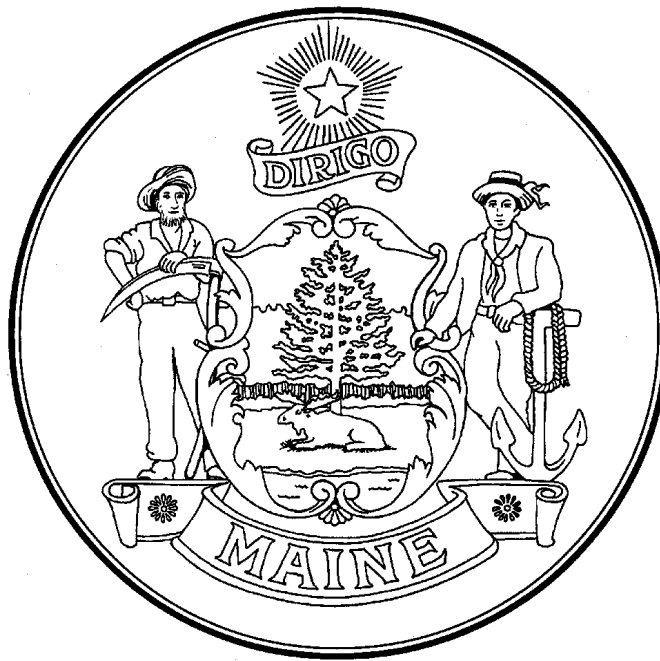


MAINE STATE LEGISLATURE

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



Reproduced from electronic and/or scanned originals

Maine Department of Agriculture



MAINE BEER & WINE
WHOLESALE ASS'N.
14 Allen Road
Brewer, Me. 04412

Stewart N. Smith, Commissioner

DIVISION OF REGULATIONS

Clayton F. Davis, Director
State House Station 28
Augusta, Maine 04333
Telephone 207/289-3841

June 12, 1981

Ms. Joyce Schneider
Executive Secretary
University of Maine
Boardman Hall
Orono, Maine 04469

Dear Ms. Schneider:

In response to your letter of June 8, 1981, you have my permission to release the report concerning the photodegradation of beverage container binders.

Very truly yours,

Robert E. Clark, Supervisor
Division of Regulations

REC:gw

Divisions

Administration — Animal Industry — Inspections — Markets — Plant Industry — Promotions — Animal Welfare
Commissions, Committees and Boards

Harness Racing Commission, Milk Commission, Seal & Mark Commission, Seed Potato Board, etc.



UNIVERSITY OF MAINE *at Orono*

Department of Industrial Cooperation

Boardman Hall
Orono, Maine 01473
207 584-7228

March 16, 1979

RECEIVED
MAR 20 1979
DIV. OF INSPECTIONS

Robert E. Clark, Supervisor
Division of Inspections
Department of Agriculture
State Office Building
Augusta, Maine 04333

Dear Bob:

This is our first progress report on the study of degradable binders used on beverage containers.

Figure 1 shows the test configuration. The binders were fastened to 2x4's and placed against the University solar collectors. Two methods of holding were used (test period: December 15, 1978 through March 1, 1979):

1. clips as shown in figures 2 and 3
2. staples as shown in figures 4,5,6, and 7

The units constrained by clips were free to blow in the wind and fatigued and fell off. But the units held by staples show small sign of degradation. They become very brittle in cold weather and break when touched. Almost all units carry the notation

271145

3733100

3874502

High Cone

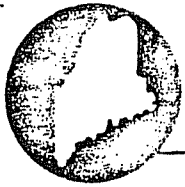
We will take close-up photos of the notation for inclusion in the next report. The numbered units on photos 4,5,6, and 7 are:

- | | | |
|------------------------|-------------------|----------------------|
| 1. Narragansett | 8. Moxie | 15. Schweppes |
| 2. Pabst Blue Ribbon | 9. Diet Pepsi | 16. Michelob |
| 3. Schlitz Malt Liquor | 10. Busch Natural | 17. Royal Crown |
| 4. Pepsi | 11. Mountain Dew | 18. Pabst Extra Lite |
| 5. Dr. Pepper | 12. Black Lable | 19. Country Club |
| 6. Tab | 13. Piel Light | 20. Budweiser |
| 7. Busch | 14. Sprite | 21. Schlitz |
| | | 22. Miller Light |
| | | 23. Tuborg Gold |

Very truly yours,

Richard C. Hill
Director

RCH:js



UNIVERSITY OF MAINE *at Orono*

Department of Industrial Cooperation

June 12, 1979

Robert E. Clark, Supervisor
Division of Inspections
Department of Agriculture
State Office Building
Augusta, Maine 04333

Dear Bob:

This is our final report on the "Agreement for Special Services" dated December 1, 1978.

The beverage container binders did become brittle with age as described in the Owens-Illinois literature. The attached curves and data sheets are confirmation. We find their claims, however, an overstatement:

"The photodegradation begins as soon as the carrier is exposed to ultraviolet rays and as the process continues the carrier becomes more and more brittle, until it reaches a state that the natural forces in the environment such as wind, water, and heat will cause the carrier to break into pieces and to become unrecognizable as either a package or as litter. As long as there is any exposure to ultraviolet light, the photodegradation will continue to embrittle the pieces. These small pieces can then be absorbed into the ground. It is only at this stage of the degradation process, burial in the top soil, that meaningful biodegradation of any material can take place. The amount of time required for a carrier to decompose and be absorbed into the ground is dependent on the amount of ultraviolet exposure it receives. Obviously this will vary, depending on the season, but generally speaking, the carrier will become brittle and begin to disintegrate after several weeks."

The broken pieces from our test panel fell onto the grass, where, several months after the test began, they can still be recognized as litter.

With the help of the University staff we have collected several hundred carriers. Without exception they carry the "Hi-Cone" logo.

Very truly yours,

Richard C. Hill
Director

RCH:js

Bookman Hall
Orono, Maine 04473
207, 581-7228

RECEIVED
JUN 13 1979
DIV. OF INSPECTIONS

EMBRITTLEMENT OF DEGRADABLE HI-CONE CARRIERS

Date sample acquired: December 23, 1978 (exposure started: December 25, 1978)
 Date sample tested: May 31, 1979

<u>SPECIMEN</u>	<u>ORIGINAL LENGTH</u>	<u>EXTENDED LENGTH</u>	<u>% ELONGATION</u>
1	1.38"	.06"	4%
2	.38"	Too brittle to handle	

Date sample acquired: April 18, 1979 (exposure started: April 23, 1979)
 Date sample tested: May 31, 1979

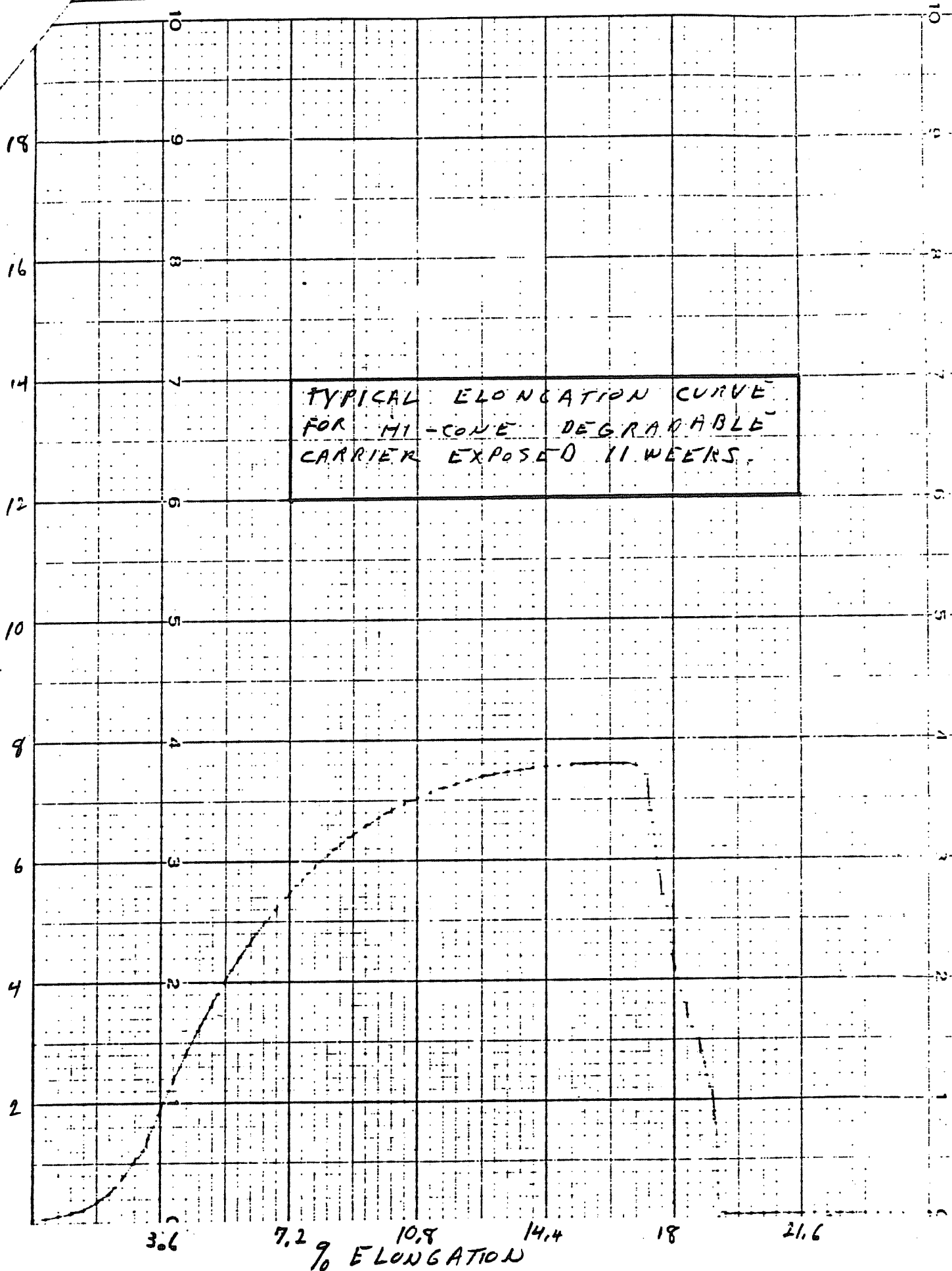
1	1.38"	.4"	29.0%
2	1.38"	.33"	23.9%
3	1.38"	.27"	19.6%
4	1.38"	.315"	22.8%
5	1.38"	.22"	15.9%
6	1.38"	.205"	14.9%
			Avg. 21.0%

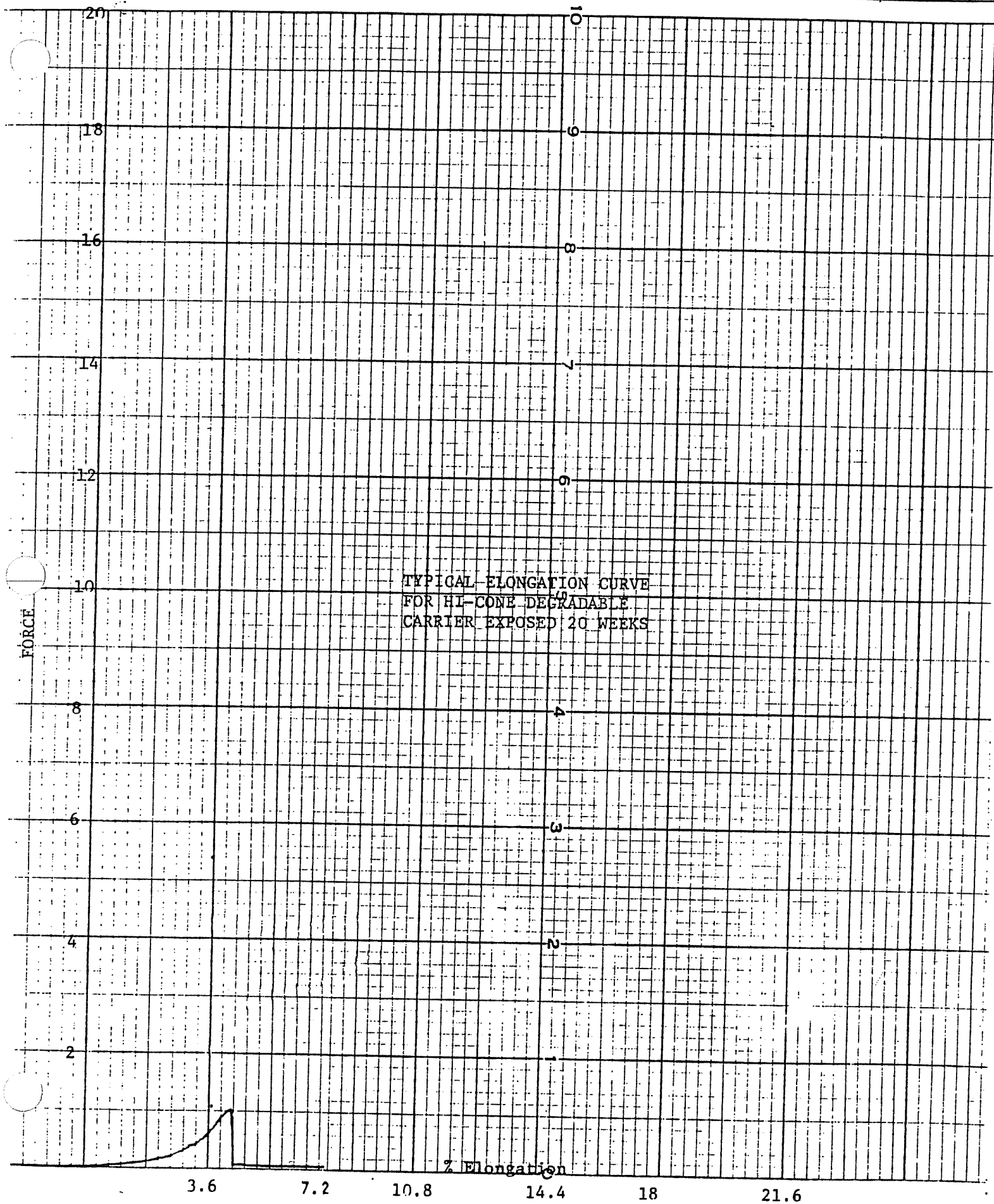
Date sample acquired: May 31, 1979
 Date sample tested: May 31, 1979

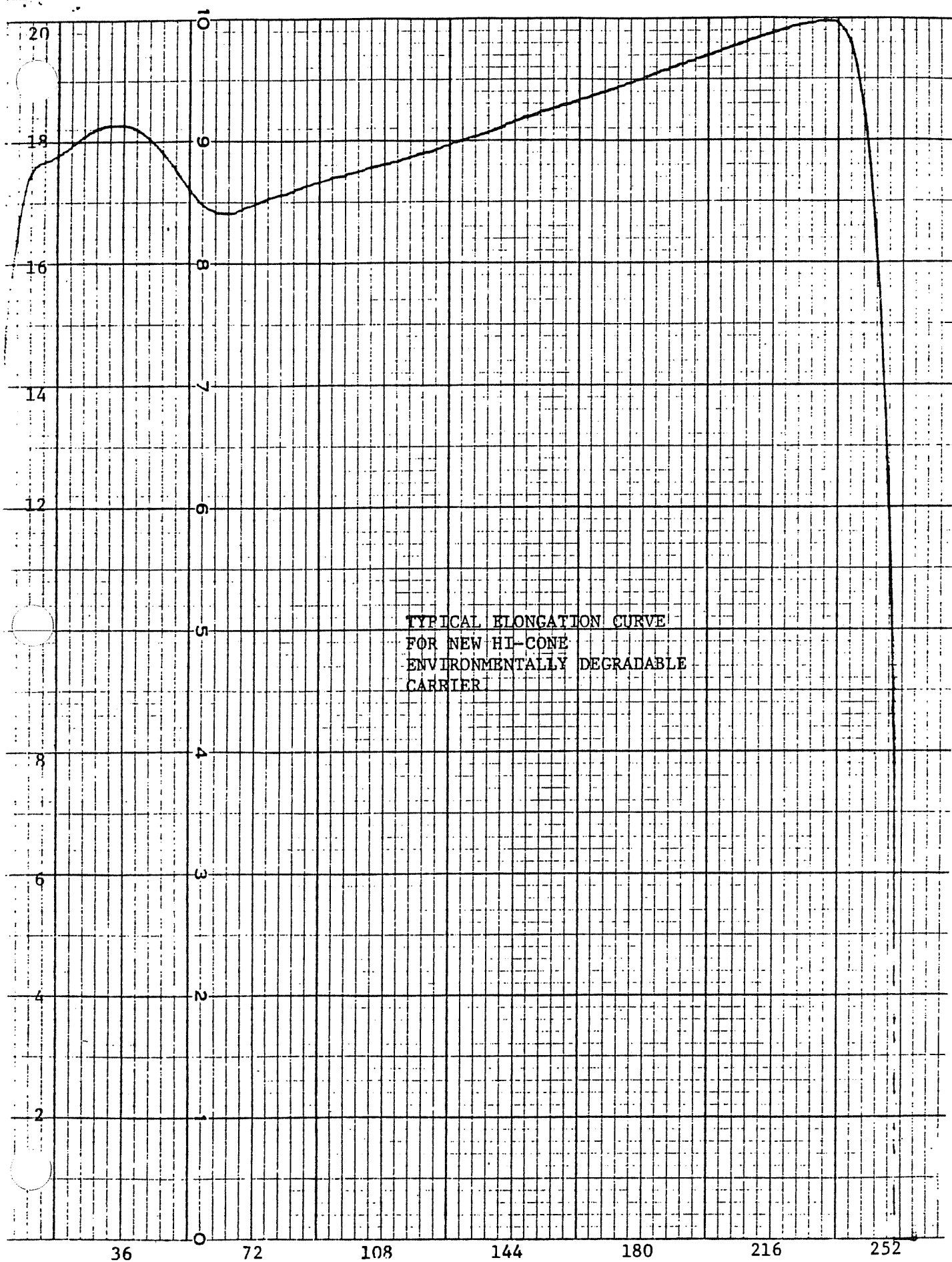
1	1.38"	3.54"	256.5%
2	1.38"	1.86"	134.8%
3	1.38"	2.35"	170.3%
4	1.38"	4.03"	292.0%
5	1.38"	4.44"	322.0%
6	1.38"	2.68"	194.0%
7	1.38"	4.57"	331.0%
8	1.38"	3.72"	270.0%
9	1.38"	7.18"	520.0%
			Avg. 277.0%

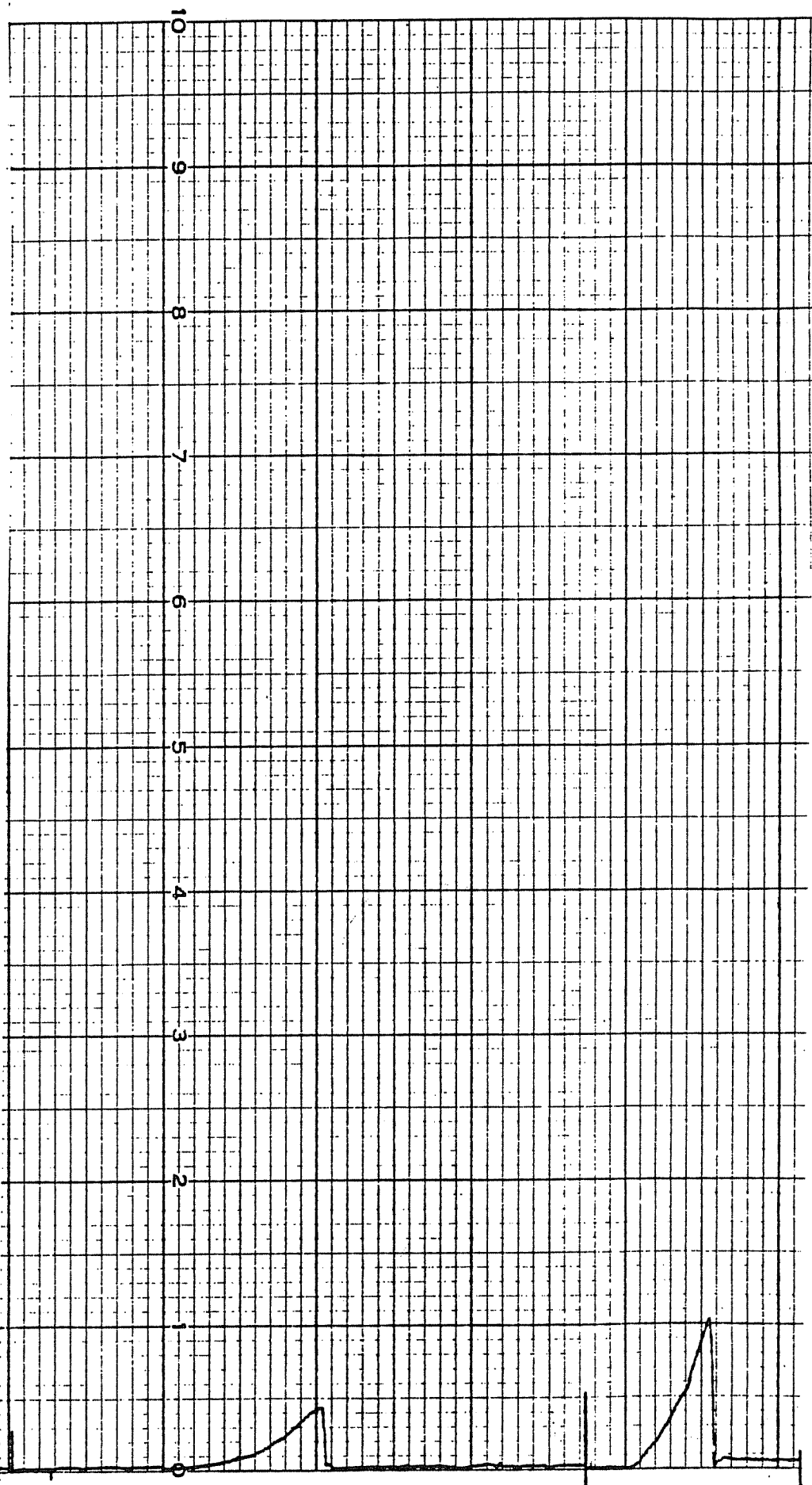
FORCE (N)

TYPICAL ELONGATION CURVE
FOR MI-CONE DEGRADABLE
CARRIER EXPOSED 11 WEEKS.

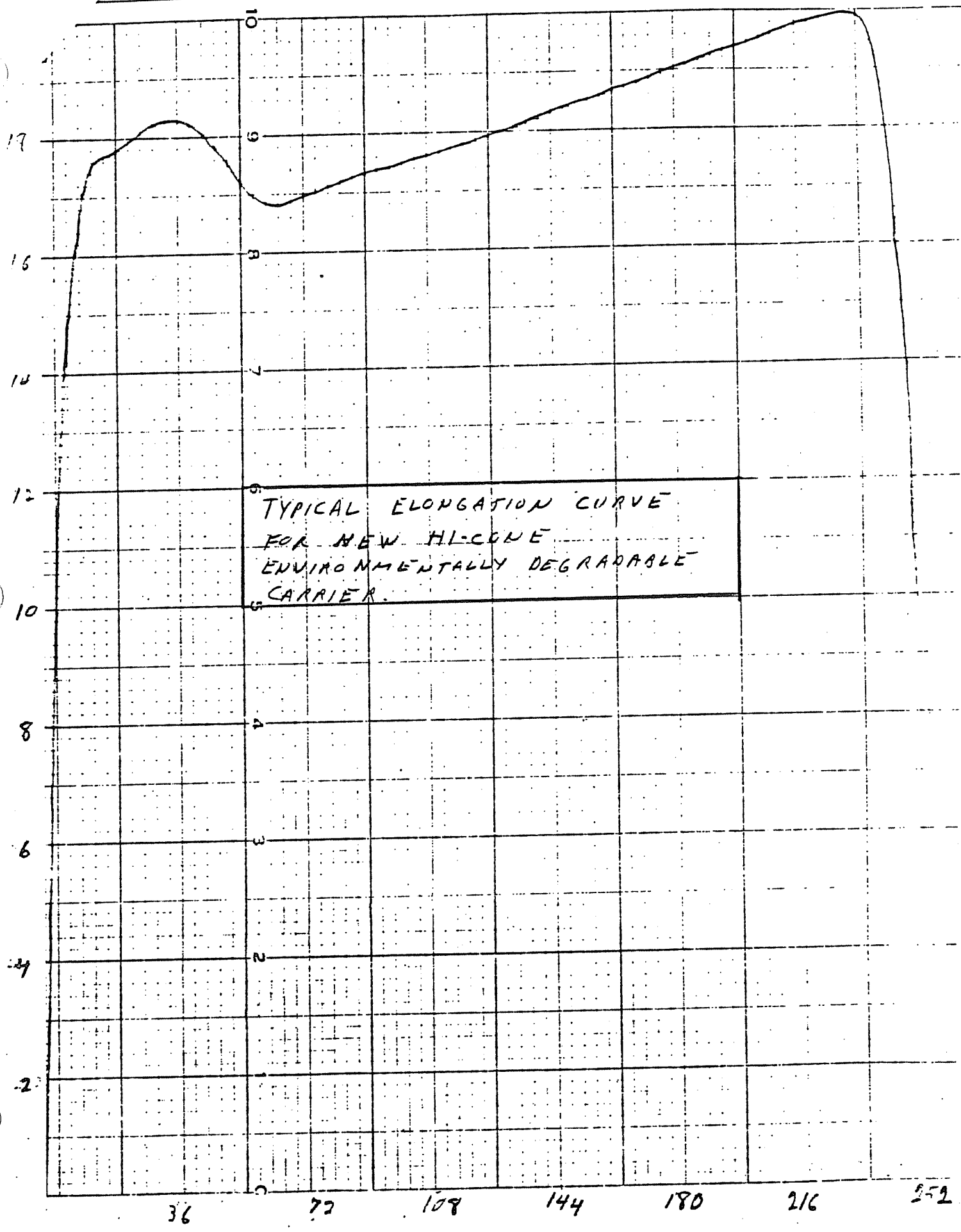








FORM 4 (1.16)



9 ELONGATION

FORCE (Wt)

18

16

14

12

10

8

6

4

2

10

6

8

7

5

5

4

3

2

1

TYPICAL ELONGATION CURVE
FOR HI-CONE DEGRABLE
CARRIER EXPOSED 20 WEEKS

3.6

7.2

10.8

14.4

18

21.6

MONITORING PROGRAM

The following monitoring wells will be monitored on a quarterly basis (January, April and July) after the Phase I MSW expansion is constructed:

Ground Water

M1	M2
M3	M4
M5R	207W
301C	103B
103C	103D
104B	104C
110B	110C
207C	207D
203W	203B
203C	203D
203E	208B
208C	208D
209W	210W
208W	105W
107W	109W

Well next to proposed pond Background well

Quarterly Parameters

Spec. Cond.
Fe
Cl
Na
TOC
COD
Ca-Mg Hardness
Ca
pH

SO₄
Oil and Grease
TOX
TDS
Temperature
NO₃+NO₂-N
Water Elevation
Fecal Coliform
Ammonia

The following wells will be analyzed on an annual basis (in October):

M1	M2
M3	M4
M5R	207W
301C	103B
103C	103D
104B	104C
110B	110C
207C	207D
203W	203B

203C
 203E
 208C
 209W
 208W
 107W
 Well next to proposed pond
 Decato Well
 101B
 105BR
 106B

203D
 208B
 208D
 210W
 105W
 109W
 Background well
 Andrews Well
 101C
 105C
 106C

Annual Parameters

Spec. Cond.
 Fe
 Cl
 Na
 TOC
 COD
 Ca-Mg Hardness
 As
 Ba
 Cd
 Pb
 V
 Cu
 Zn
 Fecal Coliform
 Ca
 Ni
 Ammonia

SO₄
 Oil and Grease
 TOX
 TDS
 Temperature
 NO₃+NO₂-N
 Water Elevation
 Ag
 Cr
 Hg
 Se
 PCB
 Mn
 VOC
 PO₄
 Mg
 pH
 Semi-Volatiles

Surface Water

There will be two surface water sampling events per quarter. One sample will be obtained during normal flow conditions and one sample will be obtained during or after a significant storm event. No sample will be obtained if there is only stagnant water (no flow). As we discussed, the samples will be obtained by an independent company, acceptable to CWS and the Town, and it may be difficult to schedule them to sample when there is flowing water at all sites in July.

The following surface water monitoring points (see the attached map) shall be sampled on a quarterly (January, April and July) and an annual (October) basis:

SW-101
 SW-201
 SW-5
 SW-9

SW-102
 SW-202
 SW-7
 SW-10

SW-11

The annual sample shall be obtained for during the normal flow conditions during October. The above sample points will be analyzed for the below specified parameters:

Quarterly Parameters

Temperature	pH
Spec. Cond.	Cl
Fe	TOC
Na	Ca-Mg hardness
Turbidity	TDS
DO	TSS
BOD	NO ₃ +NO ₂ -N
Ammonia	Fecal Coliform
E. Coli Bacteria	

Annual Parameters

Temperature	pH
Spec. Cond.	Cl
Fe	TOC
Na	Ca-Mg hardness
Turbidity	TDS
DO	TSS
BOD	Fecal Coliform
Cr	Pb
V	NO ₃ +NO ₂ -N
Ammonia	Ni
E. Coli Bacteria	Cu
Hg	As
Se	Zn
Cd	Ag
Ba	VOC
Semi-Volatiles	

PLANNING & SITING SCHEDULE

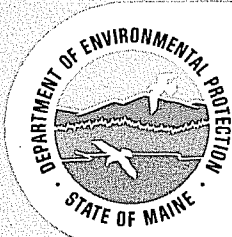
March 1 1990 First state plan

May 1 1990 Siting Criteria

July 1 1991 Initial sites identified

July 1 1994 Initial sites developed

Subsequent capacity sited and developed as needs are identified by agency.



STATE OF MAINE

Department of Environmental Protection

MAIN OFFICE: RAY BUILDING, HOSPITAL STREET, AUGUSTA
MAIL ADDRESS: State House Station 17, Augusta, 04333

207-289-7688

JOHN R. McKERNAN, JR.
GOVERNOR

DEAN C. MARRIOTT
COMMISSIONER

MEMORANDUM

TO: The Energy and Natural Resources Committee

FROM: Paula M. Clark, Director, Bureau of Solid Waste Management *PMC*

DATE: June 2, 1989

SUBJ: Final Section of the Solid Waste Capacity Needs Analysis.

* * * * *

Attached is the final section of the draft Solid Waste Capacity Needs Analysis. This section covers the issue of solid waste competition in Maine. It was prepared with input from the Attorney General's Office.

This section, along with the body of the analysis, will be printed and distributed for formal public comment. A final draft of the analysis will then be prepared and presented to the Board of Environmental Protection for its consideration.

I would be happy to receive any questions or comments you might have.

CE/jwdisk5

CNAMEMO

REGIONAL OFFICES

• Portland •

• Bangor •

• Presque Isle •

REVIEW OF COMPETITIVE AND CAPACITY ISSUES**I. A BRIEF HISTORY AND BACKGROUND**

Solid waste management in Maine has evolved over the past 20 years from a point at which towns were being encouraged, for fire control reasons, to locate their dumps near water bodies and in gravel pits, to the present situation which includes comprehensive management regulations and complex technologies for waste handling and disposal. Solid waste disposal activities were virtually unregulated on any level for many years. In 1966, the state first became involved in solid waste activities when Governor John H. Reed designated the Maine Department of Health & Welfare as the appropriate agency to begin a solid waste planning effort on the state level. This designation was the result of the Federal Solid Waste Act of 1965 which made matching grants (for planning only) available to states through the U.S. Public Health Service. This small federal grant allowed the State to survey for the first time all existing dumps and in 1970 produce a "solid waste management plan". The plan consisted primarily of the results of the survey of existing conditions, but did in part urge regional approaches to solid waste disposal which even at that time appeared to make economic sense. The greatest value of this report however, seemed to be the fact that it served to heighten public awareness that existing disposal practices were causing environmental degradation.

In 1972, the Environmental Improvement Commission (EIC) was replaced by the Department of Environmental Protection (DEP) and was given responsibility on the state level for solid waste. The following year, the 106th Legislature passed the Maine Solid Waste Management Act which was not significantly modified until 1987. Section 1304 of the Act provided the Board of Environmental Protection with the authority to adopt, amend and enforce solid waste rules and regulations. Section 1305 took the step of making each municipality responsible for providing for disposal of all "normal domestic and commercial refuse" in some fashion.

Although relatively few actions were taken, the first solid waste disposal enforcement cases were initiated in 1973. At the time, the only enforcement authority stemmed from the 300 Foot Disposal Law (38 MRSA Section 421) and the Open Burning Law (38 MRSA Section 599).

Regulations regarding solid waste disposal activities did not become effective until 1976 since towns were not ready to bear the costs and responsibility associated with the rules and with the open burning law. When the regulations finally became effective, towns were still not prepared to comply and compliance schedules were imposed upon many municipalities.

A 1976 citizen report sponsored by the Department of Environmental Protection made a number of interesting points, considering the time at which it was written and the stage to which solid waste management and regulation had progressed. These points included:

- hope that resource recovery would play a role in the future of solid waste management in Maine,
- recognition and discussion of the growth of neighborhood and citizen concerns and its effect on solid waste management,
- note that even if resource recovery became a reality in Maine, landfills would continue to be necessary elements of the system for residues and unprocessed wastes,
- recognition that no financial supports or incentives were available to municipalities to assist in conversion or closure of their environmentally unacceptable sites,
- support for regional approaches to solid waste disposal/management, and
- strong support for state assistance to municipalities/regions on solid waste issues.

By 1980, it had become quite clear that the vast majority of disposal sites in the state were unsuitable for a variety of environmental reasons. That year, the Department of Environmental Protection developed an enforcement priority list that identified those sites that posed the greatest environmental, health, and safety threats. Sites highest on the list were targeted by the Department for immediate attention. Decisions regarding enforcement actions, field activities, and allocation of staff resources were based in part on the priority list. This list was subsequently updated in 1983, at which time it was noted that significant progress had been made statewide in closing or upgrading dumps that posed serious environmental threats.

From 1979 to 1981 several programs were established through legislation which provided some financial assistance for various solid waste related activities. These programs met with varying degrees of success. The 3 programs are described below:

1. Municipal Solid Waste Management Subsidy Program (PL 1979 Chapter 511 - An Act to Establish a Solid Waste Management Subsidy for Municipalities)

Allocated \$500,000 for payment of operating subsidies to municipalities that operated solid waste facilities in substantial compliance with statutes and regulations. One time payments were made to 119 municipalities and one county. Funding for the program was not renewed.

MUNICIPAL SOLID WASTE

Municipalities which do not have a regional or municipal disposal alternative available to them are extremely limited in their disposal options for municipal solid waste. Maine currently has six operating incinerators or waste-to-energy facilities. Three of these facilities (MERC, RWS and PERC) account for over 90% of the total incineration capacity within the State of Maine. Two of these (MERC and PERC) account for over 64% of total incineration capacity. Moreover, Maine has only four commercial landfills licensed to accept municipal solid waste (Consolidated Waste Services in Norridgewock, Down East Landfill in Marion Township, Down East Disposal in Steuben, and Sawyer Environmental Recovery Facility in Hampden). Only Down East Landfill appears to have long term capacity.

Municipalities which need to close their landfills or dumps in the future are likely to find that many of the existing regional landfills or incinerators are no longer accepting new contracts. Depending upon the part of Maine that a municipality is located in, its disposal options could be very limited and costly.

SPECIAL WASTE

Maine currently has only two commercial landfills licensed as secure facilities capable of accepting special waste, including ash generated by incinerators and waste-to-energy facilities. Moreover, both of these facilities, Consolidated Waste Services and Sawyer Environmental Recovery Facility, have limited capacities which are subject to a high demand from waste generators.^{1/} The operators of these commercial landfills have an extremely high share of the market for disposal of special wastes. The disposal options within the State for generators of special waste and, specifically, for waste-to-energy facilities generating ash, are severely limited.

^{1/} A number of industrial generators of waste have licensed secure landfills which are dedicated to the disposal of waste generated by the particular industry operating the landfill. In addition, there are 4 publicly owned secure landfills that are dedicated to the disposal of municipal solid waste or incinerator ash generated by the municipalities that it serves. These are the Presque Isle landfill, the Auburn ash landfill, Regional Waste Systems landfill, and the NARIF landfill in Frenchville.

COST OF DISPOSAL

Currently, Maine tipping fees for municipal solid waste range from approximately \$20 to \$35 per ton at landfills and generally about \$12 to \$25 per ton for waste delivered at resource recovery facilities under long term contracts. Non contract waste, when it is accepted is normally charged a higher fee, approximately \$40 per ton. A survey conducted by the National Solid Waste Management Association found that the average tipping fee for the disposal facilities surveyed was \$20.36 per ton for landfills and \$33.64 per ton for resource recovery plants. The average disposal fee for the Northeast was \$39.23 per ton.

ECONOMIC EFFECT OF CONCENTRATION IN THE SOLID WASTE INDUSTRY

The high levels of concentration among incinerators and commercial landfills presents a serious economic threat to Maine's waste generators: the threat that incinerators and secure landfills (and, in addition, the small number of commercial landfills capable of accepting municipal solid waste) will charge excessive and noncompetitive fees for the disposal of solid waste. While it is not possible to predict whether or not landfills or incinerators will charge excessive prices, noncompetitive pricing is a likely consequence of high levels of concentration within any industry.

That the solid waste industry can be subject to competitive abuses is further supported by the involvement that the Antitrust Division of the Department of the Attorney General has had with this industry. In the past five years, the Attorney General has initiated a number of formal antitrust enforcement actions. These actions involved legal challenges by the Attorney General of attempts to monopolize secure landfills, price-fixing by waste haulers, and attempts to monopolize by waste haulers. Currently, the Department of the Attorney General has in effect four Consent Decrees or Assurances of Discontinuance binding or controlling the activities of companies or individuals in the solid waste industry.

III. SOLID WASTE PROGRAM APPROACHES

How waste management options are implemented can range along a spectrum of public and private involvement. At one extreme, a state could exert total control over the implementation of all solid waste options. At the other extreme, a state could provide regulations that govern siting and leave the implementation of facilities totally to local and private initiative. Maine has relied primarily upon local decisions and market driven private sector activity to provide waste disposal and management capacity.

A wide variety of solid waste program approaches have been employed by different states across the country to promote development of new capacity on a competitive basis. Following is an outline of some of the possible approaches to addressing various aspects of solid waste management. These approaches range from regional or state siting authorities, rate setting, recycling and source reduction, and potential state initiatives.

RECYCLING AND SOURCE REDUCTION

Recycling and source reduction have the potential to quickly and significantly reduce the need for additional disposal capacity. This in turn could have an effect on competition by reducing the volume of material requiring disposal. The cost, risks, and time associated with undertaking these initiatives is often a fraction of those to site and implement new disposal capacity. Numerous potential state initiatives are available to increase recycling and utilization of material and to reduce the amount of waste generated. These options are covered in the State of Maine Waste Reduction and Recycling Plan prepared by the Office of Waste Recycling and Reduction.

STATE SOLID WASTE FACILITY SITING AUTHORITIES

A number of states have established public authorities to develop or assist in the development of major solid waste projects. State siting authorities can be structured in a number of different ways and with different levels of responsibility. The potential advantage of a state siting authority is that it could implement solutions when there is an overriding state need to develop a solid waste system. This might include the processing or disposal of special wastes, tires, incinerator ash, batteries, household hazardous wastes, or other materials that may lack adequate statewide management capacity. A state siting authority might also be authorized to direct waste to the best available disposal site during an emergency. Such an authority might be able to set disposal costs or implement a solid waste system to serve a portion of the State if no one else in that region has acted to meet that need.

Potential disadvantages of a state siting authority may include an usurpation of local initiatives or authority. The establishment of a state siting authority can be a lengthy process that does not provide an immediate means of addressing a lack of disposal capacity. Establishment of a solid waste authority must be accomplished carefully in order to insure that a state solid waste management program contains consistent goals among all state solid waste agencies.

The siting authorities that have been established in some states have varied in their degrees of success. The Connecticut Resources Recovery Authority was established in 1973 and has been responsible for building 3 operational waste-to-energy facilities and has been responsible for the planning of several others. It appears to be generally regarded as a competent and effective agency. The Delaware Solid Waste Authority has a refuse processing plant that has been in operation since 1984.

State siting authorities do not automatically guarantee greater success in the siting process however. The Wisconsin Recycling and Recovery Authority was abolished by statute in 1984. The Rhode Island Solid Waste Management Corporation's only landfill has less than 2 years of capacity remaining. The Corporation is facing litigation by the U.S. Environmental Protection Agency, the Rhode Island Department of Environmental Management, and the Town of North Kingston. Although the Connecticut Resources Recovery Authority is a well respected agency, it experienced serious financial, technical, and administrative problems early in its life that have been difficult for it to recover from.

REGIONALIZATION OF SOLID WASTE MANAGEMENT

Providing solid waste disposal services on a regional basis has proved to be an effective system in Wisconsin and several other states. Vermont has recently incorporated a regional siting initiative into their solid waste program. Single regional authorities are sometimes formed for the purpose of providing a specific region's disposal needs. These include the Northeast Maryland Waste Disposal Authority and many other regional solid waste or resource recovery authorities. Many other states require that counties provide solid waste disposal.

1. Regional Options

A number of different approaches are possible. These include:

- Establishing regions throughout the state and mandating regional plans. These planning and siting activities can either be supported or not supported by state financial assistance.
- Providing state benefits to regions that choose to develop and implement optional regional plans.
- Regional siting, development, and operation of facilities can be accomplished directly by the public authority or through contractual services with another public or private party.

2. Potential Benefits

The potential benefits of a regional solid waste disposal delivery system include:

- expanded disposal capacity,
- greater economies of scale than on the local level,
- greater flexibility in meeting local and private needs than on the state level, and
- possible reduction in the number of landfills and environmental problems.

3. Potential Disadvantages

The potential disadvantages include:

- reduced flexibility for municipalities and private businesses,
- potential for less sensitivity to local costs, and
- less uniformity in solid waste practices than if run by the state.

COMPETITIVE PROCUREMENTS

Many states require that municipalities contract for municipal services through a public bidding or other competitive procurement process. The primary purpose of such statutes is to ensure that public funds are not misapplied. A number of states have modified public bidding statutes, which generally require selection of the lowest cost responsible bidder, to accommodate the complexities of solid waste system procurement. These modified statutes permit selection of vendors based on a number of criteria including: price, technology, experience, financial capability and other factors. A competitive procurement requirement should permit a number of private sector companies in the waste disposal industry to compete effectively in the State. The requirement of a competitive procurement, together with an obligation on the part of local or regional units of government to establish long-term solid waste management plans could result in the procurement of additional disposal facilities on a competitive basis.

State law provides that public contracts for construction of a county project with a cost above \$2,500 and purchases by the State Purchasing Agent shall be made through a competitive bidding process. However, refuse disposal districts created pursuant to MRSA 38 Section 1731 have the power to make contracts through a negotiated or competitive bidding process or any other process which may be advantageous to the district. A refuse disposal district may be comprised of one or more municipalities. This provision would allow a district to award a contract on the basis of factors other than cost alone. Such factors might include: facility design, system reliability, compatibility with source separation and other recycling systems, environmental protection, risk allocation, financial stability of the proposer, affirmative action record and proposer's compliance with State laws, and other criteria set forth in a request for proposal (the "RFP"). New Jersey and Connecticut also have flexible procurement statutes.

Generally, in such a flexible competitive procurement process a district would distribute an RFP to interested vendors. The RFP would require that each proposal to be submitted include information relating to the issues discussed above - financial responsibility, cost, experience, etc. After reviewing the proposals in light of the criteria set forth in the RFP the district would then either select one proposer with whom to begin negotiations on a final contract or alternatively, would select two or more proposers to hold simultaneous negotiations with. A district may achieve best results if it selects two or more proposers and holds them in a competitive mode for an extended period of time depending upon the movement of the proposers and the district's internal time pressures. In this way, if negotiations break-down with the preferred proposer the district will have the option of going to the next best proposer in an advanced contract stage.

REGULATION OF WASTE DISPOSAL FEES AND RATES

Regulation of fees or rates charged by landfills or incinerators is an approach that has been employed when large volumes of solid waste are being disposed in relatively few disposal sites. Two questions may be asked when discussing application of the rate setting concept in the area of solid waste disposal in Maine. How concentrated is Maine's solid waste disposal industry? How is the level of concentration within Maine's solid waste disposal industry likely to change in the future?

As was discussed in a prior section, the levels of concentration within the municipal waste disposal and the special waste disposal industries in the State of Maine are quite high. These levels of concentration have a potential to present a serious problem for Maine's waste generators. Specifically, high levels of concentration can significantly increase the likelihood that waste generators will be faced with noncompetitive conditions when they need to obtain disposal of both municipal solid waste or special waste.

The high level of concentration within the solid waste disposal industry within the State of Maine is not likely to be reduced quickly. Under current law, there are significant barriers to entry by new landfills or incinerators. These barriers include the significant expense of developing a new facility as well as the regulatory and political hurdles to be overcome in obtaining municipal and state approval for the siting of a new facility. The review of rates or fees is a potentially viable method for controlling prices in a concentrated industry.

A generally accepted mechanism for controlling prices to consumers in areas where natural monopolies are predominant, such as electric, telephone and water services, is through rate regulation. The waste disposal industry which, by its nature, may also establish a local monopoly, may also be subjected to such regulation. Legislation may be enacted whereby the State or a state agency has the power to review rates to be charged for waste disposal services. A number of approaches may be taken, including a required State approval of all rate increases or a State right to review rates and, if it finds such rates excessive, to order rate decreases or other adjustments. A regulatory approach to rates in the solid waste disposal industry has been adopted, in part, by the State of New Jersey. In New Jersey, the Board of Public Utility (the "BPU"), a state agency, is granted rate jurisdiction over the state solid waste disposal industry. The BPU, upon complaint or its own initiative, may direct any person engaging in the solid waste collection business or the solid waste disposal business to furnish proof that the charges or rates to be received for such service do not exceed just and reasonable rates or charges for such service. Should the board find that the rates or charges are excessive then it may order the person charging such excessive rates or charges to make an adjustment in the contract to a sum which shall result in just and reasonable rates or charges.

STATE ASSISTANCE

The State may elect to provide assistance to the governmental units responsible for solid waste management. This might include: technical and financial assistance for the planning, design, and implementation of waste management activities; grants or loans for special projects or initiatives such as recycling or the management of white goods or demolition debris; or through providing credit enhancement for debt issued to finance a project.

IV. CONCLUSION

It is clear that Maine currently lacks adequate approved solid waste disposal capacity for the long term. To date, development of disposal capacity within the State of Maine has generally not been guided by long term, comprehensive planning efforts on the state, county, regional or local levels. This has resulted in a somewhat haphazard development of disposal capacity. Because of the complexities, expense, and concerns associated with major solid waste disposal projects, new capacity is not likely to be developed quickly. The continued closing of existing unacceptable disposal sites and the economic advantages of large scale disposal are likely to lead to solid waste disposal being increasingly concentrated in progressively fewer facilities. This all acts to deter the development of more favorable levels of competition. A number of mechanisms are available that can promote competitive pricing of waste disposal services. Implementation of some of the types of initiatives mentioned previously in this section may serve to foster evaluation and development of additional capacity more consistently, more quickly, and in a more cost-effective manner.

CE/bsh/SW

Solid Waste - Authority Boilerplate

However you choose to structure the state role in waste management, the committee appears to have agreed that a state authority should be established. This packet contains the statutory proposals from three of the many authority proposals. Other proposals are substantially similar. While much of this language is corporate boilerplate, there are important points to note. These include:

1. General purpose statement
2. Certain powers & duties
3. Composition of the Authority Board
4. Relationship between Authority & Governor
5. Relationship between Authority & other agencies

As a related matter, the two bills which utilize regional districts also set up corporate entities which require statutory provisions. A comparison of these is included in this packet.

Notes: References are to Title 38 unless otherwise noted.

WPP81

COLUMN 1 LD

Policy & Authority Structure
SUBCHAPTER I

MAINE SOLID WASTE AUTHORITY:
GENERAL AUTHORITY STRUCTURE AND ORGANIZATION

§1761-A. Authority established; purposes

As authorized by Title 5, section 12004-F, there is established to carry out the purposes of this subchapter, the Maine Solid Waste Management Authority. The authority is a body corporate and politic and is an instrumentality of the State.

The authority shall develop and implement a state solid waste management plan; monitor and promote the implementation of the plan by other state agencies, the districts, municipalities and the private sector; and assume original responsibility for statewide waste reduction and recycling initiatives.

The authority shall review fees charged for waste disposal services; deliver financial and technical assistance to districts, municipalities and businesses for the planning, construction, evaluation and marketing of recycling and waste disposal services and to meet the purposes of this chapter; and conduct public educational and informational programs.

The authority shall plan for and provide waste management and disposal capacity for solid, special and hazardous wastes that present a statewide disposal problem or that regional

COLUMN 2 LD

Policy

Sec. 4. 38 MRSA §1302, as repealed and replaced by PL 1987, c. 517, §5, is repealed and the following enacted in its place:

§1302. Declaration of policy

For the purposes of this chapter and chapter 24 the Legislature finds and declares it to be the policy of the State, consistent with its duty to protect the health, safety and welfare of its citizens, enhance and maintain the quality of the environment, conserve natural resources and prevent air, water and land pollution, to establish a coordinated statewide waste reduction, recycling and management program.

The Legislature finds and declares that it is the policy of the State to pursue and implement an integrated approach to hazardous and solid waste management, which shall be based on the following priorities: reduction of waste generated at the source, including both the amount and toxicity of waste; waste reuse; waste recycling; waste composting; waste processing which reduces the volume of waste needing disposal, including waste-to-energy technology; and land disposal.

The Legislature finds that it is in the best interests of the State to prefer waste management options with lower health and environmental risk and to ensure that such options are neither foreclosed nor limited by the State's commitment to disposal methods. The

COLUMN 3 LD

Policy & Authority Structure

CHAPTER 25

MAINE SOLID WASTE AUTHORITY

SUBCHAPTER I

GENERAL PROVISIONS

§2101. Purpose

The Legislature finds that rising costs, a shortage of landfill capacity and the serious environmental and public health consequences of improper waste disposal pose a severe threat to public health, safety and welfare. The Legislature further finds that the most critical environmental threat from solid waste disposal is ground water contamination from leaking landfills and that, therefore, the most critical solid waste disposal need is for adequate, environmentally sound landfill capacity under public control. Therefore, the Legislature declares that it is in the best interests of the citizens of the State to adopt a method of creating landfill capacity which will minimize adverse environmental impacts and will serve all regions of the State. The Legislature further declares that the development of future landfill capacity should be subject to a fair and open site selection process and that public control over the operation of landfill capacity is essential.

solid waste management districts do not address. The authority may finance, construct, own or operate waste facilities and provide waste disposal services for those wastes determined to be appropriately a state responsibility and may act on behalf of a district in the operation of waste facilities and the delivery of waste disposal services.

The authority may, as necessary to protect public welfare and the communities and businesses served, direct solid, special and hazardous wastes to any facility in the State and negotiate with any facility operator on behalf of the State for fair compensation for the disposal of those wastes.

Legislature declares that it is in the public interest to aggressively promote waste reduction, reuse and recycling as the preferred methods of waste management.

The Legislature finds that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource. At the same time, new technologies and industrial developments are making recycling and reuse of waste an increasingly viable and economically attractive option, which carries minimal risk to the State and the environment and an option which allows the conservation of the State's limited disposal capacity.

The Legislature further finds that needed municipal waste recycling and disposal facilities have not been developed in a timely and environmentally sound manner because of diffused responsibility for municipal waste planning, processing and disposal among numerous and overlapping units of local government. The Legislature also finds that state action is needed to assist municipalities in separating, collecting, recycling and disposing of solid waste, and that sound environmental policy and economics of scale dictate a preference for solid waste management planning and implementation on a regional level.

The Legislature finally declares that the provisions of this chapter shall be construed liberally to address the findings and accomplish the policies in this section.

Authority Structure

CHAPTER 24

MAINE WASTE MANAGEMENT AUTHORITY

SUBCHAPTER I

MAINE WASTE MANAGEMENT AUTHORITY

GOALS AND ESTABLISHMENT

§1761-B. Membership: qualifications: terms: compensation

1. Membership. Membership of the authority shall consist of 7 public members appointed by the Governor subject to review by the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters and confirmation by the Senate. The Treasurer of State and the commissioner of the department shall serve as ex officio members. The Governor shall select a chair from among the public members.

2. Qualifications. The appointments shall include one public member from each district. No member may be a government employee or a person who is affiliated with or employed by any provider of waste disposal services or any association representing these providers while serving as a member of the authority.

3. Terms of office. The appointed members shall each serve 4-year terms; except, of the terms of the initial 7 appointments, one shall expire June 30, 1990, 2 shall expire June 30, 1991, 2 shall expire June 30, 1992, and 2 shall expire June 30, 1993. Any person appointed to fill a vacancy shall be appointed in the same manner as the former member to complete the unexpired term.

§2101. Establishment of the Maine Waste Management Authority

1. Establishment of authority. The Maine Waste Management Authority is created. The authority is an instrumentality of the State and a body corporate and politic. The exercise by the authority of the powers conferred on it under this chapter and the implementation of its purpose and duties are essential governmental functions.

2. Organization and function of the authority. The Maine Waste Management Authority shall be comprised of 2 offices: the Office of Planning and Regional Coordination and the Office of Waste Reduction and Recycling.

3. Authority board established. The authority shall be controlled, managed and operated by a 9-member board. The members of the board shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resources and to confirmation by the Legislature.

A. Three of the members shall initially be appointed to terms of 2 years; 3 members to terms of 3 years; and 3 members to terms of 4 years. The successor of each appointed member shall be appointed for a term of 4

§2102. Authority established

There is established, to carry out the purposes of this chapter, the Maine Solid Waste Authority referred to in this chapter as the "authority." The authority is a body corporate and politic and is an instrumentality of the State.

§2103. Membership: qualifications: terms: compensation

1. Membership. The authority shall be controlled, managed and operated by a 7-member board. The members shall be appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature.

A. Two of the members shall initially be appointed to terms of 2 years; 2 to terms of

4. Reimbursement. Members shall be compensated according to provisions of Title 5, chapter 379. All members shall be paid for expenses in the same manner as state employees.

5. Quorum actions. A quorum shall be a majority of the directors. An affirmative vote of the majority of the directors present at a meeting shall be required for any action. No action may be considered unless a quorum is present.

years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term. Each board member shall serve until the appointment and qualification of a successor.

B. No appointed board member may be an officer or employee of the United States Government or this State. All members of the board shall be residents of the State. Appointed members may be removed from the board by the Governor for cause.

C. The Commissioner of Environmental Protection and the Commissioner of Human Services shall serve as nonvoting, ex officio members of the board.

D. There shall be no more than 2 members who are residents of the same district.

4. Selection of officers. Annually, the board shall elect one of its appointed members as the chair of the board, another as vice-chair of the board and a 3rd member as treasurer of the board. Six members of the board shall constitute a quorum and the affirmative vote by 6 members shall be necessary for any action taken by vote of the board.

5. Compensation. The appointed board members shall be compensated as provided in Title 5, section 12004-D. The ex officio members of the board shall not receive any compensation for serving as a board member.

6. Meeting schedule. The board shall meet at least 4 times annually and at any time upon the call of its chair or upon the request in writing to the chair of 5 board members.

3 years; and 3 to terms of 4 years. The successor of each appointed member shall be appointed for a term of 4 years, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term. Each member shall serve until the appointment and qualification of that member's successor.

B. No member may be an officer or employee of the United States or this State. All members of the board shall be citizens of the State. Members may be removed from the board by the Governor only for cause.

2. Selection of officers. Annually the authority shall elect one of its members as the chair of the authority, another as vice-chair of the authority and a 3rd member as treasurer of the authority.

3. Compensation. The members shall be compensated as provided in Title 5, section 12004-D, subsection 4.

4. Qualifications. The appointments shall reflect geographical diversity.

§2106. Meetings: quorum

1. Meetings. The authority shall meet at least every 2 months. The chair may call a

meeting of the authority at any time. The chair shall call a meeting of the authority upon receiving a written request for a meeting from at least 4 members of the authority.

2. Quorum. A quorum shall consist of a majority of the members of the authority and any decision requiring a vote shall require the favorable vote of at least a majority of the members of the authority.

§1761-C. Limitation of liability

Covered under §2107 below

Limitation on liability covered in §2108 (Staff employees) below

No member of the authority, no member of any division of the authority and no employee of the authority, including the executive director, may be subject to any personal liability for having acted within the course and scope of this membership or employment to carry out any power or duty under this Act. The authority shall indemnify any member of the authority, any member of the board of the authority and any employee of the authority, including the executive director, against expenses actually and necessarily incurred by the person in connection with the defense of any action or proceeding in which the person is made a party by reason of past or present association with the authority.

§1761-D. Powers and duties

The authority shall have the powers and duties to:

1. Borrow and lend. Borrow money or otherwise obtain credit in its own name or lend money or otherwise extend credit to any person and exercise all powers of a lender or creditor:

§2102. Powers and duties of the authority

1. General powers. In order to accomplish the purposes of this chapter and in addition to any other powers conveyed by this chapter, the authority may exercise the following powers:

A. Sue and be sued;

B. Have a seal and alter the seal at its pleasure;

§2104. Powers

The authority is exempt from the budget requirements of Title 5. In order to accomplish the purposes of this chapter and in addition to any other powers conveyed by this chapter, the authority may exercise the following powers:

1. Sue. Sue and be sued;

2. Charge fees for waste disposal services. Charge fees as just and reasonable for the planning, design, construction, operation and other related costs of waste facilities and waste disposal services provided by the authority or provided by the authority on behalf of one or more districts;

3. Interest subsidies; grants. Provide interest rate subsidies on commercial loans or grants to businesses and nonprofit organizations;

4. Property. Acquire, use, improve or dispose of any interest in or type of real or personal property;

5. Sue; be sued. Sue or initiate or appear in any proceeding. The authority may be sued in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;

6. Plan development, approval and implementation. Develop, approve, update and implement solid waste management and recycling plans. The authority shall adopt and revise the state solid waste management and recycling plan and review and approve regional solid waste management and recycling plans;

7. Manage waste facilities. Plan, design, construct and operate, or enter into contract for, waste facilities for those solid, special and hazardous wastes that present a special statewide need including, but not limited to, tires, asbestos, incinerator ash or hazardous wastes;

8. Site waste facilities. Recommend candidate sites or develop generic siting criteria for wastes determined to warrant state

C. Adopt from time to time and amend bylaws covering its procedure, publish those bylaws as necessary or advisable and cause records of its proceedings to be kept;

D. Promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, all rules necessary to carry out its responsibilities under this chapter, including procedural rules;

F. Acquire, hold and dispose of personal property;

G. Acquire in the name of the authority by purchase, lease or otherwise, real property and interests in real property determined necessary or desirable for its purposes and use the property;

H. Establish and collect fees, assessments and other charges and expend money received as provided in this chapter;

I. Make, modify and carry out contracts or agreements with the United States Government or any instrumentality or agency of the United States, this State or any of its agencies or instrumentalities, municipalities or bodies existing therein, public corporations, private corporations, partnerships, associations and individuals which are necessary or useful in carrying out its powers, duties or purposes;

J. Employ such assistants, agents, engineering, architectural and construction experts and inspectors and attorneys and such other employees as it deems necessary or desirable to carry out its purposes;

2. Seal. Have a seal and alter the seal at its pleasure;

3. Bylaws. Adopt and amend, from time to time, bylaws covering its procedure, publish those bylaws as necessary or advisable and keep records of its proceedings;

4. Rules. Promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, all rules necessary to carry out its responsibilities under this chapter, including procedural rules, rules for operation of a landfill facility and other rules;

5. Landfill facility. Plan, site, construct, operate, maintain, close, provide long-term care for solid waste landfill facilities with sufficient capacity to dispose of the solid waste generated by municipalities within this State and other solid waste as the authority finds consistent with the purposes of this chapter;

6. Personal property. Acquire, hold and dispose of personal property;

7. Real property. Acquire in the name of the authority by purchase, lease or otherwise, real property and interests in real property determined necessary or desirable for its purposes, and use the property;

8. Fees. Establish and collect fees, assessments and other charges and expend money received as provided in this chapter;

9. Contracts. Make, modify and carry out contracts or agreements with the United States or any instrumentality or agency of the United States, this State or any agencies or

level attention and review and approve applications for new and expanded waste facilities for consistency with state and regional siting recommendations and waste management objectives outlined in state and regional waste management plans:

9. Act on behalf of a district. Develop and implement regional solid waste management plans and facilities when a district fails to meet the planning, recycling and waste management conditions outlined in subchapter II. In carrying out the planning and implementation of district waste disposal services, the authority shall have all the powers provided to districts in section 1762-E:

10. Direct wastes. Direct solid, special and hazardous wastes from one public or private waste facility to another facility when an emergency is determined to exist by rule or by the Governor. The authority may negotiate to provide to the receiving facility fair compensation for the disposal or processing of waste at that facility during the period of emergency:

11. Review fees. Review fees for the disposal or processing of waste pursuant to subchapter VI, article 1:

12. Work with other organizations. Work with other state agencies, regional solid waste districts, municipalities, regional planning agencies and other community, private sector and environmental organizations to manage the State's solid waste:

13. Conduct planning and research. Conduct planning, research and analysis for the authority's needs:

K. Obtain any information and conduct investigations useful or convenient for carrying out any of its purposes, powers or duties:

L. Enter during normal working hours upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings, examinations and inspections as it deems necessary for the purpose of this chapter. The entry shall not be deemed a trespass:

M. Procure insurance or other assurances in aid of any of its purposes:

N. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States:

O. Exercise any of the powers, duties and authority of a regional solid waste management district when the authority finds, subject to the provisions of this subchapter, that such exercise is necessary to accomplish the purposes of this chapter: and

P. Take all other lawful actions necessary and incidental to these powers in carrying out the requirements of this chapter.

2. Duties. The authority shall undertake the following duties:

A. Develop and adopt the state waste management and recycling plan pursuant to the provisions of this chapter:

B. Promote and emphasize recycling and waste reduction in the State:

instrumentalities, municipalities or bodies existing in the State, public corporations, private corporations, partnerships, associations and individuals which are necessary or useful in carrying out its powers, duties or purposes:

10. Employees. Employ assistants, agents, engineering, architectural and construction experts and inspectors, attorneys and other employees it deems necessary or desirable to carry out its purposes:

11. Information. Obtain any information and conduct investigations useful or convenient for carrying out any of its purposes, powers or duties:

12. Entry at reasonable hours. Enter during normal working hours upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings, examinations and inspections as it deems necessary for the purposes of this chapter. The entry shall not be deemed a trespass:

13. Insurance. Procure insurance or other assurances in aid of any of its purposes:

14. Exercise powers. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States: and

15. Other actions. Take all other lawful actions necessary and incidental to these powers in carrying out the requirements of this chapter.

14. Implement programs. Implement solid waste programs that are assigned to the authority by the Governor or the Legislature, including the present programs of the Department of Economic and Community Development, Office of Waste Recycling and Reduction:

15. Contract for services. Contract with qualified professionals and organizations for assistance in siting, planning, negotiating, constructing, operating and financing of solid waste facilities, programs, services or information needs; and

16. Hold hearings and adopt rules. Hold hearings and adopt rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, with respect to the implementation of programs of the authority authorized by this Act.

C. Coordinate regional and municipal waste planning, recycling and waste reduction programs and provide technical assistance to districts, municipalities, state agencies and private entities to assist their implementation of this chapter:

D. Approve, partially approve or disapprove regional plans:

E. Initiate, conduct and support research, demonstration projects and investigations and coordinate all state agency research programs pertaining to waste management and recycling:

F. Encourage, and when appropriate, require districts and municipalities to carry out their duties under this chapter, using the full range of incentives and enforcement authority provided in this chapter:

G. Act on behalf of a district to ensure the development and operation of sufficient recycling and disposal capacity to properly manage the solid waste generated within the district's jurisdiction and for which the district is responsible where the district has not adopted and implemented a regional plan approved under this chapter:

H. Institute, in a court of competent jurisdiction, proceedings against any person to compel compliance with the provisions of this chapter, any regulation promulgated pursuant thereto, any order of the department or the terms and conditions of any approved regional plan:

I. Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out its duties under this chapter:

J. Appoint such advisory committees as the authority finds necessary to assist it in carrying out the provisions of this chapter. The authority is authorized to pay reasonable and necessary expenses incurred by the members of those advisory committees in carrying out their functions.

§2105. Definitions

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

1. Authority. "Authority" means the Maine Solid Waste Authority created in this chapter.

2. Closure. "Closure" or "site closure" means all activities performed at a waste disposal site, such as stabilization and contouring, to ensure that the site is in a stable condition so that only minor custodial care, surveillance and monitoring are necessary at the site, following termination of operation.

3. Operator. "Operator" means a person, including the authority, designated to develop and operate a facility.

4. Person. "Person" means an individual, partnership, voluntary association, firm, corporation or a governmental or quasi-public entity.

§1761-E. Solid Waste Management Advisory Council

As authorized by Title 5, section 12004-I, there is established the Solid Waste Management Advisory Council to provide the authority with information and advice concerning the waste management, recycling and waste reduction needs and opportunities of the State and to assist in the development of policies and planning objectives for inclusion in the state solid waste management plan.

1. Membership: terms. The Governor shall appoint 13 members: two members each shall represent municipal governments, regional solid waste districts, statewide and local environmental organizations, the recycling industry, and the waste disposal industry; one member shall represent industrial waste generators; and 2 members shall represent the general public. The executive director of the authority shall serve as an ex officio member. All members, except the director, shall be appointed for terms of 3 years. The initial appointments to the Recycling Advisory Council which advised within the Department of Economic and Community Development, Office of Waste Recycling and Reduction shall continue to serve in their appointed terms on the advisory council for the authority. Any vacancy shall be filled for the unexpired portion of the term.

2. Compensation. Members shall be compensated according to Title 5, chapter 379.

3. Staff support. The authority shall provide the advisory council with necessary staff support.

Alternative on general advisory function
§2108. Regional advisory boards

Each solid waste management region shall have a regional advisory board. A regional advisory board shall advise the authority in developing the solid waste management plan for its respective region, selecting regional solid waste management facility sites and overseeing the construction, operation, maintenance and closure of solid waste management facilities in that region. The regional advisory board for each solid waste management region shall be selected as follows.

1. Municipal selection. The municipal officers of the municipalities within a solid waste management region shall decide whether to authorize the board of directors of a regional council established pursuant to Title 30-A, chapter 119, as the regional advisory board for their region. Prior to November 1, 1989, the authority shall solicit in writing a yes or no response from each municipality in the State to the question:

"Does the municipality of (name) choose the board of directors of the (name of regional council) to be the regional advisory board for (name of municipality)'s solid waste management region?"

The majority of municipalities within a solid waste management region must respond in the affirmative by January 1, 1990, to the authority for a board of directors to be selected as the regional advisory board.

2. Appointment by Governor. If the municipalities in a solid waste management region do not choose an existing board pursuant

§1761-F. Executive director

The executive director shall be the chief administrative officer of the authority and shall be appointed by the Governor.

The executive director shall oversee day-to-day operations of the authority; hire appropriate staff members; and carry out the responsibilities contained in this chapter. The executive director shall have the following powers and duties.

1. Employ and remove staff. The executive director shall employ and remove staff of the authority. Persons employed in major policy-influencing positions, as defined in Title 5, section 934-A, and professional staff whose positions were formerly located in the Department of Economic and Community Development shall serve at the pleasure of the executive director.

§2106. Executive director

1. Salary. The authority shall hire an executive director who shall serve at the pleasure of the authority. The salary of the executive director shall be established by the authority at the time of appointment.

2. Powers and duties. The executive director shall oversee day-to-day operations of the authority; hire appropriate staff members with approval of the authority; and carry out other responsibilities delegated by the authority subject to conditions and instructions which the authority finds appropriate.

§2107. Staff employees; conflict of interest; personal liability

1. Authority. The authority may hire, on a temporary or permanent basis, such staff as necessary, including legal counsel and financial experts.

to subsection 1, the Governor shall appoint a regional advisory board for that region within 90 days of notification by the authority of the result from the municipal selection process. Each regional advisory board appointed by the Governor shall consist of 7 members. The Governor shall appoint members to represent different geographic areas in a region who have knowledge and expertise in local government and solid waste management.

The initial meeting of each regional advisory board shall be called by the chair of the authority. Subsequent meetings shall be called by the chair of the regional advisory board.

NOTE: "Regions" in preceding §2108 refer to regional council regions.

§2107. Executive director

1. Salary. The authority shall hire an executive director who shall serve at the pleasure of the authority. The salary of the executive director shall be established by the authority at the time of appointment.

2. Powers and duties. The executive director shall oversee day-to-day operations of the authority; hire appropriate staff members with approval of the authority and carry out other responsibilities delegated by the authority subject to conditions and instructions which the authority deems appropriate.

§2108. Staff employees; conflict of interest; personal liability

1. Authority. The authority may hire, on a temporary or permanent basis, necessary staff, including legal counsel and financial experts.

The executive director may employ or engage technical or professional consultants as may be necessary or appropriate to assist the authority in carrying out its functions and may enter into contracts with other boards, commissions, departments and divisions of the State, with the University of Maine System or with private entities.

2. Accept federal funds. The executive director may accept for the State any federal funds appropriated under any federal law relating to the authorized programs of the authority.

3. Coordinate programs and services. The executive director shall coordinate programs and services of the authority with those programs and services of other state agencies, districts and businesses.

4. Attend meetings. The executive director shall attend or be represented at meetings of the members of the authority.

5. Approve expenses. The executive director shall approve all accounts for salaries, per diem expenses, allowable expenses of the authority or of any employee or consultant and expenses incidental to the operation of the authority.

6. Maintain liaison with departments and state agencies. The executive director shall maintain a close liaison with the department, the Department of Economic and Community Development and state agencies.

2. Civil Service Law. Employees of the authority shall be subject to Title 5, chapters 71 and 372 except that the executive director and the Director of the Office of Planning and Regional Coordination and the Director of the Office of Waste Reduction and Recycling shall not be subject to Title 5, chapters 71 and 372.

3. Conflict of interest. Notwithstanding Title 5, section 18, subsection 1, each member of the authority and each employee, contractor, agent or other representative of the authority is deemed an "executive employee" solely for purposes of Title 5, section 18. In addition, Title 17, section 3104, shall be applicable, in accordance with its provisions, to all such representatives of the authority.

4. Personal liability. Personal liability of authority members and employees shall be as provided in the Maine Tort Claims Act, Title 14, chapter 741, except that the authority shall indemnify a member or an employee against any liability arising out of an act or omission occurring within the course or scope of employment.

2. Civil Service Law. Except for the executive director, employees of the authority are subject to Title 5, chapters 71 and 372.

3. Conflict of interest. Notwithstanding Title 5, section 18, subsection 1, each member of the authority and each employee, contractor, agent or other representative of the authority is deemed an "executive employee" solely for purposes of Title 5, section 18. In addition, Title 17, section 3104, shall be applicable in accordance with its provisions to all such representatives of the authority.

4. Personal liability. Personal liability of authority members and employees shall be as provided in the Maine Tort Claims Act, Title 14, chapter 741, except that the authority shall indemnify a member or an employee against any liability arising out of an act or omission occurring within the course or scope of employment.

§2109. Essential governmental function

The purposes of this chapter are public and the authority is performing an essential governmental function in carrying out this chapter.

7. Publish annual report. The executive director shall make an annual report to the members of the authority documenting its actions and make other reports at the request of the members of the authority.

8. Perform other duties. The executive director shall perform other duties directed by action of the members of the authority in carrying out the purposes of this Act.

No counterpart

§2103. Exemption from taxes; payment in lieu of taxes

1. Exemption from taxes. The authority shall not be required to pay any taxes on any property required or used by it for the purposes provided in this chapter, nor may the authority be required to pay any tax upon its income, except as may be required by the laws of the United States.

2. Payment in lieu of taxes. The authority shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes not paid to that municipality during the previous calendar year due to the statutory property tax exemption provided in this section. In the case of an unorganized territory, the authority shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, chapter 115. If the authority disagrees with the amount determined to be due in lieu of taxes under this subsection, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

§2110. Exemption from taxes; payment in lieu of taxes

1. Exemption from taxes. The authority shall not be required to pay any tax on any property required or used by it for the purposes provided in this chapter or any tax upon its income, except as may be required by the laws of the United States.

2. Payment in lieu of taxes. The authority shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes not paid to that municipality during the previous calendar year due to the statutory property tax exemption provided in this section. In the case of an unorganized territory, the authority shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, section 1547. If the authority disagrees with the amount determined due in lieu of taxes under this subsection, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

§2104. Annual audit

Each year an audit shall be made of the accounts of the district, and for this purpose authorized agents of a certified public accounting firm appointed by the authority shall have access to all necessary papers, books and records. Upon the completion of each audit, a report shall be made to the chair of the board of directors and a copy shall be sent to the Governor and the Legislature.

§2105. Fiscal year

The fiscal year of the authority shall coincide with that of the State.

§2108. Sunset

1. Justification report: evaluation and analysis. For purposes of the Maine Sunset Act, Title 3, chapter 23, the authority shall be considered an independent agency, with its first justification report in accordance with Title 3, section 504, due no later than October 31, 1998, and the evaluation and analysis in accordance with Title 3, section 505, by the joint standing committee of the Legislature having jurisdiction over audit and program review due no later than December 31, 1999, but notwithstanding Title 3, sections 506 and 507, the authority shall not terminate.

§2109. Property

All property of the authority and all property held in the name of the State pursuant to this chapter shall be exempt from levy and sale by virtue of any execution, and no execution or other judicial process may be a lien upon its property held pursuant to this chapter, provided that the authority shall not lease, sell or otherwise convey any of its real or personal property or easements in property.

§2111. Property

All property of the authority and all property held in the name of the State pursuant to this chapter shall be exempt from levy and sale by virtue of any execution, and no execution or other judicial process may be a lien upon its property held pursuant to this chapter.

§2112. Fiscal year

The fiscal year of the authority shall coincide with that of the State.

§2113. Sunset

For purposes of the Maine Sunset Act, Title 3, chapter 23, the authority shall be considered an independent agency with its first justification report in accordance with Title 3, section 504, due no later than October 31, 1998, and the evaluation and analysis in accordance with Title 3, section 505, by the joint standing committee of the Legislature having jurisdiction over audit and program review matters due no later than December 31, 1999. Notwithstanding Title 3, sections 506 and 507, the authority shall not terminate.

§2114. Contractors: contracts

1. Use authorized. The authority may determine to carry out any authorized activity through use of contractors, subject to the requirements of law.

2. Approval. Contracts and agreements for more than \$10,000 relating to the site selection, design, construction, operation, maintenance, closure and post-closure monitoring of a landfill facility shall be awarded only after competitive bid and approval by the authority.

franchises, buildings or structures, except that the authority may permit the erection or installation of electric power, telegraph, telephone, water, sewer or pipeline facilities.

§2110. Contractors; contracts

1. Use authorized. The authority may determine to carry out any authorized activity through use of contractors, subject to the requirements of law.

2. Approval. Contracts and agreements for more than \$10,000 shall be awarded only after competitive bid and approval by the authority.

3. Rules. The authority shall promulgate rules for the awarding of contracts by October 1, 1989.

3. Rules. The authority shall promulgate rules by January 1, 1990, for the awarding of contracts.

§2115. Penalties

1. Violation. Any person who violates this chapter or any rule promulgated under this chapter or neglects or refuses to comply with any of the provisions of this chapter, commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged. Each day of violation shall be considered a separate offense.

2. Public health and safety. Any person who commits a violation as described in subsection 1 which endangers the health and safety of the public or of the employees of an authority-owned landfill facility shall be subject to a civil penalty not to exceed \$5,000 to be recovered in a civil action. Each day of violation shall be considered a separate offense.

3. Suspension of access. Any person who commits a violation as described in subsections 1 and 2 may, in addition to the penalties provided in subsections 1 and 2, have access to a landfill facility suspended by the authority for up to one year. That suspension may be renewed until the violator demonstrates the ability to remedy the situation for which the penalty was assessed.

The authority shall enforce this section in the Superior Court for Kennebec County or for the county in which the violation occurs.

§2116. Annual report; audit

The authority shall submit its annual report to the Governor and the Legislature no later than 120 days after the close of the authority's fiscal year.

Within 120 days after the close of its fiscal year, the authority shall provide the Treasurer of State with a copy of its annual financial report certified by an independent certified public accountant selected by the authority. The authority shall also be subject to Title 5, chapter 11.

No direct counterpart

§2111. Use of authority owned or controlled facilities

No direct counterpart

The authority may not accept for handling, treatment or disposal at any facility which it owns, operates or otherwise controls any solid waste generated outside of its jurisdiction. This prohibition shall also apply to any residual waste or other material resulting from the incineration of solid waste or refuse-derived fuel generated or produced outside of the authority's jurisdiction.

No direct counterpart

§2112. Local zoning powers unaffected

No direct counterpart

Nothing in this chapter may be construed or understood to enlarge or diminish the authority of municipalities to adopt ordinances under their home rule authority.

SUBCHAPTER II

OFFICE OF PLANNING AND REGIONAL COORDINATION

§2120. Office of Planning and Regional Coordination

The Office of Planning and Regional Coordination, referred to as the "office" in this subchapter, is established to carry out the purposes of this subchapter. The Director of the Office of Planning and Regional Coordination shall administer the office in accordance with the policies of the authority and consistent with the state waste management and recycling plan.

(detailed duties of this office described in Planning and Siting packets)

Alternative on Office handling operation of disposal sites

§2123. Operations management

The Office of Operations Management, referred to in this section as "the office," shall provide and operate solid waste management facilities in accordance with the provisions of this section and sections 2121, 2122 and 2141. The office may contract to the maximum extent feasible with architects, private contractors, municipalities, counties, regional councils, refuse disposal districts or others for the performance of responsibilities pursuant to this section. The office shall acquire sites and develop, operate and close facilities according to the following procedures.

Alternative on Office handling planning

SUBCHAPTER III

PLANNING

§2140. Office duties

The Office of Planning, referred to in this subchapter as "the office," shall coordinate and develop state and regional solid waste management plans, prepare the capacity needs analysis, develop the state recycling plan, perform solid waste management research and develop and deliver educational and promotional programs.

To fulfill this responsibility, the authority shall develop, implement and update, in accordance with section 2141, a statewide management plan for municipal solid waste.

SUBCHAPTER IV

RECYCLING AND WASTE REDUCTION

Article 1.

General Provisions

§1764-A. Office of Recycling and Waste Reduction established

The Office of Recycling and Waste Reduction is established within the authority to carry out the purposes of this subchapter. The Director of the Office of Recycling and Waste Reduction shall administer the office in accordance with the policies of the authority and consistent with the state solid waste management plan and its recycling component.

(other duties of this office described in Recycling packet)

§1761-G. Confidential information

Except as provided in section 1310-B, subsections 2 and 3, information obtained by the authority under this chapter shall be a public record as provided by Title 1, chapter 13, subchapter I.

SUBCHAPTER III

OFFICE OF WASTE REDUCTION AND RECYCLING

§2130. Office of Waste Reduction and Recycling: established

The Office of Waste Reduction and Recycling is established to carry out the purposes of this subchapter. The director of the office shall administer the office in accordance with the policies of the authority and consistent with the state waste management and recycling plan. The director shall serve at the pleasure of the executive director. The office shall administer programs of financial, technical and planning assistance to regional authorities, local governments, state agencies and businesses in planning for and achieving waste reduction and recycling objectives.

(detailed duties of this office described in Recycling packet)

§1761-H. Relationship to other state agencies and districts no counterpart

SPO-coordinated model has provisions in PLANNING packet to coordinated activities of Authority, SPO, DEP & DECD.

The authority shall coordinate with the department, the Maine Low-level Radioactive Waste Authority and the Advisory Committee on Radioactive Waste to the maximum extent practicable in discharging its duties.

The department shall be responsible for regulating solid waste facilities to protect health, safety and the environment and shall have those authorities and licensing and regulatory duties established under the Maine Hazardous Waste, Septage and Solid Waste Management Act and the responsibility for developing the initial state solid waste management plan pursuant to subchapter III.

The authority and districts shall have the duties established by this chapter, which include financing, siting and operation but not licensing, permitting or regulating of waste facilities. As provided in this Act, the department shall assist the authority and districts in siting to the maximum extent possible.

The authority of the Maine Land Use Regulation Commission shall be limited to the authority available to a municipality under this Act. The department shall exercise sole regulatory authority for solid waste facilities in the unorganized territory and the authority and districts shall exercise planning and siting authority. These activities shall be conducted with appropriate involvement and review by the Maine Land Use Regulation Commission.

COLUMN 1
District Structure

COLUMN 2
District Structure

COLUMN 3

District Structure
SUBCHAPTER II

District Structure
SUBCHAPTER IV

No counterpart

REGIONAL SOLID WASTE MANAGEMENT DISTRICTS

REGIONAL SOLID WASTE PLANNING

§1762-A. District designation

The following counties or aggregates of counties shall determine the solid waste management districts for the purposes of this subchapter:

1. Region I. Region I: York County:
2. Region II. Region II: Cumberland County:
3. Region III. Region III: Androscoggin, Kennebec, Sagadahoc, Knox and Lincoln counties:
4. Region IV. Region IV: Waldo, Hancock, Penobscot and Piscataquis counties:
5. Region V. Region V: Aroostook County:
6. Region VI. Region VI: Washington County; and
7. Region VII. Region VII: Oxford, Franklin and Somerset counties.

§1762-B. District functions

The purposes of each district formed under this subchapter are to plan, construct, maintain, operate or otherwise provide for a system of waste management for solid wastes and special wastes generated within the district and, in conjunction with municipalities and businesses, foster recycling, utilization

§2140. Regional solid waste management districts

There are established 7 regional solid waste management districts, referred to as "districts" in this subchapter, which shall exercise all of the authorities granted under this subchapter.

1. Districts established. The districts shall be comprised of the following areas:

- A. Aroostook County - District 1:
- B. Washington County - District 2:
- C. Piscataquis, Penobscot, Hancock and Waldo Counties - District 3:
- D. Somerset, Franklin and Oxford Counties - District 4:
- E. Androscoggin, Kennebec, Sagadahoc, Lincoln and Knox Counties - District 5:
- F. Cumberland County - District 6; and
- G. York County - District 7.

2. Corporate entity: public purpose. Each regional solid waste management district is an instrumentality of the State and a body corporate and politic. The exercise by a district of the powers conferred on it under this chapter and the implementation of its purpose and duties are essential governmental functions.

disposal and resource recovery for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district. Each district may provide for the recycling, utilization, disposal or resource recovery of special wastes and agricultural wastes if so decided by the directors of the district. It is anticipated that, in the furtherance of the purpose and declaration of policy of this chapter, each district may contract and otherwise act in conjunction with a variety of public, private and municipal firms, other districts, corporations and persons.

§1762-C. Membership; terms; compensation

There is established within each designated solid waste management district a board of directors comprised as follows.

1. County appointments. The county commissioners of the counties within the district shall select one county commissioner and 2 public members from the district to serve on the board of directors.

2. Municipal appointments. The municipal officers within the district shall caucus and shall elect 3 municipal officers from municipalities within the district to the solid waste management district board of directors.

3. Joint selections. The 6 members shall select a 7th member who shall be a resident of the district.

4. Terms of office. The members of the board of directors shall each serve 3-year terms, except, of the initial 3 municipal appointments, each district caucus shall select one member for a one-year term, one member for a

§2141. District boards: membership; terms

Each district shall be governed by a board of directors, called "the board" within this subchapter, consisting of 7 members appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over natural resources and to confirmation by the Legislature.

1. Terms. Two of the members shall initially be appointed to terms of 2 years; 2 members to a term of 3 years; and 3 members to a term of 4 years. The successor of each appointed member shall be appointed for a term of 4 years except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term. Each board member shall serve until the appointment and qualification of a successor.

2. Qualifications. The full membership of a board shall include residents of each county within the district and shall also include residents from towns in the following population categories:

2-year term and one member for a 3-year term. If the board member ceases to be a municipal officer during the term of membership, the board member shall resign the membership and the next district caucus shall elect a qualified municipal officer to fill the membership for the remainder of the unexpired term.

5. Chair of the board of directors. The members of the board of directors shall elect a chair from among their number.

6. Compensation. A director shall receive no compensation for that director's services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of that director's duties.

A. Towns with populations of 10,000 persons or more as determined in the most recent decennial census conducted by the United States Census Bureau;

B. Towns with populations of 5,000 persons or more and less than 10,000 persons as determined in the most recent decennial census conducted by the United States Census Bureau; and

C. Towns with populations of less than 5,000 persons as determined in the most recent decennial census conducted by the United States Census Bureau.

No appointed board member may be an officer or employee of the United States Government or this State. All members of the board shall be residents of the district.

3. Removal. Appointed members may be removed from a board by the Governor for cause.

4. Selection of officers. Annually every board shall elect one of its appointed members as the chair of the board, another as vice-chair of the board and a 3rd as treasurer of the district. Five members of the board shall constitute a quorum and the affirmative vote by 5 members shall be necessary for any action taken by vote of the board.

5. Compensation. The appointed board members shall be compensated as provided in Title 5, section 12004-D, subsection 5.

6. Meeting schedule. Every board shall meet at least 4 times annually and at any time upon the call of its chair or upon the request in writing to the chair of 4 board members.

§1762-D. Powers and duties

1. General. Each district formed under this subchapter shall have the power, within the district, to provide for the planning, financing, construction, equipping, operation and maintenance of facilities for the handling or disposal of solid and special waste, including resource recovery and recycling; to generate revenues from those activities; to make contracts with persons, firms, corporations, partnerships, limited partnerships and other entities, whether private, public or municipal; and, in general, do all other things necessary or incidental for the exercise of its powers or to the accomplishment of the purposes of the district.

2. Sue and be sued. Each district may sue or initiate or appear in any proceeding. The district may be sued in accordance with Title 1, section 409; Title 5, chapter 375; or Title 14, chapter 741.

3. Acquisition of property; eminent domain. A district may acquire and hold real and personal property which it determines necessary for its purposes and is granted the right of eminent domain. For those purposes, a district may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public uses, any land, real estate, easements or interest in real estate necessary for constructing, establishing, maintaining and operating disposal, recycling, resource recovery and utilization facilities.

No property may be so taken unless the property is located within the district.

§2142. Powers and duties

1. General. In order to accomplish the purposes of this chapter and in addition to any other powers conveyed by this chapter, a district may exercise the following powers:

A. Sue and be sued;

B. Have a seal and alter the seal at its pleasure;

C. Adopt from time to time and amend bylaws covering its procedure, publish those bylaws as necessary or advisable and cause records of its proceedings to be kept;

D. Promulgate in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, all rules necessary to carry out its responsibilities under this chapter, including procedural rules;

E. Acquire, hold and dispose of personal property; (NOTE: This is not eminent domain)

F. Acquire in the name of the district by purchase, lease or otherwise, real property and interests in real property determined necessary or desirable for its purposes and use the property;

G. Establish and collect fees, assessments and other charges and expend money received as provided in this chapter;

H. Make, modify and carry out contracts or agreements with the United States or any instrumentality or agency of the United States, this State or any of its agencies or instrumentalities, municipalities or bodies existing therein, public corporations,

4. Gifts and grants. The district may apply for and accept gifts, loans or other property from the United States, the State or any person for any of its purposes, enter into any agreement required in connection therewith and hold, use and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement.

5. Property exempt from taxation. Property, both real and personal, rights and franchises of a district are exempt from taxation.

6. Facilities and services. A district may construct, equip, develop, expand, improve and operate solid and special waste facilities and disposal services as it determines necessary and may negotiate contracts for the use of public or private facilities and services.

7. Rates and charges. A district may establish and collect rates and charges for the facilities and services provided by the district and may negotiate and collect rates and charges for facilities and services contracted for by the district. Rates and charges shall be subject to subchapter VI, article 1.

8. Disposition of property. A district may purchase, sell, lease, acquire, convey, mortgage, improve and use real and personal property in connection with the purposes of the district.

9. Disposition of products and energy. A district may make agreements pertaining to the purchase, sale and use of products, including the generation, transmission and sale of energy in connection with the purposes of the district.

private corporations, partnerships, associations and individuals which are necessary or useful in carrying out its powers, duties or purposes:

I. Employ such assistants, agents, engineering, architectural and construction experts and inspectors and attorneys and such other employees as it deems necessary or desirable to carry out its purposes:

J. Obtain any information and conduct investigations useful or convenient for carrying out any of its purposes, powers or duties:

K. Enter during normal working hours upon any lands, waters and premises in the State for the purpose of making surveys, soundings, drillings, examinations and inspections as it deems necessary for the purpose of this chapter. The entry shall not be deemed a trespass:

L. Procure insurance or other assurances in aid of any of its purposes:

M. Exercise any of its powers in the public domain of the United States, unless the exercise of those powers is not permitted by the laws of the United States; and

N. Take all other lawful actions necessary and incidental to these powers in carrying out the requirements of this chapter.

2. Duties. Each district shall:

A. Develop and adopt a regional solid waste management plan consistent with the state waste management and recycling plan and other provisions of this chapter:

10. Contracts. A district has the power to make contracts, including, but not limited to, the power to:

A. Contract with architects, engineers, financial and legal consultants and other experts for services;

B. Contract with persons, firms, corporations, limited partnerships, partnerships, associations, authorities and agencies for the operation of waste facilities and for services relating to the recycling and disposal of solid waste, resource conservation and resource recovery;

C. Contract for the handling of solid waste on the basis of guaranteed amounts, whether delivered for disposal and accepted for disposal or not, with payments based on the guaranteed amounts, whether actually disposed of or not. The payments may be variable and may be determined by formulas expressed in those contracts;

D. Contract with the State, the United States or any subdivision or agency thereof for services; and

E. Contract with any municipality for the services of that municipality or its facilities.

11. Use of bidding processes. A district may use a negotiated or competitive bid process or any other process which may be advantageous to the district. The determination of the process shall be made by and at the discretion of the directors of the district.

12. Employees; services. A district may employ and establish salaries and qualifications

B. Promote and emphasize recycling and waste reduction in its district;

C. Coordinate solid waste planning, recycling and waste reduction programs within its jurisdiction and provide technical assistance to municipalities and private businesses to assist their implementation of this chapter;

D. Ensure the development and operation of sufficient recycling and disposal capacity to properly manage the solid waste generated within its jurisdiction and for which the district is responsible;

E. Institute, in a court of competent jurisdiction, proceedings against any person to compel compliance with the provisions of this chapter and the terms and conditions of its approved regional plan;

F. Cooperate with appropriate federal, state, interstate and local units of government and with appropriate private organizations in carrying out its duties under this chapter; and

G. Appoint such advisory committees as the district finds necessary to assist it in carrying out the provisions of this chapter.

§2143. Exemption from taxes; payment in lieu of taxes

1. Exemption from taxes. The district shall not be required to pay any taxes on any property required or used by it for the purposes provided in this chapter, nor may the district be required to pay any tax upon its income, except as may be required by the laws of the United States.

for such professional, clerical and administrative staff personnel as may be necessary for the operation of the district.

13. Siting of waste facilities. A district shall identify and designate candidate sites and may review applications for new or expanded waste facilities within the district pursuant to subchapter V, article 1.

14. Development of plan. A district shall develop, approve, revise and implement a solid waste management plan for its jurisdiction.

15. Bonding powers. A district may issue bonds, notes or other debt instruments under this subchapter.

16. Regulating solid waste disposal and recycling activities. A district may adopt rules to regulate the handling, collection, transportation, resource conservation, resource recovery and disposal of solid and special wastes within the district. This authority does not extend to environmental impacts, licensing or permitting of facilities and is limited to service delivery and management concerns.

17. Annual audit. Each year, an audit shall be made of the accounts of the district and authorized agents of a certified public accounting firm appointed by the directors shall have access to all necessary books and records. Upon the completion of each audit, a report shall be made to the chair of the district board of directors and a copy shall be sent to the authority.

18. Hold hearings; rules. The directors may hold hearings and adopt rules to regulate the delivery of waste disposal services

2. Payment in lieu of taxes. The district shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes not paid to that municipality during the previous calendar year due to the statutory property tax exemption provided in this section. In the case of an unorganized territory, the district shall annually pay the amount to the State Tax Assessor who shall deposit that amount in the Unorganized Territory Education and Services Fund established in Title 36, chapter 115. If the district disagrees with the amount determined to be due in lieu of taxes under this subsection, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

§2144. Fiscal year

The fiscal year of the district shall coincide with that of the State.

§2145. Executive director

1. Salary. Every district shall hire an executive director who shall serve at the pleasure of the district board. The salary of the executive director shall be established by the district at the time of appointment.

2. Powers and duties. The executive director shall oversee day-to-day operations of the district, hire appropriate staff members with approval of the district board and carry out other responsibilities delegated by the district board subject to conditions and instructions which the district board deems appropriate.

§2146. Staff employees; conflict of interest; personal liability

including the handling, delivery, transportation, recycling, utilization, resource recovery and disposal of solid waste within the district.

(Bonding authority in Bonding Packet)

1. District. The district may hire, on a temporary or permanent basis, such staff as necessary, including legal counsel and financial experts. The district shall hire a recycling coordinator to assist municipalities in the implementation of district, municipal and private recycling programs.

2. Exempt from Civil Service Law. Employees of the district shall not be subject to Title 5, chapters 71 and 372.

3. Conflict of interest. Notwithstanding Title 5, section 18, subsection 1, each member of the district board and each employee, contractor, agent or other representative of the district is deemed an "executive employee" solely for purposes of Title 5, section 18. In addition, Title 17, section 3104, shall be applicable, in accordance with its provisions, to all such representatives of the district.

4. Personal liability. Personal liability of board members and employees shall be as provided in the Maine Tort Claims Act, Title 14, chapter 741, except that the district shall indemnify a board member or an employee against any liability arising out of an act or omission occurring within the course or scope of employment.

§2147. Property

All property of the district and all property held in the name of the State pursuant to this chapter shall be exempt from levy and sale by virtue of any execution, and no execution or other judicial process may be a lien upon its property held pursuant to this chapter; provided that the district shall not lease, sell or otherwise convey any of its real or personal property or easements in property.

franchises, buildings or structures, except that the district may permit the erection or installation of electric power, telegraph, telephone, water, sewer or pipeline facilities.

§2148. Contractors: contracts

1. Use authorized. A district may determine to carry out any authorized activity through use of contractors, subject to the requirements of law.

2. Approval. Contracts and agreements for more than \$10,000 shall be awarded only after competitive bid and approval by the district board.

3. Rules. The district shall comply with rules for the awarding of contracts adopted by the authority.

§2149. Responsibility to accept solid waste

1. Time of responsibility. The district becomes responsible for providing a system for solid waste management when its board of directors declares the disposal system operational or July 1, 1992, whichever is earlier.

2. Types of waste. The district shall provide a system for management of all solid waste generated by residential and commercial activities within the member municipalities. The district may also provide for the management of compatible solid waste from industrial activities within its jurisdiction.

3. Collection sites or systems. Each municipality within a district shall be responsible for source separation of its solid waste, providing a collection site or system for

the solid waste generated within the municipality and for the transportation of the solid waste to the waste facility designated by the district, together with all incident costs. Any municipality within the district may contract with the district to provide collection and transportation services.

4. Refusal of material. The district may refuse to accept any material which does not meet the definition of solid waste from residential, commercial or industrial activities.

5. Disposal. Disposal shall be in accordance with the environmental laws administered by the department.

6. Use of district owned or controlled facilities. The district may not accept for handling, treatment or disposal at any facility which it owns, operates or otherwise controls, any solid waste generated outside of its jurisdiction, unless the acceptance of such waste is consistent with the regional plan for the district. This prohibition shall also apply to any residual waste or other material resulting from the incineration of solid waste or refuse-derived fuel generated or produced outside of the district's jurisdiction.

The following section included only for completeness

§2150. Flow control

A district may adopt rules that control solid waste collection, its transportation or its delivery to a specific waste facility, when the purpose and effect of such an ordinance is to gain management control over solid waste. This authorization includes, but is not limited to, rules:

No counterpart

Dealt w/ in OPERATIONS packet

A. Requiring the separation and segregation of wastes; and

B. Requiring delivery of wastes generated within a municipality, or any portion of those wastes, to a designated solid waste facility.

The following section included only for completeness

§2151. Setting fees and other charges

Dealt w/ in OPERATIONS packet

The district board may from time to time establish and adjust a structure for fees, including penalty charges, for collection services and transportation and for disposal of solid waste in and upon facilities operated by, on behalf of or under contract with, the district, subject to section 2166.

§2152. Annual audit

Each year an audit shall be made of the accounts of the district, and for this purpose authorized agents of a certified public accounting firm appointed by the district board shall have access to all necessary papers, books and records. Upon the completion of each audit, a report shall be made to the chair of the district board and a copy shall be sent to the municipal officers of each municipality within the district and to the authority.

§2153. Surplus revenues

If, at the end of any fiscal year, the district has realized a surplus from operations for the fiscal year, after payment of or provision for all current expenses, current maintenance, repairs and replacements, current debt service on all outstanding bonds and notes

of the district, all reserves for debt service, repairs and replacements, costs or current expenses as may be required by a trust agreement or resolution securing bonds or notes or as may otherwise be maintained by the district, and any other amounts which the district may be obligated by law or contract to pay or provide for, the district shall either:

1. Reduction in charges. Apply the surplus in the following fiscal year to a reduction in the rates, fees, rents or other charges established by the district for services provided; or

2. Reduction of capital debt. Apply the surplus to the reduction or provision for reduction of its outstanding capital debt.