers to pay an annual fee, file reports with the Bureau of Labor Standards and to conduct training programs for employees.

In the Fall of 1983, the Bureau of Labor Standards prepared proposed rules pursuant to the new amendments. After a public hearing on the
proposals, the Bureau's rules became effective on December 17, 1983 (Attachment #3). During the week of December 19, 1983, letters were mailed to all employers detailing the requirements of the new law.

In response to concerns expressed by employers, a series of emergency bills were enacted by the Legislature delaying the filing deadline for employers under the Chemical Substance Identification Law. The original deadline of January 15, 1984, was postponed first until February 15, 1984 (1983 PL, c. 591), then until April 1, 1984 (1983 PL, c. 622) and finally until April 14, 1984 (1983 PL, c. 709).

A new Chemical Substance Identification Law, which repealed and replaced the previous law, became effective on April 25, 1984. This new law retained portions of the old law and included provisions that had previously been included in state and federal regulations. The new law exempted a number of employers from coverage under the Chemical Substance Identification Law and changed the fee schedule for those employers subject to the law.

IMPLEMENTATION OF THE 1984 AMENDMENTS

During the week of May 14, 1984, an informational letter on the new law was sent to approximately 27,000 employers in the state (Attachment #4). This letter explained the provisions of the new law, requested the return of a form
indicating whether or not hazardous substances were used in the workplace and the payment of a $10.00 fee if subject to the law's provisions.

A total of 18,700 responses to the mailing were received. Of those responses, 14,000 indicated that no hazardous substances were used in the workplace and 4,700 responses indicated hazards were present in the workplace.

Of those 4,700 employers stating that hazardous substances were present in the workplace, 2,700 of them were determined to be fully subject to the provisions of the law. The remaining 2,000 employers who were determined to be exempt from the fee requirements of the law are as follows:

202 public sector employers
1,022 less than 4 employees
105 agricultural employers
680 laboratories and offices of health professionals
2,009 Total

Approximately 9,000 employers did not respond to the mailing.

On June 6, 1984 a public hearing was held on proposed rules for implementation of the Chemical Substance Identification Law. These rules became effective on September 10, 1984 (See Attachment #5).
In October 1984 an informational packet was mailed to the 4,700 employers who earlier indicated they used hazardous substances in the workplace. The October 1984 mailing provided companies with a copy of the new law, the new regulations, a complete list of chemicals covered by the law, and a reporting form to return to the Bureau of Labor Standards by December 31, 1984 (Attachment #5).

The comprehensive list of hazardous substances was compiled by the Bureau, with input from the Bureau of Health of the Department of Human Services and the State Fire Marshal's Office. Members of the Bureau of Health and the State Fire Marshal's Office have participated in an advisory committee which assists the Bureau in handling scientific and interagency concerns about chemical substance identification.

By the December 31, 1984 deadline approximately 3,400 companies had responded with detailed listings of the hazardous substances used in their workplace.

Between the October mailing and the end of December the Safety Division answered about 500 telephone calls requesting assistance in completing the forms. Over 500 copies of the mailing were sent to other interested parties who requested them.
PRESENT STATUS

The Chemical Substance Identification Program has been operational and has been providing information and assistance to employers and workers since mid-1984.

There are three employees (of the five and one-half budgeted for in the 1984 bill) presently employed under the program.

The three primary activities of the staff to date are:

1. Development of a Data Management System
2. Training Assistance
3. Hazardous Substance List Conversion and Input

1. The development of a data management system is being conducted in conjunction with the Maine Department of Labor, Data Processing Division personnel and the Management Systems and Information personnel. Substantial progress has been made in designing and implementing a computer system on a Burroughs B-22 computer that will provide such functions as:

   a. A chemical dictionary which allows the Bureau of Labor Standards to communicate and store the list of hazardous substances and the
approximately 12,000 synonyms and the relevant physical and health data.

b. Master file on all companies using hazardous substances.

c. Storage of each company's specific hazardous substance list.

d. Other information necessary for program operation.

With this data management system the Bureau of Labor Standards will with a minimum of staff efficiently handle the volumes of information on hazardous substances used by the companies of Maine. The staff will also be able to answer a multitude of questions on hazardous substances and their use in the state. With this system, questions regarding use by county or by standard industrial code can also be answered quickly and easily.

2. The Bureau of Labor Standards has focused on training assistance as its first priority and had handled hundreds of phone calls requesting assistance in completing lists of hazardous substances. Several groups have requested presentations on the law, including the Maine Health Care Association, the American Industrial Hygiene Association and the South Portland School System. Numerous other individual companies have requested specific help with program design, material safety data sheets, and training.
3. The Bureau of Labor Standards is currently working on converting product names to specific chemical names. In the October 1984 mailing the Bureau offered employers the choice of reporting specific hazardous substances or listing product names. The choice was given to make it easier on small employers who do not have staff with chemical backgrounds. This convenience for the companies of Maine has produced a significant work load for the Bureau of Labor Standards to convert product names to specific hazardous substances. However, this will be a one time project to convert the data. In subsequent years the Bureau of Labor Standards will be sending out a converted copy to the employer to update and correct.

FUNDING

The 1984 Amendments to the Chemical Substance Identification law established a flat fee of $10 per employer. This fee was intended to support the implementation and administration of the law. The fee, which is payable on or before July 1 of each year, is deposited to a dedicated Training Assistance Fund. This fund has a legislative allocation of 160,000 for FY 84-85. However, the flat fee of $10, coupled with the large number of exemptions under the law has resulted in only $27,000 in revenues generated for the fund.
The Chemical Substance Identification Law has been implemented to date, if only in a bare minimum fashion, because of advances from the Governor's Contingency Fund. These advances must be repaid.

Without an increase in funding, implementation of the Chemical Substance Identification Law will cease in 1985. As present fees have clearly generated inadequate revenues, the Department of labor is proposing a new fee schedule to enable on-going implementation of the law in fiscal year 1985-86.

**RECOMMENDED FEE STRUCTURE**

In order to provide for adequate funding to support implementation of the Chemical Substance Identification Law the Department of Labor is proposing legislation which would create a sliding scale of employer fees based on the size of the employer's workforce. Employers with hazardous substances present in the workplace and otherwise not exempt from fees under the law would pay a graduated fee ranging from a minimum of $25 to a maximum of $250 under the Department's proposed legislation.

The rationale for basing fee amounts on the size of the employer's workforce is that the amount of assistance required for full compliance with the law by the employer will generally be greater for employers with large
workforces than employers with smaller workforces. Under the Department's proposed fee schedule no employer will pay a fee amounting to more than one dollar per worker and larger employers will pay less per worker than smaller employers since worker safety training programs can be done at a lower cost per worker in larger groups.

Employers with less than four employees will continue to be exempt from the payment of fees. All other exemptions from fees in the existing law will remain in effect. It should be noted that an exemption from the fee requirement does not exempt an employer from the other requirements of the law if there are hazardous substances present in the employer's workplace.

The Department's proposed fee schedule would generate approximately $130,000 in 1985 and enable on-going implementation of the law in FY 85-86. This amount is more consistent with the $160,000 annual allocation provided by the law and would make the law more "self-financing," as was originally intended. A copy of the Department's proposed legislation (Attachment #6) appears at the end of this Report.
AN ACT Relating to the Identification and the Hazards of Chemicals in the Work Area.

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

26 MRSA c. 22 is enacted to read:

CHAPTER 22
CHEMICAL SUBSTANCE IDENTIFICATION

§ 1701. Scope and application

1. Information. This chapter requires that information be provided to employees about the identities and hazards of chemicals in the work area by means of chemical identification lists, labels, substance data sheets, education and training and access to written records.

2. Applicable chemicals. This chapter applies to any chemical in the work area which is:
   A. A hazardous substance;
   B. A toxic substance; or
   C. A substance likely to be inhaled, ingested or absorbed through the skin.

3. Nonapplicable chemicals. This chapter does not apply to chemicals which are goods, drugs, cosmetics or tobacco products intended for personal consumption.

§ 1702. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Chemical. "Chemical" means any element, chemical compound or mixture of elements or compounds, or both.

2. Chemical name. "Chemical name" means the name of a substance established by the Chemical Abstracts Services in the most recent edition of the Collective Index of Chemical Abstracts.
3. Common name. "Common name" means any designation or identification, such as code name or number or trade or brand name, used by the employer to identify a substance other than by its chemical name.

4. Container. "Container" means any open or closed bag, barrel, bottle, carton, flask, package, tank, vat, vessel or the like into which chemicals are placed.

5. Director. "Director" means the Director of the Bureau of Labor, Department of Manpower Affairs, or a designee.

6. Hazardous substance. "Hazardous substance" means a chemical which:

A. Is listed in the Department of Transportation Hazardous Materials Table, 49 CFR 172.101; and

B. Meets one or more of the following criteria for hazard class:

   (1) Is a combustible substance. For purposes of this section, a combustible substance is any liquid with a flash point above 100° F. and below 200° F.;

   (2) Is a compressed gas. For purposes of this section, a compressed gas is any chemical having in the container an absolute pressure exceeding 40 PSI at 70° F. or having an absolute pressure exceeding 104 PSI at 130° F., or any flammable liquid having a vapor pressure exceeding 40 PSI absolute pressure at 100° F.;

   (3) Is an explosive. For purposes of this section, an explosive is any chemical which is capable of producing an instantaneous release of gas and heat;

   (4) Is a flammable substance. For purposes of this section, a flammable substance is any liquid with a flash point of below 100° F., solid heat from manufacturing or processing or gas which at atmospheric temperature and pressure forms a flammable mixture with air when present at a concentration of 13% or less by volume or that forms a range of flammable mixtures with air wider than 12% regardless of the lower limit;

   (5) Is an organic peroxide. For purposes of this section, an organic peroxide is an organic compound that contains the bivalent -0-0- structure and which is a derivative of hydrogen peroxide where one or more hydrogen atoms have been replaced by organic radicals; or

   (6) Is an oxidizer. For purposes of this section, an oxidizer is a chemical that readily yields oxygen and can stimulate the combustion of organic matter.

7. Toxic substance. "Toxic substance" means a chemical which is:


8. Work area. "Work area" means a room or defined space in which employees are or may be exposed to chemicals.
§ 1703. Labels

1. Containers to be labeled, tagged or marked. Each container present in the work area shall be labeled, tagged or marked with the common or chemical names of the chemicals contained.


3. Label of chemical containers sold or distributed. The chemical name and any labels required by this standard shall be affixed to containers of chemicals which are sold, distributed or otherwise leave the employer's work area.

§ 1704. Employee education and training

1. Education and training program required. The employer shall institute an education and training program for all employees who are routinely exposed to hazardous or toxic chemicals.

2. Schedule for educational and training program. The education and training shall commence prior to initial assignment and shall be repeated at least annually thereafter. Additional instruction shall be provided whenever chemicals or processes change, or newly acquired information indicates the need for additional protective measures.

3. Education and training contents. The education and training program shall include the following:

A. The location, properties and acute and chronic health effects of the chemicals to which the employees are routinely exposed in the work area;

B. The nature of the operations which could result in exposure to these chemicals as well as any necessary handling or hygienic practices or precautions;

C. The purpose, proper use and limitation of personal protective equipment required by any other Occupational Health and Safety Act standard or otherwise used in the work area; and

D. An explanation of the information contained on the labels.

4. Materials furnished at no cost. The employer shall assure that all the education and training materials and information are provided at no cost to the employee.

5. Materials available at request to the director. All materials relating to education and training and required by this standard shall be made available upon request to the director.

§ 1705. Access to written records

1. Lists and sheets; availability. Chemical identification lists and substance
data sheets required by this chapter shall be made available upon request for examination and copying to any affected employee, former employee, designated physician or representative or the director. The chemical identification lists shall be kept for 20 years.

2. Exposure measurements; availability. Any exposure measurements taken to monitor employee exposure to chemicals in the work area shall be made available upon request for examination and copying to any affected employee, former employee, designated physician or representative or the director.

§ 1706. Effective date. This chapter shall become effective on January 1, 1980.
STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

H.P. 1306 - L.D. 1735

AN ACT Relating to the Identification
and the Hazards of Exposure to Toxic and
Hazardous Substances.

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

Sec. 1. 7 MRSA §607, sub-§4, as enacted by PL
1975, c. 382, §3, is amended to read:

4. Test results. The commissioner may require a
full description of the tests made and the results
thereof upon which the claims are based on any pesti-
cide not registered pursuant to the Federal
Insecticide, Fungicide and Rodenticide Act, Section
3, or on any pesticide on which restrictions are
being considered. In the case of renewal of registra-
tion, a statement shall be required only with respect
to information which is different from that furnished
when the pesticide was registered or last reregis-
tered. Notwithstanding Title 1, section 402, data
submitted under this subsection and subsections 3 and
5 are confidential and shall not be available for
public inspection.

Sec. 2. 22 MRSA §1471-M, sub-§3 is enacted to
read:

3. Enforcement of chemical substance identifi-
cation. The board shall have primary enforcement
responsibility for inspection of any workplace sub-
ject to the provisions of Title 26, chapter 22,
solely because of the presence of a pesticide. The
board shall have primary enforcement responsibility for training programs to be provided by employers under Title 26, chapter 22, in those instances where the employer is subject to the provisions of that law solely because of the presence or use of a pesticide.

Sec. 3. 26 MRSA §1702, sub-§6, as enacted by PL 1979, c. 500, is amended to read:

6. Hazardous substance. "Hazardous substance" means a chemical which:

A. Is listed in the Department of Transportation Hazardous Materials Table, 49 CFR 172.101; and

B. Meets one or more of the following criteria for hazard class:

(1) Is a combustible substance. For purposes of this section, a combustible substance is any liquid with a flash point above 100° F. and below 200° F.;

(2) Is a compressed gas. For purposes of this section, a compressed gas is any chemical having in the container an absolute pressure exceeding 40 PSI at 70° F. or having an absolute pressure exceeding 104 PSI at 130° F., or any flammable liquid having a vapor pressure exceeding 40 PSI absolute pressure at 100° F.;

(3) Is an explosive. For purposes of this section, an explosive is any chemical which is capable of producing an instantaneous release of gas and heat;

(4) Is a flammable substance. For purposes of this section, a flammable substance is any liquid with a flash point of below 100° F., solid heat from manufacturing or processing or gas which at atmospheric temperature and pressure forms a flammable mixture with air when present at a concentration of 13% or less by volume or that forms a range of flammable mixtures with air wider than 12% regardless of the lower limit;
(5) Is an organic peroxide. For purposes of this section, an organic peroxide is an organic compound that contains the bivalent -O-O- structure and which is a derivative of hydrogen peroxide where one or more hydrogen atoms have been replaced by organic radicals; or

(6) Is an oxidizer. For purposes of this section, an oxidizer is a chemical that readily yields oxygen and can stimulate the combustion of organic matter; or

C. Is listed as a radioactive material in regulations promulgated by the United States Nuclear Regulatory Commission.

Sec. 4. 26 MRSA §1702, sub-§6-A is enacted to read:

6-A. Material safety data sheet. "Material safety data sheet" means a form containing information concerning a hazardous or toxic substance substantially equivalent in content to form 20 of the United States Occupational Safety and Health Administration and which includes acute and chronic health hazard information.

Sec. 5. 26 MRSA §1702, sub-§7, as enacted by PL 1979, c. 500, is amended to read:

7. Toxic substance. "Toxic substance" means a chemical which is:


B. Contained on a list established by the director by rule and which meets any of the following criteria:

(1) Has a median lethal oral dose of not more than 500 milligrams per kilogram of body weight;
(2) Has a median lethal dermal dose of not more than 1,000 milligrams per kilogram of body weight;

(3) Has a median inhalation lethal concentration in air of not more than 2,000 parts per million by volume of gas or vapor, or more than 2 milligrams per liter but not more than 20 milligrams per liter of mist, fume or dust; or

(4) Has been found by the director, based on established scientific evidence, to have significant potential to cause adverse health effects because it is carcinogenic, mutagenic, teratogenic, neurotoxic or bioaccumulative.

Sec. 6. 26 MRSA §1702, sub-§7-A is enacted to read:

7-A. Trade secret. "Trade secret" means any formula, pattern, process, device, information or compilation of information, including chemical name, that is used in any employer's business that gives the employer an opportunity to obtain any advantage over competitors who do not know or use it.

Sec. 7. 26 MRSA §1702, sub-§9 is enacted to read:

9. Workplace. "Workplace" means an establishment or business at one geographic location containing one or more work areas.

Sec. 8. 26 MRSA §1703-A is enacted to read:

§1703-A. Material safety data sheets

1. Manufacturers, suppliers or distributors to provide. Manufacturers, suppliers or distributors of hazardous or toxic substances shall provide their direct purchasers with the current material safety data sheet for each substance subject to this chapter that they manufacture or sell in this State.

2. Employers to maintain. Each employer shall
maintain in each workplace a material safety data sheet for each hazardous or toxic substance to which employees may be exposed. All material safety data sheets maintained by employers shall be available to their employees for examination during all hours of operation.

3. Trade secret information. An employer may withhold the identity of a toxic or hazardous substance on a material safety data sheet if disclosure would reveal a trade secret. All other information, including the routes of exposure, effects of exposure, type and degree of hazard and emergency treatment and response procedures, shall be provided. An employer shall, upon request, provide the identity of any hazardous or toxic substance that is a trade secret to the director or to the authorized physician of an employee for medical treatment under an appropriate confidentiality agreement by the physician.

4. Copies to local fire chiefs. Employers shall, upon request, provide to local fire chiefs copies of the material safety data sheets maintained in the workplace.

5. Trade secret determination. If the director believes a manufacturer, supplier, distributor or employer has improperly designated a chemical substance or its use in a particular process as a trade secret, the director may challenge the designation in Superior Court. Pending final determination, the director may also seek injunctive relief. If the director prevails, and the chemical or its use in a particular process is determined not to be a trade secret, as defined in this chapter, the other party shall pay all costs and reasonable attorneys' fees.

Sec. 9. 26 MRSA §1704, sub-§1, as enacted by PL 1979, c. 500, is amended to read:

1. Educational and training program required. The employer shall institute an educational and training program for all employees who are routinely exposed to hazardous or toxic chemicals.

Sec. 10. 26 MRSA §1704, sub-§2, as enacted by PL 5-674
1979, c. 500, is amended to read:

2. Schedule for educational and training program. The education and training shall commence prior to initial assignment and shall be repeated at least annually thereafter. Additional instruction shall be provided whenever chemicals or processes change, or newly acquired information indicates the need for additional protective measures. Programs shall be conducted during the employee's regular working hours.

Sec. 11. 26 MRSA §1704, sub-§3, as enacted by PL 1979, c. 500, is amended to read:

3. Educational and training contents. The educational and training program shall include the following:

A. The location, properties and acute and chronic health effects of the chemicals to which the employees are routinely exposed in the work area;

B. The nature of the operations which could result in exposure to these chemicals as well as any necessary handling or hygienic practices or precautions;

C. The purpose, proper use and limitation of personal protective equipment required by any other Occupational Health and Safety Act standard or otherwise used in the work area; and

D. An explanation of the information contained on the labels and the appropriate material safety data sheets; and

E. The provisions of this chapter.

Sec. 12. 26 MRSA §1704, sub-§4-A is enacted to read:

4-A. Employer to maintain records. Each employer subject to this chapter shall maintain an outline of its training programs and a list of employees by name and job title or classification who have received training, the type of training provided
and the dates it was provided.

Sec. 13. 26 MRSA §1704, sub-§6 is enacted to read:

6. Rules; minimum training programs. The director may by rule establish minimum training programs to be provided to employees who are exposed to specific hazardous or toxic substances.

Sec. 14. 26 MRSA §1705, sub-§3 is enacted to read:

3. Reports. The director may by rule require that employers send copies of material safety data sheets maintained by them and annual updates to the bureau.

Sec. 15. 26 MRSA §1706-A is enacted to read:

§1706-A. Administration and enforcement

1. Enforcement. The Bureau of Labor Standards shall administer and enforce the provisions of this chapter, except that the Board of Pesticides Control shall have primary responsibility for inspection and training programs in workplaces subject to the provisions of this chapter solely because of the presence of a limited or restricted use pesticide within the meaning of the Maine Pesticides Control Act of 1975, Title 7, sections 601, subchapter II-A.

2. Inspections. For the purposes of enforcing this chapter, the director may, at any reasonable time and upon presentation of appropriate identification, enter and inspect a workplace accompanied by the employer representative.

3. Cooperation with other agencies. The director may obtain the assistance of the Bureau of Health and other state agencies in the administration of this chapter. The director shall provide by rule appropriate procedures for transferring to other state agencies information provided by employers which is subject to confidential treatment.

4. Assistance to employers. The director may
provide assistance to employers in the development and conduct of training programs for employees and local public safety personnel and the completion of material safety data sheets. The director may establish by rule a segregated, nonlapsing Training Assistance Fund which shall be financed by fees levied on employers subject to this chapter. The fees shall be graduated based on the number of material safety data sheets maintained by an employer and shall not be less than $30 nor more than $300 a year for each employer. Revenues paid into the fund, including interest, shall be used exclusively for carrying out the purposes of this subsection. Expenditures from the fund shall be allocated and approved by the Legislature.

The director may not assess fees for materials subject to fees under Title 7, chapter 103.

5. Waiver by rule. If the director determines that, with respect to certain amounts or concentrations of specific hazardous or toxic substances, strict compliance with the requirements of this chapter will not contribute to the health and safety of employees, the director may by rule waive those requirements.

Sec. 16. 26 MRSA §1707, as enacted by PL 1981, c. 261, is amended to read:

§1707. Penalty

Any person, partnership, corporation or other legal entity who refuses to comply, in whole or in part, with this chapter commits a civil violation for which a forfeiture not to exceed $500 for the first violation and not to exceed $1,000 for any subsequent violation may be adjudged.

Sec. 17. 26 MRSA §1708 is enacted to read:

§1708. Prohibited practices; remedy

It is unlawful for any employer to discharge, discipline or otherwise discriminate against any of its employees who have assisted in the enforcement of
this chapter. The director may, after investigation and hearing, bring an action in Superior Court on behalf of any employee to enforce this section. In addition to the civil penalties set forth in section 1707, the director may seek all other appropriate relief, including payment of compensation actually lost as a result of a violation. If the court finds that there has been no violation of this section, the court may award costs and reasonable attorneys' fees to the employer.

Sec. 18. Allocation of Training Assistance Fund. There is allocated from the Training Assistance Fund the following funds to carry out the purposes of this Act.

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<tr>
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In House of Representatives, ................. 1983
Read twice and passed to be enacted.

.................................................. Speaker

In Senate, ................................... 1983
Read twice and passed to be enacted.

.................................................. President

Approved ....................................... 1983

.................................................. Governor

10-674
Chapter 2  Rules Governing the Chemical Substance Identification Law

1. Definitions

Unless the context otherwise requires, terms used in regulations, interpretations, forms or pronouncements issued by the director of the Bureau of Labor Standards shall be construed in the sense in which they are defined in the law.

2. Reporting Requirements

A. All employers shall file with the director a complete list of each substance for which the employer is required to maintain a material safety data sheet. Nevertheless, the director may require copies of specific material safety data sheets.

B. Employers shall annually update lists filed with the director.

3. Training Assistance Fund

A. There is established a segregated, non-lapsing Training Assistance Fund which shall be administered by the director in accordance with the law for the purpose of providing employers with assistance in developing and conducting training programs for employees, in the completion of material safety data sheets, and in carrying out the purposes of the law.

B. Each employer shall pay a fee annually to the director which shall be deposited in the Training Assistance Fund based on the number of applicable substances listed with the director by the employer. The amount of the fee shall be $30 for each employer who lists fewer than thirty separate substances. The fee will increase by one dollar for each additional substance listed to a maximum of $300. This fee schedule shall be reviewed by the director within two years.

C. All employers shall submit their listing of applicable substances by January 15th of each year. The initial list submitted shall be a complete list of all applicable substances, subsequent lists may be only additions and/or deletions to the initial list.

D. The director shall determine the amount of the fee to be assessed on each employer based on the number of listed applicable substances and notify each employer of the amount which they will be required to forward to the director.

E. Employers' fees shall be due within thirty (30) days from receipt of notice of amount from the director.
4. **Training Assistance Programs**

Each employer shall maintain an outline of its training programs and a list of employees by name and title who attended training sessions, the type of training provided and the dates it was provided.

5. **Cooperation with Other Agencies**

A. All requests for information from other state agencies shall be subject to the same procedures used in the transfer of all information which is specifically exempt from the Freedom of Information Act and, therefore, subject to confidential treatment.

B. All information must be requested through a written agreement specifying that the confidential nature of the information will be respected.

C. Trade secret information shall not be shared in any fashion.

**AUTHORITY:** 26 M.R.S.A., 1702, 1704, 1705, 1706-A

**EFFECTIVE DATE:** DEC 17 1983
This Chapter accomplishes the following:

Makes the definitions contained within the Chemical Substance Identification Law applicable to these regulations.

Establishes reporting requirements for annual employer reports to the director of the Bureau of Labor Standards.

Establishes a Training Assistance Fund and sets a fee schedule, with procedures for payment, to be charged employers.

Requires employers to maintain records of training programs.

Establishes procedures for transferring to other state agencies information provided by employers which is subject to confidential treatment.
Chapter 2 - Rules Governing the Chemical Substance Identification Law

BASIS FOR ADOPTION

Title 26 M.R.S.A. Chapter 22 is the Chemical Substance Identification Law. This law was enacted in 1979 to help protect employees in the workplace against exposure to hazardous and/or toxic substances. It also provided for educational and training programs for employees exposed to these substances.

In 1983 the law was amended to include provisions for rule making in the areas of reporting, training assistance funds and programs, and cooperation with other agencies.

The proposed rules were presented to the public at an informal work session on October 13, 1983 and again during a public hearing on November 22, 1983.

Comments on the proposed rules were accepted until December 5, 1983.

Based on comments received, the director modified the originally proposed rule which would have required employers to pay $30.00 for one data sheet submitted, and $30.00 apiece for each one thereafter up to a maximum fee of $300.00. That fee schedule was modified to require $30.00 for each employer who lists fewer than thirty separate substance sheets and $1.00 for each additional substance listed to a maximum of $300.00. It was felt that the originally proposed fee structure would have been unfair to smaller businesses. The rule also requires the director to review the fee schedule within two years of adoption.

The originally proposed rule governing reporting requirements was also modified as a result of the work session. Originally the director proposed that each employer file a copy of each material safety data sheet they maintain with the director. This was modified to require only a list of substances instead of the data sheet on each substance. This will cut down on the amount of paperwork required of businesses and cut down on the filing work within the Bureau. The director did reserve the right to request a specific data sheet if necessary.

Many people at the work session and public hearing felt that the originally proposed fee schedule would have brought excessive amounts of money into the training assistance fund while placing a financial burden on small businesses. The Bureau agreed with this position and adopted a change. The Bureau also agreed with the public that requiring the filing of individual safety data sheets would be a massive undertaking for both the employer and the Bureau, and therefore amended the proposed rule to reflect this concern.
Dear Employer:

Under the Chemical Substance Identification Law you may have certain obligations as an employer to provide for the health and safety of your workers if they are using hazardous substances in the workplace. The purpose of this letter is to provide a brief and general outline of the law to assist you in completing and returning the enclosed form.

If you have employees who regularly use or come into contact with substances labeled hazardous, toxic, explosive or radioactive you must comply with the provisions of the law. Private nonagricultural employers with an average of more than three workers who have hazardous substances in the workplace must make payment of a fee of $10.00 by July 1, 1984. Public sector employers, private laboratories and offices of health professionals are exempt from any fee.

If you are already aware of a substance or substances labeled hazardous present in your workplace complete and return the enclosed form. If you are uncertain if hazardous substances are present, a partial listing of frequently used hazardous substances is enclosed for your reference. A complete listing of all hazardous substances is available upon request. Note that a mixture containing 1 percent by weight or volume of a hazardous chemical or 0.1 percent of a carcinogen is a hazardous substance.

Substances considered NOT hazardous include consumer products, food stuffs, sealed substances which your workers are not exposed to or common substances such as gasoline, office desk top supplies or chemicals in fire extinguishers. If you do not have hazardous substances in your workplace, or if you are an agricultural employer simply check the appropriate box on the enclosed form and return.

All employers should return the enclosed form by July 1, 1984. Private non-agricultural employers with more than three workers that have one or more hazardous substances in their workplace must forward payment of the $10.00 fee with their forms. The penalty for noncompliance with this provision is a fine of up to $500 for the first violation and up to $1,000 for any subsequent violation. Copies of the law are available upon request and all employers subject to the law will be receiving additional information with a copy of the law following the return of the enclosed form.

If you have specific questions or require assistance, please call or write the Bureau of Labor Standards at 289-2591 or 289-3331.

Sincerely,

Marvin W. Ewing, Director
Bureau of Labor Standards
CHEMICAL SUBSTANCE IDENTIFICATION FORM
REFER TO THE ENCLOSED INFORMATIONAL LETTER BEFORE COMPLETING THIS FORM

ALL EMPLOYERS ARE TO COMPLETE THIS FORM AND RETURN IT TO THE ADDRESS LISTED BELOW. EMPLOYERS WHO HAVE HAZARDOUS CHEMICALS AND ARE COVERED BY THE LAW MUST RETURN A COMPLETED FORM WITH PAYMENT OF A FEE OF $10.00. ALL EMPLOYERS SUBJECT TO THE LAW WILL BE RECEIVING FURTHER NOTICE OF THE REQUIREMENTS OF THE LAW, COPIES OF THE LAW AND FORMS OF ASSISTANCE AVAILABLE. EMPLOYERS WITHOUT HAZARDOUS CHEMICALS SHOULD RETURN A COMPLETED FORM BUT WILL NOT BE SUBJECT TO ANY FURTHER REQUIREMENTS.

STATE ID. NO.
FED. ID. NO.
SIC INDUSTRY CODE

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<td>1) ARE YOU AWARE OF ANY HAZARDOUS SUBSTANCES USED IN YOUR WORKPLACE? (IF &quot;NO&quot; SIGN BELOW AND RETURN FORM. NOTHING FURTHER REQUIRED.)</td>
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<td>2) IS YOUR OPERATION A PRIVATE BUSINESS? (IF &quot;NO&quot; SIGN AND RETURN FORM. NO FEE REQUIRED.)</td>
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<td>3) DOES YOUR OPERATION EMPLOY AN AVERAGE OF MORE THAN THREE WORKERS? (IF &quot;NO&quot; SIGN AND RETURN FORM. NO FEE REQUIRED.)</td>
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<td>4) IS THE OPERATION SOLELY AGRICULTURAL? (IF &quot;YES&quot; SIGN AND RETURN FORM. NO FEE REQUIRED.)</td>
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<td>5) IS THE OPERATION A PRIVATE LABORATORY OR OFFICE OF A HEALTH PROFESSIONAL? (IF &quot;YES&quot; SIGN AND RETURN FORM. NO FEE REQUIRED.)</td>
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PRIVATE NONAGRICULTURAL EMPLOYERS WITH MORE THAN THREE WORKERS WHO HAVE HAZARDOUS CHEMICALS IN THE WORKPLACE MUST RETURN THIS FORM WITH PAYMENT OF A FEE OF $10.00. CHECKS MUST BE MADE PAYABLE TO THE BUREAU OF LABOR STANDARDS.

AUTHORIZED SIGNATURE:__________________________

RETURN FORM TO: BUREAU OF LABOR STANDARDS
MAINE DEPARTMENT OF LABOR
STATE HOUSE STATION #82
AUGUSTA, MAINE 04333
Dear Employer:

Under Maine's Chemical Substance Identification Law employers have certain obligations to provide for the health and safety of their workers who use or come into contact with hazardous substances in the workplace. The purpose of this letter is to provide you with instructions for complying with the law's reporting requirements.

Enclosed for your use is a copy of the law's complete text and regulations, a list of all hazardous substances currently covered by the law and a Substance Report Form which must be completed and returned to the Bureau of Labor Standards. Please keep the copy of the law, regulations and list on file for future reference.

By December 31, 1984 employers subject to the provisions of the law must file a list of all hazardous substances present in their workplace(s) with the Bureau of Labor Standards. To meet this requirement you must complete and return the enclosed Substance Report Form by that date.

All hazardous substances present in your workplace(s) must be typed or printed on the Substance Report Form unless the substance is less than a one percent part of a mixture or, if the substance is a carcinogen as identified on the enclosed list, less than a 0.1 percent part of a mixture. Please note that all warnings such as CAUTION, DANGER, EXPLOSIVE, POISON, CORROSIVE and similar words on product labels are warnings of a potentially hazardous substances.

If you are uncertain about whether a substance is hazardous it is recommended that you include it as the Bureau of Labor Standards will automatically delete all substances not covered by the law.

The completed Substance Report Forms must be returned to the Bureau of Labor Standards at the address printed on the Form by December 31, 1984. The penalty for noncompliance with the law is a fine of up to $500 for the first violation and up to $1,000 for any subsequent violation. Employers may request an extension of time in which to file by submitting, in writing, an explanation as to why the December 31 deadline presents an undue burden.

If you have any questions or require assistance in completing the Substance Report Form please call or write the Bureau of Labor Standards at 289-2591 or 289-3331.

Sincerely,

Marvin W. Ewing, Director
Bureau of Labor Standards
The purpose of this chapter is to ensure that the hazards of all chemicals produced or imported by chemical manufacturers or importers are evaluated, and that information concerning their hazards is transmitted to affected employers and employees in order to reduce the incidence of chemically-related illnesses and injuries. This transmittal of information is to be accomplished by means of comprehensive hazard communication programs, which are to include container labeling and other forms of warning, material safety data sheets and employee training. Workers have a right to know about chemical hazards to which they may be exposed.

This chapter is intended to address comprehensively the issue of evaluating communicating chemical hazards to employees in the manufacturing and other designated sectors. This chapter is intended to be consistent with the Hazard Communication Rule promulgated by the United States Department of Labor, Occupational Safety and Health Administration, November 25, 1983, in order to reduce any burden on interstate commerce and to facilitate compliance. To the extent that Occupational Safety and Health Administration enforces the federal rule beginning in 1985-86, it is intended that there be no duplication of enforcement. This chapter goes beyond the Occupational Safety and Health Administration standard primarily in 3 ways: Certain parts are effective earlier; additional industries are addressed; and this chapter requires communication with health officials, not just employees.

§1710. Scope and application

1. Information. This chapter requires that information be provided to employees by the employer about the identities and hazards of chemicals in the work area by means of chemical identification lists, labels, material safety data sheets, education and training and access to written records.

2. Applicable chemicals. This chapter applies to any chemical in the work area which is a hazardous chemical, present in the workplace in such a manner that employees may be exposed under normal conditions of use or in a foreseeable emergency, except as specifically provided in this chapter.

3. Nonapplicable chemicals. This chapter does not apply to chemicals which are: Hazardous waste when subject to regulations issued by the Department of Environmental Protection or the United States Environmental Protection Agency; tobacco or tobacco products; wood or wood products; articles; compressed air; and foods, drugs or cosmetics intended for personal consumption by employees while in the workplace.

The following substances are exempt from all requirements of this chapter:

A. Consumer products and foodstuffs packaged for distribution to, and intended for use by, the general public. This includes any labeled product used or stored in a workplace in the same form approximate volume or amount, concentration and manner as it is sold to and used by the general public, provided that it remains labeled in the workplace, and to which, in the employer's knowledge, employee exposure is not significantly different from that of the general public during foreseeable use of the substance;

B. Substances sold by retail stores, for personal or domestic consumption, which are prepackaged, sealed, canned or otherwise contained so as to prevent worker exposure;

C. Common substances found in the workplace in small quantities that do not present a significant hazard to workers. Common substances include, but are not limited to, office desk top supplies, such as correction fluid, thinner or typewriter cleaning fluid, glues and cleaning solvents;

D. Petroleum distillates used as motor fuel or heating fuel;

E. Fire extinguishers in the workplace; and

F. Propane gas stored out-of-doors and used for commercial heating or cooking.

4. Nonapplicable employers. This chapter applies to all employers within the State with hazardous chemicals within the workplace, except as specifically provided. Agricultural employers regulated by the Department of Agriculture, Food and Rural Resources are exempt from this chapter.
5. Laboratories and health professionals. This chapter applies to laboratories and offices of health professionals only as follows. Employers shall ensure that labels on incoming containers of hazardous chemicals are not defaced or removed. Employers shall maintain material safety data sheets on each hazardous chemical they handle and ensure that they are readily accessible. Employers shall ensure that laboratory employees are apprised of the hazards of the chemicals in their workplace and provided proper training in their use.

6. Labeling exemptions. Labeling of the following chemicals is not required under this chapter when they are labeled in accordance with the indicated federal statute and regulations under the statute:

A. Pesticides, as defined in the Federal Insecticide, Fungicide and Rodenticide Act, United States Code, Title 7, Section 136 et seq.;
B. Foods, food additives, color additives, drugs or cosmetics, as defined in the Federal Food, Drug and Cosmetics Act, United States Code, Title 21, Section 301 et seq.;
C. Distilled spirits, wine or malt beverages intended for nonindustrial use, as defined in the Federal Alcohol Administration Act, United States Code, Title 27, Section 201 et seq.; and
D. Any consumer product or hazardous substance, as defined in the Consumer Product Safety Act, United States Code, Title 15, Section 2051 et seq. and the Federal Hazardous Substance Act, United States Code, Title 15, Section 1261 et seq.

7. Waiver by rule. If the director determines that, with regard to certain amounts, concentrations, types or containers of specific hazardous chemicals, strict compliance with the requirements of this chapter will not contribute to the health and safety of employees, the director may waive those requirements by rule. In addition, for any specific category of employers, the director may by rule waive fee, listing or training program requirements, following the submission by an employer of a written application for a waiver, for persons with specific training in handling those hazardous chemicals present in their workplace if the director finds that strict compliance with those requirements will not contribute to the health and safety of employees.

§1711. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Article. "Article" means a manufactured item which is formed to a specific shape or design during manufacture, which has end use functions dependent in whole or in part upon its shape or design during end use, and which does not release or otherwise result in exposure to a hazardous chemical under normal conditions or use.

2. Chemical. "Chemical" means any element, chemical compound or mixture of elements or compounds, or both.

3. Chemical name. "Chemical name" means the name of a substance established by the Chemical Abstracts Services in the most recent edition of the Collective Index of Chemical Abstracts.

4. Common name. "Common name" means any designation or identification, such as code name, number, trade or brand name, used by the employer to identify a substance other than by its chemical name.

5. Container. "Container" means any open or closed bag, barrel, bottle, box, can, cylinder, drum reaction vessel, storage tank, carton, flask, package, tank, vat, vessel or the like into which chemicals are placed.

6. Director. "Director" means the Director of the Bureau of Labor Standards, Department of Labor or a designee.

7. Hazardous chemical. "Hazardous chemical" means a chemical which is a physical hazard or a health hazard, as listed by the Bureau of Labor Standards.

8. Health hazard. "Health hazard" means a chemical which is:

B. Listed in threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment, American Conference of Governmental Industrial Hygienists (ACGIH), latest edition;
C. A carcinogen or potential carcinogen, listed in The Registry of Toxic Effects of Chemical Substances, published by the National Institute for Occupational Safety and Health (NIOSH), latest edition based upon the National Toxicology Program (NTP) Annual report on Carcinogens or the International Agency for Research on Cancer (IARC) Monographs;

D. Listed as radioactive material in regulations promulgated by the United States Nuclear Regulatory Commission;

E. Contained on a list established by the director by rule after consultation with the Bureau of Health and which meets any of the following criteria:
   (1) Has a median lethal oral dose of not more than 500 milligrams per kilogram of body weight;
   (2) Has a median lethal dermal dose of not more than 1,000 milligrams per kilogram of body weight;
   (3) Has a median inhalation lethal concentration in air of not more than 2,000 parts per million by volume of gas or vapor, or more than 2 milligrams per liter but not more than 20 milligrams per liter of mist, fume or dust; or
   (4) Has been found by the director, based on established scientific principles, to have significant potential to cause adverse acute or chronic health effects; or

F. A mixture which is a health hazard based on application of the criteria of paragraphs A to E to the mixture as a whole, or which contains more than 1% by weight or volume of a chemical which is a health hazard or which contains more than 0.1% by weight or volume of a carcinogen or potential carcinogen identified in accordance with paragraph C.

9. Laboratory. "Laboratory" means a work area devoted to experimental study in any science, or to testing and analysis by scientific means, under the supervision of persons trained in the handling of hazardous chemicals.

10. Material safety data sheet. "Material safety data sheet" means a form containing information concerning a hazardous chemical substantially equivalent in content to form 20 of the United States Occupational Safety and Health Administration, but which includes both acute and chronic health hazard information.

11. Physical hazard. "Physical hazard" means a chemical which is:

A. Listed in the United States Department of Transportation Hazardous Materials Table, 49 Code of Federal Regulations 172.101;

B. Contained on a list established by the director by rule after consultation with the State Fire Marshal and which meets any of the following criteria:
   (1) Is a combustible liquid. For purposes of this section, a combustible liquid is any liquid with a flash point above 100° Fahrenheit and below 200° Fahrenheit;
   (2) Is a compressed gas. For purposes of this section, a compressed gas is any chemical having in the container an absolute pressure exceeding 40 PSI at 70° Fahrenheit or having an absolute pressure exceeding 104 PSI at 130° Fahrenheit or any liquid having a vapor pressure exceeding 40 PSI absolute pressure at 100° Fahrenheit;
   (3) Is an explosive. For purpose of this section, an explosive is any chemical that causes a sudden, almost instantaneous release of pressure, gas and heat when subjected to sudden shock, pressure or high temperatures;
   (4) Is a flammable substance. For purposes of this section, a flammable substance is any liquid with a flash point of below 100° Fahrenheit, solid that is liable to cause fire through friction, absorption of moisture, spontaneous chemical change or retained heat from manufacturing or processing or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious hazard, or gas which at atmospheric temperature and pressure forms a flammable mixture with air when present at a concentration of 13% or less by volume or that for a range of flammable mixtures with air wider than 12% by volume regardless of the lower limit;
(5) Is an organic peroxide. For purposes of this section, an organic peroxide is an organic compound that contains the bivalent \(-O-O-\) structure and which is a derivative of hydrogen peroxide where one or more hydrogen atoms have been replaced by organic radicals;

(6) Is an oxidizer. For purposes of this section, an oxidizer is a chemical that initiates or promotes combustion in other materials, thereby causing fire;

(7) Is pyrophoric. For purposes of this section, pyrophoric means a chemical that will ignite spontaneously in air at a temperature of 130°F or below;

(8) Is unstable (reactive). For purposes of this section, unstable (reactive) means a chemical which will vigorously react under conditions of shock, pressure or temperature; or

(9) Is water reactive. For purposes of this section, water reactive means a chemical that reacts with water release a gas that is either flammable or presents a health hazard; or

C. A mixture which is a physical hazard based on applicable of the criteria of paragraphs A and B to the mixture as a whole.

12. Trade secret. "Trade secret" means any confidential formula, pattern, process, device, information or compilation of information, including chemical name, that is used in any employer's business that gives the employer an advantage over competitors who do not know or use it.

13. Work area. "Work area" means a room or defined space, including any plant, yard, premises, room or other place in a workplace where hazardous chemicals are produced or used and where employees are present.

14. Workplace. "Workplace" means an establishment or business at one geographic location containing one or more work areas, but does not include a private residence which is not used for business purposes.

§1712. Written hazard communications program; records

Employer shall develop and implement a written hazard communication program which describes how the requirements of this chapter for labeling, material safety data sheets and for employee education and training will be met, and which also includes a list of the hazardous chemicals known to be present in the workplace, the methods the employer will use to inform employees of the hazards of routine and nonroutine tasks and the methods the employer will use to inform contractor employees of the hazardous chemicals to which they may be exposed and of appropriate protective measures.

Each employer subject to this chapter shall maintain a list of employees by name and job title or classification who have received training, the type of training provided and the dates it was provided.

§1713. Labels

1. Containers to be labeled, tagged or marked. Each container present in the work areas shall be labeled, tagged or marked with the common or chemical names of the hazardous chemicals contained and with appropriate hazard warnings.

Portable containers into which hazardous chemicals are transferred from labeled containers for the immediate use of the employee who performs the transfer are exempt from this requirement. The department shall specify by rule the extent to which labels shall be required for pipes and piping.


3. Label of chemical containers sold or distributed. The chemical manufacturer, importer or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with the common or chemical names of the hazardous chemicals, appropriate hazard warnings and the name and address of the chemical manufacturer, importer or other responsible party.
§1714. Material safety data sheets

1. Manufacturers, importers, suppliers or distributors to provide. Manufacturers, importers, suppliers or distributors of hazardous chemicals doing business in this State shall obtain or develop a material safety data sheet for each hazardous chemical they produce, import, supply or distribute in this State and provide the current material safety data sheet for any hazardous chemical to their direct purchasers of that chemical.

2. Employers to maintain. Each employer shall maintain in each workplace a material safety data sheet for each hazardous chemical which they use. All material safety data sheets maintained by employers shall be available to their employees for examination during all hours of operation, and shall be made readily available, upon request, to the director. Employers are not required to evaluate the potential hazards of chemicals, unless they choose not to rely on the evaluation performed by the chemical manufacturer or importer. If the employer does not receive the data sheet from the manufacturer, importer, supplier or distributor, he shall so inform the director and the director shall assist him in obtaining the information.

3. Copies to local fire chiefs. Employers shall, upon request, provide a list of hazardous chemicals and shall make available upon request to local fire chiefs copies of the material safety data sheets maintained in the workplace.

§1715. Employee information and training

1. Educational and training program required. Employers shall provide information and training on hazardous chemicals to all employees who are exposed to hazardous chemicals in their work area.

2. Schedule for information and training program. The information and training shall commence prior to an employee's initial assignment. Additional instruction shall be provided whenever chemicals or processes change or newly acquired information indicates the need for additional protective measures. Programs shall be conducted during the employee's regular working hours.

3. Information and training contents. The information and training program shall include the following:
   A. The provisions of this chapter;
   B. Any operations in the work area where hazardous chemicals are present;
   C. Methods of detecting the presence or release of a hazardous chemical in the work area;
   D. The physical and health hazards of the chemicals in the work area;
   E. The location and availability of the written hazard communication program and related documents;
   F. The measures employees can take to protect themselves from these hazards, including the purpose, proper use and limitation of personal protective equipment;
   G. An explanation of the labeling system and the material safety data sheets; and
   H. Emergency procedures.

4. Materials furnished at no cost. The employer shall assure that all educational and training materials and information are provided at no cost to the employee.

5. Materials available at request to the director. All materials relating to information and training required by this standard shall be made available upon request to the director.

6. Rules; Minimum training programs. The director may by rule establish minimum training programs, including refresher training where necessary, to be provided to employees who are exposed to specific hazardous chemicals.

§1716. Access to written records; confidentiality

1. Lists and sheets; availability. Chemical identification lists and material safety data sheets required by this chapter shall be made available upon request for examination and copying to any affected employee or former employee, authorized employee representative, designated physician or representative, the director or the Director of the Bureau of Health or his designee. The chemical identification lists shall be kept for 20 years.
2. Exposure measurements; availability. Any exposure measurements taken to monitor employee exposure to chemicals in the work area shall be made available upon request for examination and copying to any affected employee for former employee, designated physician or representative, the director or the Director of the Bureau of Health or his designee.

3. Trade secret information. A manufacturer, importer, supplier, distributor or employer may withhold the specific chemical identity of a hazardous chemical or its use in a particular process as a trade secret, the director may challenge the designation in Superior Court. Pending final determination, the director may also seek injunctive relief. If the director prevails, and the chemical or its use in a particular process is determined not to be a trade secret, as defined in this chapter, the other party shall pay all costs and reasonable attorneys' fees.

4. Trade secret determination. If the director believes a manufacturer, importer, supplier, distributor or employer has improperly designated a hazardous chemical or its use in a particular process as a trade secret, the director may challenge the designation in Superior Court. Pending final determination, the director may also seek injunctive relief. If the director prevails, and the chemical or its use in a particular process is determined not to be a trade secret, as defined in this chapter, the other party shall pay all costs and reasonable attorneys' fees.

5. Provisions of trade secret information to health professionals. Trade secrets information shall be provided to health professionals as follows.

A. When a treating physician or nurse determines that a medical emergency exists and the specific identity of a hazardous chemical is necessary for treatment, the manufacturer, importer or employer shall immediately disclose that information to the treating physician or nurse. A suitable statement of need and confidentiality may be required later, as soon as circumstances permit.

B. In nonemergency situations, a chemical manufacturer, importer or employer shall, upon request, disclose any specific chemical identity to a health professional providing medical or other health services, including the Director of the Bureau of Health or his designated representative. A suitable statement of need and confidentiality agreement shall be required before disclosure.

6. Confidentiality. The confidentiality agreement referred to in this section may restrict the use of the information to the health purposes indicated in the written statement of need, may provide for appropriate legal remedies in the event of a breach of the agreement, including a reasonable preestimate of likely damages, shall authorize sharing the information with the Bureau of Health, subject to the same confidentiality stipulations, and shall not include requirements for posting of a penalty bond.

§1717. Reports

1. Publication. The director shall make available an annually updated list of hazardous chemicals as established pursuant to this chapter.

2. Listing. The director may by rule require that employers submit a list of hazardous chemicals in the workplace, with changes reported annually. In order to facilitate compliance, the director shall provide assistance to employers with a list of hazardous chemicals which may be found in a workplace or their particular kind, and make available without charge the full list published in accordance with subsection 1.

§1718. Effective date

Except for section 1722, this chapter shall become effective on January 1, 1980, except that section 1714, material safety data sheets, shall be effective for manufacturers, importers, suppliers and distributors as the required information becomes available, but not later than May 25, 1986. The initial deadline for employers filing of hazardous chemicals with the Bureau of Labor Standards shall be set by rule no earlier than the effective date of this chapter. Section 1722 shall become effective November 25, 1985, except that section 1722 shall become effective immediately for the purposes of section 1720.

§1719. Administration and enforcement

1. Enforcement. The Bureau of Labor Standards shall administer and enforce this chapter, except that the Board of Pesticides Control shall have primary responsibility for inspection and training programs in workplaces subject to this chapter solely because of the presence of a limited or restricted use pesticide within the meaning of the Maine Pesticide Control Act of 1975, Title 7, chapter 103, subchapter II-A.
2. Inspections. For the purposes of this chapter, the director or the Director of the Bureau of Health or his designee may, at any reasonable time and upon presentation of appropriate identification, enter, inspect and collect samples from a workplace accompanied by the employer representative.

3. Cooperation with other agencies. The director shall obtain the assistance of the Bureau of Health and other state agencies in the administration of this chapter. The director shall provide by rule appropriate procedures for transferring to other state agencies information provided by employers which is subject to confidential treatment.

§1720. Chemical Information and Training Assistance Fund; fees

1. Assistance to employers. The director shall, upon request, provide assistance to employers in the development and conduct of training programs for employees and local public safety personnel.

2. Chemical Information and Training Assistance Fund. The director shall establish by rule a segregated, nonlapsing Chemical Information and Training Assistance Fund which shall be financed by fees levied on employers subject to this chapter. Revenues paid into the fund, including interest, shall be used exclusively for carrying out the purposes of this chapter, including, but not limited to, information and communication with employers, provision of copies of the law, rules, listing of hazardous chemicals and the likelihood of the presence of certain hazardous chemicals in the various industry workplaces. Expenditures from the fund shall be allocated and approved by the Legislature.

3. Fees. Each employer not exempt under this chapter shall be assessed an annual fee of $10. The fee is payable prior to July 1st of each calendar year. This fee structure shall be for a transitional period and shall only remain in effect until a permanent fee structure takes effect following the report on fee structure to the Legislature pursuant to section 1724.

4. Waivers and exemptions from fees. The director shall waive fees under this chapter under the conditions established in section 1724. Employers who have no applicable chemicals in the workplace, employers employing 3 or fewer employees, and state, municipal or quasi-municipal governmental organizations are exempt from fees under this chapter. Any employer who pays a fee and is found to be exempt from that fee shall receive a prompt refund.

§1721. Confidentiality of information

All information and reports obtained by the director, the Director of the Bureau of Health or any other agency under this chapter shall be confidential, except that the Director of the Bureau of Health shall provide the public with relevant information relating to any chemical in a particular workplace when the Director of the Bureau of Health has reason to believe that the chemical is present in that workplace under circumstances which represent an immediate or long-term threat to the health or safety of the general public. Review of the director's actions or failure to act under this section shall be in Superior Court.

§1722. Penalty

Any person, partnership, corporation or other legal entity who refuses to comply, in whole or in part, with this chapter after notice of noncompliance and a 60-day period to comply commits a civil violation for which a forfeiture not to exceed $500 for the first violation and not to exceed $1,000 for any subsequent violation may be adjudged.

No employer may be held in noncompliance for failure to supply a material safety data sheet if the Bureau of Labor Standards is unable to supply the employer with the necessary information.

§1723. Prohibited practices; remedy

It is unlawful for any employer to discharge, discipline or otherwise discriminate against any of its employees who have assisted in the enforcement of this chapter. The director may, after investigation and hearing, bring an action in Superior Court on behalf of any employee to enforce this section. In addition to the civil penalties set forth in section 1722, the director may seek all other appropriate relief, including payment of compensation actually lost as a result of a violation. If the court finds that there has been no violation of this section, the court may award costs and reasonable attorney's fees to the employer.
§1724. Report to Legislature; excess fees

Each year the director shall report to the Legislature on the Bureau of Labor Standard's experience under this chapter, including any recommendation on fee structure. Any amount of these fees collected in a year that exceeds the allocation from the Training Assistance Fund for that year shall be applied so as to reduce fees levied on employers under this chapter in the succeeding year.

§1725. Legislative review

Standards and regulations adopted under this chapter shall remain in effect until 90 days after the date of adjournment of the next regular session of the Legislature unless approved by the Legislature by resolve.
Rules Governing the Chemical Substance Identification Law -- Effective 9-10-84

1. Definitions

Unless the context otherwise requires, terms used in regulations, interpretations, forms or pronouncements issued by the director of the Bureau of Labor Standards shall be construed in the sense in which they are defined in the Chemical Substance Identification Law, 26 MRSA §§ 1709 through 1725, 1984 PL, c. 823, hereinafter referred to as the law.

2. Reporting Requirements

A. All employers subject to the provisions of the law shall file with the director a complete list of each substance for which the employer is required to maintain a material safety data sheet.

B. In addition to the employer's duty to file the list of substances with the director, the employer must provide copies of specific material safety data sheets, upon the director's request.

C. Employers shall annually update lists filed with the director.

3. Training Assistance Fund

A. There is established a segregated, non-lapsing Training Assistance Fund which shall be administered by the director in accordance with the law for the purpose of providing employers with assistance in developing and conducting training programs for employees, in the completion of material safety data sheets, and in carrying out the purposes of the law.

B. Each employer shall pay a fee annually to the director which shall be deposited in the Training Assistance Fund.

C. All employers subject to the provisions of the law shall submit a listing of applicable substances prior to December 31, 1984 to the director. The initial list submitted shall be a complete list of all applicable substances, subsequent lists must be submitted on an annual basis prior to July 1st of each year and may include only additions to and deletions from the initial list as appropriate.

4. Minimum Training Programs

A. Employers' training programs shall at a minimum meet the requirements of 26 MRSA § 1715, sub-3. The minimum requirements of the law and regulations should in no way be interpreted as limiting safety information and training provided to only that information specifically cited.

B. In addition to the training program requirements contained in the law, each employer subject to the provisions of the law shall conduct annual refresher training for all employees using or coming into contact with any chemicals listed in Part C of this section. A description of the annual refresher training shall be included in the employers' written hazard communication program and records of refresher training shall be kept in accordance with the requirements of 26 MRSA § 1712. All training requirements stipulated in 26 MRSA § 1715 shall apply to refresher training.

C. Employers must provide annual refresher training in accordance with Part B of this section regarding each of the following substances:

- 2-Acetylaminofluorene
- Acrylonitrile
- Allylglycidyl ether (AGE)
- alpha-Naphthylamine
- 4-Aminodiphenyl
- Asbestos
- Benzene
- Benzidine
- Beryllium and beryllium compounds
- beta-Naphthylamine
- beta-Propiolactone
- bis-Chloromethyl ether
- Boron trifluoride
- Butylamine-Skin
- tert-Butyl chromate (as CrO₃)-Skin
- Cadmium dust
Cadmium fume
Carbon disulfide
Carbon tetrachloride
Chlorine
Chlorine trifluoride
Chloroacetaldehyde
Chloroform (trichloromethane)
Chromic acid and chromates
Coal tar pitch volatiles
Coke oven emissions
Cotton dust
1,2-dibromo-3-chloropropane
3,3'-Dichlorobenzidine
4-dimethylaminoazo benzene
o-Dichlorobenzene
Dichloroethyl ether-Skin
1,1-Dichloro-1-nitroethane
Diglycidyl ether (DGE)
Ethyl mercaptan
Ethylene dibromide
Ethylene dichloride
Ethylene glycol dinitrate and/or Nitroglycerin-Skin
Ethyleneimine
Formaldehyde
Flouride as dust
Hydrogen chloride
Hydrogen fluoride
Hydrogen sulfide
Iodine
Inorganic arsenic
Lead and its inorganic compounds
Manganese
Mercury
Methyl Bromide-Skin
Methyl chloride
Methyl chloromethyl ether
Methyl mercaptan
Methyl styrene
Methylene bisphenyl isocyanate (MDI)
Methylene chloride
Monomethyl hydrazine-Skin
4-Nitrophenyl
Nitrogen dioxide
Nitroglycerin-Skin
N-Nitrosodimethylamine
Organo (alkyl) mercury
Silica dust
Styrene
Terphenyls
Tetrachloroethylene
Toluene
Toluene-2,4-diisocyanate
Trichloroethylene
Vanadium
Vinyl chloride

5. Cooperation with Other Agencies

A. All requests for information from other state agencies shall be subject to the same procedures used in the transfer of all information which is specifically exempt from the Freedom of Information Act and, therefore, subject to confidential treatment except as provided for in 26 MRSA § 1721.

B. All information must be requested through a written agreement specifying that the confidential nature of the information will be respected.

C. To enhance inter-agency cooperation and utilize the expertise available within state government a technical advisory group shall be appointed by the director of the Bureau of Labor Standards consisting of a representative of the Bureau of Health of the Department of Human Services, the State Fire Marshal’s Office and the Safety Division of the Bureau of Labor Standards.
6. Waiver Request Process

An employer or group of employers may request a waiver from any or all of the requirements of the law by forwarding to the director a written request for a waiver. The request must be specific regarding the reasons why strict compliance with the requirements of the law will not contribute to the health and safety of employees. The director shall conduct an investigation and respond to any request for a waiver within six months of receiving the request. If the director determines that a waiver is not appropriate the employer shall have thirty days following receipt of notice of the determination to request a public hearing through the petition for rulemaking process as provided for in the Administrative Procedure Act.

7. Pipe Labelling Requirements

All pipes present in the workplace containing a hazardous chemical or chemicals shall be labeled, tagged or marked with the common or chemical name of the hazardous chemical or chemicals therein and appropriate hazard warnings in such a fashion that employees who may be exposed under normal conditions or in a foreseeable emergency may reasonable be expected to be aware of the presence of the chemical and its hazardous nature. Pipes coded with numbers, stripes or colors or clearly labeled "Contains Hazardous Substance" are acceptable provided that the employer's training program provides complete explanation of this type of coding or labeling, the posting requirements of the law are maintained, and annual refresher training regarding any codes is provided.

In work areas in which substantial lengths of exposed and accessible joined pipe or pipes are present it is recommended that hazard warnings be placed at each joint.

8. Health Hazards (Reserved)

9. Physical Hazards (Reserved)

AUTHORITY: 26 MRSA, c. 22, §§ 1709 et seq.
SUBSTANCE REPORT FORM

All employers must complete and return this form to the Bureau of Labor Standards by December 31, 1984. Please review the enclosed cover letter and follow the directions outlined below. If you have any questions or require assistance, please write or call the Bureau of Labor Standards at 289-2591 or 289-3331. Thank you for your cooperation.

Directions for completing Substance Report Form:

1. Review your workplace(s) to determine substances or products present which are labeled as hazardous or which you believe may be hazardous.

2. The composition of most substances or products will appear on the label. If the composition does not appear or if you are uncertain which chemicals on the label are hazardous, list the product or substances by common or brand name on the Substance List below.

3. Compile an inventory of all hazardous substances present in your workplace(s) that you are able to identify.

4. Select either (a) or (b):
   (a) list your inventory in the spaces provided and the Bureau of Labor Standards will review and delete all nonhazardous substances; or,
   (b) compare your inventory with the enclosed list of hazardous substances and report all substances which appear on both your inventory and the list in the spaces provided or attach extra pages if necessary.

5. Sign the completed Form and return to the following address:

   Bureau of Labor Standards
   Safety Division
   State House Station #82
   Augusta, Maine 04333

The following is a complete list of hazardous substances or products which we are aware are present in our workplace(s):

Authorized Signature:

Print or type name and title:

SUBSTANCE LIST:
(Please print or type)

-42-
SUBSTANCE LIST: (Continued)
(Please print or type)

Me. SRF-1 (10-84)
<table>
<thead>
<tr>
<th>Compound</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aluminum</td>
<td>A mixture containing 1 percent by weight or volume of a listed substance or 0.1 percent of a carcinogen or suspected carcinogen (starred**) is a hazardous substance and must be reported.</td>
</tr>
<tr>
<td>Aluminum carbide</td>
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<tr>
<td>Aluminum chloride</td>
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<tr>
<td>Aluminum hydride</td>
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<tr>
<td>Aluminum nitrate</td>
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<tr>
<td>Aluminum phosphate solution</td>
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<tr>
<td>Aluminum phosphate</td>
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<td>Amalol</td>
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<tr>
<td>2-Aminoanthraquione</td>
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<tr>
<td>1-Aminodiphenyl**</td>
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<tr>
<td>2-Aminooctanol</td>
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<tr>
<td>N-Aminoethylpiperazine</td>
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<tr>
<td>Aminoacrylophospholine</td>
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<tr>
<td>bis(Aminopropyl) piperazine</td>
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<tr>
<td>2-Aminopyridine</td>
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<tr>
<td>1-Chloro-1, 2, 4-triazole</td>
<td></td>
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<tr>
<td>1-Amino-2-methylantraquinone</td>
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<tr>
<td>Amitrole</td>
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<td>Amidone</td>
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<td>Ammonia</td>
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<tr>
<td>Ammonia compounds</td>
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<td>Amyl acetate</td>
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<td>sec-Amyl acetate</td>
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<td>Amyl alcohol</td>
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<td>Amyl mercaptan</td>
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<td>Amyl nitrate</td>
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<td>Amyl trichlorosilane</td>
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<td>Aniline**</td>
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<td>Anisoloy chloride</td>
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<td>Antimony pentachloride</td>
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<td>Antimony pentachloride solution</td>
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<td>Antimony potassium tartrate</td>
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<td>Antimony sulfide</td>
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<tr>
<td>Antimony trichloride</td>
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<tr>
<td>Antimony trichloride solution</td>
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<tr>
<td>Arsenic (Inorganic)**</td>
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<tr>
<td>Arsenic trioxide</td>
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<tr>
<td>Arsine</td>
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<tr>
<td>Asbestos</td>
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<tr>
<td>Asphalt (petroleum) fumes</td>
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<tr>
<td>Azulene</td>
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<tr>
<td>Auramine (technical grade)**</td>
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<td>Azanerine</td>
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<td>Azathioprine**</td>
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<td>Azinophos-methyl</td>
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<td>Barium</td>
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<td>Barium chloride</td>
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<td>Barium cyanide</td>
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<td>Barium nitrate</td>
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<td>Barium oxide</td>
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<td>Barium perchlorate</td>
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<td>Barium peroxide</td>
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<td>Bemony</td>
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<td>Benz(a)anthracene</td>
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<td>Benzene**</td>
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<td>Benzene phosphorus dichloride</td>
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<tr>
<td>Benzene phosphorus trichloride</td>
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<tr>
<td>Benzidin**</td>
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<tr>
<td>Benzidine based dyes-Direct blue 6**</td>
<td>Direct black 38** Direct brown 95**</td>
</tr>
</tbody>
</table>
Note: A mixture containing 1 percent by weight or volume of a listed substance or 0.1 percent of a carcinogen or suspected carcinogen (starred**) is a hazardous substance and must be reported.

Trimethylchlorosilane
Trimethyl phosphite
Trinitrobenzene
Trinitrobenzoic acid
2, 4, 6-Trinitrophenol
2, 4, 6-Trinitrophenyl methyl nitramine
Trinitrosorocinol
2, 4, 6-Trinitrotoluene
Trioxochresyl phosphate
Triis(1-aziridinyl) phosphine sulfide
Tris(2,3-dibromopropyl) phosphate
Triphenyl amine
Triphenyl phosphate
Tungsten
Uranium
Thorium dioxide
Thorium metal
Thorium nitrate
Tin, organic and inorganic
Titanium dioxide
0-Tolidine
Toluene
Toluene-2, 4-disocyanate
0-Toluidine
Toxaphene
Trisbutyl phosphate
2, 4, 6-Trichlorophenol
Trichloroacetic Acid
1, 2, 4-Trichlorobenzene
1, 2, 2-Trichloroethane
1, 1, 2-Trichloroethane
Trichloroethylene
Trichlorofluoromethane
Trichloromethane
Trichloronaphthalene
Trichloronitromethane
1, 2, 3-Trichloropropane
Trichlorosilane
1, 1, 2-Trichloro-1, 2-trifluoroethane
Tricyclohexyltlin hydroxide
Triethylamine
Trifluorobromomethane
Trifluorochloroethylene
Trifluoromonomethylmethane
Trimellitic anhydride
Trimethyl acetyl chloride
Trimethylamine
Trimethyl benzene

2, 4, 5-T
Tantalum
TEDP
Tellurium & compounds
Tellurium hexafluoride
Temephos
TEPP
Terphenyls
1, 1, 2-Tetrachloro-2, 2-difluoroethane
1, 1, 2, 2-Tetrachloroethane
Tetrachlorodibenzo-pentaquatinox (TCDD)**
Tetrachloroethylene**
Tetrachloromethane
Tetrachloro-phosphine
Tetrachloronaphthalene
Tetraetyl lead
Tetrahydrofuran
Tetramethyl lead
Tetramethyl succinimide
Tetranitromethane
Tetrasodium pyrophosphate
Tetryl
Thallium
Thioacetamide
4, 4'-Thiobis(6-tert, butyl-m-cresol)
Thioglycolic acid
Thionyl chloride
Thiophosgene
Thiouria
Thiram
Thorium dioxide
Thorium metal
Thorium nitrate
Thin, organic and inorganic
Titanium dioxide
o-Tolidine
Toluene
Toluene-2, 4-disocyanate
0-Toluidine
Toxaphene
Trimethyl phosphite
2, 4, 6-Trichlorophenol
Trichloroacetic Acid
1, 2, 4-Trichlorobenzene
1, 1, 2-Trichloroethane
1, 1, 2-Trichloroethane
Trichloroethylene
Trichlorofluoromethane
Trichloromethane
Trichloronaphthalene
Trichloronitromethane
1, 2, 3-Trichloropropane
Trichlorosilane
1, 1, 2-Trichloro-1, 2-trifluoroethane
Tricyclohexyltlin hydroxide
Triethylamine
Trifluorobromomethane
Trifluorochloroethylene
Trifluoromonomethylmethane
Trimellitic anhydride
Trimethyl acetyl chloride
Trimethylamine
Trimethyl benzene

Note: A mixture containing 1 percent by weight or volume of a listed substance or 0.1 percent of a carcinogen or suspected carcinogen (starred**) is a hazardous substance and must be reported.
AN ACT to Provide for Adequate Funding of the Chemical Substance Identification Law.

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

Whereas, the Legislature recognizes the importance of the occupational health and safety of workers in this state; and

Whereas, that recognition led to the enactment of the Chemical Substance Identification Law designed to ensure that workers who are exposed to hazardous substances in the workplace receive adequate and appropriate safety training to protect them from occupational illnesses and injuries; and

Whereas, the implementation of the Chemical Substance Identification Law cannot be accomplished without an increase in the resources available to carry out the law; 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:

26 MRSA §1720, sub-§3, is repealed and replaced by the following:

3. Fees. Each employer not otherwise exempt under this chapter shall be assessed an annual fee based on the employer's annual average number of employees in accordance with the following schedule:
Annual Average
Number of Employees

<table>
<thead>
<tr>
<th>Equal to or more than</th>
<th>Less Than</th>
<th>Employer's Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>4</td>
<td>$0</td>
</tr>
<tr>
<td>4</td>
<td>25</td>
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<td>25</td>
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<td>$150</td>
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<tr>
<td>300</td>
<td>500</td>
<td>$200</td>
</tr>
<tr>
<td>500 or above</td>
<td></td>
<td>$250</td>
</tr>
</tbody>
</table>

The fee is payable prior to July 1 of each calendar year.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.

STATEMENT OF FACT

Without an increase in resources available for the implementation of the Chemical Substance Identification Law, 1984 PL, c. 823, the implementation of the law will cease in 1985. Present fees under the law have generated inadequate revenues. The fee schedule proposed by this bill is designed to generate approximately $130,000 in 1985.

The $130,000 would enable ongoing implementation of the law in FY '85-'86 and would be more consistent with the $160,000 annual allocation provided by the law. In addition, the law would become more "self-financing," as it was originally intended, and the fees will be more equitable to employers than flat fees. Employers with smaller workforces likely to require less training assistance would pay lower fees than employers with larger workforces requiring greater assistance.