§2174. Effect on existing contracts and facilities

Except as explicitly otherwise provided, nothing in this chapter may be construed to interfere with or in any way modify the provisions of any contract in force upon the effective date of this Act.

§2175. Municipal contracts

A municipality may contract with any person to carry out its duties for the recycling, transportation, collection and storage of municipal waste and source-separated materials to be recycled, if the recycling, transportation, collection or storage activity or facility is conducted or operated in a manner that is consistent with the provisions of this chapter, the state and district solid waste management plans and the rules promulgated pursuant to this chapter.

1. Existing contracts. Except as otherwise provided in this chapter, nothing in this chapter may be construed to interfere with, or in any way modify, the provisions of any contract for municipal waste disposal, processing or collection in force in any district, other municipality or municipal authority upon the effective date of this chapter or prior to the adoption pursuant to this chapter of the state plan.

2. Renewals. No renewal of any existing contract upon the expiration or termination of the original term of the contract, and no new contract for municipal waste disposal, processing or collection may be entered into after the effective date of this Act, if the renewal or new contract fails to conform to the applicable provisions of this Act or interferes with the implementation of an approved district or state plan.

SUBCHAPTER VII

FINANCE, FEES AND CONTRACTS

NOTE: When (& if) the committee has approved the mechanism for setting disposal fees (tipping fees), disposal surcharges, advance disposal fees, bonding language, financial management (e.g. a solid waste management fund), and a solid waste trust fund for future liabilities, (whew!) all this stuff can go here.

PART *

Sec. 1. 3 MRSA §507, sub-§8-A, ¶B, as amend by PL 1987, c. 735, §1, is further amended to read:

B. The evaluations and analyses of the justification reports for the programs of the following Group E-2 independent agencies shall be reviewed by the Legislature no later than June 30, 1988:

(1) Board of Trustees of the University of Maine System;

(2) Board of Trustees of the Maine Maritime Academy;

(3) State Government Internship Advisory Committee;

(6) Electricians' Examining Board;

(7) Arborist Examining Board;

(8) Maine Occupational Information Coordinating Committee;

(9) Maine Conservation School;

(10) Advisory Committee on Maine Public Broadcasting;

(11) Board of Examiners of Psychologists;

(12) Board of Commissioners of the Profession of Pharmacy;

(13) Alcohol and Drug Abuse Planning Committee; ~~and~~

(14) State Board of Social Worker Licensure~~.~~ ; and

(15) Maine Waste Management Agency.

Sec. 2. 5 MRSA §12004-D, sub-§4 are enacted to read:

4. Facility Siting Board	$100 per day plus expenses	38 MRSA §2103

Sec. 3. 5 MRSA §12004-I, sub-§22, as enacted by PL 1987, c. 786, §5, is amended to read:

22. Environment: Natural Resources	Recycling Advisory Council	Legislative Per Diem	38 MRSA ~~§1310-L~~ §21**

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 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.

Sec. 5. 38 MRSA §1303, first ¶, as repealed and replaced by PL 1979, c. 383, §2, is repealed and the following enacted in its place:

The following words when used in this chapter or in chapter 24 shall have the following meanings unless the context in which they are used clearly shows a different meaning.

NOTE: Many definitions will be required after the committee finalizes the substantive language. Including all necessary definitions in Chapter 13 w/ a cross-ref to the new chapter 24 would eliminate many redundant definitions and ensure that both DEP and the new agency use the same definitions.

. Agency. "Agency" means the Maine Waste Management Agency.

. District. "District" means two (?) or more municipalities with a combined population in excess of 25,000 (?) that have formed a refuse disposal district under chapter 17 or a public waste disposal corporation under section 1304-B or that have entered into a joint exercise of powers agreement under Title 30-A chapter 115 in order to manage the solid waste generated within the participating municipalities and for which those municipalities are responsible.

Sec. 6. 38 MRSA §1304, sub-§1, as amended by PL 1981, c. 470, Pt. A, §171, is further amended to read:

1. Rules. Subject to the Maine Administrative Procedure Act, Title 5, chapter 375, the board may adopt, amend and enforce rules as it deems necessary to govern waste management, including the location, establishment, construction and alteration of waste facilities as the facility affects the public health and welfare or the natural resources of the State. The rules shall be designed to ~~encourage logical utilization of recoverable resources,~~ minimize pollution of the ~~state's~~ State's air, land and surface and ground water resources, prevent the spread of disease or other health hazards, prevent contamination of drinking water supplies and protect public health and safety. In adopting these rules, the board shall also consider economic impact, technical feasibility and such differences as are created by population, hazardous or solid waste, sludge or septage volume and geographic location.

Sec. 7. 38 MRSA §1304, sub-§3, as enacted by PL 1973, c. 387, is repealed.

departmental review of municipal status reports on local solid waste management.

Sec. 8. 38 MRSA §1304, sub-§4, as amended by PL 1987, c. 883, §1, is further amended to read:

4. Technical assistance. The department is authorized to establish guidelines for effective waste ~~management~~ disposal, to provide technical assistance to persons planning, constructing or operating waste facilities, and to conduct applied research activities in the field of waste management, disposal technology and environmental effects, including methods of recycling hazardous or solid waste, sludge or septage. The department shall develop a pilot program to provide grants for the identification, design and development of tire and white goods disposal facilities, including pickup of these items, and stump and demolition debris disposal facilities by municipalities, solid waste management districts, county governments and regional planning agencies. The department shall cooperate with the agency in the design and delivery of this assistance.

Sec. 9. 38 MRSA §1304, sub-§5, as repealed and replaced by PL 1979, c. 383, §7, is repealed.

DEP planning grants

Sec. 10. 38 MRSA §1304, sub-§11, as enacted by PL 1985, c. 157, is amended to read:

11. Imported waste report. The board shall report to the Legislature on the solid waste imported and disposed of in the State. The report shall include consideration of the following areas:

A. The categories of imported waste materials, including hazardous waste, solid waste and any other waste material designated by the board as special waste;

B. The volumes or weights, as appropriate, of imported waste;

C. The method of disposal, including, but not limited to incineration and landfilling, the location of the disposal sites receiving the imported waste and the estimated remaining capacity of each site;

D. The states of origin of the imported waste and the regulations governing the disposal of these wastes in their respective states of origin; and

E. Any potential environmental or public health hazards posed by imported waste.

The board shall submit the report to the joint standing committee of the Legislature having jurisdiction over natural resources. The first report shall be due on or before January 1, 1986, and thereafter the report shall be made to the First Regular Session of the Legislature. <u>Beginning with the First Regular Session of the Legislature in 1991, the report shall be developed in cooperation with the agency, shall be issued jointly by the agency and the department to the Legislature and shall be incorporated in the initial and subsequent state solid waste management plans.</u>

The commissioner may, by rule, require any person importing or disposing of imported hazardous waste, solid waste or any other imported waste designated by the board as special waste, to report the volumes, weights and types of waste imported and report on the state of origin.

Sec. 11. 38 MRSA §1304, sub-§13, as enacted by PL 1987, c. 517, §12, is amended to read:

13. Innovative disposal and utilization. Recognizing that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource, the commissioner may investigate and implement with the approval of the board innovative programs for managing, utilizing and disposing of solid waste. Innovative programs may include agricultural and forest land spreading of wood-derived ash, paper mill sludges and municipal waste water treatment plant sludges. <u>The agency shall first determine that the proposed innovative disposal and waste management programs are consistent with the State and district solid waste management plan.</u> The board shall review proposed innovative programs for each waste category and shall apply all controls necessary to ensure the protection of the environment and public health consistent with this chapter. The board may adopt application review procedures designed to review individual applications and their individual waste sources with prior approval of classes of disposal or utilization sites. The board shall adopt provisions for municipal notification prior to use of individual utilization sites.

Sec. 12. 38 MRSA §1304, sub-§§14 and 15, as enacted by PL 1987, c. 517, §12, are repealed.

sub§14 concerns DEP setting disposal fees. Waste agency would set disposal fees plus there are proposed statutory fees.

sub§15 is the DEP special services program on white goods etc. This function (although not this precise language) would become responsibility of waste agency.

Sec. 13. 38 MRSA §1304-B, sub-§1, as enacted by PL 1983, c. 380, §1, is repealed.

findings & purpose statement on flow control.

Sec. 14. 38 MRSA §1304-B, sub-§2, as amended by PL 1987, c. 517, §§14 and 15, is repealed.

municipal flow control authority. Alternative to outright repeal would be to make municipal flow control authority subject to provisions granting waste agency flow control power so as to avoid conflicts but to let municipal ordinances stand where there is no conflict.

Sec. 15. 38 MRSA §1304-B, sub§3 is repealed.

(language provided for reference)
3. Ordinances. This chapter shall not be construed as limiting the authority of any municipality to enact ordinances for the regulation of solid waste or septage disposal, provided that these ordinances are not less stringent than or inconsistent with section 1310-U or other provisions of this chapter or the rules adopted under this chapter.

Sec. 16. 38 MRSA §1304-B, sub-§4, as amended by PL 1985, c. 593, §8, is repealed.

repeals provisions originally enacted to facilitate development of incineration facilities

Sec. 16. 38 MRSA §1305, sub-§1, as amended by PL , is further amended to read:

1. Disposal facilities. Each municipality shall provide ~~a~~ solid waste disposal ~~facility~~ services for domestic and commercial solid waste generated within the municipality and may provide such services ~~a/facility~~ for industrial wastes and sewage treatment plant sludge.

Sec. 17. 38 MRSA §1305, sub-§4, as amended by PL , is repealed.

repeals a requirement for municiapl status reports to the DEP

(NOTE: need to renumber following sections)

Sec. 17. 38 MRSA §1309, as amended by PL 1987, c. 517, §22, is further amended to read:

§1309. Interstate cooperation

The Legislature encourages cooperative activities by the department and the agency with other states for the improved management of hazardous and solid waste; for improved, and so far as is practicable, uniform state laws relating to the management of hazardous and solid waste; and compacts between this and other states for the improved management of hazardous and solid waste.

§§1310-J - 1310-M repeal old recycling office. responsibilities moved to waste agency

Sec. 18. 38 MRSA §1310-J, as enacted by PL 1987, c. 517, §25, is repealed.

Sec. 19. 38 MRSA §1310-K, as amended by PL 1987, c. 752, §§1 and 2, is repealed.

Sec. 20. 38 MRSA §1310-L, as amended by PL 1987, c. 769, Pt. A, §182, is repealed.

Sec. 21. 38 MRSA §1310-M, as enacted by PL 1987, c. 517, §25, is repealed.

Sec. 22. 38 MRSA §1310-N, first ¶, as enacted by PL 1987, c. 517, §25, is amended to read:

No person may locate, establish, construct, expand disposal capacity or operate any solid waste facility unless the proposed activity is first determined by the agency to be consistent with the state and any applicable district solid waste management plans under chapter 24 insofar as the agency has jurisdiction over the facility and approved by the board under the site location of development laws, chapter 3, subchapter ~~1~~ I, article 6 and the provisions of this chapter. Where the proposed facility is located within the jurisdiction of the Maine Land Use Regulation Commission, the board shall require compliance with existing standards of the Commission.

NOTE: Does committee want to include coordinating language in LURC statutes? This could be similar NRPA coordinating language; this would indicate that approval by the BEP is sufficient basis for approval by the LURC.

Sec. 23. 38 MRSA §1310-N, sub-§1, ¶¶A and B, as enacted by PL 1987, c. 517, §25, are amended to read:

A. The facility will not pollute any water of the State, contaminate the ambient air, constitute a hazard to health or welfare or create a nuisance; and

B. In the case of a disposal facility, the facility provides a substantial public benefit as determined by the agency insofar as the agency has jurisdiction over the facility; and

Sec. 24. 38 MRSA §1310-N, sub-§2, as enacted by PL 1987, c. 517, §25, is repealed.

DEP finding of (preliminary) environmental suitability. Concept now in waste agency's siting criteria

Sec. 25. 38 MRSA §1310-N, sub-§3, as enacted by PL 1987, c. 517, §25, is amended to read:

3. **Public benefit determination.** The board shall find that a facility provides a substantial public benefit when the ~~applicant demonstrates~~ agency determines that the proposed facility is consistent with and will serve to satisfy the ~~capacity needs identified pursuant to section 1310-O~~ objectives of the adopted state and district solid waste management plans pursuant to chapter 24 insofar as the agency has jurisdiction over the facility. ~~The board shall make this finding when it determines that the proposed facility is designed and located and will be operated so that it meets the needs identified in the capacity needs analysis.~~

Sec. 26. 38 MRSA §1310-N, sub-§4, is amended to read:

4. Presumption of public benefit. A publicly owned waste disposal facility is presumed to have met the requirements of subsection 3 when it receives only waste generated within the municipality in which the facility is located or when it receives only waste generated within municipalities which are members of the facility or when it owned by the agency. A waste disposal facility which is owned and operated by a person exclusively for the disposal of solid or special waste generated by that person is presumed to have met the requirements of subsection 3 except that a waste disposal facility receiving ash resulting from the combustion of municipal solid waste or fuel derived from municipal solid waste is not entitled to a presumption of public benefit by operation of this sentence.

Sec. 27. 38 MRSA §1310-N, sub-§5, ¶B, as enacted by PL 1987, c. 517, §25, is amended to read:

B. The applicant has shown consistency with the ~~most recent state recycling plan approved by the Legislature pursuant to section 1310-M, subsection 3~~ recycling provisions of the state plan.

Sec. 28. 38 MRSA §1310-O, as enacted by PL 1987, c. 517, §25, is repealed.

Sec. 29. 38 MRSA §1310-R, sub-§§2 and 3, as enacted by PL 1987, c. 517, §25 are amended to read:

2. **Recycling.** The recycling requirements shall apply as follows.

A. The board shall apply the provisions of section 1310-N, subsection 5, paragraph A, when relicensing any solid waste disposal facility, except that, to the extent that waste disposal contracts in effect on ~~the effective date of this article~~ June 29, 1987, are inconsistent with section 1310-N, subsection 5, paragraph A, in which case, those provisions shall apply at the expiration of the term of those contracts without consideration of any renewals or extensions of those contracts.

B. The board shall require an applicant for a new or expanded solid waste disposal facility or for a license renewal submitting a complete application prior to the ~~approval by the Legislature of the first state recycling plan pursuant to section 1310-M, subsection 3,~~ adoption of the state plan to demonstrate that the ~~applicant has considered recycling alternatives that are reasonably within the applicant's control~~ facility meets the needs identified under former section 1310-O and that the facility furthers the purposes of section 2100.

C. The provisions of section 1310-N, subsection 5, paragraph B, do not apply to the relicensing of any solid waste disposal facility licensed prior to the effective date of this article.

3. **Public benefit.** The public benefit requirements shall apply as follows.

~~A. The board shall require an applicant for a new or expanded solid waste disposal facility submitting a complete application prior to the initial adoption of the capacity needs analysis pursuant to section 1310-O to submit such information as the board requires to demonstrate that the proposed facility provides a substantial public benefit, including such information described in section 1310-O.~~

A-1. The board shall require an applicant for a new or expanded solid waste disposal facility submitting a complete application prior to the initial adoption of the state plan to submit such information as the board requires to demonstrate that the proposed facility provides a substantial public benefit, including such information described in former section 1310-O.

B. The provisions of section 1310-N, subsection 1, paragraph B, and section 1310-N, subsection 3, do not apply to the relicensing of a solid waste disposal facility licensed prior to ~~the~~ effective date of this article ~~June 29, 1987~~.

Sec. 30. 38 MRSA §1310-R, sub-§4 is enacted to read:

4. Incineration facilities. The board shall not license any new incineration facility prior to the adoption of the state plan.

Sec. 31. 38 MRSA §1310-S, sub-§1, as enacted by PL 1987, c. 517, §25, is amended to read:

1. Notification. A person applying for a license under this article or giving notice to the department pursuant to section 483, shall give, at the same time, written notice to the municipal officers of the municipality and to the agency in which the proposed facility may be located and shall publish notice of the application in a newspaper of general circulation in the area.

Sec. 32. 38 MRSA §1310-U is amended to read:

§1310-U. Municipal ordinances

A municipality may adopt ordinances regulating the management of solid waste subject to the provisions of this section.

~~Municipalities are prohibited from enacting stricter standards than those contained in this chapter and in the solid waste management rules adopted pursuant to this chapter governing the hydrogeological criteria for siting or designing solid waste disposal facilities or governing the engineering criteria related to waste handling and disposal areas of a solid waste disposal facility.~~

~~Under the municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30, section 1917, municipalities, except as provided in this section,~~ Municipalities may enact ordinances with respect to solid waste facilities which contain such standards as the municipality finds reasonable~~, including, without limitation,~~ for conformance with federal and state solid waste rules; fire safety; traffic safety; levels of noise which can be heard outside the facility; distance from existing residential, commercial or institutional uses; litter control; visual screening; ~~ground water protection~~; and compatibility of the solid waste facility with local zoning and land use controls.

A municipality seeking to adopt an ordinance under this section shall send the ordinance by certified to the department for review at least 90 days prior to the date it intends to adopt the ordinance. The department shall either approve or disapprove the ordinance within 60 days of its receipt of the proposed ordinance and shall notify the municipality of its decisions and the reasons for the decision. If the department has not notified the municipality of its decision within 60 days of its receipt of the proposed ordinance, the ordinance is approved. The municipality may only adopt an ordinance under this section when the ordinance has been approved under this section.

The department shall approve the ordinance if it finds that the ordinance complies with the provisions of this section, that there is a reasonable relationship between the stated objectives of the ordinance and the effect of the ordinance and that the ordinance does not unreasonably preclude the development of solid waste disposal facilities.

3076m

PACKAGING TAX

Sec. 3. 36 MRSA chapter 720 is enacted to read:

CHAPTER 720

WASTE STREAM PRODUCTS TAX

§4840. Declaration and intent

The Legislature declares that nonrecyclable packaging poses a significant and increasing burden on the State's disposal capacity and environment, and there is a need to reduce the amount of packaging disposed in the State, and encourage the recycling of packaging materials. It is the intent of the Legislature to encourage manufacturers and sellers of consumer products to decrease excessive packaging, to package products in recyclable packaging, to encourage reusable packaging and to maximize the use of materials manufactured with substantial recycled content.

§4841. Definitions.

The following terms shall have the following meanings unless the context clearly indicates otherwise.

1. Bureau. "Bureau" means the Bureau of Taxation.

2. Container wholesaler. "Container wholesaler" means:

A. Every person who sells retail level packaging to a person or persons in the State and who:

(1) Maintains a place of business in the State;

(2) Solicits business either by employees, independent contractors, agents or other representatives, or by distribution of catalogs or other advertising matter; or

(3) Causes that product to be delivered in the State other than by common carrier or mail; and

B. Every person who did not purchase that retail level packaging from another container wholesaler, as defined in this subsection.

3. Distributor. "Distributor" means a person who sells waste stream products to a person or persons in the State and who:

A. Maintains a place of business in the State;

B. Solicits business either by employees, independent contractors, agents or other representatives, or by distribution of catalogs or other advertising matter; or

C. Causes that product to be delivered in the State other than by common carrier or mail.

4. Manufacturer. "Manufacturer" means every person bottling, canning, packing or otherwise packaging waste stream products for sale to distributors or wholesalers. In case of personal property manufactured in another country, the importer shall be considered the manufacturer.

5. Office. "Office" means the Office of Waste Reduction and Recycling, Maine Waste Management Authority.

6. Receipt. "Receipt" means the "sale price" as defined in section 1752.

7. Recyclable. "Recyclable" means packaging containers or materials, exclusive of closures, labels, printing, fasteners, adhesives or caps or lids, which consist of 100% of one of the following materials: glass, aluminum, wood, paper, paperboard, polyethylene terephthalate, high density polyethylene, or cotton or woolen textiles. High density polyethylene means polyethylene of a density greater than .94 grams per milliliter and less than .965 grams per milliliter at a temperature of 23 degrees centigrade.

8. Recycled material. "Recycled material" means any material that has served its original intended use and is normally disposed of, or is a manufacturing byproduct and is normally disposed of, but which is instead returned to economic markets in the form of raw materials, feedstocks or end products. This term includes, but is not limited to, post-consumer material, industrial scrap material and overstock or obsolete inventories from distributors, wholesalers and other persons. This term shall not include material and other byproducts generated from and commonly reused within an original manufacturing process. Recycled materials include aluminum, cotton or woolen cloth, fiber, glass, metal, paper or paperboard, plastic, wood or any combination of those materials.

A. Determinations as to whether particular packaging is composed of 50% recycled material shall be based upon the weight of the packaging components. For a particular product, during a tax year, a taxpayer may elect to compute the percentage of recycled material by either:

(1) Computing on a package by package basis; or

(2) Computing on the basis of an annual aggregate. If the taxpayer chooses to compute packaging composition based on an annual aggregate, either of the following may be used:

(a) The manufacturer's annual national aggregate for the specific product; or

(b) The manufacturer's annual aggregate of the specific product delivered into the State.

9. Retail level packaging. "Retail level packaging" means any bag, sack, tray, can, bottle, tub, cup or other receptacle or material:

A. In which tangible personal property is placed, while off the retailer's premises, for purposes of or during retail sale in the State and which is:

(1) Not recyclable;

(2) Composed of less than 50% recycled material; or

(3) Both not recyclable and composed of less than 50% recycled material.

10. Retail sale. "Retail sale" or "sale at retail" is defined in section 1752.

11. Sale. "Sale" is defined in section 1752.

12. Tangible personal property. "Tangible personal property" is defined in section 1752.

13. Waste stream products. "Waste stream products" means tangible personal property which is packaged in containers or with materials that:

A. Are present on delivery to the person selling at retail; and

B. Are present on delivery to the person who purchases the property at retail, or contain amounts or units of products normally sold at retail, or both.

§4842. Tax on distributors of waste stream products

1. Tax assessed. Effective July 1, 1990, there is levied a tax on distributors for the privilege of distributing waste stream products in the State. The tax imposed by this section is in addition to other taxes imposed by law.

2. Amount. The tax for each year shall be in an amount equal to of 1% of the distributor's taxable receipts from the sale of waste stream products. A distributor's taxable receipts are the distributor's gross receipts from the sale of waste stream products sold to a person or persons of the State, reduced by the receipts that are deducted under subsection 3 of this section.

3. Deductions. The following receipts shall be deducted from gross receipts to arrive at taxable receipts under this section:

A. Receipts not to exceed $500,000 from the sale of waste stream products to a person or persons within this State;

B. Receipts from the sale of waste stream products delivered outside the State;

C. Receipts from the sale of waste stream products delivered in the State, that the purchaser will resell to a person or persons outside the State. To claim an exemption for these receipts, a distributor shall have taken from the purchaser a certificate, signed by the purchaser, and bearing the purchaser's name and address and the number of the purchaser's registration certificate, to the effect that the property was purchased for resale outside the State;

D. Receipts from the sale of waste stream products purchased from a Maine distributor, as distributor is defined in section 4841;

E. Receipts from the sale of containers that are subject to a beverage container deposit under Title 32, chapter 28;

F. Receipts from prescription medicines;

G. Receipts in excess of $800 from the sale of one unit of a particular waste stream product or, in the case of waste stream products not sold in units, from the sale of one quantity or amount of such product;

H. Receipts from those waste stream products packaged in containers and with materials that are recyclable and also are composed of at least 50% recycled material;

I. One-half of the distributor's receipts from those waste stream products packaged in containers and with materials that are recyclable but that are not composed of at least 50% recycled material;

J. One-half of the distributor's receipts from those waste stream products packaged in containers and with materials that are not recyclable but are composed of at least 50% recycled material.

§4843. Tax on container wholesalers

1. Tax assessed. Effective July 1, 1990, there is levied a tax on container wholesalers for the privilege of distributing retail level packaging in the State. The tax imposed by this section is in addition to other taxes imposed by law.

2. Amount. The tax for each year shall be in an amount equal to 1¢ per unit for retail level packaging provided in individual units at retail in the State, and 1¢ per 40 square feet of retail level packaging that is provided in other than individual units at retail in the State.

3. Deductions. The tax assessed any taxpayer under this section shall be decreased by   on retail packaging that is:

A. Recyclable but that is not composed of at least 50% recycled material; or

B. Composed of at least 50% recycled material, but that is not recyclable.

If packaging applied at a retail establishment is both recyclable and composed of at least 50% recycled material, it shall not be subject to tax under this section, as it is excluded from the definition of retail level packaging in section 4841 of this chapter.

§4844. Administration of taxes assessed

1. Distributor registration. Every distributor who can reasonably expect to generate annual gross receipts in excess of $500,000 from the sale of waste stream products to a person or persons in the State and every container wholesaler, shall file a certificate of registration with the bureau, on a form prescribed by the bureau, not later than October 1, 1989, or in the case of persons commencing business after that date, within 3 days of commencing business. The bureau may, in its discretion, accept any existing certificate of registration filed by a person who is registered to collect sales and use or meals and rooms taxes.

2. Monthly payment. Every distributor who can reasonably expect to generate annual gross receipts in excess of $500,000 from the sale of waste stream products to a person or persons in the State and every container wholesaler shall, on or before the 30th day of the month following each calendar quarter, file a return with the bureau and pay the amount of the tax due.

3. Administration. Taxes imposed by this chapter shall be administered and enforced according to the provisions and penalties of chapter 7, and shall be assessed commencing July 1, 1990.

4. Incorrect or insufficient returns. If a return required by this section is not filed, or if a return when filed is incorrect or insufficient, the amount of the tax due shall be determined by the bureau from any information available. For the purposes of the proper administration of this chapter and to prevent evasion of the tax imposed by section 4842, it shall be presumed that all receipts from the sale of tangible personal property are subject to tax until the contrary is established, and the burden of proving that any receipt is not taxable shall be on the distributor. Likewise, with respect to the tax imposed under section 4843, it shall be presumed that all sales of retail level packaging are subject to tax until the contrary is established, and the burden of proving that any receipt is not taxable shall be on the container wholesaler.

§4845. Duties of manufacturers and distributors of waste stream products

1. Manufacturers; duties. As of January 30, 1990, manufacturers of waste stream products that are to be sold at retail in the State shall inform distributors in the State whether the containers or packaging materials involved are recyclable and whether they are made of at least 50% recycled material. Information required under this section shall be stated on the invoice and may also be conveyed by means of labeling on the exterior of the container in which the product is shipped to the distributor or retailer. If a manufacturer fails to provide this information, the distributor shall be subject to taxes where due, but the bureau may abate penalties for errors due to lack of information, if the distributor demonstrates good faith efforts to acquire this information.

2. Reliance on manufacturer's information. A distributor may rely on the representations made by a manufacturer under this section, unless the distributor knows that the information is false. False representations made by a manufacturer, or a failure to comply with the requirements of this section, is a violation subject to the provisions of chapter 225.

3. Distributor's; duties. A distributor shall provide information relating to the amount of waste stream products sold at retail in the State, on the request of the distributor or manufacturer from whom waste stream products are received. If a distributor fails to provide this information, the requesting distributor or manufacturer shall be subject to taxes where due, but the bureau may abate penalties for errors due to this lack of information if the distributor demonstrates good faith efforts to acquire this information.

4. Out-of-state resale. A distributor or manufacturer may rely on the representations made by a distributor or made by a purchaser who provides a certificate under section 4842, subsection 3, paragraph C, indicating that the property in question was purchased for resale outside the State, unless the distributor or manufacturer knows that the information is false. False representations made by a distributor or purchaser, or failure to comply with the requirements of this section, shall constitute a violation subject to the provisions of chapter 225.

5. Indication of taxability. The first taxable distributor of waste stream products shall indicate on the invoice for waste stream products that it is a taxable entity, for the purposes of this chapter.

§4846. Responsibilities of the bureau and office

1. Duties of office. The office shall have the following duties in the implementation of this chapter:

A. On request of the bureau, review particular packaging containers or materials and advise the bureau with regard to their recyclability and their use of recycled material;

B. Provide technical advice to manufacturers, distributors and retailers of packaging to assist in their use of recyclable packaging and packaging of recycled material; and

C. In consultation with the Recycling Advisory Council established pursuant to Title 38, section 2131, on or before January 15th of each year submit to the joint standing committee of the Legislature having jurisdiction over natural resources any appropriate recommendations for the amendment of the definitions of "recycled material" and "recyclable," as defined in section 4841. In making these recommendations, the office shall consider experience within the state and regional solid waste management districts regarding markets for waste material, technological developments, access or lack of access to recycling opportunities and other relevant factors.

2. Powers and duties of bureau. The bureau shall have the following powers and duties in the implementation of this chapter:

A. The bureau shall have the powers and duties, under chapter 7, and other powers necessary to implement the provisions of this chapter;

B. The bureau may retain the services of necessary technical and administrative personnel and expert witnesses, for particular proceedings relating to implementation of this chapter; and

C. The bureau shall annually compile aggregate information concerning waste stream products sold at retail in the State and whether the containers or packaging are recyclable or made of at least 50% recycled material, or both, and the revenue projected to be raised annually by the imposition of the tax created in this chapter. This report shall be submitted to the office and the joint standing committees of the Legislature having jurisdiction over natural resources and appropriations, and to the Recycling Advisory Council.

§4847. Disposition of taxes

The revenue derived from the tax imposed by this chapter shall be deposited in the General Fund, less the costs incurred by the State Tax Assessor in collecting the tax.

Sec. 4. Transition Every distributor who can reasonably expect to generate annual gross receipts in excess of $500,000 from the sale of waste stream products to a person or persons in the State in calendar year 1989, and every container wholesaler selling retail packaging to persons in the State shall, not later than January 30, 1990, file information returns with the bureau, on a form prescribed by the bureau, which shall include the following.

1. A distributor shall indicate in-state and out-of-state receipts from the sale of waste stream products, for the preceding calendar quarter.

2. A container wholesaler shall indicate receipts from the sale of retail level packaging for the preceding calendar year.

3. Both a distributor and a container wholesaler shall provide other information necessary to enable the bureau to estimate the revenues that will be raised by this Act.