

MAINE STATE LEGISLATURE

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Proposed Outline of Solid Waste Issues

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OVERVIEW OF LIQUOR BOTTLE DEPOSIT PROGRAMS

State of Iowa

Their beverage container legislation applies to beverage containers (carbonated, wine, liquor) but not juice. Under a recent revision, the State initiates the deposit. Collection of empties is now being considered through State/private cooperative actions. (Details are not available today....originally State did collecting... then the retailers became responsible but tended to landfill containers and not recycle them... now the State is looking at a possible blend). Current legislation prohibits landfilling of these containers. Empty containers are redeemable at liquor stores and redemption centers.

Iowa serves as the liquor wholesaler only....no retailing. The distillers are responsible for labelling of containers. The wine distributors are responsible for labelling of containers (does not seem to be a major problem as typically stores do not order entire cases of wine...the distributor breaks down cases to fill orders and that is when the containers are labelled). The State sets label message and location.

Contact person for details (was not available this morning) is Jim Coolman 515-281-7400.

State of Vermont

Vermont's legislation for liquor bottle deposits becomes effective this year. The State requested bids for the collection and handling of the containers. Vermont, in their RFP, told bidders to plan on a 60% return rate as well as to propose the system they would employ for implementing the program.

Empty containers are redeemable at redemption centers, liquor stores and agency stores. State liquor commission is responsible for the accounting of containers.

PROPOSAL TO AMEND THE BOTTLE BILL

6/11/89

Sec. 1. 32 MRSA §1862, sub-§1, as amended by PL 1987, c. 649, §1, is repealed and the following enacted in its place:

1. Beverage. "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, wine coolers, soda or noncarbonated water, and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption except for milk and dairy-derived products.

Sec. 2. 32 MRSA §1862, sub-§§12-B, 14 and 15 are enacted to read:

12-B. Spirits. "Spirits" has the same meaning as in Title 28-A, section 2.

14. Wine. "Wine" has the same meaning as in Title 28-A, section 2, except that for the purposes of this chapter "wine" does not include wine coolers.

15. Wine cooler. "Wine cooler" means a beverage of less than 8% alcohol content by volume consisting of wine and:

A. Plain, sparkling or carbonated water; and

B. Any one or more of the following:

(1) Fruit juices;

(2) Fruit adjuncts;

(3) Artificial or natural flavors or flavorings;

(4) Preservatives;

(5) Coloring; or

(6) Any other natural or artificial blending material.

Sec. 3. 32 MRSA §1862, sub-§2 is amended to read:

2. Beverage container. "Beverage container" means a glass, metal or plastic bottle, can, jar or other container made of glass, metal or plastic which has been sealed by a manufacturer and which, at the time of sale, contains one gallon or less of a beverage.

Sec. 4. 32 MRSA §1863, as amended by PL 1979, c. 462, §3, is repealed and the following enacted in its place:

§1863. Refund value

Every beverage container sold or offered for sale to a consumer in this State shall have a refund value. The refund value shall be:

1. Refillable containers. For refillable beverage containers, except wine and spirits containers, the refund value shall be determined by the manufacturer according to the type, kind and size of the beverage container but shall not be less than 5¢;

2. Nonrefillable containers. For nonrefillable beverage containers, except wine and spirits containers, the deposit and refund value shall be determined and initiated by the distributor according to the type, kind and size of the beverage container, but shall not be less than 5¢; and

3. Wine and spirits containers. For wine and spirits containers of greater than 50 milliliters, the refund value shall not be less than 20¢. On January 1, 1992 the department shall issue a finding on the percentages of wine containers and spirits containers returned for deposit. If the department finds the return rate of wine containers was less than 60% during 1991, then on July 1, 1992, the refund value on wine containers shall not be less than 50¢. If the department finds the return rate of spirits containers was less than 60% during 1991, then on July 1, 1992, the refund value of spirits containers shall not be less than 50¢.

Sec. 5. 32 MRSA §1866, sub-§4 is amended to read:

4. Reimbursement by distributor. In addition to the payment of the refund value, the distributor shall reimburse the dealer or local redemption center for the cost of handling beverage containers, in an amount which equals at least 2_3¢ returned container.

Sec. 6. Advisory committee. The Department of Agriculture, Food and Rural Resources shall form an advisory committee consisting of representatives of the Office of Waste Reduction and Recycling, the Bureau of Alcoholic Beverages, the operator of the bailment warehouse, the certificate of approval holders for spirits and fortified wines, distributors of other affected beverages, operators of certified redemption facilities, and other affected interests as the department finds necessary. The Department of Agriculture, Food and Rural Resources shall consult with the advisory committee in developing proposed rules for the implementation of sections 1 to 4. The Department of Agriculture, Food and Rural Resources shall submit a report on the proposed implementation and the proposed rules for approval by the joint standing committee of the Legislature with jurisdiction on natural resource matters by January 1, 1990. The committee may introduce any legislation necessary to address the report or rules proposed by the department.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1989-90 1990-91

**AGRICULTURE, FOOD AND RURAL
RESOURCES, DEPARTMENT OF**

Public Services - Agriculture

Positions	(2)	(2)
Personal Services	\$28,170	\$40,860
All Other	6,165	8,520
Capital Expenditures	770	

Provides funds for a Consumer Foods Inspector, a Clerk Typist II position, anticipated travel expenses and other general operating costs required to assist the department in handling the proposed expansion of the existing beverage container deposit system.

**DEPARTMENT OF AGRICULTURE, FOOD
AND RURAL RESOURCES**
TOTAL \$35,105

\$49,380

Sec. 8. Effective date. Sections 1 to 5 of this Act shall take effect September 1, 1990.

wppl10
LOCAL PERMITTING & ENFORCEMENT AUTHORITY

Sec. 32. 38 MRSA §1310-U is repealed and replaced to read:

§1310-U. Municipal ordinances

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

1. Disposal facilities. A municipality may adopt ordinances with respect to solid waste disposal facilities which contain standards for fire safety; traffic safety; levels of noise which can be heard outside the facility; litter control; visual screening; and lighting.

Standards established under this section shall be no more stringent than those imposed by the department and shall use definitions consistent with those employed by the department. There shall be a reasonable relationship between the stated objectives of the ordinance and the effect of the ordinance. The ordinance shall not unreasonably preclude the operation of solid waste disposal facilities.

A municipality adopting an ordinance under this subsection shall forward a copy of the ordinance to the department within 30 days of its adoption.

2. Locally generated waste. A municipality may adopt ordinances regulating the collection, transportation and handling of municipal solid waste generated within its jurisdiction.

INSERT in host community benefits subchapter
§2163. Facility information and inspection

1. Right to information. The host municipality shall have a right to the following information from the department and the solid waste disposal facility operator for all solid waste disposal facilities licensed under chapter 13. All information provided under this section shall be made available to the citizen advisory committee and the public by the host municipality.

A. The department shall provide all of the following information to the municipal officers of host municipalities of solid waste disposal facilities licensed under chapter 13:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

1 (2) Prompt notification of all enforcement or
2 emergency orders for those facilities, including but
3 not limited to, abatement orders, cessation orders,
4 proposed and final civil penalty assessments and
5 consent orders and decrees and notices of violation;

6 (3) Copies of all air, soil and water quality
7 monitoring data, including leachate and ash testing
8 results, collected by the department at such
9 facilities, within 5 working days after complete
10 laboratory analysis becomes available to the
11 department; and

12 (4) Copies of all departmental analyses of the data
13 under subparagraph (3).

14 B. The operator of the facility shall provide the host
15 municipality copies of all air, soil and water quality
16 monitoring data, including leachate and ash testing
17 results, conducted by or on behalf of the operator, within
18 5 days after that information becomes available to the
19 operator.

20 2. Right to inspect facilities and issue orders. The
21 rights of a host municipality to inspect solid waste disposal
22 facilities and issue orders are governed by this subsection.

23 A. The department shall establish and conduct a training
24 program to certify host municipality inspectors. This
25 program shall be made available to persons who have been
26 designated by the municipality. The department shall hold
27 training programs at least twice a year. The agency shall
28 pay for the host inspection training program. The
29 department may decertify host municipality inspectors
30 pursuant to rules promulgated by the Board of Environmental
31 Protection.

32 B. Certified inspectors are authorized to enter property,
33 inspect records required by the department, take samples
34 and conduct inspections in accordance with departmental
35 regulations applicable to employees of the department. A
36 certified inspector may order the operator of a facility to
37 cease any operation or activity at the facility which
38 constitutes an immediate threat to public health and
39 safety, or which represents a violation of state
40 environmental laws or regulations, local ordinances or the
41 terms or conditions of a permit issued under those laws,
42 regulations or ordinances. The inspector shall notify the
43 department and the municipal officers of the host
44 municipality within 24 hours of issuing such an order.

COMMITTEE WORKING DRAFT

1 3. Department inspections. Whenever any host municipality
2 presents information to the department which gives the
3 department reason to believe that any facility, licensed under
4 chapter 13, is in violation of any law or regulation protecting
5 the environment, or any order or the condition of any permit
6 issued pursuant thereto, the department shall promptly conduct
7 an inspection of the facility.

8
9 If the department finds that there is insufficient information
10 to believe that there is a violation, the department shall,
11 within 10 working days of a municipality's request for an
12 inspection, provide to the municipality a written explanation
13 of its decision not to conduct an inspection.

14
15 The department may notify the host municipality of any
16 inspection planned by the department. The department shall
17 permit representatives of the host municipality to accompany
18 the department on any inspection of the facility. Authorized
19 representatives of the municipality may include, without
20 limitation, a certified municipal inspector, a representative
21 of a citizen advisory committee, a representative of a local
22 health department and paid or unpaid technical advisors to the
23 municipality.

1 SITING PROCESS

SUBCHAPTER IV

3 OFFICE OF SITING AND DISPOSAL OPERATIONS

5 §2130. Office of Siting and Disposal Operations

7 The Office of Siting and Disposal Operations, referred to
9 as the "office" in this subchapter, is established to carry out
the purposes of this subchapter. The Director of the office
11 shall administer the office in accordance with the policies of
the agency and consistent with the state waste management and
13 recycling plan. The office shall provide staff support to the
Facility Siting Board.

15
17 §2131. Responsibilities.

19 Consistent with the state waste management and recycling
plan and provisions of section 2133, the Facility Siting Board
21 shall conduct a site screening and selection process and make
all final decisions on the choice of specific sites for solid
23 waste disposal facilities under the jurisdiction of the
agency. The office shall itself or through contract provide
25 for the construction, operation, maintenance, closure, and
long-term care for solid waste disposal facilities with
27 sufficient capacity to dispose of the solid waste generated by
municipalities within this State and other solid waste as the
29 agency finds consistent with the purposes of this chapter.

31 §2132 Siting criteria.

33 1. Siting criteria. The facility siting board shall adopt
35 by rule, by May 1, 1990, siting criteria for solid waste
disposal facilities based on the following criteria:

37 A. To the extent practicable, a site shall be located in
39 proximity to the entities that generate the wastes placed
at the site.

41 B. To the extent possible, a site shall be located in
43 proximity to the transportation systems that are used to
convey waste to the site or residuals and materials to be
45 recycled from the site.

47 C. The capacity or size of a site must be consistent with
the projected demand as determined in the state plan.

49 D. A site and its considered use must be consistent with,
51 and actively support, other waste management objectives,
including waste reduction and recycling.

1 E. The projected price for site development, construction
2 and operation must be fair and reasonable.

3 F. A site must meet preliminary environmental standards
4 developed jointly by the department and the Land Use
5 Regulation Commission, including ground water and
6 geological standards.

7 G. Existing uses on adjacent properties shall not be in
8 significant conflict with or significantly jeopardized by
9 the use of a site.

11
12 §2133 Site selection

13
14 2. Initial site screening. The Facility Siting Board
15 shall complete a site screening and selection process on or
16 before July 1, 1991 to identify solid waste disposal capacity
17 sufficient to meet the projected needs through 1995 identified
18 in the analysis conducted under former section 1310-0 and the
19 needs that have been identified in the state planning process
20 under subchapter II. The Facility Siting Board shall consider
21 the need for geographic distribution of facilities to
22 adequately serve all regions of the State. The facility siting
23 board also shall consider in its site selection process the
24 need for landfill capacity to dispose of incinerator ash
25 resulting from the combustion of domestic and commercial solid
26 waste generated within its jurisdiction. Prior to recommending
27 a site, the facility siting board shall hold a public hearing
28 in every municipality or plantation identified in the screening
29 process as a potential site. For potential sites within an
30 unincorporated township, the facility siting board shall hold a
31 public hearing within the vicinity of the proposed site.

32
33 3. State facility required. On or before July 1, 1994,
34 the office shall develop facilities sufficient to meet the
35 projected needs identified in the analysis conducted under
36 former section 1310-0 and the state plan and to serve all
37 geographic areas of the State.

38
39 4. Siting; general. Subsequent to the siting process, the
40 facility siting board shall identified additional sites as
41 capacity needs are identified in the state plan. The facility
42 siting board shall employ the same criteria and considerations
43 employed under subsection 2. The facility siting board shall
44 hold a public hearing in each municipality within which the
45 agency may recommend the location of any solid waste disposal
46 or refuse-derived fuel processing facility.

47
48 5. Agency ownership. The agency shall maintain ownership
49 of any landfill facility it develops and shall maintain full
50 control over the use of the facility or facilities.

1 §2135 Notification.

3 The office shall notify the municipal officers of any
 5 municipality within which a waste disposal facility site is
recommended under this subchapter. The office shall notify the
 7 municipal officers by certified mail within 30 days of making
the recommendation. If the proposed site is located within the
 9 jurisdiction of the Land Use Regulation Commission, the office
shall notify the commissions and the county commissioners in
lieu of the municipal officers.

11 §2136. Facility development

13 The office shall initiate the development of solid waste
 15 disposal facilities to meet capacity needs identified in the
state plan at least 3 years in advance of the projected
 17 capacity need. The office shall provide for solid waste
disposal facilities by undertaking facility development itself,
 19 or contracting with private vendors for facility design,
construction or operation.

21 §2137. Review of proposed waste facilities

23 Subsequent to the adoption of the state plan and the siting
 25 criteria, any applicant for new or expanded waste facilities
shall submit to a 2-phase review process. The first phase
 27 shall be a review conducted by the agency of the proposed
facility's consistency with the state plan. The first-phase
 29 review must be completed before approval may be granted under
the 2nd phase. The 2nd phase shall be a review conducted by
 31 the department of the facility under chapter 13.

33 1. Requirement. After the adoption of the state plan and
siting criteria, no permit for a new or expanded solid waste
 35 disposal facility may be issued unless the applicant
demonstrates to the agency that the proposed facility:

37 A. Will meet capacity needs identified in the state plan
 39 in addition to capacity that is under development by the
agency at the time of the application under section 2136 or
 41 by any other party approved by the agency;

43 B. Will be consistent with the state plan; and

45 C. Meets all of the following requirements:

47 (1) The proposed facility is consistent with local,
 49 regional or state waste collection, storage,
transportation, processing or disposal; and

51 (2) The proposed facility is meets the the criteria
 53 in section 2132.

1 2. Board of Environmental Protection approval. This
2 section imposes no limits on the board's ability to issue a
3 permit prior to the adoption of the state plan and the siting
4 criteria.

7 §21** Future commercial landfills.

9 After the adoption of the state plan and siting criteria,
10 the agency shall not approve an application for a new
11 commercial waste disposal facility. The agency may approve
12 expansions of commercial solid waste disposal facility after
13 adoption of the state plan and siting criteria, if:

15 A. The facility had been previously licensed by the board
16 prior to the adoption of the state plan and siting
17 criteria; and

19 B. The agency determines that the provisions of section
20 2137 are met.

21 NOTE: definition approved

23 *. Commercial solid waste disposal facility. "Commercial
24 solid waste disposal facility" means a privately owned facility
25 which accepts solid waste or special waste for a fee or other
26 consideration and which is used for the disposal of the solid
27 waste. This term does not include a waste facility which is
28 owned, controlled, operated or used exclusively by:

31 A. A public waste disposal corporation under section
32 1304-B, subsection 5;

33 B. A municipality under section 1305;

35 C. A refuse disposal district under chapter 17; or

37 D. The person generating the solid waste disposed of at
38 the facility except that a waste disposal facility
39 receiving ash resulting from the combustion of municipal
40 solid waste or fuel derived from municipal solid waste is
41 not exempt from this subsection solely by operation of this
42 paragraph.

1 DEP Siting
38 MRSA §**** Future commercial landfills.

3
5 Except for pending applications accepted by the department
7 as complete prior to the effective date of this section, the
9 board shall not approve an application for a new commercial
11 solid waste disposal facility after the effective date of this
13 section. The board may relicense commercial solid waste
15 disposal facilities after the effective date of this section,
17 if those facilities had been previously licensed by the board
19 prior to the effective date of this section, and all other
21 provisions of law have been satisfied.

23
25 The board may license expansions of commercial solid waste
27 disposal facilities after the effective date of this section,
29 if:

31
33 A. The board has previously licensed the facility prior to
35 the effective date of this section;

37
39 B. The board determines that the proposed expansion is
41 contiguous with the existing facility and is located on
43 property owned by the licensee on the effective date of
45 this section; and

47
49 C. Prior to the adoption of the state plan and siting
51 criteria under chapter 24, the board determines that the
53 proposed expansion is consistent with the provisions of
55 section 1310-R, subsection 3, paragraph A-1; or

57
59 D. After the adoption of the state plan and siting
61 criteria under chapter 24, the agency determines that the
63 provisions of section 2137 are met.

1 Exemptions from agency siting control

3 §21** Exempt facilities.

5 The following types of solid waste disposal facilities are
7 exempt from the provisions of this subchapter.

9 1. Inert fill. Solid waste disposal facilities less than 6
11 acres in size which accept only inert fill, demolition debris
13 of (wood waste - see DEP term).

15 2. Generator-owned facilities. Solid waste disposal
17 facilities used exclusively for the disposal of waste generated
19 by the owner of the facility except that the facility may
21 accept, on a not-for profit basis, no more than **% (check DEP
rules) of solid waste on a quarterly average not generated by
the owner. Notwithstanding the forgoing, a solid waste
disposal facility receiving ash resulting from the combustion
of municipal solid waste or fuel derived from municipal solid
waste is not exempt.

The first sentence of 10 M.R.S.A. §1063(E) is hereby amended as follows:

E. The Department of Environmental Protection has certified to the Authority that all licenses required by that department with respect to the project have been issued or that none are required, provided, however, that such certification need not be obtained from the Department of Environmental Protection prior to issuance of a certificate of approval for a project of a public waste disposal corporation as described in Title 38 section 1304-B(5), which as of June 9, 1989 has filed an application with the authority seeking a certificate of approval for revenue obligation security to be issued in accordance with this subchapter provided, further, however, that nothing herein shall be deemed to allow issuance of revenue obligation securities for any such project prior to obtaining such certificate from the Department of Environmental Protection.

all necessary permits

Sec. 10. Department of Transportation recycling project. The Department of Transportation shall undertake a comprehensive review to evaluate the use of recyclable materials in construction.

1. By January 1, 1991, the Department of Transportation shall report to the Joint Standing Committee on Natural Resources, the Joint Standing Committee on Transportation and the State Purchasing Agent on a comprehensive review of feasible alternatives for utilizing recyclable materials in construction. Particular attention shall be paid to ground rubber from automobile tires; recycled mixed-plastic material for guard rail posts or right-of-way fence posts; construction steel, including reinforcing rods and I-beams, manufactured from scrap materials; and recycled glass and glass aggregates. The report shall include recommendations for demonstration projects to be undertaken along with time frames and associated costs. This report shall further identify, to the extent possible, the following:

- a. Life cycle costs
- b. Safety
- c. Conformance with applicable federal/state requirements

2. By March of 1990, the Department shall submit a preliminary report to the Joint Standing Committee on Natural Resources, the Joint Standing Committee on Transportation and to the State Purchasing Agent regarding the use of ground tire rubber as an additive to asphalt concrete which would utilize waste tires. The report shall include, but shall not be limited to, the following:

- a. Evaluate how effective the use of ground tire rubber has been in providing acceptable properties in asphalt concrete mix;
- b. Determining effects and procedures for recycling asphalt containing ground tire rubber;
- c. Determining the amount of ground tire rubber that may be used in road construction and the expected cost of that use; and
- d. Identifying changes needed in departmental and local government specifications and procedures to allow for the use of ground tire rubber from waste tires in asphalt concrete pavements.
- e. In conjunction with the Department of Environmental Protection and the Office of Waste Recycling and Management, inventory discarded tires in the state.

3. All state agencies shall cooperate with the Department of Transportation in carrying out this section.

CHAPTER 719

Solid Waste Advance Disposal Tax

§4831. Definitions

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

1. Brown good. "Brown good" means an electronic device containing printed circuit boards, capacitors, resistors or transistors that is not included in the definition of white goods and that weights more than 10 pounds.

2. Lead-acid battery. "Lead-acid battery" means a device designed and used for the storage of electrical energy through chemical reactions involving lead and acids.

3. Motorized vehicle. "Motorized vehicle" means any self-propelled vehicle, including motorcycles, construction and farm vehicles and other off-road vehicles, not operating exclusively on tracks.

4. Tire. "Tire" means a device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the motor vehicle or trailer.

5. Trailer. "Trailer" means any vehicle without motive power that is designed to be drawn by a motorized vehicle.

6. White good. "White good" means any appliance employing electricity, natural gas or any liquified petroleum gas to supply heat or motive power to preserve or cook food, to wash clothing, dishes, kitchen utensils, glasses or other related items or to cool or heat air or water.

§4832. Tax imposed

1. Imposition. A tax is imposed on the retail sale in this State of new tires, new lead-acid batteries, new white goods and new brown goods. The tax is in the amount of \$1 per tire or lead battery and \$15 per white good or brown good whether sold separately or incorporated with other tangible personal property. Additionally, a tax in the same amounts is imposed on the storage, use or other consumption in this State of tires, lead batteries, white goods and brown goods purchased new in this State by the user or purchased out of State by the user unless either of the taxes imposed by this section has been paid.

2. Exemption. Transactions which, under the laws of the United States, may not be subjected to taxation by this State and sales for immediate removal from this State are exempt from the tax imposed by subsection 1.

§4833. Administration

The tax imposed by this chapter shall be administered as provided in chapter 7 and Part 3, with the tax imposed pursuant to this chapter to be considered as imposed under Part 3 except that exclusions, exemptions and credits provided under Part 3 and any other provision inconsistent with this chapter shall not apply.

The Maine Waste Management Agency shall by rule identify in specific detail those items subject to tax under this chapter. The purpose of the rule is to assist retail sellers, consumers and tax administrators in understanding the application of the tax to specific purchases.

The revenue derived from the tax imposed by this chapter shall be deposited in the Maine Solid Waste Management Fund established under Title 38, chapter 24 which shall reimburse the General Fund for the administrative costs of the tax as certified by the Bureau of Taxation.

Effective date This Act shall be effective for taxable purchases made in this State on or after July 1, 1990 and for taxable items brought into this State by the user on or after July 1, 1990.

Sec. 6. 38 MRSA §1521, sub-§4, as enacted by PL 1987, c. 530, §4, is amended to read:

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 disposal or storage facility and other rules;

Sec. 7. 38 MRSA §1521, sub-§5-A is enacted to read:

5-A. On-site storage. If the authority determines that permanent disposal arrangements will not be ready by 1996, the authority may require generators that do not have adequate on site storage capacity to:

A. Apply to the appropriate licensing authority for timely licensure for on-site storage of low-level radioactive waste from 1996 to 2001;

B. Upon approval under paragraph A, construct a facility for on-site storage of low-level radioactive waste, with sufficient capacity to store on site waste generated from 1996 to 2001 together with any waste accumulated on the site as of 1996, that meets the licensing requirements for storage facilities of the Nuclear Regulatory Commission;

C. Store low-level radioactive waste in an on-site storage facility, if the appropriate licensing authority approves licensure and in accordance with the terms of any license.

The Authority shall adopt rules, subject to the Maine Administrative Procedures Act, consistent with federal law to implement this subsection.

Sec. 8. 38 MRSA §1521, sub-§5-B is enacted to read:

5-B. Storage facility. If disposal capacity cannot be provided by 1996, the Authority may commence, on January 1, 1993, the planning, siting and construction of a low-level radioactive waste storage facility or facilities with sufficient capacity to store all low-level radioactive waste generated within this State and for which the State is responsible, and commence the operation of any storage facility or facilities on January 1, 1996, provided that on January 1, 1996, on-site storage is not available for storing all low-level radioactive waste generated within this State and for which the State is responsible. Maintain, close and provide for termination of the license of any low-level radioactive waste storage facility or facilities.

Sec. 18. 38 MRSA §1536 is amended to read:

§1536. Operation, maintenance, closure and post-closure costs

1. **User fees.** All users of a low-level radioactive waste disposal facility shall be assessed a user fee calculated in accordance with subsections 2 and 3. User fees established under this section shall be designed to raise \$1,000,000 per year. Fees shall not be collected in excess of that amount or, if collected, shall be returned to the users within 15 days of receipt. All users of a low-level radioactive waste storage facility shall be assessed a user fee to cover the costs of operation, maintenance, closure and post-closure of the facility. The authority shall establish, by rule, a schedule of fees to be paid by all users of a low-level radioactive waste disposal or storage facility.

Sec. 19. 38 MRSA §1540, sub-§§1, 3 and 4, as enacted by PL 1987, c. 530, §4, are amended to read:

1. **Strict liability.** Notwithstanding any provision of law to the contrary, any person, including the authority, engaged in low-level radioactive waste disposal or storage activities provided in this chapter, shall be subject to liability without fault for property damage, bodily injury or death resulting from those activities. Any defendant in an action under this subsection may be jointly and severally liable for actual damages only.

3. **State liability.** If all other sources of funds, including enforcement of a judgment under subsection 1, federal assistance, the reserve for unforeseen contingencies provided in sections 1535 and 1536, and supplemental fees provided in section 1542, are insufficient to compensate injured persons, the State shall provide compensation for property damage, bodily injury or death resulting from the low-level radioactive waste disposal or storage activities provided in this chapter.

4. **Insurance.** The authority shall purchase, or require any of its contractors to purchase, insurance or other financial protection against the site failure sufficient to cover any foreseeable problems during the life of the facility plus a reasonable reserve for unforeseen contingencies. The authority may establish a self-insurance fund, if commercial insurance is not available, after the authority has filed a license application for a storage or disposal facility with the Nuclear Regulatory Commission. The cost of insurance purchased by the authority shall be included in the assessment and fees charged by the facility under sections 1535 and 1536.

Sec. 20. 38 MRSA §1541, as enacted by PL 1987, c. 530, §4, is amended to read:

ONE MORE TIME?

wppl28

§1310 U. Municipal ordinances

Rev

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. Except as provided in section 2173, municipalities are further prohibited from enacting or applying ordinances which regulate solid waste disposal facilities owned by the agency or a regional association.

Under the municipal home rule authority granted by the Constitution of Maine, Article VIII, Part Second and Title 30-A, section 1917 3001, municipalities, except as provided in this section, may enact ordinances with respect to solid waste facilities which contain such standards as the municipality finds reasonable, including, without limitation, 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; ground water protection; and compatibility of the solid waste facility with local zoning and land use controls; provided, however, that the standards are not more strict than those contained in this chapter and in chapter 3, articles 5-A and 6 and the rules adopted thereunder. Municipal ordinances shall use definitions consistent with those adopted by the department.

A municipality adopting an ordinance under this section shall forward a copy of the ordinance to the department within 30 days of its adoption.

§2173. Municipal jurisdiction over agency and regional association disposal facilities.

A municipality may adopt a local ordinance authorizing the municipal officers to issue a local permit containing the same findings, conclusions and conditions contained in the license issued by the department for a solid waste disposal facility owned by the agency or a regional association and located within the municipality's jurisdiction. The municipal officers may also attach to the permit additional conditions for the operation of the solid waste disposal facility on any issues not specifically addressed in any condition of the department's license. Such conditions may not unreasonably restrict the operation of the facility, and must be attached to the local permit by the municipal officers within 90 days of issuance of the department's license. *or within 60 days of relicensing by the Department.*

An enforcement action brought by the municipality to enforce local permit conditions shall not preclude the State from bringing an action to enforce the conditions of any

ONE MORE TIME?

license issued by the State or any other provision of law. In addition, the State shall have a right to intervene in any enforcement action brought by a municipality under this section. A municipality that has adopted local permit conditions described in this subsection shall employ an inspector certified under section 2174 to enforce permit conditions.

§2174 Local inspection and enforcement.

1. Certification. The department shall establish and conduct a training program to certify host municipality inspectors. This program shall be made available to persons who have been designated by the municipality. The department shall offer training programs at least twice a year. The department shall pay for the host inspection training program. The department may certify and decertify host municipality inspectors pursuant to rules promulgated by the Board of Environmental Protection.

2. Information. The host municipality of a solid waste disposal facility owned by the agency or a regional association shall have a right to the all information from the department and the solid waste disposal facility operator, pursuant to Title 1, chapter 13, subchapter 1. All information provided under this subsection shall be made available to the citizen advisory committee and the public by the host municipality.

A. The department shall provide all of the following information to the municipal officers of the host municipality:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

(2) Prompt notification of all enforcement or emergency orders for those facilities, including but not limited to, abatement orders, cessation orders, final civil penalty assessments and consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data, including leachate and ash testing results, collected by the department at such facilities, within 5 working days after complete laboratory analysis becomes available to the department; and

(4) Copies of all departmental analyses of the data under subparagraph (3).

B. The operator of the facility shall provide the host municipality copies of all air, soil and water quality monitoring data, including leachate and ash testing

ONE MORE TIME?

results, conducted by or on behalf of the operator, within 5 days after that information becomes available to the operator.

C. The municipality shall provide all of the following information to the department:

(1) Copies of any inspection report of the facility within 5 working days of the preparation of the report;

(2) Prompt notification of all enforcement or emergency orders for those facilities, including but not limited to, abatement orders, cessation orders, final civil penalty assessments and consent orders and decrees and notices of violation;

(3) Copies of all air, soil and water quality monitoring data, including leachate and ash testing results, collected by the municipality at such facilities, within 5 working days after complete laboratory analysis becomes available to the municipality and

(4) Copies of all analyses of the data under subparagraph (3).

3. Inspection; emergency orders. Certified inspectors are authorized to enter property of the agency or regional association, inspect records required by the department, take samples and conduct inspections in accordance with departmental regulations applicable to employees of the department. A certified inspector may order the operator of the facility to cease any operation or activity at the facility which constitutes an immediate threat to public health or safety or to the environment. The inspector shall notify the department and the municipal officers of the host municipality within 2 hours of issuing such an order.

4. Department inspections. Whenever any host municipality notifies the department of an order issued pursuant to a local permit requirement under section 2173 and gives the department reason to believe that any solid waste disposal facility owned by the agency or regional association is in violation of any law or regulation administered by the department, or any order or the condition of any permit issued pursuant thereto, the department shall promptly conduct an inspection of the facility.

If the department finds that there is insufficient information to believe that there is a violation, the department shall, within 10 working days of a municipality's request for an inspection, provide to the municipality a written explanation of its decision not to conduct an inspection.

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DEFINITION OF SOLID WASTE DISPOSAL FACILITY

. Solid waste disposal facility. "Solid waste disposal facility" means a waste facility for the disposal of solid waste except that the following facilities are not included:

A. A waste facility that uses controlled combustion to dispose of waste generated exclusively by an institutional, commercial or industrial establishment that owns the facility; and

B. Lime kilns; wood chip, bark and hogged fuel boilers; kraft recovery boilers and sulfite process recovery boilers, which combust solid waste generated exclusively at the facility.

wpp132

Sen. Kany :

Sec. 7. 32 MRSA §1867, sub-§1 is amended to read:

1. Establishment. Local redemption centers may be established and operated by any person or municipality, or agency or regional association as defined under Title 38, section 1310-C, subject to the approval of the commissioner, to serve local dealers and consumers, at which consumers may return empty beverage containers as provided under Section 1866.

AMENDMENT TO LD 932, P. 82

12P

Sec. 9. 32 MRSa s1862, sub-s2 is amended to read:

2. Beverage container. "Beverage container" means a glass, metal, plastic bottle, can, jar or other container which has been sealed by a manufacturer and which, at the time of sale, contains one gallon or less of a beverage, except in the case of noncarbonated fruit juices and fruit flavored beverages.

"Beverage container" for noncarbonated fruit juices and fruit flavored drinks means a glass, metal, plastic bottle, can or jar or other container which has been sealed by a manufacturer and which at the time of sale, contains 16 ounces or less of the fruit juice or fruit flavored beverage.

MITCHELL/TIRE STUDY
HARTLEY 5/15
2493*

Task force established; membership. Resolved. That the Task Force to Study the Recycling and Incineration of Tires is established. The task force shall be comprised of the following members to be appointed within 30 days of the effective date of this resolve: the Director of the Division of Management and Planning of the Department of Environmental Protection; the Commissioner of Economic and Community Development; the Commissioner of Transportation; the Director of the State Planning Office of the Executive Department; and 2 members of the public representing the recycling business to be appointed by the Governor. The Governor shall designate one member as chair who shall appoint other officers as needed. The Governor shall promptly notify the Legislative Council of the appointments; and be it further

Staff; compensation. Resolved: That the task force shall request (obtain) necessary staff assistance from the Legislative Council (Department of Transportation). All members of the task force who are not state employees shall receive reimbursement for expenses upon application to the Legislative Council; and be it further

Study. Resolved: That the task force study and evaluate the incineration of tires and options for recycling tires including, but not limited to, incorporation into asphalt paving, reuse as retreaded tires and reprocessing for use in other products; and be it further

Action plan. Resolved: That the task force design and submit to the Legislature an action plan to remove and reprocess through recycling or incineration existing stockpiles of used tires and a proposal providing for the disposal or reprocessing of used tires as they are generated; and be it further

Convening of task force. Resolved: That, when the appointment of all task force members is completed, the Governor shall call the task force together for its first meeting no later than 45 days from the effective date of this resolve; and be it further

Report. Resolved: That the task force submit a report on its findings and the action plan, together with any implementing legislation, to the Legislative Council by January 1, 1990 and report semi-annually thereafter on the progress made in reducing tire stockpiles and achieving other objectives of the action plan; and be it further

Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

1989-90

LEGISLATURE

Study Commissions - Funding

Personal Services	\$1,320
All Other	4,100

Provides funds for the per diem,
~~meeting and related expenses of the~~
Task Force to Study the Recycling and
Incineration of Tires.

LEGISLATURE _____

TOTAL

\$5,420

STATEMENT OF FACT

This resolve establishes the Task Force to Study the Recycling and Incineration of Tires and requires the task force to: study and report on recycling and incineration options for used tires; develop an action plan for reducing existing stockpiles of used tires and for disposing of the used tire waste stream as it is generated; submit implementing legislation; and report semi-annually on the progress being made in achieving these goals.

COPY

L.D. 1431

(Filing No. H-)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431, Bill, "An Act to Promote Reduction, Recycling and Integrated Management of Solid Waste and Sound Environmental Regulation"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

PART A

Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1 to 3, is amended to read:

2. Range 90. The salaries of the following state officials and employees shall be within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor; and

Superintendent of Insurance; and

Executive Director, Maine Waste Management Agency.

Sec. 2. 2 MRSA §6, sub-§4, as amended by PL 1987, c. 715, §2, and c. 787, §1, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees shall be within salary range 88:

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- 1 State Purchasing Agent;
- 3 Director, Arts and Humanities Bureau;
- 5 Director, State Museum Bureau;
- 7 Director of the Bureau of Parks and Recreation;
- 9 State Director of Alcoholic Beverages;
- 11 Director of Public Lands;
- 13 State Librarian;
- 15 Director of Employee Relations;
- 17 Director, Bureau of Air Quality Control;
- 19 Director, Bureau of Land Quality Control;
- 21 Director, Bureau of Water Quality Control;
- 23 Director, Bureau of Oil and Hazardous Materials Control;
- 25 Director, Bureau of Solid Waste Management;
- 27 Director, Bureau of Administration;
- 29 Director, Office of Planning;
- 31 Director, Office of Waste Reduction and Recycling; and
- 33 Director, Office of Siting and Disposal Operations.

35 Sec. 3. 3 MRSA §507, sub-§8-A, ¶B, as amended by PL 1987, c.
37 735, §1, is further amended to read:

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

- 43 (1) Board of Trustees of the University of Maine
45 System;
- 47 (2) Board of Trustees of the Maine Maritime Academy;
- 49 (3) State Government Internship Advisory Committee;
- 51 (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. 4. 5 MRSA §953-A is enacted to read:

§953-A. Maine Waste Management Agency

1. Major policy-influencing positions. The following are
major policy-influencing positions within the Maine Waste
Management Agency. Notwithstanding any other law, these
positions and their successors are subject to this chapter:

A. Director, Office of Planning;

B. Director, Office of Waste Reduction and Recycling; and

C. Director, Office of Siting and Disposal Operations.

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

<u>4. Facility Siting</u>	<u>\$100 per day</u>	<u>38 MRSA §2152</u>
<u>Board</u>	<u>plus expenses</u>	

Sec. 6. 5 MRSA §12004-I, sub-§22, as enacted by PL 1987, c.
786, §5, is repealed and the following enacted in its place:

<u>22. Envi-</u>	<u>Waste</u>	<u>Legislative</u>	<u>38 MRSA</u>
<u>ronment: Natural</u>	<u>Management</u>	<u>Per Diem</u>	<u>§2104</u>
<u>Resources</u>	<u>Advisory</u>		
	<u>Council</u>		

Sec. 7. 38 MRSA c. 24 is enacted to read:

CHAPTER 24

MAINE WASTE MANAGEMENT AGENCY

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SUBCHAPTER I

MAINE WASTE MANAGEMENT AGENCY
GOALS AND ESTABLISHMENT

§2101. Solid waste management hierarchy

1. Priorities. It is the policy of the State to plan for and implement an integrated approach to solid waste management, which shall be based on the following order of priority:

A. Reduction of waste generated at the source, including both amount and toxicity of the waste;

B. Reuse of waste;

C. Recycling of waste;

D. Composting of biodegradable waste;

E. Waste processing which reduces the volume of waste needing land disposal, including incineration; and

F. Land disposal of waste.

§2102. Establishment of the Maine Waste Management Agency

1. Establishment of agency. The Maine Waste Management Agency, referred to in this chapter as the "agency," is created as an agency in the executive branch of the State. The agency is an instrumentality of the State and a body corporate and politic. The exercise by the agency 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 agency. The Maine Waste Management Agency shall be comprised of 3 offices: the Office of Planning, the Office of Siting and Disposal Operations and the Office of Waste Reduction and Recycling.

3. Executive director. The Governor shall appoint the Executive Director of the Maine Waste Management Agency, referred to in this chapter as the "executive director," subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature. The executive director shall serve at the pleasure of the Governor. The salary of the executive director is established under Title 2, section 6, subsection 2. The executive director is the chief executive officer of the agency.

§2103. Powers and duties of the agency

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

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

11 B. Acquire, hold and dispose of personal property;

13 C. Acquire, hold and dispose in the name of the agency by
15 purchase, lease or otherwise, real property and interests in
 real property determined necessary or desirable for its
 purposes and use of the property;

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

21 E. Employ such assistants, agents, economists, engineering,
23 architectural and construction experts and inspectors, and
25 such other employees as it deems necessary or desirable to
 carry out its purposes;

27 F. Obtain any information and conduct investigations useful
29 or convenient for carrying out any of its purposes, powers
 or duties;

31 G. Enter, with the permission of the owner and during
33 normal working hours, upon any lands, waters and premises in
 the State for the purpose of making surveys, soundings,
35 drillings and examinations as it deems necessary for the
 purpose of this chapter;

37 H. Enter any property at reasonable hours, and enter any
39 building with the consent of the property owner, occupant,
41 or agent, to inspect the property or structure, to take
 samples and to conduct tests, as appropriate, to determine
43 compliance with any provision of the laws administered by
 the agency or the terms or conditions of any order,
 regulation, license, permit, approval or decision of the
 agency;

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

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

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1
2
3 K. Direct solid wastes from one public or private waste
4 facility to another facility when an emergency is determined
5 to exist by rule or by the Governor. The agency shall
6 negotiate to provide to the receiving facility fair
7 compensation for the disposal or processing of waste at that
8 facility during the period of emergency. The agency shall
9 consult with the department in the exercise of this power;

10
11 L. Control solid waste collection, transportation or
12 delivery to a specific facility owned by the agency when the
13 purpose and effect of this action is to gain management
14 control over solid waste;

15 M. Make agreements pertaining to the purchase, sale and use
16 of products, including recyclable materials, and the
17 generation, transmission and sale of energy in connection
18 with the purposes of the agency;

19
20 N. Enter into contracts, including, but not limited to, the
21 power to:

22
23 (1) Contract with architects, engineers, financial and
24 legal consultants and other experts for services;

25
26 (2) Contract with persons, firms, corporations, limited
27 partnerships, partnerships, associations, authorities
28 and agencies for the operation of waste facilities and
29 for services relating to the recycling and disposal of
30 solid waste;

31
32 (3) Contract for the handling of solid waste on the
33 basis of guaranteed amounts, whether delivered for
34 disposal and accepted for disposal or not, with
35 payments based on the guaranteed amounts, whether
36 actually disposed of or not. The payments may be
37 variable and may be determined by formulas expressed in
38 those contracts;

39
40 (4) Contract with another state agency, the United
41 States or any subdivision or agency thereof for
42 services; and

43
44 (5) Contract with any municipality for the services of
45 that municipality or its facilities; and

46
47 O. Use a negotiated or competitive bid process or any other
48 process which may be advantageous to the agency.

49
50 2. Duties. The agency shall undertake the following duties:
51

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

3
5 B. Assist in regional and municipal waste recycling and waste reduction programs and provide technical assistance to regional associations, municipalities, state agencies and private entities to assist their implementation of this chapter;

9
11 C. Promote and emphasize recycling and waste reduction in the State;

13 D. Develop generic siting criteria and select sites for use by the agency;

15
17 E. Review applications for new or expanded solid waste disposal facilities for consistency with state siting criteria and recommendations and the state plan;

19
21 F. Enter into contracts for services to plan, design, construct and operate waste facilities;

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

25
27
29 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, or any order of the agency;

31
33 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;

35
37 J. Work with other state agencies, regional associations, municipalities, regional planning agencies and other community, private sector and environmental organizations to manage the State's solid waste; and

39
41
43 K. Solicit public comment from all regions of the State.

45 §2104. Waste Management Advisory Council

47 There is established the Waste Management Advisory Council, referred to as the "council" in this section, to assist the agency in developing the state plan and in facility siting and evaluation activities.

49
51 1. Membership; terms. The Governor shall appoint 12 members as follows:

1 A. Three members from the general public;

3 B. Two members from each of the following:

5 (1) Municipal governments;

7 (2) Statewide and local environmental organizations;

9 (3) The recycling industry; and

11 (4) The waste disposal industry; and

13 C. One member representing industrial waste generators.

15 The Commissioner of Environmental Protection shall serve as an ex
17 officio member. All members, except the commissioner, shall be
19 appointed for staggered terms of 3 years. A vacancy shall be
21 filled by the Governor for the unexpired portion of the term.
The council shall annually elect a chair from its membership.

23 2. Compensation. Members shall be compensated according to
Title 5, section 12004-I, subsection 22.

25 3. Quorum; actions. A quorum shall be a majority of the
27 members of the council. An affirmative vote of the majority of
the members present at a meeting shall be required for any
29 action. No action may be considered unless a quorum is present.

31 4. Meetings. The council shall meet at least 4 times per
year and at any time upon the call of the chair or upon written
33 request to the chair by 4 of the members.

35 5. Annual report. The council shall report annually to the
Governor and to the Legislature on the status of the State's
37 planning and facility siting effort.

39 6. Staff support. The agency shall provide the council
with all necessary staff support.

41 §2105. Payment in lieu of taxes

43 The agency shall annually pay a municipality an amount in
45 lieu of taxes equal to the amount of property taxes on a solid
waste disposal facility not paid to that municipality during the
47 previous calendar year due to the statutory property tax
exemption provided in this section. In the case of an
49 unorganized territory, the agency shall annually pay the amount
to the State Tax Assessor who shall deposit that amount in the
51 Unorganized Territory Education and Services Fund established in
Title 36, chapter 115. If the agency disagrees with the amount
determined to be due in lieu of taxes under this subsection, it

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1 may appeal to the State Board of Property Tax Review as provided
2 in Title 36, section 271.

3 §2106. Annual audit

5
6 Each year an audit shall be made of the accounts of the
7 agency. For this purpose, authorized agents of a certified
8 public accounting firm appointed by the agency shall have access
9 to all necessary papers, books and records. Upon the completion
10 of each audit, a copy shall be sent to the Governor and the
11 Legislature.

12 §2107. Staff employees; conflict of interest

14 1. Agency staff. The executive director may hire, on a
15 temporary or permanent basis, such staff as necessary, including
16 financial experts.

17
18 2. Civil Service Law. Professional employees of the agency
19 shall be unclassified and may be removed only for cause.
20 Employees are members of bargaining units subject to Title 26,
21 chapter 9-B.

22
23 3. Conflict of interest. Notwithstanding Title 5, section
24 18, subsection 1, each member of the agency and each employee,
25 contractor, agent or other representative of the agency is deemed
26 an "executive employee" solely for purposes of Title 5, section
27 18. In addition, Title 17, section 3104, shall be applicable, in
28 accordance with its provisions, to all such representatives of
29 the agency.

30 §2108. Indemnification

31
32 The agency shall defend and indemnify any employee of the
33 agency, including the executive director, and any member of the
34 Facility Siting Board established in section 2152 against
35 expenses actually and necessarily incurred by the person in
36 connection with the defense of any action or proceeding in which
37 the person is made a party by reason of past or present
38 association with the agency.

39 §2109. Sunset

40
41 For purposes of the Maine Sunset Act, Title 3, chapter 23,
42 the agency has its first justification report in accordance with
43 Title 3, section 504, due no later than October 31, 1998, and the
44 evaluation and analysis in accordance with Title 3, section 505,
45 by the joint standing committee of the Legislature having
46 jurisdiction over audit and program review due no later than
47 December 31, 1999, but notwithstanding Title 3, sections 506 and
48 507, the agency shall not terminate.
49
50
51

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1 §2110. Confidential information

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

7 SUBCHAPTER II

9 OFFICE OF PLANNING

11 §2121. Office of Planning

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

19 §2122. Recycling and management plan; schedule coordination

21 The office shall prepare and adopt, by rule, an analysis of,
23 and plan for, the management, reduction and recycling of solid
 waste for the State by March 1, 1990. The plan shall be based on
25 the priorities and recycling goals established in sections 2101
 and 2132. The plan shall provide guidance and direction to the
27 agency and municipalities in planning and implementing waste
 management and recycling programs at the state, regional and
29 local level. To the extent that commercial entities continue to
 have a role in developing waste management and recycling
31 facilities in the State, the plan shall provide guidance to those
 entities.

33 1. Consultation. In developing the plan, the office shall
35 consult with the Bureau of Solid Waste Management in the
 Department of Environmental Protection, the Office of Siting and
37 Disposal Operations and the Office of Waste Reduction and
 Recycling, and shall submit its draft plan to these offices for
39 review and written comment before the agency publishes the plan
 as a proposed rule. The office shall solicit public input and
41 shall hold hearings in different regions of the State. The
 office shall also seek comment and advice on its draft plan from
43 the Waste Management Advisory Council established under section
 2104.

45 2. Revisions. The office shall revise the analysis at
47 least every 2 years to incorporate changes in the waste
 generation trends, changes in waste recycling and disposal
49 technologies, the development of new waste generating activities
 and other factors affecting solid waste management as the office
51 finds appropriate. If the agency finds that rapidly changing
 conditions necessitate more timely revisions of the analysis, it

1 may make those revisions pursuant to the rule-making provisions
2 of Title 5, chapter 375, subchapter II, including emergency
3 rulemaking, if necessary.

5 §2123. Plan contents

7 The state plan includes the following elements.

9 1. Data collection. The office shall develop and maintain
10 a comprehensive data base on solid waste generated or disposed of
11 in the State. Data collected shall include, but not be limited
12 to:

13 A. The amount of waste currently generated, handled or
14 transported within the State;

15 B. The source of the waste;

16 C. The type of waste;

17 D. The costs and types of management technologies currently
18 employed, including, without limitation, recycling,
19 composting, landspreading, incineration or landfilling;

20 E. The costs of collecting and transporting solid waste to
21 waste facilities; and

22 F. Assessment of the level of competition in the solid waste
23 disposal and recycling industry.

24 2. Determination of existing and potential disposal
25 capacity. The office shall identify existing solid waste
26 disposal and management capacity within the State, and the
27 potential for expansion of that capacity. The analysis shall
28 include, but not be limited to:

29 A. The capacity of existing licensed solid waste management
30 and disposal facilities receiving waste generated within the
31 State. This assessment shall identify the regional
32 availability of capacity, including consideration of
33 transportation costs;

34 B. The capacity of existing licensed solid waste management
35 and disposal facilities that is being utilized to dispose of
36 waste generated outside the State;

37 C. The rate at which existing capacity is being used and is
38 expected to be used;

39 D. A survey of the solid waste generators and the recycling
40 and disposal facilities they utilize;

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1 E. Identification of projected facility closures with a
3 projected timetable for the closures and an estimate of the
amount of capacity these facilities represent;

5 F. The extent to which the State relies on solid waste
7 disposal capacity outside its jurisdiction; and

9 G. Additional disposal capacity anticipated to become
available within the next 2 to 5 years.

11 3. Waste reduction and recycling assessment. The plan
13 shall include investigation and assessment of the extent to which
15 waste generation could be reduced at the source, and the
potential for recycling to replace or reduce the need for
traditional disposal capacity. The assessment shall include the
17 following elements:

19 A. The current level of public and business recycling
21 efforts, including the quantities and categories of waste
currently recycled;

23 B. The current market structure of the recycling industry
25 in the State and in those areas receiving recycled materials
from the State. This element shall include identification
27 of the existing private and public recycling operations and
recycling capacity;

29 C. The current and projected capacity of existing markets
31 to absorb materials generated by recycling programs in the
33 State;

35 D. Market conditions that inhibit or affect demand for
37 materials generated by recycling programs;

39 E. Identification of solid wastes by type which are capable
41 of being reused or recycled in an environmentally sound
43 manner and the types and costs of the technologies which may
be utilized;

45 F. The potential for recycling in various regions of the
47 State, including estimates of the types and quantities of
waste available for recycling and an analysis of the
49 economic and institutional obstacles to increased recycling;

51 G. The potential for reducing waste quantities and toxicity
by reduction at the source, and the amount and type of
traditional disposal capacity that could be made available
by implementing waste reduction measures;

H. A description of various mechanisms that could be
utilized to stimulate and enhance waste reduction, including
their advantages and disadvantages. The mechanisms to be

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1 analyzed shall include, without limitation, incentives for
3 prolonging product life, methods of ensuring product
5 recyclability, taxes for excessive packaging, tax
7 incentives, prohibitions on the use of certain products, and
9 performance standards for products; and

11 I. The impact of consumer packaging on waste generation,
13 and the potential for waste reduction measures to reduce
15 this impact.

17 4. Projected demand for capacity. The office shall
19 identify the need in the State for current and future solid waste
21 disposal capacity by type of solid waste. The analysis shall
23 include, but not be limited to:

25 A. Estimation of waste generation by region and waste type
27 over the next 5-year, 10-year and 20-year periods based on
29 the best available forecasts of population growth, economic
31 activity within the State, tourism, estimates provided by
33 solid waste generators and other available information;

35 B. Estimation of the reduction in the waste stream needing
37 disposal capacity as a result of public and private
39 recycling efforts identified in subsection 3;

41 C. Comparison of the projected waste generation levels with
43 existing and potential capacity as identified in subsection
45 2; and

47 D. Identification of regional differences in available
49 disposal capacity and recycling facilities. The office
51 shall identify regions which are underserved with regard to
recycling, management or disposal capacity or which have
capacity in excess of regional needs. In determining
regional needs, the office may consider economic criteria,
including disposal and transportation costs, population
densities, regional differences in current industrial mix
and potential for economic growth, the level of competition
in the solid waste disposal industry and any other factors
the office considers relevant.

5. State management strategies. Based on the provisions of
section 2101 and the information and analysis developed in
subsections 1 to 4, the office shall examine various waste
management options for dealing with the projected waste stream,
available or anticipated disposal capacity and waste reduction
and recycling activities. The agency shall establish:

A. Strategies that promote, throughout the State, the
maximum reduction of waste, the maximum feasible recycling
of waste and the environmentally sound and cost-effective
management and disposal of those wastes that remain.

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1 Management and disposal alternatives shall be preferred
3 which do not foreclose the future ability of the State to
reduce, reuse and recycle waste; and

5 B. Strategies to promote waste reduction and utilization
7 research and initiatives, innovative pilot recycling or
9 utilization programs, development of recycling-related
businesses and public understanding and participation in
recycling.

11 6. Facility needs. The plan shall identify the number,
13 size and type of solid waste facilities required to meet the
capacity needs for which the agency has assumed responsibility as
15 described in the plan. The agency shall include a time schedule
and program for planning, design, siting, construction,
17 operation, and closure of each proposed facility.

19 7. Transition. Insofar as the state capacity needs analysis
21 and state recycling plan developed under former sections 1310-K
and 1310-O are consistent with the waste reduction and recycling
23 goals and waste management hierarchy adopted herein, the office
shall incorporate the data, analysis and recommendations of these
documents into the management plan.

25 §2124. Reports

27 The agency shall submit the adopted plan and subsequent
29 revisions to the Governor, the department and the joint standing
committee of the Legislature having jurisdiction over natural
31 resource matters.

33 SUBCHAPTER III

35 OFFICE OF WASTE REDUCTION AND RECYCLING

37 §2131. Office of Waste Reduction and Recycling; established

39 The Office of Waste Reduction and Recycling, referred to in
41 this subchapter as the "office," is established to carry out the
purposes of this subchapter. The director of the office shall
43 administer the office in accordance with the policies of the
agency and consistent with the state waste management and
recycling plan.

45 §2132. State goals

47 1. State recycling goal; interim goal. It is the policy of
49 the State to recycle, by January 1, 1994, 50% of the municipal
solid waste generated each year. The Legislature establishes an
51 interim goal of recycling, by January 1, 1992, 25% of the
municipal solid waste generated each year.

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1 2. Goal revision. The office shall recommend revisions, if
2 appropriate, to the state recycling goal and shall establish a
3 waste reduction goal. The office shall submit its
4 recommendations and any implementing legislation to the joint
5 standing committee of the Legislature having jurisdiction over
6 natural resource matters by January 1, 1993.

7
8 §2133. Municipal recycling

9
10 1. Technical and financial assistance program. The office
11 shall develop a program of technical and financial support to
12 assist municipalities in achieving the recycling goal of section
13 2132. The office shall develop a priority system for use in
14 allocating available financial and technical resources available
15 under this section to municipalities and regions. The priority
16 system shall address the following:

17 A. The type and number of materials to be recycled and
18 composted, and the resulting reduction of the municipal
19 waste stream;

20 B. Measures, including ordinances and incentives, to insure
21 source separation and local participation in the recycling
22 program;

23 C. The existence of an established recycling program;

24 D. The planning for logistical, administrative and
25 financial management;

26 E. Marketing agreements or the identification of markets
27 for materials to be recycled;

28 F. Utilization of any regional economies of scale;

29 G. Coordination of the recycling program with overall waste
30 management; and

31 H. Consistency with the state plan, when adopted.

32
33 2. Recycling feasibility studies. The office shall provide
34 professional technical assistance to municipalities or regional
35 associations in the planning and design of recycling programs.
36 The office may contract with regional councils, individual
37 municipalities and regional associations to provide services
38 under this subsection. Assistance shall include:

39 A. The assessment of economically feasible recycling
40 potential including the supply of materials that can be
41 recycled, probable markets for these materials and the
42 avoided costs of solid waste disposal;

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1 B. The planning for the logistical, administrative and
3 financial management requirements of a recycling program;

5 C. The design of any flow-control or other ordinances
7 necessary for the implementation of a recycling program;

9 D. The coordination of the proposed recycling program with
11 overall solid waste management; and

13 E. The assessment of the advantages of participation in a
15 regional recycling effort versus a local recycling program.

17 3. Recycling capital investment grants. The office may
19 make grants to eligible municipalities and regional associations
21 for the construction of public recycling facilities and the
23 purchase of recycling equipment. The office may establish
25 requirements for local cost sharing of up to 25% of the total
27 grant amount. The office shall give preference to recycling
29 programs that require the participation of the waste generators
31 served.

33 4. Recycling incentives. The office shall develop and
35 implement a program of incentives to encourage public recycling
37 programs to reach maximum feasible levels of recycling and to
39 meet the recycling goal of section 2132.

41 A. The office shall adopt, by rule, municipal waste stream
43 assessment models to assist municipalities in estimating the
45 volume or weight of municipal solid waste being generated
47 and disposed, and the levels of reduction resulting from
49 public recycling programs, including programs that deny
51 access to waste disposal facilities for any category of
recyclable materials. The models shall make use of best
available information, including without limitation, data
from state reports, municipalities, and public and private
operators of waste handling services, and shall consider
geographical and population differences, including seasonal
population variations, in waste composition and amount. The
models may be modified on a case-by-case basis when actual
waste data is documented by a municipality. The models
shall provide the basis for determining levels of reduction
achieved.

B. The incentive program shall include bonus grants to
municipalities which by January 1, 1992 meet or exceed the
interim recycling goal of section 2132 to the extent that
such funding is not required pursuant to subsections 2 and
3. After January 1, 1995, incentive grants shall be awarded
only if funds are available after the requirements of
subsections 2 and 3 are met.

1 5. Access to state waste disposal services; additional
2 fees. Municipal access to agency-owned facilities shall be
3 limited under this subsection.

R. of S. 5 A. Any municipality that fails to provide recycling
6 opportunities to residents is prohibited from delivering
7 municipal solid waste, including residual waste, to a
8 state-owned solid waste disposal facility.

9 B. Any municipality that fails to make reasonable progress,
10 as determined by the office, toward achieving the recycling
11 goal of section 2132 shall pay an additional fee per ton on
12 any municipal solid waste delivered to a state-owned solid
13 waste disposal facility. "Reasonable progress" includes,
14 without limitation, the achievement of the interim recycling
15 goal of section 2132.

16 §2134. Market development and assistance

17 The office shall design and implement a market development
18 strategy, consistent with the recycling component of the state
19 plan, which shall include, without limitation, the following
20 elements:

21 1. Collection. Methods of collecting and marketing
22 recyclable materials that achieve necessary economies of scale
23 and product quality specifications. The strategy shall include a
24 model plan for source separation of materials to be recycled at
25 the household, municipal, regional or state level, as appropriate;

26 2. Incentive program. An incentive program to encourage
27 end users of materials to be recycled to locate or expand their
28 operations within the State. The office shall consult with the
29 Finance Authority of Maine and the Department of Economic and
30 Community Development in developing this element;

31 3. Information clearinghouse. An information clearinghouse
32 on recycling markets to improve the marketing of materials to be
33 recycled. The office shall maintain a current list of recycling
34 programs, together with a description of the recyclable materials
35 available through the programs. The office shall also maintain
36 listings of brokers, handlers, processors, transporters and other
37 persons providing services and potential markets for recyclable
38 materials. The office shall actively promote the services of the
39 clearinghouse and shall seek to match programs with appropriate
40 recycling businesses. The office shall make its information on
41 recycling services available to private solid waste generators
42 seeking markets or services for recyclable materials. The office
43 shall make its technical reports and planning documents available
44 to municipalities and regional associations on a timely basis;

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1 4. Brokering service. Direct marketing and brokering
2 services for materials included in the state marketing plan when
3 municipal and regional association efforts to market the material
4 and the information clearinghouse are inadequate;

5 5. Marketing development plan. Based on the state plan, a
6 market development and marketing plan by January 1, 1990, which
7 includes:

8 A. Potential opportunities to increase demand for and use of
9 materials generated by recycling programs;

10 B. Market opportunities in Canada and other export markets;

11 C. Recommendations for specific actions to increase and
12 stabilize the demand for materials generated by recycling
13 programs, including, but not limited to, proposed
14 legislation, if necessary; and

15 D. Specific recommendations on markets for recycled
16 materials from the various areas of the State; and

17 6. Reuse of waste. Assisting industries in promoting the
18 reuse of industrial wastes that are suitable raw materials for
19 other processes. The office shall coordinate those efforts with
20 waste exchanges in the northeastern United States.

21 §2135. Special services

22 The office shall develop a program to provide
23 municipalities, regional associations and regional councils
24 grants to identify, design and develop tire and white goods
25 recycling and disposal facilities, including pickup of these
26 items, and stump and demolition debris disposal facilities.

27 §2136. Scrap metal transportation cost subsidy

28 The office may enter into annual agreements with a
29 municipality or regional association to reimburse a portion of
30 the direct costs of transporting material to a recycling facility
31 for intermediate processing or final use. The office shall base
32 grants on the value of the scrap metal, the distance to
33 acceptable scrap metal recycling facilities and the availability
34 of funding. The office shall adopt rules, in consultation with
35 the Waste Management Advisory Council, necessary for the
36 implementation of this section.

37 §2137. State Government recycling and waste reduction

38 The office, in cooperation with the Department of
39 Administration, shall assess the status of recycling efforts
40 undertaken directly by the State for its own solid waste and
41 recycling efforts.

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1 shall evaluate existing programs and develop necessary new
2 programs for recycling to reduce the generation of solid waste by
3 the State. The programs shall include, without limitation,
4 recycling of office papers, cardboard, used motor oil, yard waste
5 and other materials produced by the State for which recycling
6 markets exist or may be developed.

7
8 1. Waste reduction and recycling plan. Each state agency
9 shall prepare a waste reduction and recycling plan addressing the
10 requirements of subsections 3 and 4. The plan shall be submitted
11 to the Office of Waste Reduction and Recycling on or before July
12 1, 1990, for approval as consistent with the goals and guidelines
13 of this section and with the state waste management and recycling
14 plan. The plan shall be updated on a biennial basis to increase
15 the amount of material recycled by taking advantage of any
16 changed circumstances. Each department shall complete an
17 analysis of additional materials to determine recycling
18 potential, and shall incorporate these materials into plan
19 updates. Updated plans shall be submitted to the office for
20 approval prior to adoption.

21
22 2. Capitol complex recycling program. The State House and
23 the State Office Building shall constitute the Capitol complex
24 recycling demonstration area. The House of Representatives, the
25 Senate, the office of the Governor, and each department that
26 occupies space in the State House or the State Office Building
27 shall, by July 1, 1990, institute a recycling program for its
28 respective offices in these buildings. The program shall
29 include, at a minimum, office paper, corrugated cardboard and
30 containers subject to the returnable container law, Title 32,
31 chapter 28, which are sold in the Capitol complex. The program
32 shall include procedures for collecting and storing recyclable
33 materials, bins or containers for storing materials, and
34 contractual and other arrangements with buyers.

35
36 3. Recycling. By January 1, 1991, each state agency
37 outside the Capitol complex shall establish and implement a
38 source separation and collection program for recyclable materials
39 produced as a result of agency operations, including, at a
40 minimum, high grade paper and corrugated paper. The source
41 separation and collection program shall include, at a minimum,
42 procedures for collecting and storing recyclable materials, bins
43 or containers for storing materials, and contractual and other
44 arrangements with buyers. Each agency shall appoint a recycling
45 coordinator for every 50 employees at a minimum and shall conduct
46 educational programs for its employees on the recycling program.

47
48 4. Waste reduction. By January 1, 1991, each state agency
49 shall establish and implement a waste reduction program for
50 materials used in the course of agency operations. The program
51 shall be designed and implemented to achieve the maximum feasible
reduction of waste generated as a result of agency operations.

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1 5. University of Maine System. The following provisions
3 shall apply to the University of Maine System.

5 A. Each campus of the University of Maine System shall
7 prepare a waste reduction, recycling and composting plan
9 addressing the requirements of paragraphs B to D. The plan
11 shall be submitted to the Office of Waste Reduction and
13 Recycling on or before July 1, 1990, for approval as
15 consistent with the goals and guidelines of this chapter and
17 with the state waste management and recycling plan. Each
campus shall complete an analysis of additional materials to
determine recycling potential, and shall incorporate these
materials into annual plan updates.

19 Updated plans shall be submitted to the office for approval
21 prior to adoption.

23 B. By January 1, 1991, each campus of the University of
25 Maine System shall establish and implement a source
27 separation and collection program for recyclable materials,
29 including at a minimum, high grade paper, corrugated paper
and glass. The source separation and collection program
shall include procedures for collecting and storing
recyclable materials, bins or containers for storing
materials and contractual and other arrangements with
buyers. Each campus shall appoint a recycling coordinator
and shall conduct educational programs for students and
employees on the recycling program.

31 C. By January 1, 1991, each campus of the University of
33 Maine System shall establish and implement a waste reduction
35 program for materials used in the course of its operations.
The program shall be designed and implemented to achieve the
maximum feasible reduction of waste.

37 D. By January 1, 1991, each campus of the University of
39 Maine System shall establish a leaf composting program.

41 §2138. Business recycling and waste reduction program

43 1. Office paper recycling mandated. Any person employing
45 15 or more people at a site within the State shall implement an
office paper and corrugated cardboard recycling program according
to the following schedule:

47 A. By July 1, 1991, when employing 200 or more persons at a
49 site;

51 B. By July 1, 1992, when employing 50 or more persons at a
site; and

1 C. By July 1, 1993, when employing 15 or more persons at a
2 site.

3 The office shall provide technical and market development
4 assistance and direction to entities within the State to assist
5 in meeting this schedule. Municipalities and regional
6 associations may assist employers in attaining the objectives of
7 this section.

8
9 2. Office paper. For the purposes of this section, "office
10 paper" includes, but is not limited to, ledger, computer and bond
11 paper.

12
13 3. Certification of tax credit. The office, in cooperation
14 with the State Tax Assessor, shall assist in the administration
15 of tax credits for the purchase of machinery and equipment used
16 by businesses in new or expanded waste reduction, reuse or
17 recycling programs pursuant to Title 36, section 5219-C by
18 certifying that the machinery and equipment are eligible for the
19 credit.

20
21 4. Technical and financial assistance programs. The office
22 shall administer other financial assistance programs for projects
23 that reduce the waste stream or increase recycling that the
24 agency determines appropriate, including technology transfer to
25 businesses and assisting the Finance Authority of Maine in
26 determining eligible projects for low-interest loans.

27
28 5. Industrial waste reduction. The office shall consult
29 with the Maine Sludge and Residuals Utilization Research
30 Foundation and the private sector to identify and examine
31 solutions to the problems of reducing the volume and toxicity of
32 industrial waste.

33
34 §2139. Public education

35
36 The office shall design a program of public education in
37 support of the state recycling goals to promote waste reduction,
38 source separation and recycling efforts at the individual, local,
39 regional and state levels.

40
41 1. Media campaign. The office shall develop and
42 disseminate educational material designed to establish broad
43 public understanding and compliance with the State's recycling
44 and waste reduction goals.

45
46 2. Kindergarten to grade 12 curriculum. In cooperation
47 with the Department of Educational and Cultural Services, the
48 office shall develop a curriculum suitable for use in programs
49 from kindergarten through high school.

50
51 §2140. Interstate and national initiatives

2 of 3.

The office shall participate in interstate and national initiatives to adopt uniform state laws when practicable, and to enter compacts between the State and other states for the improved management, recycling and reduction of solid waste.

SUBCHAPTER IV

OFFICE OF SITING AND DISPOSAL OPERATIONS

§2151. Office of Siting and Disposal Operations

The Office of Siting and Disposal Operations, referred to as the "office" in this subchapter, 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 agency and consistent with the state waste management and recycling plan.

§2152. Facility Siting Board

1. Board established. The Facility Siting Board, as established in Title 5, section 12004-D, subsection 4, is created to conduct a site screening and selection process for disposal facilities owned, operated or controlled by the agency. The board shall undertake this process in a manner consistent with the state waste management and recycling plan and provisions of section 2154 and shall make all final decisions on the choice of specific sites for solid waste disposal facilities under the jurisdiction of the agency. The office shall provide staff support to the Facility Siting Board.

2. Membership. The board consists of 5 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.

A. One of the members shall initially be appointed to a term of 3 years, 2 members to terms of 4 years and 2 members to terms of 5 years. The successor of each appointed member shall be appointed for a term of 5 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.

1
2
3 C. The Commissioner of Environmental Protection and the
4 Director of the Maine Geological Survey shall serve as
5 technical advisors to the board.

6
7 3. Qualifications. The Governor shall select the
8 membership of the board to include members of the general public
9 and persons with expertise in engineering, hydrogeology, public
10 health and government. The Governor shall also select the
11 membership of the board to include broad geographic
12 representation from all areas of the State.

13 4. Selection of officers; quorum. Annually, the board shall
14 elect one of its appointed members as the chair of the board.
15 Three members of the board shall constitute a quorum and the
16 affirmative vote by 3 members shall be necessary for any action
17 taken by vote of the board.

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

20 6. Meeting schedule. The board shall meet at least 4 times
21 annually and at any time upon the call of its chair or upon the
22 request in writing to the chair of 3 board members.

23
24 §2153. Siting criteria

25
26 1. Siting criteria. By May 1, 1990, the Facility Siting
27 Board shall adopt by rule siting criteria for solid waste
28 disposal facilities based on the following factors.

29
30 A. To the extent possible, a site shall be located in
31 proximity to the entities that generate the wastes placed at
32 the site.

33
34 B. To the extent possible, a site shall be located in
35 proximity to the transportation systems that are used to
36 convey waste to the site or to convey residuals and
37 materials to be recycled from the site.

38
39 C. The capacity or size of a site must be consistent with
40 the projected demand as determined in the state plan.

41
42 D. A site and its considered use must be consistent with,
43 and actively support, other waste management objectives,
44 including waste reduction and recycling.

45
46 E. The projected price for site development, construction
47 and operation must be fair and reasonable.

48
49 F. A site must meet preliminary environmental standards
50 developed jointly by the department and the Maine Land Use
51

1 Regulation Commission, including ground water and geological
2 standards.

3 G. Existing uses on adjacent properties shall not be in
4 significant conflict with or significantly jeopardized by
5 the use of a site.

6 §2154. Site selection

7 1. Initial site screening. The Facility Siting Board shall
8 complete a site screening and selection process on or before July
9 1, 1991, to identify solid waste disposal capacity sufficient to
10 meet the projected needs through the year 1995 identified in the
11 analysis conducted under former section 1310-O and the needs that
12 have been identified in the state planning process under
13 subchapter II. The Facility Siting Board shall consider the need
14 for geographic distribution of facilities to adequately serve all
15 regions of the State. The Facility Siting Board also shall
16 consider in its site selection process the need for landfill
17 capacity to dispose of incinerator ash resulting from the
18 combustion of domestic and commercial solid waste generated
19 within its jurisdiction. Prior to recommending a site, the
20 Facility Siting Board shall hold a public hearing in every
21 municipality or plantation identified in the screening process as
22 a potential site. For potential sites within an unincorporated
23 township, the Facility Siting Board shall hold a public hearing
24 within the vicinity of the proposed site.

25 2. Siting; general. Subsequent to the siting process under
26 subsection 1, the Facility Siting Board shall identify additional
27 sites as requested by the office and as capacity needs are
28 identified in the state plan. The Facility Siting Board shall
29 employ the same criteria and considerations employed under
30 subsection 1. The Facility Siting Board shall hold a public
31 hearing in each municipality within which the agency may
32 recommend the location of any solid waste disposal or
33 refuse-derived fuel processing facility.

34 §2155. Notification

35 The office shall notify the municipal officers of any
36 municipality within which a waste disposal facility site is
37 recommended under this subchapter of that recommendation. The
38 office shall notify the municipal officers by certified mail
39 within 30 days of making the recommendation. If the proposed
40 site is located within the jurisdiction of the Maine Land Use
41 Regulation Commission, the office shall notify the Maine Land Use
42 Regulation Commission and the county commissioners in lieu of
43 the municipal officers.

44 §2156. Facility development

1 1. Initial state facility required. On or before July 1,
 3 1994, the office shall develop facilities sufficient to meet the
 5 projected needs identified in the analysis conducted under former
section 1310-O and the state plan and to serve all geographic
areas of the State.

7 2. Subsequent facility development. Subsequent to any
 9 facility development under subsection 1, the office shall
 11 initiate the development of solid waste disposal facilities as it
 13 determines is necessary to meet the capacity needs identified in
the state plan. The office shall provide for solid waste
disposal facilities by contracting with private vendors for
facility design, construction or operation or, if necessary,
undertaking facility development itself.

15 3. Agency ownership. The agency shall maintain ownership
 17 of any solid waste disposal facility it develops and shall
 19 maintain full control over the use of the facility or facilities.

21 §2157. Review of proposed waste facilities

23 Subsequent to the adoption of the state plan, the Board of
 25 Environmental Protection shall not approve an application of a
new or expanded solid waste disposal facility requiring review
under this section until the agency has approved the proposed
facility under this section.

27 1. Requirement. After the adoption of the state plan, no
 29 permit for a new or expanded solid waste disposal facility may be
 31 issued unless the applicant demonstrates to the agency that the
proposed facility:

33 A. Will meet capacity needs identified in the state plan in
 35 addition to capacity that is under development by the office
under section 2156 or by any other party approved by the
office at the time of the application;

37 B. Will be consistent with the state plan; and

39 C. Meets the following requirements:

41 (1) The proposed facility is consistent with local,
 43 regional or state waste collection, storage,
transportation, processing or disposal; and

45 (2) After the adoption of the siting criteria, the
 47 proposed facility meets the criteria in section 2153.

49 Proceedings under this subsection are subject to the provisions
 51 of Title 5, chapter 375, subchapter IV.

§2158. Future commercial solid waste disposal facilities

R. of S.

1 After the adoption of the state plan, the agency shall not
3 approve an application for a new commercial solid waste disposal
5 facility. The agency may approve expansions of a commercial
7 solid waste disposal facility after adoption of the state plan,
9 if:

11 1. Previously licensed facility. The facility had been
13 previously licensed by the Board of Environmental Protection
15 prior to the adoption of the state plan; and

17 2. Determination of compliance. The agency determines that
19 the provisions of section 2157 are met.

21 §2159. Real and personal property; right of eminent domain

23 The agency may acquire and hold real and personal property
25 which it deems necessary for its purposes, is granted the right
27 of eminent domain and, for those purposes, may take and hold,
29 either by exercising its right of eminent domain or by purchase,
31 lease or otherwise, for public use, any land, real estate,
33 easements or interest therein, necessary for constructing,
35 establishing, maintaining, operating and the closure of solid
37 waste disposal facilities.

39 §2160. Procedure in exercise of right of eminent domain

41 The right of eminent domain granted in section 2159 may only
43 be exercised after complying with the following procedures.

45 1. Notice to owner. The agency shall provide to the owner
47 or owners of record notice of the following:

49 A. The determination of the agency that it proposes to
51 exercise the right of eminent domain;

B. A description and scale map of the land or easement to
 be taken;

C. The final amount offered for the land or easement to be
 taken, based on the fair value as estimated by the agency;
 and

D. Notice of the time and place of the hearing provided in
 subsection 4.

Notice may be made by personal service in hand by an officer duly
 qualified to serve civil process in this State or by certified
 mail, return receipt requested, to the last known address of the
 owner or owners. If the owner or owners are not known or cannot
 be notified by personal service or certified mail, notice may be
 given by publication in the manner provided in subsection 4.

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2. Notice to tenant. Notice shall be given to any tenant in the same manner notice is given to the owner of the property.

3. Notice to the affected municipality. Notice shall be given to the municipality in which the property to be acquired is located in the same manner notice is given to the owner of the property and shall be addressed to the municipal officers.

4. Hearing. The agency shall hold a public hearing on the advisability of its proposed exercise of the right of eminent domain. Notice of the hearing shall be made by publication in a newspaper of general circulation in the area of the taking and shall be given once a week for 2 successive weeks, the last publication to be at least 2 weeks before the time appointed in the hearing. The hearing notice shall include:

A. The time and place of the hearing;

B. A description of the land or easement to be taken; and

C. The name of the owners, if known.

§2161. Condemnation proceedings

At the time it sends the notice in section 2160, the agency shall file in the office of the county commissioners of the county in which the property to be taken is located and cause to be recorded in the registry of deeds in the county plans of the location of all lands, real estate, easements or interest therein, with an appropriate description and the names of the owners thereof, if known. When for any reason the agency fails to acquire property which it is authorized to take and which is described in that location, or if the location so recorded is defective and uncertain, it may, at any time, correct and perfect the location and file a new description. In that case, the agency is liable in damages only for property for which the owner had not previously been paid, to be assessed as of the time of the original taking, and the agency is not liable for any acts which would have been justified if the original taking had been lawful. No entry may be made on any private lands, except to make surveys, until the expiration of 10 days from the filing, whereupon, possession may be had of all the lands, real estate, easements or interests therein and other property and rights as aforesaid to be taken, but title shall not vest in the agency until payment for the property is made.

§2162. Office assistance in regional association siting

Upon request by a regional association, the office may provide technical assistance to a regional association in the establishment of approved waste facilities, including assistance

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1 in planning, location, acquisition, development and operation of
2 the site. The regional association shall describe fully the need
3 and justification for the request. The office may request
4 information from the regional association necessary to provide
5 assistance.

7 §2163. Exempt facilities

9 The following types of solid waste disposal facilities are
10 exempt from the provisions of this subchapter:

11 1. Inert fill. Solid waste disposal facilities less than 6
12 acres in size that accept only inert fill, construction and
13 demolition debris, debris from land clearing and wood wastes; and

14 2. Generator-owned facilities. Solid waste disposal
15 facilities used exclusively for the disposal of waste generated
16 by the owner of the facility except that the facility may accept,
17 on a nonprofit basis, no more than 15% of all solid waste
18 accepted on an annual average which is not generated by the
19 owner. Notwithstanding this section, a solid waste disposal
20 facility receiving ash resulting from the combustion of municipal
21 solid waste or fuel derived from municipal solid waste is not
22 exempt unless a completed application for the facility has been
23 accepted by the department prior to July 1, 1989.

24 §2164. Household and small generator hazardous waste

25 The office shall develop and implement by July 1, 1991, a
26 statewide system for the collection and disposal of hazardous
27 waste generated by households, public and private nonprofit
28 institutions and small quantity generators.

30 SUBCHAPTER V

31 HOST COMMUNITY BENEFITS

32 §2171. Citizen advisory committee

33 The municipal officers of each municipality identified by
34 the Facility Siting Board as a proposed site for a waste disposal
35 facility or a facility which produces refuse-derived fuel under
36 this chapter and each contiguous municipality which may be
37 affected by the construction or operation of that facility shall
38 jointly establish a single citizen advisory committee within 60
39 days of notification pursuant to section 2155.

40 1. Membership. The committee shall be comprised of
41 citizens from each affected municipality, including, but not
42 limited to: a municipal health officer; a municipal officer; and
43 at least 3 additional residents of the municipality, including
44 abutting property owners and residents potentially affected by
45

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1 pollution from the proposed facility. In addition, each
2 committee may include members representing any of the following
3 interests: environmental and community groups; labor groups;
4 professionals with expertise relating to landfills or
5 incinerators; experts in the areas of chemistry, epidemiology,
6 hydrogeology and biology; and legal experts.

7
8 2. Meetings. The committee shall meet as soon as practical
9 following appointment of its members and shall select a chair
10 from among its members. The committee shall establish procedures
11 for the conduct of meetings.

12 3. Responsibilities. Each committee established under this
13 section shall have the authority to:

14 A. Review proposed contracts, site analyses, applications
15 and other documents relating to the location, construction,
16 permitting and operation of the proposed facility;

17 B. Hold periodic public meetings to solicit the opinions of
18 residents concerning the proposed facility and any permit
19 applications, contracts or other provisions relating to the
20 facility and the regional plan;

21 C. Provide the agency and department with any alternative
22 contract provisions, permit conditions, plans or procedures
23 it deems appropriate; and

24 D. Serve as a liaison between the community and the agency,
25 project developer or the department to facilitate
26 communications during the development and operation of the
27 facility, and provide residents with updated information
28 about the project, including providing explanations of any
29 technical terms.

30 4. Unincorporated townships and plantations. For the
31 purposes of this subchapter, county commissioners shall act as
32 municipal officers for unincorporated townships and assessors of
33 plantations shall act as municipal officers for plantations.

34 §2172. Dispute resolution

35
36 A host municipality may establish a process, including, but
37 not limited to, negotiation, mediation and arbitration to resolve
38 disputes and to negotiate additional rights and benefits relating
39 to the siting and operation of a waste disposal or refuse-derived
40 fuel processing facility within the municipality. The citizen
41 advisory committee shall be consulted and shall assist in the
42 development and implementation of any process established under
43 this section. At the option of the municipality, the Chair of
44 the Board of Environmental Protection may appoint a neutral
45 mediator to resolve disputes. The municipality shall be eligible
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47
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51

1 for grants from the agency to fund dispute resolution programs
2 under this section.

3 §2173. Municipal jurisdiction over agency and regional
4 association disposal facilities

5
6 *R. of S.*
7 A municipality may adopt a local ordinance authorizing the
8 municipal officers to issue a local permit containing the same
9 findings, conclusions and conditions contained in the license
10 issued by the department for a solid waste disposal facility
11 owned by the agency or a regional association and located within
12 the municipality's jurisdiction. The municipal officers may also
13 attach to the permit additional conditions for the operation of
14 the solid waste disposal facility on any issues not specifically
15 addressed in any condition of the department's license. These
16 conditions may not unreasonably restrict the operation of the
17 facility and must be attached to the local permit by the
18 municipal officers within 90 days of issuance of the department's
19 license or within 30 days of a final decision by the department
20 to relicense the facility.

21
22 An enforcement action brought by the municipality to enforce
23 local permit conditions shall not preclude the State from
24 bringing an action to enforce the conditions of any license
25 issued by the State or any other provision of law. In addition,
26 the State shall have a right to intervene in any enforcement
27 action brought by a municipality under this section. A
28 municipality that has adopted local permit conditions described
29 in this section shall employ an inspector certified under section
30 2174 to enforce permit conditions.

31 §2174. Local inspection and enforcement

32
33 1. Certification. The department shall establish and
34 conduct a training program to certify host municipality
35 inspectors. This program shall be made available to persons who
36 have been designated by the municipality. The department shall
37 offer training programs at least twice a year and shall pay for
38 the host inspection training program. The department may certify
39 and decertify host municipality inspectors pursuant to rules
40 promulgated by the Board of Environmental Protection.

41
42 2. Information. The host municipality of a solid waste
43 disposal facility owned by the agency or a regional association
44 shall have a right to all information from the department and the
45 solid waste disposal facility operator, pursuant to Title 1,
46 chapter 13, subchapter I. All information provided under this
47 subsection shall be made available to the citizen advisory
48 committee and the public by the host municipality.
49

1 A. The department shall provide all of the following
2 information to the municipal officers of the host
3 municipality:

4 (1) Copies of any inspection report of the facility
5 within 5 working days of the preparation of the report;

6 (2) Prompt notification of all enforcement or emergency
7 orders for those facilities, including, but not limited
8 to, abatement orders, cessation orders, final civil
9 penalty assessments, consent orders and decrees and
10 notices of violation;

11 (3) Copies of all air, soil and water quality
12 monitoring data collected by the department at such
13 facilities, including leachate and ash testing results,
14 within 5 working days after complete laboratory
15 analysis becomes available to the department; and

16 (4) Copies of all departmental analyses of the data
17 under subparagraph (3).

18 B. The operator of the facility shall provide the host
19 municipality copies of all air, soil and water quality
20 monitoring data, including leachate and ash testing results,
21 conducted by or on behalf of the operator, within 5 days
22 after that information becomes available to the operator.

23 C. The municipality shall provide all of the following
24 information to the department:

25 (1) Copies of any inspection report of the facility
26 within 5 working days of the preparation of the report;

27 (2) Prompt notification of all enforcement or emergency
28 orders for those facilities, including, but not limited
29 to, abatement orders, cessation orders, final civil
30 penalty assessments, consent orders and decrees and
31 notices of violation;

32 (3) Copies of all air, soil and water quality
33 monitoring data collected by the municipality at such
34 facilities, including leachate and ash testing results,
35 within 5 working days after complete laboratory
36 analysis becomes available to the municipality; and

37 (4) Copies of all analyses of the data under
38 subparagraph (3).

39 3. Inspection; emergency orders. A certified inspector is
40 authorized to enter property of the agency or any regional
41 association within the inspector's jurisdiction, inspect records

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1 required by the department, take samples and conduct inspections
3 in accordance with departmental regulations applicable to
5 employees of the department. A certified inspector may order the
7 operator of the facility to cease any operation or activity at
9 the facility that constitutes an immediate threat to public
11 health or safety or to the environment. The inspector shall
13 notify the department and the municipal officers of the host
15 municipality within 2 hours of issuing such an order.

17 4. Department inspections. Whenever any host municipality
19 notifies the department of an order issued pursuant to a local
21 permit requirement under section 2173 and gives the department
23 reason to believe that any solid waste disposal facility owned by
25 the agency or regional association is in violation of any law or
27 regulation administered by the department, or any order or the
29 condition of any permit issued pursuant thereto, the department
31 shall promptly conduct an inspection of the facility.

33 If the department finds that there is insufficient information to
35 believe that there is a violation, the department shall, within
37 10 working days of a municipality's request for an inspection,
39 provide to the municipality a written explanation of its decision
41 not to conduct an inspection.

43 §2175. Property value offset

45 Owners of property contiguous to an agency-owned, operated
47 or approved facility licensed under chapter 13 are eligible for
49 reimbursement for loss in property value directly attributable to
51 the construction and operation of the facility. The agency shall
53 issue rules to establish a formula and process for reimbursement,
55 including, without limitation, definition of the impact area, a
57 process for establishing baseline real estate values, a time
59 frame within which the property value support program will be in
61 effect, determination of the percentage of property value to be
63 reimbursed, an accounting of real estate trends in the area and a
65 determination of the reimbursement mechanism.

67 §2176. Impact payments

69 In addition to payment in lieu of taxes provided in section
71 2105, the agency shall make impact payments to a municipality in
73 which an agency-owned solid waste landfill facility is located
75 or, in the case of an unorganized territory, to the State Tax
77 Assessor upon request by the community involved or by the State
79 Tax Assessor. The agency shall base its impact payments on
81 measurable criteria including, without limitation:

83 1. Roads. Improvement, maintenance and repair of local
85 roads directly affected by traffic to and from an agency-owned
87 landfill facility;

1 2. Emergency response. Development and maintenance of
2 adequate local emergency response capacity; and

3 3. Monitoring. Financial support for on-site, municipally
4 employed personnel or for other means determined necessary to
5 enable the municipality to monitor the facility's compliance with
6 state and local requirements.

7
8 §2177. Water supply monitoring and protection

9
10 Upon written request from persons owning land contiguous to
11 a waste landfill approved under subchapter IV, the operator of
12 the landfill shall have quarterly samplings and analyses
13 conducted of private water supplies used by the requestors for
14 drinking water. The sampling and analysis shall be conducted in
15 a manner specified by and shall meet criteria developed by the
16 department.

17
18 Any person owning or operating a waste landfill that
19 adversely affects a public or private water supply by pollution,
20 degradation, diminution or other means that result in a violation
21 of the state drinking water standards as determined by the
22 department shall restore the affected supply at no cost to the
23 owner or replace the affected supply with an alternative source
24 of water that is of like quantity and quality to the original
25 supply at no cost to the owner.

26
27 1. Extent of analysis. Water supplies shall be analyzed
28 for all parameters or chemical constituents determined by the
29 department to be indicative of typical contamination from solid
30 waste landfills. The laboratory performing the sampling and
31 analysis shall provide written copies of sample results to the
32 landfill owner, the landowner and to the department.

33
34 2. Additional sampling required. If the analysis indicates
35 possible contamination from a solid waste landfill, the
36 department shall conduct, or require the landfill operator to
37 have the laboratory conduct, additional sampling and analysis to
38 determine more precisely the nature, extent and source of
39 contamination. The department shall, if necessary, require this
40 sampling beyond the boundaries of the contiguous property.

41
42 3. Written notice of rights. On or before December 1,
43 1989, for permits issued under this chapter prior to October 1,
44 1989, and at or before the time of permit issuance for permits
45 issued under this chapter after October 1, 1989, the operator of
46 each waste landfill shall provide owners of contiguous land with
47 written notice of their rights under this section on a form
48 prepared by the department.

49
50 SUBCHAPTER VI

LIABILITY AND LIMITATIONS

§2181. Effect on tort claims

R. of S. Nothing in this chapter may be construed or understood as in any way increasing any liability that may otherwise arise or be limited under Title 14, chapter 741.

§2182. Ability to indemnify

Nothing in this subchapter may be construed to prevent any host municipality, regional association or the State from obtaining or giving such indemnities as may be appropriate in connection with the ownership, operation or control of a municipal solid waste facility.

§2183. Effect on existing contracts and facilities

Except as otherwise provided, nothing in this chapter may be construed to impair any contract in force upon the effective date of this chapter.

§2184. 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 plan 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 with any regional association or municipality in force upon the effective date of this chapter or prior to the adoption 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 chapter, if the renewal or new contract fails to conform to the applicable provisions of this chapter or interferes with the implementation of the state plan.

SUBCHAPTER VII

FINANCE, FEES AND CONTRACTS

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1

Article 1. Fees and Contracts

3

§2191. Fees

5

The agency shall establish reasonable fees for waste disposal services provided by the agency.

7

§2192. Purposes of the fees

9

The fees charged to users of agency-owned facilities and established by the agency under this article, by rule, shall provide revenue for the following purposes:

13

1. Current expenses. To pay the current expenses, either incurred directly or through contractual agreements with another party or parties, for operating and maintaining a facility or delivering a service and to provide for normal maintenance and replacement of equipment. Current expenses also include costs incurred under subchapter V;

21

2. Interest. To provide for the payment of interest on the indebtedness created or assumed by the agency;

23

3. Indebtedness. To provide an annual sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the agency, which sum shall be turned into a sinking fund and there maintained to provide for the extinguishment of term indebtedness. The money set aside in this sinking fund shall be devoted to the retirement of the term obligations of the agency and may be invested in such securities as savings banks in the State are allowed to hold;

33

4. Principal payments. To provide for annual principal payments on serial indebtedness created or assumed by the agency;

35

5. Contingency reserve fund allowance. To provide for a contingency reserve fund allowance by providing rates to reflect up to a 5% addition to yearly revenues over that required to operate the facility;

37

6. Closing reserve fund. To provide for a closing and monitoring reserve fund by providing rates which, over the expected life span of the facility including the post-closure monitoring period, will generate the amount determined to be necessary by the department in its licensing process under chapter 13; and

43

7. Compliance costs. To provide for the costs associated with licensing, compliance and enforcement efforts of the department.

45

1 §2193. Host municipality fees

3 The agency may set fees under this article for the host
5 municipality at a level lower than the fees charged to other
7 municipalities or users, provided that such lower fees are set in
9 a manner consistent with the rules promulgated by the agency.

11 Article 2. Maine Solid Waste Management Fund13 §2201. Maine Solid Waste Management Fund established

15 The Maine Solid Waste Management Fund, referred to in this
17 section as the "fund," is established as a nonlapsing fund to
19 support programs administered by the Maine Waste Management
21 Agency and the Department of Environmental Protection. The fund
23 shall be segregated into 2 accounts. The first account, which
25 shall be called the operations account, shall receive all fees
27 established and received under article 1 and shall be used solely
29 for the development and operation of publicly owned facilities
31 owned or approved by the agency and for the repayment of any
33 obligations of the agency incurred under article 3. The 2nd
35 account, which shall be called the administrative account, shall
37 receive all fees established under this article and under Title
39 36, chapter 719. All administrative expenses directly related to
41 the agency's and the department's programs shall be charged to
43 this account.

45 Money in the fund not currently needed to meet the
47 obligations of the agency shall be deposited with the Treasurer
49 of State to the credit of the fund and may be invested as
51 provided by law. Interest on these investments shall be credited
53 to the fund.

55 Money in the administrative account may only be expended in
57 accordance with allocations approved by the Legislature. These
59 allocations shall be based on estimates of the actual costs
61 necessary for the agency and the department to administer their
63 programs, to provide financial assistance to regional
65 associations and to provide other financial assistance necessary
67 to accomplish the purposes of this chapter. Beginning in the
69 fiscal year ending on June 30, 1991 and thereafter, the fund
71 shall annually transfer to the General Fund an amount necessary
73 to reimburse the costs of the Bureau of Taxation incurred in the
75 administration of Title 36, section 5219-C and Title 36, chapter
77 719 and an amount equal to the General Fund revenues lost as the
79 result of Title 36, section 5219-C. Allowable expenditures
81 include "Personal Services," "All Other" and "Capital
83 Expenditures" associated with all agency activities other than
85 those included in the operations account.

87 §2202. Fees

1 the 3 months ending the last day of March, June, September and
2 December.

3
4 1. Quarterly reports. Each fee payment shall be
5 accompanied by a form prepared and furnished by the agency and
6 completed by the operator. The form shall state the total weight
7 or volume of solid waste disposed of at the facility during the
8 payment period and provide any other aggregate information deemed
9 necessary by the agency to carry out the purposes of this
10 chapter. The form shall be signed by the operator.

11
12 2. Timeliness of payment. The operator shall be deemed to
13 have made a timely payment of the fee if the operator complies
14 with all of the following:

15 A. The enclosed payment is for the full amount owed
16 pursuant to this section and no further agency action is
17 required for collection;

18 B. The payment is accompanied by the required form and the
19 form is complete and accurate; and

20 C. The letter transmitting the payment that is received by
21 the agency is postmarked by the United States Postal Service
22 on or prior to the final day on which the payment is to be
23 received.

24
25 3. Discount. Any operator that makes a timely payment of
26 the fee as provided in this section shall be entitled to apply
27 against the fee payable a discount of 1% of the amount of the fee
28 collected.

29
30 4. Refunds. Any operator who believes the fee was overpaid
31 by the operator may file a petition for refund to the agency. If
32 the agency determines that the operator has overpaid the fee, the
33 agency shall refund to the operator the amount due the operator,
34 together with interest at a rate established by the agency.

35
36 5. Alternative proof of payment. For purposes of this
37 section, presentation of a receipt indicating that the payment
38 was mailed by registered or certified mail on or before the due
39 date shall be evidence of timely payment.

40
41 6. Interest. If an operator fails to make a timely payment
42 of the fee, the operator shall pay interest on the unpaid amount
43 due at the rate established by the agency, from the last day for
44 timely payment to the date paid.

45
46 7. Additional penalty. In addition to the interest
47 provided in subsection 6, if an operator fails to make timely
48 payment of the fee, 5% of the amount of the fee shall be added to
49 the amount actually due if the failure to file a timely payment
50 is not corrected within 30 days of the date of the failure to
51 file a timely payment.

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1 is for not more than one month, with an additional 5% for each
3 additional month, or fraction of a month, during which the
failure continues, not exceeding 25% in the aggregate.

5 8. Assessment notice. If the agency determines that any
7 operator has not made a timely payment of the fee, the agency
9 will send the operator a written notice of the amount of the
11 deficiency, within 30 days of determining the deficiency. When
13 the operator has not provided a complete and accurate statement
of the weight or volume of waste received at the facility for the
payment period, the agency may estimate the weight or volume in
the notice.

15 The operator charged with the deficiency shall have 30 days to
17 pay the deficiency in full or, if the operator wishes to contest
19 the deficiency, forward the amount of the deficiency to the
21 agency for placement in an escrow account with the Treasurer of
23 State or any bank in the State, or post an appeal bond in the
amount of the deficiency. The bond shall be executed by a surety
licensed to do business in the State and be satisfactory to the
agency. Failure to forward the money or appeal bond to the
agency within 30 days shall result in a waiver of all legal
rights to contest the deficiency.

25 If, through the administrative or judicial review of the
27 deficiency, it is determined that the amount of deficiency shall
29 be reduced, the agency shall within 30 days remit the appropriate
amount to the operator, with any interest accumulated by the
escrow deposit.

31 The amount determined after administrative hearing or after
33 waiver of administrative hearing shall be payable to the agency
and shall be collectible.

35 If any amount due under this subsection remains unpaid 30 days
37 after receipt of notice of the deficiency, the agency may order
39 the operator of the facility to cease receiving any solid waste
until the amount of the deficiency is completely paid.

41 9. Filing of appeals. Notwithstanding any other provision
43 of law, all appeals of final agency actions concerning the fee
shall be filed with the agency pursuant to section 2206.

45 §2206. Hearings and appeals

47 The agency shall establish rules governing procedures for
49 hearings and appeals under this article consistent with Title 5,
chapter 375.

51 Article 3. Revenue obligation securities and mortgage loans

§2211. Definitions

1 As used in this article, unless the context otherwise
3 indicates, the following terms have the following meanings.

5 1. Bond. "Bond" means revenue obligation security.

7 2. Cost of project. "Cost of project" means the cost or
9 value of land, buildings, real estate improvements, labor,
11 materials, machinery and equipment, property rights, easements,
13 franchises, financing charges, interest, engineering and legal
15 services, plans, specifications, surveys, cost estimates, studies
17 and other expenses as may be necessary or incidental to the
19 development, construction, acquisition, financing and placing in
21 operation of an eligible project. In addition to these costs,
23 reserves for payment of future debt on any revenue obligation
25 securities may be included as part of the cost of the project.

17 Any obligation or expenses incurred by the State, the agency, a
19 regional association, a municipality or any private person in
21 connection with any of the items of cost specified in this
23 subsection related to revenue obligation securities may be
25 included as part of the cost and reimbursed to the State, the
 agency, regional association, municipality or person out of the
 proceeds of the securities issued.

25 3. Eligible collateral. "Eligible collateral" means an
27 eligible project.

29 4. Eligible project. "Eligible project" means any waste
31 facility or the capital costs of any waste disposal service
33 including, but not limited to, real property, personal property,
 machinery and equipment and related expenses.

35 5. Facility. "Facility" means an eligible project or
 eligible collateral.

37 6. Financial document. "Financial document" means a lease,
39 installment sale agreement, conditional sale agreement, note,
41 mortgage, loan agreement or other instrument pertaining to an
 extension of financial assistance.

43 7. Financing assistance. "Financing assistance" or
45 "financial assistance" means guarantees, leases, insurance,
 financing credits, loans or the purchase or discounts thereof,
 letters of credit, financing assistance payments, grants or other
 financial aid.

47 8. Financing institution. "Financing institution" or
49 "financial institution" means any bank, trust company, national
51 banking association, savings bank, savings and loan association,
 federal savings and loan association, industrial bank, mortgage
 company, insurance company, credit union, local development

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1 corporation or any other institution or entity authorized to do
2 business in this State, or any state or federal agency that
3 customarily provides financing assistance.

5 9. Lease. "Lease" means a contract providing for the use
6 of a project or portions of a project for a term of years for a
7 designated or determinable rent. A lease may include an
8 installment sale contract. A lease may include other terms as
9 the agency may permit or require.

11 10. Lessee. "Lessee" means a tenant under a lease and may
12 include an installment purchaser.

13 11. Loan. "Loan" or "mortgage loan" means an extension of
14 credit made in consideration of a written promise of repayment or
15 any other conditions which may be established by the agency,
16 performance of which may be secured by a mortgage.

17 12. Maturity date. "Maturity date" means the date on which
18 final payment is due as provided in a note, revenue obligation
19 security or other financial document.

20 13. Mortgage. "Mortgage" means an agreement granting a
21 lien on, or a security interest in, eligible collateral with
22 certain conditions and includes, but is not limited to, a
23 mortgage of real estate, an assignment of rents, a pledge or a
24 security agreement.

25 14. Mortgagee. "Mortgagee" means a grantee or obligee
26 under, or a transferee or successor of a grantee or obligee
27 under, a mortgage.

28 15. Mortgage payments. "Mortgage payments" means payments
29 required by or received on account of a mortgage or any other
30 financial document, including, but not limited to, payments
31 covering interest, installments of principal, taxes, assessments,
32 loan insurance premiums and hazard insurance premiums.

33 16. Mortgagor. "Mortgagor" means the grantor or party
34 giving rights to eligible collateral pursuant to a mortgage and
35 includes the successors or assigns of a mortgagor.

36 17. Note. "Note" means an evidence of indebtedness and
37 includes a revenue obligation security.

38 18. Rent or rental. "Rent or rental" means payments under
39 a lease.

40 19. Revenue obligation security. "Revenue obligation
41 security" or "security" means a note, bond, interim certificate,
42 debenture or other evidence of indebtedness, payment of which is

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1 secured by a pledge of revenues, as provided in this article or
2 by assignment or pledge of other eligible collateral.

3 §2212. General powers

5 The agency may, in addition to its other powers and in
6 furtherance of the purposes of this chapter, assist itself or
7 applicants, who shall be limited to municipalities and regional
8 associations, in the financing of eligible projects by issuing
9 revenue obligation securities; by issuing or providing securities
10 for mortgage loans; drafting financial documents, trust
11 agreements and other contracts; and arranging the financing and
12 negotiating for the sale of the securities. The agency may
13 contract with the Finance Authority of Maine to administer the
14 provisions of this article.

15 The agency may also:

16 1. Kinds of projects. Acquire, construct, reconstruct,
17 maintain, renew, replace or provide financing assistance for
18 eligible waste facilities, waste disposal services or recycling
19 projects;

20 2. Securities for projects. Issue revenue obligation
21 securities to pay the cost of or to provide financial assistance
22 for acquisition, construction, reconstruction, renewal or
23 replacement of eligible projects. Any single issue of securities
24 may provide for the cost of, or for financial assistance for,
25 acquisition, construction, reconstruction, renewal or replacement
26 of any one or more eligible projects which may be separate,
27 unconnected and distinct. Any issue, the proceeds of any issue,
28 or any revenue obligation securities shall, except as
29 specifically authorized by the Legislature, meet the requirements
30 of the Internal Revenue Code of 1986, as amended, relating to
31 exempt facility bonds;

32 3. Acquire securities. Issue revenue obligation securities
33 to acquire one or more issues of revenue obligation securities
34 issued by municipalities or to acquire any other bond not
35 eligible for purchase pursuant to Title 30-A, chapter 225. Any
36 single issue of securities may provide funds for the acquisition
37 of revenue obligation securities of one or more municipalities or
38 of bonds for one or more eligible projects which may be separate,
39 unconnected and distinct;

40 4. Refunding securities. Issue revenue refunding
41 obligation securities as provided to refund any outstanding
42 revenue obligation securities issued under this article;

43 5. Serve as broker or agent. Serve as a broker, agent or
44 other financial intermediary for the secondary marketing of
45 obligations issued or incurred in connection with the financing

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1 of eligible projects and for the encouragement of the flow of
2 private funds for capital investment;

3
4 6. Facilities. Plan, carry out, acquire, lease and operate
5 facilities and provide for the construction, reconstruction,
6 improvement, alteration or repair of any facility or any part of
7 a facility;

8
9 7. Acquisition and disposal of property. Acquire or enable
10 a user to acquire, upon reasonable terms from funds provided
11 under this article, the lands, structures, property, rights,
12 rights-of-way, franchises, easements and other interests in
13 lands, including lands under water and riparian rights, which are
14 located within the State and considered necessary or convenient
15 for the construction or operation of any eligible waste project,
16 and dispose of them;

17
18 8. Contracts. Make and enter into all financial documents
19 and other contracts and trust agreements securing revenue
20 obligation securities issued under this article, provided all
21 expenses are payable solely from funds made available under this
22 article;

23
24 9. Consent to modification of contracts, lease or
25 agreement. To the extent not forbidden under its contract with
26 the holders of bonds, consent to any modification of any
27 contract, lease or agreement of any kind to which the agency is a
28 party;

29
30 10. Employment of specialists. Employ consulting and other
31 engineers, attorneys, accountants, construction and financial
32 experts, superintendents, managers and other necessary employees
33 and agents and fix their compensation, provided all expenses are
34 payable solely from funds made available under this subchapter;

35
36 11. Government contracts. Enter into contracts with
37 regional associations, municipalities, the State or a federal
38 agency relating to any eligible solid waste project;

39
40 12. Government aid. Accept loans or grants for the
41 planning, construction or acquisition of any eligible solid waste
42 project from a municipality, an authorized agency of the State or
43 a federal agency and enter into agreements with the agency
44 respecting the loans or grants. In the case of all loans, grants
45 or other aid involving pollution-control facilities, the consent
46 of the Board of Environmental Protection must first be obtained,
47 notwithstanding section 362;

48
49 13. Private aid. Receive and accept aid and contributions
50 from any source of money, property, labor or other things of
51 value, to be held, used and applied only for the purposes for
52 which these loans, grants and contributions may be made;

1
3 14. Applicability. Provide financial assistance by means
5 of leases that are not subject to Title 14, section 6010. Leases
R. of S. made under this section may provide that obligations of the
lessees are unconditional; and

7 15. Application. Provide financial assistance by means of
9 revenue obligation securities which are not subject to Title 32,
chapter 105, relating to dealers in securities.

11 §2213. Issuance of revenue obligation securities

13 1. Notice of intent to issue bonds; actions to contest
15 validity. The agency may provide, at one time or from time to
17 time, for the issuance of revenue obligation securities of the
agency for the purposes authorized in this chapter. No revenue
obligation securities of the agency may be issued until:

19 A. The project has been determined to be consistent with
21 the state plan pursuant to section 2157 and the necessary
permits have been obtained from the department;

23 B. A notice of the intent of the agency to issue the
25 securities is published at least once in a newspaper of
general circulation in the region in which the project is to
be located:

27 (1) No later than 14 days after the date on which the
29 certification is issued;

31 (2) Describing the general purpose or purposes for
33 which the securities are to be issued;

35 (3) Stating the maximum principal amount of the
proposed securities; and

37 (4) Including a statement as to the time within which
39 any petition to contest the issuance of the securities
must be commenced.

41 Any action or proceeding in any court to contest the issuance of
43 the securities must be started within 30 days after the date of
45 the publication required by paragraph B and otherwise shall be
47 governed by Title 5, chapter 375, subchapter VII. For the
purposes of this subchapter and the Maine Administrative
Procedure Act, Title 5, chapter 375, the later date of newspaper
publication required by paragraph B shall constitute the final
agency action with respect to the issuance of the securities.
49 After the expiration of the 30-day period of limitation, no right
of action or defense founded upon the invalidity of the issuance
51 of the securities may be opened to question in any court upon any
grounds.

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1
2. Treasurer of State as agent. The Treasurer of State shall, at the direction of the agency, act as the agency's agent for the sale and delivery of revenue obligation securities and anticipatory notes. The Treasurer of State shall assist the agency in the preparation, issuance, negotiation and sale of the securities and notes and provide reasonable advice and management assistance. The agency may employ further counsel or assistants or act in its own behalf, provided that the sale and delivery of revenue obligation securities and anticipatory notes shall be carried out at the agency's direction with and through the Treasurer of State.

13
3. Conclusive authorization. All revenue obligation securities of the agency shall be conclusively presumed to be fully authorized and issued under the laws of the State, and any person or governmental unit shall be estopped from questioning their authorization, sale, issuance, execution or delivery by the agency.

21
4. Maturity; interest. The securities of each issue of revenue obligation securities shall be dated, mature at a time or times not exceeding 20 years from the date of the securities and bear interest at a rate or rates determined by the agency. At the option of the agency, the securities may be made redeemable before maturity at a price or prices and under terms and conditions fixed prior to issuance.

29
5. Form. The agency shall determine the form of the securities, including any attached interest coupons, the manner of execution of the securities, the denomination or denominations of the securities and the place or places for payment of principal and interest, which may be at any financial institution within or without the State. Revenue obligation securities shall be executed in the name of the agency by the manual or facsimile signature of the authorized official or officials. Any attached coupons shall be executed with the manual or facsimile signature of the authorized official or officials. Signatures and facsimiles of signatures on securities and coupons are valid for all purposes even if the authorized official ceases to hold office before delivery of the securities. The securities may be issued in coupon or registered form or both as the agency may determine. Provision may be made for the registration of any coupon securities to principal alone and to both principal and interest, and for the reconversion into coupon securities of any securities registered to both principal and interest. In addition to this subsection, the agency may provide for transfer of registration of the agency's registered revenue obligation securities by book entry on the records of the entity designated for that purpose and may enter into such contractual arrangements as may be necessary to accomplish these purposes. In the event a book entry method of transfer is used, principal of and interest

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1 on those registered securities shall be payable to the registered
2 owner shown in the book entry, the owner's legal representatives,
3 successors or transferees.

5 6. Sale. The agency may sell the securities at a public or
6 private sale, in a manner and at a price the agency determines to
7 be in the best interest of the agency. The agency shall not sell
8 the securities to any firm, partnership, corporation or
9 association, including an affiliate or subsidiary, which is a
10 party to any contract pertaining to the financed project or which
11 is to rent, purchase, lease or otherwise occupy premises
12 constituting part of the project. The agency may sell the
13 securities to a seller of the project if the project is to be
14 used and operated by a 3rd party.

15 7. Proceeds. The proceeds of each issue shall be used
16 solely for the authorized purposes and shall be disbursed as
17 provided in the securing trust agreement or other document.
18 Administration costs incurred by the agency under this program
19 may be drawn from those proceeds. If the proceeds are less than
20 the cost of the project, by error in the estimate or otherwise,
21 additional securities may be issued in a like manner to provide
22 the amount of the deficit and, unless otherwise provided in the
23 securing trust agreement or other document, the additional
24 securities are deemed to be of the same issue and shall be
25 entitled to payment from the same fund without preference or
26 priority of the securities first issued for the same purpose.
27 The agency may place limits or restrictions on the issuance of
28 additional revenue obligation securities through the securing
29 trust agreement or other document. The agency may provide for
30 the replacement of mutilated, destroyed or lost securities.
31 Revenue obligation securities may be issued under this subchapter
32 without obtaining the consent of any department, division,
33 commission, board, bureau or agency of the State and without any
34 other proceedings or the occurrence of any conditions or things
35 other than those proceedings, conditions or things which are
36 specifically required by this subchapter. Notwithstanding any of
37 the other provisions of this subchapter, or of any recitals in
38 any securities issued under this subchapter, all such securities
39 are deemed to be negotiable instruments issued under the laws of
40 this State.

41 8. Credit not pledged. Except as provided in this
42 subsection, securities issued under this subchapter shall not
43 constitute any debt or liability of the State or of any
44 municipality in the State or any political subdivision of the
45 State, or of the agency or a pledge of the faith and credit of
46 the State or of any such municipality or political subdivision,
47 but shall be payable solely from the revenues of the project or
48 projects for which the securities are issued or from other
49 eligible collateral or the revenues or proceeds of other eligible
50 collateral pledged to the payment of the revenue obligation
51 securities.

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1 securities and all such securities shall contain on the
2 securities' face a statement to that effect. The issuance of
3 securities under this subchapter shall not directly or indirectly
4 or contingently obligate the State or any municipality or
5 political subdivision to levy or to pledge any form of taxation
6 whatever or to make any appropriation for payment.

7
8 9. Anticipatory borrowing. In anticipation of the sale of
9 securities under this article, the agency may issue temporary
10 notes and renewal notes, the total face amount of which does not
11 exceed at any one time outstanding the authorized amount of the
12 securities. The period of anticipatory borrowing shall not
13 exceed 3 years and the time within which the securities are to
14 become due shall not be extended by the anticipatory borrowing
15 beyond the term permitted by law.

16
17 10. Environmental protection. Revenue obligation
18 securities of the agency shall not be issued for a project until
19 the department has certified to the agency that all licenses
20 required by the department with respect to the project have been
21 issued or that none are required. Any subsequent enlargement or
22 addition to the project for which approval is sought from the
23 agency requires certification by the department.

24 §2214. Trust agreements or other documents

25
26 1. Trust agreements or other documents. At the discretion
27 of the agency, revenue obligation securities may be issued under
28 this subchapter pursuant to a trust agreement or other document.
29 The trust agreement or other document may:

30
31 A. Pledge or assign the revenues or proceeds of the project
32 or projects or other eligible collateral;

33
34 B. Set forth the rights and remedies of the security
35 holders and other persons and contain any reasonable and
36 legal provisions for protecting the rights and remedies of
37 the security holders;

38
39 C. Restrict the individual right of action by security
40 holders; and

41
42 D. Include covenants setting forth the duties of the agency
43 and user in relation to:

44 (1) Acquisition of property or eligible collateral;

45
46 (2) Construction, reconstruction, renewal, replacement
47 and insurance of the project or eligible collateral;

48
49 (3) Rents to be charged or other payments to be made
50 for use;

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(4) Payment for the project or eligible collateral; and

(5) Custody, safeguarding and application of all money.

Any financial institution may furnish indemnifying bonds or pledge the securities as may be required by the agency.

2. Mortgages. To further secure the payment of the revenue obligation securities, the trust agreement or other document may mortgage or assign the mortgage of the project, or any part of the project, and create a lien on or security interest in any or all of the project. In the event of a default with respect to the revenue obligation securities, the trustee, mortgagee or other person may be authorized by the trust agreement or other document containing a mortgage or assignment of a mortgage to take possession of, hold, manage and operate all or any part of the mortgaged property and, with or without taking possession, to sell or from time to time lease the property in accordance with law. Any security interest granted by the authority under this chapter may be created and perfected in accordance with the Uniform Commercial Code, Title 11, Article 9, notwithstanding Title 11, section 9-104, subsection 5.

3. Additional provisions. Any trust agreement or other document may contain provisions which shall be a part of the contract with holders of revenue obligation securities as to:

A. Pledging any specified revenues or assets of the agency to secure the payment of the securities, subject to agreements with existing holders of securities;

B. Pledging all or any part of the unencumbered revenues or assets of the agency to secure the payment of securities, subject to agreements with existing holders of securities;

C. Setting aside, regulating and disposing of reserves or sinking funds;

D. Limitations on the purpose to which the proceeds of sale of securities may be applied and the pledge of the proceeds to secure the payment of the securities or of any issue of securities;

E. Limitations on the issuance of additional securities;

F. The terms on which additional securities may be issued and secured and the refunding of outstanding or other securities;

G. The procedure, if any, by which the terms of any contract with holders of securities may be amended or

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1 abrogated, including the proportion of the holders which
2 must consent and the manner in which the consent may be
3 given;

5 H. Limitations on the amount of money to be expended by the
6 agency for operating expenses of the agency;

7
8 I. Vesting in a trustee or trustees such property, rights,
9 powers and duties in trust as the agency may determine,
10 which may include any or all of the rights, powers and
11 duties of the trustee appointed by the holders of the
12 securities under this subchapter, and limiting or abrogating
13 the right of the holders of the securities to appoint a
14 trustee under this chapter or limiting the rights, powers
15 and duties of the trustee;

17 J. Defining the acts or omissions to act which will
18 constitute a default in the obligations and duties of the
19 agency to the holders of the securities and providing for
20 the rights and remedies of the holders of the securities in
21 the event of default, including, as a matter of right, the
22 appointment of a receiver, but only if the rights and
23 remedies are not inconsistent with the laws of the State and
24 other provisions of this subchapter; and

25
26 K. Any other matters, of like or different character, which
27 in any way affect the security or protection of the holders
28 of the securities.

29
30 4. Expenses; pledges. All expenses incurred in carrying
31 out a trust agreement or financial document may be treated as a
32 part of the cost of the operation of the project. All pledges of
33 revenue or eligible collateral under this subchapter shall be
34 valid and binding from the time when the pledge is made. All the
35 revenues or eligible collateral pledged and later received by the
36 agency shall immediately be subject to the lien of the pledges
37 without any physical delivery or further action under the Uniform
38 Commercial Code or otherwise. The lien of the pledges shall be
39 valid and binding against all parties having claims of any kind
40 in tort, contract or otherwise, against the agency, irrespective
41 of whether the parties have notice thereof.

43 5. Other provisions. A trust agreement or financial
44 document may contain other provisions the agency deems reasonable
45 and proper for the security of the security holders.

47 §2215. Rentals and revenues

49 1. Provisions. Before issuing revenue obligation
50 securities, the agency shall determine that there shall at all
51 times be revenues and funds sufficient to:

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1 A. Pay the principal and interest of the securities as they
2 become due and payable and, in its discretion, to create and
3 maintain reserves for that purpose; and

4 B. Pay the cost of maintaining and, where applicable,
5 repairing the project unless provision is made in the
6 financial document or other contract for maintenance and,
7 where applicable, repair.

8
9 2. Sinking fund. All project rentals and other revenues,
10 except those required in subsection 1, paragraph B or to provide
11 reserves for maintenance and, where applicable, repair, may be
12 set aside at regular intervals as provided in the trust agreement
13 or other document and deposited to the credit of a sinking fund
14 charged with payment of the interest and principal of the
15 securities as they fall due, any necessary charges of paying
16 agents for paying principal and interest and the redemption price
17 or the purchase price of securities retired by call or purchase.
18 Use of money deposited to the credit of the sinking fund shall be
19 subject to regulations prescribed in the trust agreement or other
20 document. Except as may otherwise be provided in the trust
21 agreement or other document, the sinking fund shall be a fund for
22 the benefit of all securities issued for the project or projects
23 without distinction or priority of one over another.

24
25 3. Trust funds. All money received under this subchapter
26 shall be deemed trust funds, to be held and applied solely as
27 provided in this subchapter. Any officer to whom, or any bank,
28 trust company or other fiscal agency or trustee to which, the
29 money shall be paid shall act as trustees of the money and shall
30 hold and apply it for the purposes of this subchapter, subject to
31 the requirements of this subchapter, the trust agreement or other
32 applicable document.

33
34 §2216. Remedies

35
36 Any holder of revenue obligation securities or coupons
37 issued under this subchapter and the trustee under any trust
38 agreement, except as restricted by the trust agreement or
39 applicable document, may, by appropriate legal action, protect
40 and enforce any and all rights under the laws of this State or
41 granted under this subchapter, the trust agreement or other
42 document, including the appointment of a receiver, and may
43 enforce and compel the performance of all duties required by this
44 subchapter, the trust agreement or other document to be performed
45 by the agency, including the collecting of rates, fees and
46 charges for the use of the project. Any proceeding shall be
47 brought for the benefit of all holders of the securities and any
48 coupons.

49
50 §2217. Revenue refunding securities

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1 The agency may provide for the issuance of revenue refunding
2 securities of the agency to refund any outstanding revenue
3 securities issued under this subchapter or to refund any
4 obligations or securities of any municipality, including the
5 payment of any redemption premiums and any interest accrued or to
6 accrue to the date of redemption, and, if deemed advisable for
7 the agency, to construct or enable the construction of
8 improvements, extensions, enlargements or additions of the
9 original project. The agency may provide for the issuance of
10 revenue obligation securities of the agency for the combined
11 purpose of refunding any outstanding revenue obligation
12 securities or revenue refunding securities issued under this
13 subchapter or to refund any obligations or securities of any
14 municipality, including the payment of redemption premiums and
15 interest accrued or to accrue and paying all or any part of the
16 cost of acquiring or constructing or enabling the acquisition or
17 construction of any additional project or part of any
18 improvements, extensions, enlargements or additions of any
19 project. The issuance of the securities, the maturities and
20 other details, the rights and remedies of the holders and the
21 rights, powers, privileges, duties and obligations of the agency
22 shall be governed by the provisions of this subchapter insofar as
23 they are applicable.

24 §2218. Tax exemption

25 Revenue obligation securities issued under this article
26 shall constitute a proper public purpose and the securities,
27 their transfer and the income from them, including any profits
28 made on their sale, shall at all times be exempt from taxation
29 within the State, whether or not those securities, their transfer
30 or the income from them, including any profits on their sale, are
31 subject to taxation under the United States Internal Revenue Code.

32 §2219. Leasehold or other interests of lessee taxable

33 The interest of the user of any project is subject to
34 taxation in the manner provided for similar interests in Title
35 36, section 551, subject to Title 36, sections 655 and 656.

36 §2220. Bonds as legal investments

37 The revenue obligation securities of the agency and any loan
38 or extension of credit issued under this article shall be legal
39 investments in which all public officers and public bodies of the
40 State, its political subdivisions, all regional associations and
41 municipalities and municipal subdivisions, all insurance
42 companies and associations and other persons carrying on an
43 insurance business, all banks, bankers, banking associations,
44 trust companies, savings banks and savings associations,
45 including savings and loan associations, building and loan
46 associations, investment companies and other persons carrying on

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1 a banking business, all administrators, guardians, executors,
 3 trustees and other fiduciaries and all other persons who are now
 5 or may later be authorized to invest bonds or other obligations
 7 of the State, may properly and legally invest funds, including
 9 capital, in their control or belonging to them. The revenue
 11 obligation securities and any loan or extension of credit which
 13 is issued under this subchapter are also made securities, which
 15 may properly and legally be deposited with all public officers
 17 and bodies of the State or any agency or political subdivisions
 19 and all municipalities and public corporations for any purpose
 21 for which the deposit of bonds or other obligations of the State
 23 is now or may later be authorized by law.

13 §2221. Capital reserve funds; obligation of State

15
 17 1. Capital reserve fund. The agency may create and
 19 establish one or more capital reserve funds and may pay into any
 21 such capital reserve fund any money appropriated and made
 23 available by the State for the purposes of any such fund, any
 25 proceeds of sale by the agency of revenue obligation securities
 27 to the extent determined by the agency and any other money
 29 available to the agency. For purposes of this section, the
 31 amount of any letter of credit, insurance contract, surety bond,
 33 indemnification agreement or similar financial undertaking
 35 available to be drawn on and applied to obligations to which
 37 money in any such fund may be applied shall be deemed to be and
 39 counted as money in the capital reserve fund.

29
 31 2. Application. Money in any capital reserve fund created
 33 pursuant to subsection 1; except as provided in this section,
 35 shall be used solely with respect to revenue obligation
 37 securities or mortgage loans, repayment of which is secured by
 39 any such fund and solely for the payment of principal, accrued
 41 interest and costs and expenses chargeable to the mortgage loan
 43 or securities, the purchase or redemption of the securities,
 45 including any fees or premiums or the payment of interest on the
 47 securities. Money in excess of the reserve requirement set forth
 49 in subsection 3 may be transferred to other funds and accounts of
 51 the agency.

41
 43 3. Reserve requirement. The agency may provide that money
 45 in any such fund shall not be withdrawn at any time in an amount
 47 which would reduce the amount of any such fund to less than the
 49 maximum amount of principal and interest becoming due and payable
 51 under any applicable trust agreement or other agreement in the
next succeeding 12-month period, the amount being referred to as
the capital reserve requirement, except for the purpose of paying
the amount due and payable with respect to revenue obligation
securities or mortgage loans, repayment of which is secured by
any such fund.

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1 4. Issuance limit. The agency may provide that it shall
2 not issue revenue obligation securities if the capital reserve
3 requirement with respect to securities outstanding and then to be
4 issued and secured by any such fund will exceed the amount of any
5 such fund, including the amount available to be drawn on any
6 letter of credit given to secure the capital reserve requirement,
7 at the time of issuance, unless the agency, at the time of
8 issuance of the securities, shall deposit in any such fund from
9 proceeds of the securities to be issued, or from other sources,
10 an amount which, together with the amounts then in any such fund
11 and amounts available to be drawn under any letter of credit,
12 will not be less than the capital reserve requirement.

13
14 5. Security for mortgage loans. With respect to any
15 mortgage loans which may be secured under this article, the
16 agency may provide that such mortgage loans shall be secured by
17 one or more capital reserve funds established pursuant to
18 subsection 1. Any commitment with respect to a mortgage loan
19 executed and delivered pursuant to this section shall be
20 conclusive evidence of the eligibility of the mortgage loan for
21 capital reserve fund security and the validity of any such
22 commitment or contract shall be incontestable in the hands of a
23 mortgage lender except for fraud or misrepresentation on the part
24 of the mortgage lender. Mortgages secured by capital reserve
25 funds under this section are made legal investments for all
26 insurance companies, trust companies, banks, investment
27 companies, savings banks, savings and loan associations,
28 executors, trustees and other fiduciaries, public and private
29 pension or retirement funds and other persons.

30
31 6. Appropriation. On or before December 1st, annually, the
32 agency shall certify to the Governor the amount, if any,
33 necessary to restore the amount in any capital reserve fund, to
34 which this subsection is stated in any written agreement, the
35 trust agreement or other document to apply, to the capital
36 reserve requirement. The Governor shall pay directly from the
37 State Contingent Account to any such fund as much of the amount
38 as is available in that account, as determined by the Governor,
39 and shall transmit directly to the Legislature certification and
40 a statement of the amount, if any, remaining to be paid. The
41 certified amount shall be appropriated and paid to the agency
42 during the current state fiscal year.

43
44 7. Obligations and securities outstanding. The agency
45 shall not have at any one time outstanding obligations or revenue
46 obligation securities to which subsection 6 is stated in any
47 agreement or the trust agreement or other document to apply in
48 principal amount exceeding an amount equal to \$50,000,000. This
49 subsection constitutes specific legislative approval to issue up
50 to \$50,000,000 in tax-exempt revenue securities obligations. The
51 amount of revenue obligation securities issued to refund
 securities previously issued shall not be taken into account in

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1 determining the principal amount of securities outstanding,
2 provided that proceeds of the refunding securities are applied as
3 promptly as possible to the refunding of the previously issued
4 securities. In computing the total amount of revenue obligation
5 securities of the agency which may at any time be outstanding for
6 any purpose, the amount of the outstanding revenue obligation
7 securities that have been issued as capital appreciation bonds or
8 as similar instruments shall be valued as of any date of
9 calculation at their then current accreted value rather than
10 their face value.

11 **\$2222. Taxable bond option**

12
13 With respect to all or any portion of any issue of any bonds
14 or any series of bonds which the agency may issue in accordance
15 with the limitations and restrictions of this subchapter, the
16 agency may covenant and consent that the interest on the bonds
17 shall be includable, under the United States Internal Revenue
18 Code of 1986, as amended, or any subsequent corresponding
19 internal revenue law of the United States, in the gross income of
20 the holders of the bonds to the same extent and in the same
21 manner that the interest on bills, bonds, notes or other
22 obligations of the United States is includable in the gross
23 income of the holders under the United States Internal Revenue
24 Code or any subsequent law. The foregoing grant of power shall
25 not be construed as limiting the inherent power of the State or
26 its agencies under any other provision of law to issue debt, the
27 interest on which is includable in the gross income of the
28 holders of the interest under the United States Internal Revenue
29 Code or any subsequent law.

30
31 **Sec. 8. Transition; Office of Waste Reduction and Recycling.** The
32 provisions of this section shall govern the transfer of the
33 Office of Waste Recycling and Reduction in the Department of
34 Economic and Community Development to the Office of Waste
35 Reduction and Recycling in the Maine Waste Management Agency.

36
37 **1. Funds.** Notwithstanding the Maine Revised Statutes,
38 Title 5, sections 1585 and 1586, all accrued expenditures,
39 assets, liabilities, balances, appropriations or allocations,
40 transfers, revenues or other available funds in any account or
41 subdivision of an account, and any equipment and property of the
42 Department of Economic and Community Development, Office of Waste
43 Recycling and Reduction shall be transferred to the Maine Waste
44 Management Agency, Office of Waste Reduction and Recycling.

45
46 **2. Personnel.** Employees of the Office of Waste Recycling
47 and Reduction shall be transferred to the Office of Waste
48 Reduction and Recycling. Upon transfer, the position of office
49 director shall be a major policy-influencing position. Upon

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1 transfer, incumbents in classified positions shall retain their
2 classified status.

3
4 3. Employee benefits. Any employees of the Office of Waste
5 Recycling and Reduction transferred to the Office of Waste
6 Reduction and Recycling shall be transferred with their accrued
7 rights and benefits. The accrued fringe benefits, including
8 vacation and sick leave, health and life insurance, and
9 retirement of those employees shall remain with those employees.

11 4. Contracts and agreements. All contracts and agreements
12 currently in effect with respect to any unit or program of State
13 Government affected by this Act shall remain in effect until
14 rescinded, terminated or modified as provided by state law.

15
16 5. Organization and operation. Notwithstanding any other
17 provision of law, any appointment required by this Act and
18 preparation work may be made or may occur prior to the
19 appropriate effective date of this Act, but shall not become
20 binding until the appropriate effective date.

21
22 6. Financial order required. The Commissioner of Economic
23 and Community Development shall request, by financial order
24 through the State Budget Office, the Governor's approval of the
25 funds, positions, equipment and property to be transferred.

26
27 Sec. 9. Transition; Waste Management Advisory Council. The
28 existing membership of the Recycling Advisory Council appointed
29 under the Maine Revised Statutes, Title 38, section 1310-L, as
30 repealed in this Act, shall serve the remainder of their terms as
31 members of the Waste Management Advisory Council created by this
32 Act.

33
34 Sec. 10. Study on the impact of optional plastic bags. The Maine
35 Waste Management Agency, Office of Waste Reduction and Recycling
36 shall study any change in the relative number of plastic versus
37 paper bags used by retail outlets as a result of the enactment of
38 Title 38, section 1605. The office shall submit a report on
39 their findings to the Joint Standing Committee on Natural
40 Resources by March 1, 1991.

41
42 **PART B**

43
44 36 MRSA c. 719 is enacted to read:

45
46 CHAPTER 719

47
48 SOLID WASTE ADVANCE DISPOSAL FEE

49
50 §4831. Definitions

1 As used in this chapter, unless the context otherwise
2 indicates, the following terms have the following meanings.
3

4 1. Brown good. "Brown good" means an electronic device
5 containing printed circuit boards, capacitors, resistors or
6 transistors that is not included in the definition of "white
7 good" and that weighs more than 10 pounds.

8 2. Lead-acid battery. "Lead-acid battery" means a device
9 designed and used for the storage of electrical energy through
10 chemical reactions involving lead and acids.

11 3. Motorized vehicle. "Motorized vehicle" means any
12 self-propelled vehicle, including motorcycles, construction and
13 farm vehicles and other off-road vehicles, not operating
14 exclusively on tracks.

15 4. Tire. "Tire" means the device made of rubber or any
16 similar substance which is intended to be attached to a motorized
17 vehicle or trailer and is designed to support the load of the
18 motor vehicle or trailer.

19 5. Trailer. "Trailer" means any vehicle without motive
20 power that is designed to be drawn by a motorized vehicle.

21 6. White good. "White good" means any appliance employing
22 electricity, natural gas or any liquified petroleum gas to supply
23 heat or motive power to preserve or cook food, to wash clothing,
24 dishes, kitchen utensils, glasses or other related items or to
25 cool or heat air or water.

26 §4832. Fee imposed

27 1. Imposition. A fee is imposed on the retail sale in this
28 State of new tires, new lead-acid batteries, new white goods and
29 new brown goods. The fee is in the amount of \$1 per tire or lead
30 battery and \$15 per white good or brown good whether sold
31 separately or incorporated with other tangible personal
32 property. Additionally, fees in the same amounts are imposed on
33 the storage, use or other consumption in this State of tires,
34 lead batteries, white goods and brown goods purchased new in this
35 State by the user or purchased out of State by the user unless
36 either of the fees imposed by this section has been paid.

37 2. Exemption. Transactions which, under the laws of the
38 United States, may not be subjected to taxation by this State and
39 sales for immediate removal from this State are exempt from the
40 fee imposed by subsection 1.

41 §4833. Administration

42

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1 The fee imposed by this chapter shall be administered as
3 provided in chapter 7 and Part 3, with the fee imposed pursuant
5 to this chapter to be considered as imposed under Part 3 except
7 that exclusions, exemptions and credits provided under Part 3 and
9 any other provision inconsistent with this chapter shall not
11 apply.

13 The Maine Waste Management Agency shall by rule identify in
15 specific detail those items subject to fee under this chapter.
17 The purpose of the rule is to assist retail sellers, consumers
19 and fee administrators in understanding the application of the
21 fee to specific purchases.

23 The revenue derived from the fee imposed by this chapter
25 shall be deposited in the Maine Solid Waste Management Fund
27 established under Title 38, chapter 24, which shall reimburse the
29 General Fund for the administrative costs of the fee as certified
31 by the Bureau of Taxation.

33 §4834. Effective date

35 This chapter shall be effective for taxable purchases made
37 in this State on or after July 1, 1990 and for taxable items
39 brought into this State by the user on or after July 1, 1990.

41 **PART C**

43 **Sec. 1. 5 MRSA §1812, first ¶, as amended by PL 1985, c. 785,**
45 **Pt. A, §72, is further amended to read:**

47 The terms "services," "supplies," "materials" and
49 "equipment" as used in this chapter, ~~shall be held to mean~~ any
51 and all services, articles or things which shall be used by or
 furnished to the State or any department or agency thereof, and
 any and all printing, binding, publication of laws, journals and
 reports. Except as provided in chapters 141 to 155, any and all
 services, supplies, materials and equipment needed by one or more
 departments or agencies of the State Government shall be directly
 purchased or contracted for by the State Purchasing Agent, as may
 be determined from time to time by rules adopted pursuant to
 chapters 141 to 155, which rules the Department of Administration
 is authorized and empowered to make. It is the intent and purpose
 of this chapter that the State Purchasing Agent shall purchase
 collectively all services, supplies, materials and equipment for
 the State or any department or agency thereof in a manner that
 will best secure the greatest possible economy consistent with
 the grade or quality of the services, supplies, materials and
 equipment best adapted for the purposes for which they are
 needed. Whenever supplies and materials are available for
 purchase which are composed in whole or in part of recycled
 materials and are shown by the seller, supplier or manufacturer
 to be equal in quality and are competitively priced, except for

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1 paper and paper products, the State Purchasing Agent shall
2 purchase such recycled supplies and materials. For the purposes
3 of this section and section 1812-B, ~~reeyeled-materials~~ "recycled
4 materials" means materials that are composed in whole or in part
5 of elements that are reused or reclaimed.

7 Sec. 2. 5 MRSA §1812-A, as enacted by PL 1987, c. 517, §1, is
8 amended to read:

9
10 §1812 A. Report on purchase of recycled products

11
12 The State Purchasing Agent shall report on or before January
13 1,--1988, 1st of the First Regular Session of each Legislature to
14 the joint standing committee of the Legislature having
15 jurisdiction over natural resources ~~and to the same committee of~~
16 ~~the First Regular Session of each subsequent Legislature on or~~
17 ~~before January 1st~~ on the State's efforts to purchase supplies
18 and materials composed in whole or in part of recycled materials
19 ~~pursuant to section 1812.~~ The State Purchasing Agent shall also
20 report on any procurement policies, incentives, educational
21 programs, promotional efforts or other activities undertaken by
22 the Bureau of Purchases to encourage the purchase of those
23 supplies and materials. The State Purchasing Agent shall include
24 in the report any recommendations to increase or facilitate the
25 purchase of those supplies and materials.

27 Sec. 3. 5 MRSA §§1812-B to 1812-D are enacted to read:

29 §1812-B. Purchasing of paper and paper products

31 1. Purchase of paper and paper products with recycled
32 material content. Subject to subsection 3, the State Purchasing
33 Agent shall provide that of the total dollar amount spent in each
34 fiscal year on paper and paper products purchased by the State:

35
36 A. On or after October 1, 1989, not less than 15% shall be
37 spent on paper and paper products with recycled material
38 content;

39
40 B. On or after October 1, 1991, not less than 30% shall be
41 spent on paper and paper products with recycled material
42 content; and

43
44 C. On or after October 1, 1993, not less than 50% shall be
45 spent on paper and paper products with recycled material
46 content.

47
48 2. Federal guidelines and cooperative purchases. To
49 qualify as having recycled material content, paper or paper
50 products must have recycled material content which meets or
51 exceeds the standards established for that paper or paper product
category in Table 1 of the Guideline for Federal Procurement of

1 Paper and Paper Products, 40 Code of Federal Regulations, Part
2 250. The State Purchasing Agent shall determine whether a paper
3 or paper product qualifies. The State Purchasing Agent may join
4 with other states in making cooperative requests for bids to
5 supply paper and paper products.

6
7 3. Bids; price preference. A person who submits a bid for
8 a contract to supply paper or paper products shall certify the
9 percentage and nature of any recycled materials content in the
10 product subject to bid. Bids offering paper or paper products
11 with recycled material content that are within 10% of the lowest
12 bid that meets all other specifications may receive up to a 10%
13 price preference. Any bids to supply paper or paper products
14 with recycled material content that exceed by more than 10% the
15 low bid which meets all other specifications shall not be
16 considered. If no bids are received on a request for bids which
17 offer paper or paper products with recycled material content,
18 the State Purchasing Agent may award the contract to a bidder
19 whose paper or paper product has substandard percentages of or no
20 recycled materials content.

21 §1812-C. Use of composted materials

22
23 All state agencies responsible for the maintenance of public
24 lands in this State shall, to the maximum extent practical and
25 consistent with sound environmental practices, give preference to
26 the use of compost materials in all land maintenance activities
27 which are to be paid for by public funds. The Department of
28 Agriculture, Food and Rural Resources shall develop standards for
29 fertilizers and soil conditioners made from different mixes of
30 compostible wastes, that could be used by state agencies involved
31 in land preparation and improvement work. These standards shall
32 be adopted by rule by January 1, 1990.

33
34 §1812-D. Coordination of procurement information and policies

35
36 The Bureau of Purchases shall coordinate with the Department
37 of Transportation, the Department of Agriculture, Food and Rural
38 Resources, the Department of Environmental Protection and the
39 Office of Waste Reduction and Recycling to develop a central data
40 base of information including, but not limited to, procurement
41 policies, market information, technical data and demonstration
42 project results. This data shall be compiled annually and
43 provided to local public agencies by the Office of Waste
44 Reduction and Recycling.

45
46 Sec. 4. 10 MRSA §963-A, sub-§10, ¶J, as amended by PL 1987, c.
47 846, §2, is further amended to read:

48
49 J. Any underground oil storage facility replacement
50 project; or

1 Sec. 5. 10 MRSA §963-A, sub-§10, ¶K, as enacted by PL 1987, c.
2 846, §3, is amended to read:

3 K. Any overboard discharge replacement project; or

4 Sec. 6. 10 MRSA §963-A, sub-§10, ¶L is enacted to read:

5 L. Any hazardous waste or solid waste recycling or
6 reduction project.

7 Sec. 7. 10 MRSA §963-A, sub-§32, as enacted by PL 1985, c.
8 344, §7, is amended to read:

9 32. Manufacturing enterprise. "Manufacturing enterprise"
10 means knowledge, skill or labor applied to giving of new shapes,
11 new qualities or new combinations to matter as material products
12 and includes assembling, fabricating, making, creating, working,
13 preparing, milling, processing, recycling, manufacturing,
14 finishing, fashioning, producing, storing, warehousing,
15 preserving, distributing, handling or transporting in any manner
16 goods, wares, merchandise, metals, fabrics, materials,
17 substances, product or matter of any kind or nature including
18 materials recovered from solid and hazardous wastes.

19 Sec. 8. 10 MRSA §963-A, sub-§45-A is enacted to read:

20 45-A. Recycling or waste reduction project. "Recycling or
21 waste reduction project" means any building, structure,
22 machinery, equipment or facility which may be considered
23 necessary for recovery, separation, remanufacture or reuse of
24 materials contained in solid or hazardous waste or for the
25 reduced generation of solid or hazardous waste, together with all
26 land, property, rights, rights-of-way, franchises, easements and
27 interests in lands necessary or convenient for the construction
28 or operation of the project.

29 Sec. 9. 10 MRSA §1023-F is enacted to read:

30 §1023-F. Waste Reduction and Recycling Loan Fund

31 1. Creation. The Waste Reduction and Recycling Loan Fund,
32 referred to in this section as the "fund," is created under the
33 jurisdiction and control of the authority.

34 2. Sources of money. The fund shall consist of the
35 following:

36 A. All money appropriated or allocated for inclusion in the
37 fund;

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- 1 B. Subject to any pledge, contract or other obligation, all
3 interest, dividends or other pecuniary gains from investment
 of money from the fund;
- 5 C. Subject to any pledge, contract or other obligations,
7 any money that the authority receives in repayment of
 advances from the fund; and
- 9 D. Any other money available to the authority and directed
11 by the authority to be paid into the fund.
- 13 3. Application of fund. Money in the fund may be used for
 direct loans to finance all or part of any project when the
15 authority determines that:
- 17 A. The project is:
- 19 (1) Designed to substantially reduce or eliminate the
 production in a trade or business of solid waste or
21 hazardous waste as defined in Title 38, section 1303-C;
- 23 (2) A project devoted to resource recovery, as defined
 in Title 38, section 1303-C, except that the combustion
25 of solid or hazardous waste shall not be considered
 resource recovery for the purposes of this section; or
- 27 (3) A project devoted to the reuse of post-consumer
29 materials;
- 31 B. There is a reasonable likelihood that the applicant will
 be able to repay the loan;
- 33 C. The amount and terms of the loan are reasonable to
35 provide an incentive to the applicant to undertake the
 project, which may include a below-market interest rate, and
37 the project will not result in a net increase in solid or
 hazardous waste to be disposed of within the State; and
- 39 D. The project will contribute to achieving the goals
41 identified in the state waste management and recycling plan
43 adopted under Title 38, chapter 24 and is determined by the
 Maine Waste Management Agency to be consistent with that
45 plan. Prior to adopting the state waste management and
 recycling plan, the fund may be used for projects that help
47 achieve the goals identified in the state recycling plan
 approved under former Title 38, section 1310-M.
- 49 The authority, pursuant to Title 5, chapter 375, subchapter II,
51 shall adopt rules for determining eligibility, feasibility,
 terms, conditions and security for the loans. Money in the fund
 not needed currently to meet the obligations of the authority as

1 provided in this section may be invested in such a manner as
2 permitted by law.

3
4 4. Accounts within fund. The authority may divide the fund
5 into separate accounts as it determines necessary or convenient
6 for carrying out this section, including, but not limited to,
7 accounts reserved for direct loan funds.

8
9 5. Revolving fund. The fund shall be a nonlapsing,
10 revolving fund. All money in the fund shall be continuously
11 applied by the authority to carry out this section.

12
13 **Sec. 10. 10 MRSA §1041, sub-§§16 and 17, as enacted by PL 1985,**
14 **c. 344, §61, are amended to read:**

15
16 **16. Energy conservation.** Provide financial assistance for
17 energy conservation. The Office of Energy Resources shall provide
18 assistance to the authority in determining technical eligibility
19 and merit of applications for energy conservation loans. Each
20 recipient of a loan under this section shall provide the
21 authority, within one year, with detailed information on energy
22 consumption before and after the completion of the energy
23 conservation project; and

24
25 **17. Electricity.** Provide financial assistance for
26 electricity generation projects. Any municipality, firm or
27 corporation producing electricity by means of projects described
28 in section 1044, subsection 12, or by means of a
29 pollution-control project, recreational project, multi-level
30 parking facility or combined project may, without the approval of
31 and regulation by the Public Utilities Commission, generate and
32 distribute electricity solely for its own use or the use of its
33 tenant, but may not, without proper approval, sell electricity to
34 other than an electric public utility corporation or cooperative
35 authorized to make, generate, sell and distribute electricity;
36 and

37
38 **Sec. 11. 10 MRSA §1041, sub-§18 is enacted to read:**

39
40 18. Recycling and waste reduction. Provide financial
41 assistance to businesses for recycling and waste reduction
42 projects that are consistent with the management goals and
43 objectives outlined in the state waste management and recycling
44 plan under Title 38, chapter 24. The Maine Waste Management
45 Agency shall provide assistance to the authority in determining
46 consistency, technical eligibility and merit of application for
47 recycling loans.

48
49 **Sec. 12. 10 MRSA §1043, sub-§2, ¶E-1 is enacted to read:**

50
51 E-1. In the case of recycling and waste reduction projects,
52 the proposed facility must be consistent with the state

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1 waste management and recycling plan under Title 38, chapter
2 24, and will reduce the amount of solid or hazardous waste
3 requiring disposal.

5 Sec. 13. 10 MRSA §1063, sub-§2, ¶E, as enacted by PL 1981, c.
476, §2, is amended to read:

7
9 E. The Department of Environmental Protection has certified
11 to the authority that all licenses required by that
12 department with respect to the project have been issued or
13 that none are required provided, however, that such
14 certification need not be obtained from the Department of
15 Environmental Protection prior to issuance of a certificate
16 of approval for a project of a public waste disposal
17 corporation as described in Title 38, section 1304-B,
18 subsection 5, which as of June 9, 1989, has filed an
19 application with the authority seeking a certificate of
20 approval for revenue obligation security to be issued in
21 accordance with this subchapter provided further, that
22 nothing herein shall be deemed to allow issuance of revenue
23 obligation securities for any such project prior to
24 obtaining all necessary permits from the Department of
25 Environmental Protection. Any subsequent enlargement or
26 addition to the project for which approval is sought from
27 the authority shall also require certification by the
28 department;

29 Sec. 14. 10 MRSA §1063, sub-§2, ¶I-1 is enacted to read:

31 I-1. In the case of recycling and waste reduction projects,
32 the proposed facility is consistent with and will contribute
33 to the management goals and objectives outlined in the state
34 waste management and recycling plan under Title 38, chapter
35 24 and will reduce the amount of solid or hazardous waste
36 requiring disposal. The Maine Waste Management Agency shall
37 provide assistance to the authority in determining
38 consistency, technical eligibility and merit of applications
39 for assistance under this subchapter.

41 Sec. 15. 30-A MRSA §5656 is enacted to read:

43 §5656. Procurement of recycled goods

45 1. Review of standards. Each municipality shall review its
46 procurement procedures and specifications to identify procedures
47 and specifications that explicitly discriminate against goods,
48 supplies, equipment, materials and printing with recycled
49 content. Each municipality may revise its procedures and
50 specifications to:

51 A. Encourage the use of goods, supplies, equipment,
materials and printing with recycled content; and

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1 B. Ensure, to the maximum extent economically feasible, that
3 it purchases goods, supplies, equipment, materials and
5 printing that may be recycled or reused when such goods,
 supplies, equipment, materials and printing are discarded.

7 2. Preferences for recycled goods. In revising its
 procurement procedures and specifications under subsection 1,
9 each municipality may:

11 A. Establish a preference for paper with recycled content
13 consistent with the standards established for state agencies
 under Title 5, section 1812-B; and

15 B. Establish specifications for bids for public contracts
17 that require all bidders to propose that a stated minimum
 percentage of goods, supplies, equipment or materials to be
19 used for the contract be made from recycled material.

21 3. Other laws. The options set forth in this section may
 be exercised, notwithstanding any other provision of law to the
23 contrary.

25 4. Interlocal cooperation. The provisions of this section
 shall apply to agreements of interlocal cooperation established
27 pursuant to chapter 115 and to cooperative purchasing programs
 administered by regional councils established pursuant to chapter
29 119.

31 Sec. 16. 32 MRSA c. 26 is enacted to read:

33 CHAPTER 26

35 CODING OF PLASTIC CONTAINERS

37 §1721. Definitions

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

41 1. Plastic bottle. "Plastic bottle" means any plastic
43 container with a neck smaller than the container body and a
 capacity not less than 16 fluid ounces and not more than 5
45 gallons.

47 2. Plastic container. "Plastic container" means any
 bottle, can, jar, case, package or other receptacle intended to
49 hold, carry, or enclose fluids, food items or nonfood products
 that is composed predominately of plastic resins, including, but
51 not limited to, plastic resins listed in section 1723.

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1 3. Rigid plastic container. "Rigid plastic container"
2 means any formed or molded plastic container, except plastic
3 bottles, with a capacity not less than 8 fluid ounces and not
4 more than 5 gallons that retains the same shape whether full or
5 empty.

7 §1722. Coding of plastic containers

9 On or after July 1, 1991, no person may distribute, sell or
10 offer for sale any plastic bottle or rigid plastic container
11 without a molded, imprinted or raised label indicating the type
12 of plastic resin used to produce the plastic bottle or rigid
13 plastic container.

15 §1723. Labels

17 1. Labels. The label shall appear on the bottom of the
18 plastic bottle or rigid plastic container and be clearly
19 visible. This label shall consist of a number with letters
20 placed below the number. The numbers and letters shall be as
21 follows:

23 A. For polyethylene terephthalate, the letters "PETE" and
24 the number 1;

25 B. For high-density polyethylene, the letters "HDPE" and
26 the number 2;

27 C. For vinyl, the letter "V" and the number 3;

28 D. For low-density polyethylene, the letters "LDPE" and the
29 number 4;

30 E. For polypropylene, the letters "PP" and the number 5;

31 F. For polystyrene, the letters "PS" and the number 6; or

32 G. For any other plastic resins, including multilayer, the
33 letters "OTHER" and the number 7.

34 §1724. Ancillary symbols

35 No label may include a chasing arrow symbol or any other
36 configuration of arrows to indicate recyclable materials or
37 products with recycled content.

38 §1725. Penalties

39 1. Civil violation. A violation of this chapter shall be a
40 civil violation for which a forfeiture of not more than \$100 may
41 be adjudged.

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1 2. Separate violation. Each container in violation
2 constitutes a separate offense.

3
4 §1726. Rules and enforcement

5
6 The Maine Waste Management Agency, Office of Waste Reduction
7 and Recycling shall adopt and enforce rules implementing the
8 provisions of this chapter including, but not limited to,
9 criteria for labeling containers made of more than one plastic
10 resin. In adopting rules, the office shall consult with the
11 Waste Management Advisory Council, the Department of Agriculture,
12 Food and Rural Resources, plastic container manufacturers and
13 distributors, and the recycling industry. Rules shall be adopted
14 in accordance with the provisions of Title 5, chapter 375.

15 Sec. 17.36 MRSA §5219-C is enacted to read:

16 §5219-C. Solid waste reduction investment tax credit

17
18 1. Definitions. As used in this section, unless the
19 contents otherwise indicates, the following terms have the
20 following meanings.

21 A. "Employing unit" has the same meaning as in Title 26,
22 section 1043.

23 B. "Solid waste" has the same meaning as in Title 38,
24 section 1303-C.

25 C. "Waste reduction, reuse or recycling equipment" means
26 structures, machinery or devices, singly or in combination,
27 designed and required to separate, process, modify, convert,
28 treat or repair solid waste generated by the employing unit
29 so that component materials or substances or recoverable
30 resources may be used as a raw material or for productive
31 use and includes:

32 (1) Add-ons or trailers designed to modify collection
33 vehicles and dedicated to sorting and separating of
34 collected wastes generated by the employing unit and
35 held for the purpose of recycling; or

36 (2) Containers for the source separation and temporary
37 storage of recyclable wastes by the employing unit or
38 its employees.

39 2. Credit allowed. A taxpayer constituting an employing
40 unit who purchases waste reduction, reuse or recycling equipment,
41 or other equipment used exclusively by that unit, in the
42 implementation of a solid waste reduction, reuse or recycling
43 program, shall be entitled to a credit against the tax imposed by
44 this Part equal to 30% of the cost of the machinery or equipment.

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1
3 3. Eligible machinery and equipment. Purchases eligible
5 for the credit allowed under this section include machinery and
7 equipment used exclusively for the purpose of reducing, reusing
9 or recycling solid waste generated principally by the employing
11 unit. Machinery and equipment associated with the separation of
13 wastes prior to incineration are eligible when the Maine Waste
15 Management Agency certifies the separated wastes are being
17 recycled.

11 4. Carry-over; carry-back. The amount of the credit that
13 may be used by a taxpayer for a taxable year may not exceed the
15 amount of tax otherwise due under this section. Any unused
17 credit may be carried over to the following year or years for a
19 period not to exceed 15 years or may be carried back for a period
21 not to exceed 3 years.

19 5. Effective date. The provisions of this section apply to
21 purchases of eligible machinery and equipment made after January
23 1, 1990.

23 **Sec. 18. Department of Transportation recycling project.** The
25 Department of Transportation shall undertake a comprehensive
27 review to evaluate the use of recyclable materials in
29 construction.

27 1. By January 1, 1991, the Department of Transportation
29 shall report to the Joint Standing Committee on Natural
31 Resources, the Joint Standing Committee on Transportation and the
33 State Purchasing Agent on a comprehensive review of feasible
35 alternatives for utilizing recyclable materials in construction.
37 Particular attention shall be paid to ground rubber from
39 automobile tires; recycled mixed-plastic material for guardrail
41 posts or right-of-way fence posts; construction steel, including
43 reinforcing rods and I-beams, manufactured from scrap materials;
45 and recycled glass and glass aggregates. The report shall
47 include recommendations for demonstration projects to be
49 undertaken along with time frames and associated costs. This
51 report shall further identify, to the extent possible, the
 following:

41 A. Life cycle costs;

43 B. Safety; and

45 C. Conformance with applicable federal and state
47 requirements.

49 2. By March 1990, the department shall submit a preliminary
51 report to the Joint Standing Committee on Natural Resources, the
 Joint Standing Committee on Transportation and to the State
 Purchasing Agent regarding the use of ground tire rubber as an

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additive to asphalt concrete, which would utilize waste tires. The report shall include, but shall not be limited to, the following:

A. Evaluating how effective the use of ground tire rubber has been in providing acceptable properties in asphalt concrete mix;

B. Determining effects and procedures for recycling asphalt containing ground tire rubber;

C. Determining the amount of ground tire rubber that may be used in road construction and the expected cost of that use;

D. Identifying changes needed in departmental and local government specifications and procedures to allow for the use of ground tire rubber from waste tires in asphalt concrete pavements; and

E. In conjunction with the Department of Environmental Protection and the Office of Waste Reduction and Recycling, the inventory of discarded tires in the State.

3. All state agencies shall cooperate with the Department of Transportation in carrying out this section.

Sec. 19. Conditional effective date. Title 32, section 1724, shall become effective if the Attorney General certifies, prior to January 1, 1991, that 6 of the states listed below have banned the use of ancillary symbols, described in Title 32, section 1724, in labels on rigid plastic containers. The states are: New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania and Delaware.

PART D

Sec. 1. 28-A MRSA §1651, sub-§1, ¶C is enacted to read:

C. The commission shall add any cost to the State, related to handling containers returned for refund pursuant to Title 32, section 1863, to the established price without markup.

Sec. 2. 32 MRSA §1862, sub-§1, as amended by PL 1987, c. 649, §1, is repealed and the following enacted in its place:

1. Beverage. "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, wine coolers, soda or noncarbonated water, and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption, except for milk and dairy-derived products.

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1 Sec. 3. 32 MRSA §1862, sub-§§12-B, 14 and 15 are enacted to
2 read:

3 12-B. Spirits. "Spirits" has the same meaning as in Title
4 28-A, section 2.

5 14. Wine. "Wine" has the same meaning as in Title 28-A,
6 section 2, except, that for the purposes of this chapter, "wine"
7 does not include wine coolers.

8 15. Wine cooler. "Wine cooler" means a beverage of less
9 than 8% alcohol content by volume consisting of wine and:

10 A. Plain, sparkling or carbonated water; and

11 B. Any one or more of the following:

12 (1) Fruit juices;

13 (2) Fruit adjuncts;

14 (3) Artificial or natural flavors or flavorings;

15 (4) Preservatives;

16 (5) Coloring; or

17 (6) Any other natural or artificial blending material.

18 Sec. 4. 32 MRSA §1862, sub-§2, as enacted by PL 1975, c. 739,
19 §16, is amended to read:

20 2. Beverage container. "Beverage container" means a glass,
21 metal-or-plastic bottle, can, jar or other container made of
22 glass, metal or plastic which has been sealed by a manufacturer
23 and which, at the time of sale, contains one gallon or less of a
24 beverage.

25 Sec. 5. 32 MRSA §1863, as amended by PL 1979, c. 462, §3, is
26 repealed and the following enacted in its place:

27 §1863. Refund value

28 Every beverage container sold or offered for sale to a
29 consumer in this State shall have a refund value. The refund
30 value shall be:

31 1. Refillable containers. For refillable beverage
32 containers, except wine and spirits containers, the refund value
33 shall be determined by the manufacturer according to the type,
34 kind and size of the beverage container, but shall not be less
35 than 5¢;

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1 2. Nonrefillable containers. For nonrefillable beverage
3 containers, except wine and spirits containers, the deposit and
5 refund value shall be determined and initiated by the distributor
7 according to the type, kind and size of the beverage container,
 but shall not be less than 5¢; and

9 3. Wine and spirits containers. For wine and spirits
11 containers of greater than 50 milliliters, the refund value shall
13 not be less than 15¢. On January 1, 1992, the department shall
15 issue a finding on the percentages of wine containers and spirits
17 containers returned for deposit. If the department finds the
 return rate of wine containers was less than 60% during 1991,
 then, on July 1, 1992, the refund value on wine containers shall
 not be less than 25¢. If the department finds the return rate of
 spirits containers was less than 60% during 1991, then on July 1,
 1992, the refund value of spirits containers shall not be less
 than 25¢.

19 Sec. 6. 32 MRSA §1866, sub-§4, as amended by PL 1979, c. 735,
21 is further amended to read:

23 4. Reimbursement by distributor. In addition to the
25 payment of the refund value, the distributor shall reimburse the
27 dealer or local redemption center for the cost of handling
 beverage containers, in an amount which equals at least 2¢ 3¢ per
 returned container.

29 Sec. 7. 32 MRSA §1867, sub-§1, as enacted by PL 1975, c. 739,
31 §16, is amended to read:

33 1. Establishment. Local redemption centers may be
35 established and operated by any person or municipality, agency or
37 regional association as defined in Title 38, section 1310-C,
 subject to the approval of the commissioner, to serve local
 dealers and consumers, at which consumers may return empty
 beverage containers as provided under section 1866.

39 Sec. 8. 32 MRSA §1868, as amended by PL 1987, c. 373, §§4 and
41 5, is further amended to read:

43 §1868. Prohibition on certain types of containers and holders

45 No beverage container shall may be sold or offered for sale
 to consumers in this State:

47 1. Flip tops. In a metal container designed or constructed
49 so that part of the container is detachable for the purpose of
 opening the container without the aid of a separate can opener;
51 and

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~~2. Connectors. With containers connected to each other by plastic rings or other plastic holding device, which does not decompose by photodegradation, chemical degradation or biodegradation within a reasonable period of time upon exposure to the elements.~~

3. Plastic cans. In a container composed of one or more plastics if the basic structure of the container, exclusive of the closure device, also includes aluminum or steel; and

4. Aseptic beverage packs. In a container composed of aseptic packaging composed of aluminum, paper and plastic in combination, where those materials are for practical reasons inseparable, and commonly referred to as a "brick-pack."

Sec. 9. 32 MRSA §1872 is enacted to read:

§1872. Unlawful possession of beverage containers

A person is guilty of a violation of this section if that person possesses more than 48 beverage containers that are not labeled under section 1865. This section shall not apply to licensed waste facilities as defined in Title 38, section 1303-C.

1. Warning. Any person committing a violation of this section during the 1st year this section is in effect shall be issued a warning that a violation of this section has occurred.

2. Penalty. Following the 1st year warning period, a violation of this section is a civil violation for which a forfeiture of \$20 per container in excess of 48 beverage containers may be adjudged.

3. Enforcement. The Maine State Police shall enforce this section and prosecute any persons found in violation.

Sec. 10. Advisory committee. The Department of Agriculture, Food and Rural Resources shall form an advisory committee consisting of representatives of the Office of Waste Reduction and Recycling, the Bureau of Alcoholic Beverages, the operator of the bailment warehouse, the certificate of approval holders for spirits and fortified wines, distributors of other affected beverages, operators of certified redemption facilities and persons representing other affected interests as the department finds necessary. The Department of Agriculture, Food and Rural Resources shall consult with the advisory committee in developing proposed rules for the implementation of sections 1 to 5. The Department of Agriculture, Food and Rural Resources shall submit a report on the proposed implementation and the proposed rules for approval by the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 1, 1990. The committee may introduce any legislation

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1 necessary to address the report or rules proposed by the
2 department.

3
4 **Sec. 11. Effective date.** Sections 2 to 5 and section 8 of this
5 Part shall take effect September 1, 1990, except that any
6 provisions in those sections applicable to implementation of a
7 refund value for spirits containers shall take effect January 1,
8 1990. Sections 6 and 9 of this Part shall take effect January 1,
9 1990. Sections 1 and 7 of this Part shall take effect 90 days
10 after the adjournment of the First Regular Session of the 114th
11 Legislature.

12 **PART E**

13
14 **Sec. 1. 12 MRSA §685-B, sub-§1, ¶C,** as amended by PL 1987, c.
15 769, Pt. A, §49, is further amended to read:

16
17 C. No person may commence any construction or operation of
18 any development without a permit issued by the commission.

19
20 The commission may waive the requirement of a hearing for
21 any person having received approval by the Board of
22 Environmental Protection pursuant to the Site Location of
23 Development Law, Title 38, sections 481 to 488.

24
25 Approval by the commission that the proposed development
26 meets the requirements of subsection 4, and of the land use
27 standards and rules adopted by the commission shall be a
28 sufficient basis to support, but shall not require, a
29 finding by the administering agency that the development
30 meets the requirements of the Site Location of Development
31 Law, Title 38, sections 481 to 488; the Minimum Lot Size
32 Law, sections 4807 to 4807-G; the Wetlands Law, Title 38,
33 sections ~~471-to-478~~ 480-B to 480-F and sections 480-Q and
34 480-R; the Great Ponds Law, Title 38, chapter 3, subchapter
35 1, article ~~1-A~~ 5-A; or the Stream Alteration Law, Title 38,
36 chapter 3, subchapter I, article ~~2-A~~ 5-A; and the rules
37 adopted with respect to any of such statutes, as any of such
38 statutes, rules or regulations may apply. Disapproval by the
39 commission shall be a sufficient basis to support, but shall
40 not require, a finding by the administering agency that the
41 proposed development does not meet the requirements of the
42 Site Location of Development Law, Title 38, sections 481 to
43 488; the Minimum Lot Size Law, sections 4807 to 4807-G; the
44 Wetlands Law, Title 38, sections ~~471-to-478~~ 480-B to 480-F
45 and sections 480-Q and 480-R; the Great Ponds Law, Title 38,
46 section 422; or the Stream Alteration Law, Title 38, chapter
47 3, subchapter I, article ~~2-A~~ 5-A; and the rules adopted with
48 respect to any of such statutes, as any of such statutes,
49 rules or regulations may apply.
50

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1 The commission may establish standards within which
3 authority may be delegated to its staff, to approve with
reasonable conditions or deny applications submitted
5 hereunder. Any person aggrieved by a decision of the staff
shall have the right to a review of such decision by the
commission members.

7
9 The commission shall establish coordination and assistance
procedures for all land use permits issued by agencies of
11 the State for proposed development within the unorganized
townships and plantations. Such procedures shall, to the
13 extent practicable, ensure: The availability to the public
of necessary information concerning such land use permits;
15 the provision of assistance to applicants in obtaining such
permits from such agencies; the coordination of application
17 procedures, time schedules, application forms and similar
requirements so as to reduce delay and duplication of effort
by applicants and the issuing agencies. Such permit issuing
19 agencies shall cooperate with the commission in the
development and effectuation of such coordination and
21 assistance procedures.

23 Approval by the Board of Environmental Protection of a
25 proposed development under Title 38, chapter 13, article 3,
shall be a sufficient basis to support, but shall not
27 require, a finding by the commission that the proposed
development meets the requirements of subsection 4, and of
the land use standards and rules adopted by the commission.
29 Disapproval by the Board of Environmental Protection of a
proposed development under Title 38, chapter 13, article 3,
31 shall be a sufficient basis to support, but shall not
require, a finding by the commission that the proposed
33 development does not meet the requirements of subsection 4,
and of the land use standards and rules adopted by the
35 commission.

37 Sec. 2. 38 MRSA §1302, as repealed and replaced by PL 1987,
c. 517, §5, is repealed and the following enacted in its place:

39 §1302. Declaration of policy

41
43 For the purposes of this chapter and chapter 24, the
Legislature finds and declares it to be the policy of the State,
45 consistent with its duty to protect the health, safety and
welfare of its citizens, enhance and maintain the quality of the
47 environment, conserve natural resources and prevent air, water
and land pollution, to establish a coordinated statewide waste
reduction, recycling and management program.

49
51 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

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1 following priorities: reduction of waste generated at the source,
2 including both the amount and toxicity of waste; waste reuse;
3 waste recycling; waste composting; waste processing which reduces
4 the volume of waste needing disposal, including waste-to-energy
5 technology; and land disposal.

6
7 The Legislature finds that it is in the best interests of
8 the State to prefer waste management options with lower health
9 and environmental risk and to ensure that such options are
10 neither foreclosed nor limited by the State's commitment to
11 disposal methods. The Legislature declares that it is in the
12 public interest to aggressively promote waste reduction, reuse
13 and recycling as the preferred methods of waste management.

14
15 The Legislature finds that environmentally suitable sites
16 for waste disposal are in limited supply and represent a critical
17 natural resource. At the same time, new technologies and
18 industrial developments are making recycling and reuse of waste
19 an increasingly viable and economically attractive option which
20 carries minimal risk to the State and the environment and an
21 option which allows the conservation of the State's limited
22 disposal capacity.

23
24 The Legislature further finds that needed municipal waste
25 recycling and disposal facilities have not been developed in a
26 timely and environmentally sound manner because of diffused
27 responsibility for municipal waste planning, processing and
28 disposal among numerous and overlapping units of local
29 government. The Legislature also finds that direct state action
30 is needed to assist municipalities in separating, collecting,
31 recycling and disposing of solid waste, and that sound
32 environmental policy and economics of scale dictate a preference
33 for public solid waste management planning and implementation on
34 a regional and state level.

35
36 The Legislature finally declares that the provisions of this
37 chapter shall be construed liberally to address the findings and
38 accomplish the policies in this section.

39
40 Sec. 3. 38 MRSA §1303, as amended by PL 1987, c. 517, §6, is
41 repealed.

42
43 Sec. 4. 38 MRSA §1303-C is enacted to read:

44 §1303-C. Definitions

45
46 As used in this chapter, unless the context otherwise
47 indicates, the following terms have the following meanings.

48
49 1. Agency. "Agency" means the Maine Waste Management Agency.
50
51

1 2. Board. "Board" means the Board of Environmental
2 Protection.

R. of S. 3 3. Closing reserve fund. "Closing reserve fund" means a
4 fund created for the purpose of financing the closing and
5 maintenance after closing of a waste facility.

6 4. Commercial hazardous waste facility. "Commercial
7 hazardous waste facility" means:

8 A. A waste facility that handles hazardous wastes generated
9 off the site of the facility; or

10 B. A facility that, in the handling of a waste generated
11 off the site, generates hazardous waste.

12 5. Commercial landfill facility. "Commercial landfill
13 facility" means a commercial solid waste facility that is used
14 for the burial of solid waste.

15 6. Commercial solid waste disposal facility. "Commercial
16 solid waste disposal facility" means a commercial waste facility
17 which is a solid waste disposal facility.

18 7. Commercial waste facility. "Commercial waste facility"
19 means a privately owned waste facility that accepts waste from
20 another for consideration and is used for the management of waste
21 generated by persons who do not own or operate the facility. The
22 term does not include a waste facility owned, controlled,
23 operated or used exclusively by:

24 A. A public waste disposal corporation under section
25 1304-B, subsection 5;

26 B. A municipality under section 1305;

27 C. A refuse disposal district under chapter 17;

28 D. The agency under chapter 24; or

29 E. The person generating the solid waste disposed of at the
30 facility, except that the facility may accept, on a
31 nonprofit basis, no more than 15% of all solid waste
32 accepted on an annual average that is not generated by the
33 owner. A waste facility receiving ash resulting from the
34 combustion of municipal solid waste or fuel derived from
35 municipal solid waste is not exempt from this subsection
36 solely by operation of this paragraph.

37 8. Construction and demolition debris. "Construction and
38 demolition debris" means debris resulting from construction,

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1 remodeling, repair, and demolition of structures. It excludes
2 asbestos and other special wastes.

3
4 9. Contingency reserve fund. "Contingency reserve fund"
5 means a fund maintained for the purpose of meeting unexpected
6 contingencies in the operation of a waste facility.

7
8 10. Conveyance. "Conveyance" means any aircraft,
9 watercraft, vehicle or other machine used for transportation on
10 land, water or in the air.

11
12 11. Department. "Department" means the Department of
13 Environmental Protection.

14
15 12. Disposal. "Disposal" means the discharge, deposit,
16 dumping, incineration, spilling, leaking or placing of any
17 hazardous or solid waste, refuse-derived fuel, sludge or septage
18 into or on any land, air or water so that the hazardous or solid
19 waste, sludge or septage or any constituent thereof may enter the
20 environment or be emitted into the air, or discharged into any
21 waters, including ground waters.

22
23 13. Generation. "Generation" means the act or process of
24 producing hazardous or solid waste, sludge or septage.

25
26 14. Handle. "Handle" means to store, transfer, collect,
27 separate, salvage, process, recycle, reduce, recover, incinerate,
28 dispose of or treat.

29
30 15. Hazardous waste. "Hazardous waste" means a waste
31 substance or material, in any physical state, designated as
32 hazardous by the board under section 1319-O. It does not include
33 waste resulting from normal household or agricultural activities.
34 The fact that a hazardous waste or part or constituent may have
35 value or other use or may be sold or exchanged does not exclude
36 it from this definition.

37
38 16. Incineration facility. "Incineration facility" means a
39 facility where municipal solid waste or refuse-derived fuel is
40 disposed of through combustion, including combustion for the
41 generation of heat, steam or electricity.

42
43 17. Inert fill. "Inert fill" means clean soil material,
44 rocks, bricks, and cured concrete, which are not mixed with other
45 waste, and which are not derived from an ore mining activity.

46
47 18. Land clearing debris. "Land clearing debris" means
48 solid wastes resulting from the clearing of land and consisting
49 solely of brush, stumps, soil material and rocks.

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1 19. Manifest. "Manifest" means the form used for
2 identifying the quantity, composition and the origin, routing and
3 destination of hazardous waste during its transport.

4 20. Recyclable. "Recyclable" means possessing physical and
5 economic characteristics that allow a material to be recycled.
6

7 21. Recycle. "Recycle" means to recover, separate, collect
8 and reprocess waste materials for sale or reuse other than use as
9 a fuel for the generation of heat, steam or electricity.
10

11 22. Recycling. "Recycling" means the collection,
12 separation, recovery and sale or reuse of materials that would
13 otherwise be disposed of or processed as waste or the mechanized
14 separation and treatment of waste, other than through combustion,
15 and the creation and recovery of reusable materials other than as
16 a fuel for the generation of electricity.
17

18 23. Refuse-derived fuel. "Refuse-derived fuel" means
19 municipal solid waste which has been processed prior to
20 combustion to increase the heat input value of the waste.
21

22 24. Regional association. "Regional association" means 2 or
23 more municipalities that have formed a refuse disposal district
24 under chapter 17 or a public waste disposal corporation under
25 section 1304-B or that have entered into a joint exercise of
26 powers agreement under Title 30-A, chapter 115, in order to
27 manage the solid waste generated within the participating
28 municipalities and for which those municipalities are responsible.
29

30 25. Residual waste. "Residual waste" means waste resulting
31 from the handling, processing, disposal or recycling of solid
32 waste including, without limitation, front end waste and ash from
33 incineration facilities.
34

35 26. Resource recovery. For the purposes of section 1304-B
36 only, "resource recovery" means the recovery of materials or
37 substances that still have useful physical or chemical properties
38 after serving a specific purpose and can be reused or recycled
39 for the same or other purposes.
40

41 27. Septage. "Septage" means waste, refuse, effluent,
42 sludge and any other materials from septic tanks, cesspools or
43 any other similar facilities.
44

45 28. Site. "Site" means the same or geographically
46 contiguous property which may be divided by a public or private
47 right-of-way, provided that the entrance and exit between the
48 properties is at a crossroads intersection and access is by
49 crossing as opposed to going along the right-of-way.
50 Noncontiguous properties owned by the same person but connected
51

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1 by a right-of-way which he controls and to which the public does
2 not have access is also considered site property.

3
4 29. Solid waste. "Solid waste" means useless, unwanted or
5 discarded solid material with insufficient liquid content to be
6 free-flowing, including, but not limited to, rubbish, garbage,
7 refuse-derived fuel, scrap materials, junk, refuse, inert fill
8 material and landscape refuse, but does not include septic tank
9 sludge or agricultural wastes. The fact that a solid waste or
10 constituent of the waste may have value or other use or may be
11 sold or exchanged does not exclude it from this definition.

12
13 30. Solid waste disposal facility. "Solid waste disposal
14 facility" means a waste facility for the disposal of solid waste
15 except that the following facilities are not included:

16
17 A. A waste facility that employs controlled combustion to
18 dispose of waste generated exclusively by an institutional,
19 commercial or industrial establishment that owns the
20 facility; and

21
22 B. Lime kilns; wood chip, bark and hogged fuel boilers;
23 kraft recovery boilers and sulfite process recovery boilers,
24 which combust solid waste generated exclusively at the
25 facility.

26
27 31. Solid waste facility. "Solid waste facility" means a
28 waste facility used for the handling of solid waste.

29
30 32. Solid waste landfill. "Solid waste landfill" means a
31 waste disposal facility for the disposal of solid waste on or in
32 land. This term does not include landspreading sites used in
33 programs approved by the department.

34
35 33. Source separation. "Source separation" means the
36 preparation of materials for recycling by separation from wastes
37 at the point of generation.

38
39 34. Special waste. "Special waste" means any nonhazardous
40 waste generated by sources other than domestic and typical
41 commercial establishments that exists in such an unusual quantity
42 or in such a chemical or physical state, or any combination
43 thereof, which may disrupt or impair effective waste management
44 or threaten the public health, human safety or the environment
45 and requires special handling, transportation and disposal
46 procedures. Special waste includes, but is not limited to:

47
48 A. Oil, coal, wood and multifuel boiler and incinerator ash;

49
50 B. Industrial and industrial process waste;

51
52 C. Waste water treatment plant sludge, paper mill sludge
53 and other sludge waste;

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D. Debris and residuals from nonhazardous chemical spills and cleanup of those spills;

E. Contaminated soils and dredge spoils;

F. Asbestos and asbestos-containing waste;

G. Sand blast grit and nonliquid paint waste;

H. Medical and other biological waste not identified under section 1319-O, subsection 1, paragraph A, subparagraph (4);

I. High and low pH waste;

J. Spent filter media and residue; and

K. Other waste designated by the board, by rule.

35. State waste management and recycling plan. "State waste management and recycling plan" means the plan adopted by the agency pursuant to chapter 24, subchapter II, and may also be referred to as "state plan."

36. Storage. "Storage" means the containment of hazardous wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of the hazardous wastes.

37. Substantially expand. "Substantially expand" means the expansion of an existing licensed hazardous waste facility by more than 25%, as measured by volume of waste or affected land area, from the date of its initial licensed operation.

38. Transport. "Transport" means the movement of hazardous or solid waste, waste oil, sludge or septage from the point of generation to any intermediate points and finally to the point of ultimate disposition. Movement of hazardous waste on the site where it is generated or on the site of a licensed waste facility for hazardous waste is not "transport." Movement of waste oil on the site where it is generated or on the site of a licensed waste oil dealer's facility is not "transport."

39. Treatment. "Treatment" means any process designed to change the character or composition of any hazardous waste so as to render the waste less hazardous.

40. Waste facility. "Waste facility" means any land area, structure, location, equipment or combination of them, including dumps, used for handling hazardous or solid waste, sludge or septage. A land area or structure does not become a waste facility solely because:

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1 A. It is used by its owner for disposing of septage from
3 the owner's residence;

5 B. It is used to store for 90 days or less hazardous wastes
7 generated on the same premises;

9 C. It is used by individual homeowners or lessees to open
11 burn leaves, brush, deadwood and tree cuttings accrued from
normal maintenance of their residential property, when such
burning is permitted under section 599, subsection 3; or

13 D. It is used by its residential owner to burn highly
15 combustible domestic, household trash such as paper,
cardboard cartons or wood boxes, when such burning is
17 permitted under section 599, subsection 3.

19 41. Waste management. "Waste management" means purposeful,
systematic and unified control of the handling and transportation
21 of hazardous or solid waste, sludge or septage.

23 42. Waste oil. "Waste oil" means a petroleum based oil
which, through use or handling, has become unsuitable for its
25 original purpose due to the presence of impurities or loss of
original properties. Waste oil which exhibits hazardous wastes
27 characteristics, or which has been contaminated with hazardous
wastes in excess of quantities normally occurring in waste oil,
29 shall be subject to the provisions of this chapter dealing with
hazardous wastes.

31 43. Waste oil dealer. "Waste oil dealer" means any person
in the business of transporting or handling more than 1,000
33 gallons of waste oil for the purpose of resale in a calendar
month. A person who collects or stores waste oil on the site of
35 generation, whether or not for the purpose of resale, is not a
waste oil dealer.

37 44. Waste reduction. "Waste reduction" means an action
39 that reduces waste at the point of generation and may also be
referred to as "source reduction."

41 45. Waste resulting from agricultural activities. "Waste
43 resulting from agricultural activities" means wastes which result
from agricultural activities defined in section 361-A, subsection
45 1-B, which are returned to the soils as fertilizers and includes
waste pesticides when generated by a farmer in his own use,
47 provided that he triple rinses each emptied pesticide container
in accordance with departmental rules and disposes of the
49 pesticide residues in a manner consistent with the disposal
instructions on the pesticide label.

1 46. Wood wastes. "Wood wastes" means brush, stumps,
2 lumber, bark, woodchips, shavings, slabs, edgings, slash, and
3 sawdust, which are not mixed with other waste.

5 Sec. 5. 38 MRSA §1304, sub-§1, as amended by PL 1981, c. 470,
6 Pt. A, §171, is further amended to read:

7
8 1. Rules. Subject to the Maine Administrative Procedure
9 Act, Title 5, chapter 375, the board may adopt, amend and enforce
10 rules as it deems necessary to govern waste management, including
11 the location, establishment, construction and alteration of waste
12 facilities as the facility affects the public health and welfare
13 or the natural resources of the State. The rules shall be
14 designed to encourage---logical---utilization---of---recoverable
15 resources, minimize pollution of the state's State's air, land
16 and surface and ground water resources, prevent the spread of
17 disease or other health hazards, prevent contamination of
18 drinking water supplies and protect public health and safety. In
19 adopting these rules, the board shall also consider economic
20 impact, technical feasibility and such differences as are created
21 by population, hazardous or solid waste, sludge or septage volume
22 and geographic location.

23
24 Sec. 6. 38 MRSA §1304, sub-§3, as enacted by PL 1973, c. 387,
25 is repealed.

26
27 Sec. 7. 38 MRSA §1304, sub-§4, as amended by PL 1987, c. 883,
28 §1, is further amended to read:

29
30 4. Technical assistance. The department is authorized to
31 establish guidelines for effective waste management, to provide
32 technical assistance to persons planning, constructing or
33 operating waste facilities, and to conduct applied research
34 activities in the field of waste management, disposal technology
35 and environmental effects, including methods of recycling
36 hazardous or solid waste, sludge or septage. ~~The--department~~
37 ~~shall--develop--a--pilot--program--to--provide--grants--for--the~~
38 ~~identification--design-and-development-of-tire-and-white-goods~~
39 ~~disposal-facilities--including-pickup-of-these-items--and-stump~~
40 ~~and--demolition--debris--disposal--facilities--by--municipalities,~~
41 ~~county--governments--and--regional--planning--agencies.~~ The
42 department shall cooperate with the agency in the design and
43 delivery of this assistance.

44
45 Sec. 8. 38 MRSA §1304, sub-§5, as repealed and replaced by PL
46 1979, c. 383, §7, is repealed.

47
48 Sec. 9. 38 MRSA §1304, sub-§11, as enacted by PL 1985, c. 157,
49 is amended to read:

50
51 11. Imported waste report. The board shall report to the
Legislature on the solid waste imported and disposed of in the

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- 1 State. The report shall include consideration of the following
2 areas:
- 3
- 4 A. The categories of imported waste materials, including
5 hazardous waste, solid waste and any other waste material
6 designated by the board as special waste;
- 7
- 8 B. The volumes or weights, as appropriate, of imported
9 waste;
- 10
- 11 C. The method of disposal, including, but not limited to,
12 incineration and landfilling, the location of the disposal
13 sites receiving the imported waste and the estimated
14 remaining capacity of each site;
- 15
- 16 D. The states of origin of the imported waste and the
17 regulations governing the disposal of these wastes in their
18 respective states of origin; and
- 19
- 20 E. Any potential environmental or public health hazards
21 posed by imported waste.

22

23 The board shall submit the report to the joint standing committee
24 of the Legislature having jurisdiction over natural resources.
25 The first report shall be due on or before January 1, 1986, and
26 thereafter the report shall be made to the First Regular Session
27 of the Legislature. Beginning with the First Regular Session of
28 the Legislature in 1991, the report shall be developed in
29 cooperation with the agency, shall be issued jointly by the
30 agency and the department to the Legislature and shall be
31 incorporated in the initial and subsequent state solid waste
32 management plans.

33

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

39

40 **Sec. 10. 38 MRSA §1304, sub-§13, as enacted by PL 1987, c.**
41 **517, §12, is amended to read:**

42

43 13. Innovative disposal and utilization. Recognizing that
44 environmentally suitable sites for waste disposal are in limited
45 supply and represent a critical natural resource, the
46 commissioner may investigate and implement with the approval of
47 the board innovative programs for managing, utilizing and
48 disposing of solid waste. Innovative programs may include
49 agricultural and forest land spreading of wood-derived ash,
50 utilization of ash resulting from combustion of municipal solid
51 waste, paper mill sludges and municipal waste water treatment
plant sludges. The agency shall first determine that the

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1 proposed innovative disposal and waste management programs are
2 consistent with the state plan. The board shall review proposed
3 innovative programs for each waste category and shall apply all
4 controls necessary to ensure the protection of the environment
5 and public health consistent with this chapter. The board may
6 adopt application review procedures designed to review individual
7 applications and their individual waste sources with prior
8 approval of classes of disposal or utilization sites. The board
9 shall adopt provisions for municipal notification prior to use of
10 individual utilization sites.

11
12 **Sec. 11. 38 MRSA §1304, sub-§§14 and 15,** as enacted by PL 1987,
13 c. 517, §12, are repealed.

14 **Sec. 12. 38 MRSA §1304-B, sub-§1,** as enacted by PL 1983, c.
15 380, §1, is amended to read:

16
17 1. Findings and purpose. The Legislature makes the
18 following findings of fact. The Subject to the provisions of
19 chapter 24, the State requires each municipality to provide for
20 the disposal ~~facility--of~~ services for domestic and commercial
21 solid waste generated within the municipality. Solid waste
22 contains valuable recoverable resources, including energy. Many
23 municipalities have found that energy recovery reduces the cost
24 of solid waste disposal. Energy recovery technology is complex
25 and the equipment requires a steady supply of waste to operate
26 efficiently. Because of the complicated technology, most energy
27 recovery facilities have high capital costs and long payback
28 periods. In order to remain cost effective throughout their
29 lives, these energy recovery facilities require a guaranteed,
30 steady supply of waste. Consequently, municipalities utilizing
31 energy recovery facilities are usually required to enter
32 long-term agreements to provide the facilities with specific
33 amounts of waste. In order to make these energy recovery
34 facilities financially feasible, and thereby simultaneously
35 improve the environmental impacts and the economics of municipal
36 solid waste disposal, municipalities shall have the legal
37 authority to control the handling of solid waste generated within
38 their borders.

39
40 The purpose of this section is to promote the recovery of
41 resources from solid waste by creating one of the conditions
42 which make energy recovery economically feasible, assuring
43 municipalities the authority to guarantee a steady supply of
44 solid waste to specific waste facilities.

45
46 **Sec. 13. 38 MRSA §1304-B, sub-§2,** as amended by PL 1987, c.
47 517, §§14 and 15, is further amended to read:

48
49 2. Flow control. Municipalities Subject to the provisions
50 of chapter 24, municipalities are expressly authorized to enact
51 ordinances that control solid waste collection, its

1 transportation or its delivery to a specific facility, when the
2 purpose and effect of such an ordinance is to gain management
3 control over solid waste and enable the reclamation of resources,
4 including energy, from these wastes. This authorization includes,
5 but is not limited to, ordinances:

7 A. Requiring segregation of wastes;

9 B. Requiring delivery of wastes generated within the
10 municipality, or any portion of those wastes, to a
11 designated disposal or reclamation facility; and

13 C. Designating certain materials as recyclable and exempt
14 from the provisions of paragraph B.

15 Sec. 14. 38 MRSA §1304-B, sub-§3, as amended by PL 1987, c.
16 517, §16, is repealed.

19 Sec. 15. 38 MRSA §1304-B, sub-§4-A, ¶D is enacted to read:

21 D. A municipality which anticipates that it will be unable
22 to meet its contract obligation to supply a minimum BTU
23 content level or minimum tonnage due to waste reduction or
24 recycling programs and is unable to reach an agreement with
25 the incinerator for the anticipated reduction may request
26 the agency to intercede. The agency shall assist the
27 incinerator in soliciting solid waste to mitigate any
28 anticipated shortfall in minimum BTU content level or
29 minimum tonnage. If no agreement on mitigation of a
30 anticipated shortfall is reached, the terms of the original
31 contract shall prevail, except as otherwise provided in this
32 chapter.

33 Sec. 16. 38 MRSA §1304-B, sub-§7 is enacted to read:

34 7. Subjugation. Notwithstanding any provision of this
35 section to the contrary, the exercise of any power or authority
36 granted under this section is subject to the provisions of
37 chapter 24.

40 Sec. 17. 38 MRSA §1305, sub-§1, as enacted by PL 1973, c. 387,
41 is repealed and the following enacted to read:

42 1. Disposal services. Each municipality shall provide
43 solid waste disposal services for domestic and commercial solid
44 waste generated within the municipality and may provide these
45 services for industrial wastes and sewage treatment plant sludge.

46 Sec. 18. 38 MRSA §1305, sub-§4, as enacted by PL 1973, c. 387,
47 is repealed.

1 Sec. 19. 38 MRSA §1309, as amended by PL 1987, c. 517, §22,
is further amended to read:

3 §1309. Interstate cooperation

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

13 Sec. 20. 38 MRSA §1310-J, as enacted by PL 1987, c. 517, §25,
15 is repealed.

17 Sec. 21. 38 MRSA §1310-K, as amended by PL 1987, c. 752, §§1
and 2, is repealed.

19 Sec. 22. 38 MRSA §1310-L, as amended by PL 1987, c. 769, Pt.
21 A, §182, is repealed.

23 Sec. 23. 38 MRSA §1310-M, as enacted by PL 1987, c. 517,
§25, is repealed.

25 Sec. 24. 38 MRSA §1310-N, first ¶, as enacted by PL 1987, c.
27 517, §25, is amended to read:

29 No person may locate, establish, construct, expand disposal
capacity or operate any solid waste facility unless approved by
31 the board under the site location of development laws, chapter 3,
subchapter 1 I, article 6 and the provisions of this chapter.
33 Where the proposed facility is located within the jurisdiction of
the Maine Land Use Regulation Commission, in addition to any
35 other requirement, the board shall require compliance with
existing standards of the commission.

37 Sec. 25. 38 MRSA §1310-N, sub-§2, as enacted by PL 1987, c.
39 517, §25, is repealed.

41 Sec. 26. 38 MRSA §1310-N, sub-§3, as enacted by PL 1987, c.
43 517, §25, is repealed and the following enacted in its place:

45 3. Public benefit determination. The board shall determine
the public benefit of a proposed facility according to the
following provisions.

47 A. Prior to the initial adoption of the state plan, the
49 board shall find that a proposed facility provides a
substantial public benefit when the applicant demonstrates
51 that the facility is designed, located and will be operated

1 so that it is consistent with and meets the needs identified
 3 in the capacity needs analysis under former section 1310-O.

5 B. Subsequent to the initial adoption of the state plan and
 7 for those facilities not subject to chapter 24, subchapter
IV, the board shall employ a rebuttable presumption of
public benefit.

9 C. Subsequent to the adoption of the state plan and for
 11 those facilities subject to chapter 24, subchapter IV, the
agency shall determine whether or not the proposed facility
 13 meets the requirements of section 2157.

15 **Sec. 27. 38 MRSA §1310-N, sub-§4, as enacted by PL 1987, c.**
517, §25, is repealed.

17 **Sec. 28. 38 MRSA §1310-N, sub-§5, ¶B, as enacted by PL 1987, c.**
 19 **517, §25, is amended to read:**

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

25 **Sec. 29. 38 MRSA §1310-O, as enacted by PL 1987, c. 517,**
 27 **§25, is repealed.**

29 **Sec. 30. 38 MRSA §1310-R, sub-§§2 and 3, as enacted by PL 1987,**
c. 517, §25, are amended to read:

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

35 A. The board shall apply the provisions of section 1310-N,
 37 subsection 5, paragraph A, when relicensing any solid waste
disposal facility, except that, to the extent that waste
 39 disposal contracts in effect on the-effective-date-of-this
article June 29, 1987, are inconsistent with section 1310-N,
 41 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.

43 B. The board shall require an applicant for a new or
 45 expanded solid waste disposal facility or for a license
 47 renewal submitting a complete application prior to the
 49 approval-by-the-Legislature-of-the-first-state-recycling
plan-pursuant-to-section-1310-M,--subsection-3, adoption of
 51 the state plan to demonstrate that the applicant--has
considered-recycling-alternatives-that-are-reasonably-within
the-applicant's-control facility furthers the purposes of

R. of S.

1 section 2101 and satisfies the regulations under section
2 1310-N.

3
4 C. The provisions of section 1310-N, subsection 5,
5 paragraph B, do not apply to the relicensing of any solid
6 waste disposal facility licensed prior to the-effective-date
7 of-this-article June 29, 1987.

8
9 3. Public benefit. The public benefit requirements shall
10 apply as follows.

11
12 ~~A.---The--board--shall--require--an--applicant--for--a--new--or~~
13 ~~expanded--solid--waste--disposal--facility--submitting--a--complete~~
14 ~~application--prior--to--the--initial--adoption--of--the--capacity~~
15 ~~needs--analysis--pursuant--to--section--1310-O--to--submit--such~~
16 ~~information--as--the--board--requires--to--demonstrate--that--the~~
17 ~~proposed--facility--provides--a--substantial--public--benefit,~~
18 ~~including--such--information--described--in--section--1310-O.~~

19
20 A-1. The board shall require an applicant for a new or
21 expanded solid waste disposal facility submitting a complete
22 application prior to the initial adoption of the state plan
23 to submit such information as the board requires to
24 demonstrate that the proposed facility provides a
25 substantial public benefit, including the information
26 described in former section 1310-0.

27
28 B. The provisions of section 1310-N, subsection 1,
29 paragraph B, and section 1310-N, subsection 3, do not apply
30 to the relicensing of a solid waste disposal facility
31 licensed prior to the-effective-date-of-this-article June
32 29, 1987.

33
34 C. The board shall apply the provisions of section 1310-N,
35 subsection 3, paragraph A, to any application for a waste
36 disposal facility receiving ash resulting from the
37 combustion of municipal solid waste or from fuel derived
38 from municipal solid waste when the application was accepted
39 as complete by the department prior to July 1, 1989, and is
40 still pending before the department on or after the date of
41 the initial adoption of the state plan under chapter 24.

42
43 Sec. 31. 38 MRSA §1310-R, sub-§4 is enacted to read:

44
45 4. Incineration facilities. The board shall not license
46 any new incineration facility prior to the adoption of the state
47 plan and siting criteria.

48
49 Sec. 32. 38 MRSA §1310-S, sub-§1, as enacted by PL 1987, c.
50 517, §25, is amended to read:

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

7
8 **Sec. 33. 38 MRSA §1310-U**, as enacted by PL 1987, c. 517, §25,
9 is repealed and the following enacted in its place:

11 **§1310-U. Municipal ordinances**

12 Municipalities are prohibited from enacting stricter
13 standards than those contained in this chapter and in the solid
14 waste management rules adopted pursuant to this chapter governing
15 the hydrogeological criteria for siting or designing solid waste
16 disposal facilities or governing the engineering criteria related
17 to waste handling and disposal areas of a solid waste disposal
18 facility. Except as provided in section 2173, municipalities are
19 further prohibited from enacting or applying ordinances that
20 regulate solid waste disposal facilities owned by the agency or a
21 regional association.

22
23 Under the municipal home rule authority granted by the
24 Constitution of Maine, Article VIII, Part Second and Title 30-A,
25 section 3001, municipalities, except as provided in this section,
26 may enact ordinances with respect to solid waste facilities which
27 contain such standards as the municipality finds reasonable,
28 including, without limitation, conformance with federal and state
29 solid waste rules; fire safety; traffic safety; levels of noise
30 that can be heard outside the facility; distance from existing
31 residential, commercial or institutional uses; ground water
32 protection; and compatibility of the solid waste facility with
33 local zoning and land use controls, provided, however, that the
34 standards are not more strict than those contained in this
35 chapter and in chapter 3, articles 5-A and 6 and the rules
36 adopted thereunder. Municipal ordinances shall use definitions
37 consistent with those adopted by the department.

38
39 A municipality adopting an ordinance under this section
40 shall forward a copy of the ordinance to the department within 30
41 days of its adoption.

42
43 **Sec. 34. 38 MRSA §1310-X** is enacted to read:

44 **§1310-X. Future commercial landfills**

45
46 The board shall not approve an application for a new
47 commercial solid waste disposal facility after March 1, 1990.
48 The board may relicense or approve a transfer of license for
49 commercial solid waste disposal facilities after March 1, 1990,
50 if those facilities had been previously licensed by the board
51

7. of S.

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 prior to the effective date of this section, and all other
2 provisions of law have been satisfied.

3 The board may license expansions of commercial solid waste
4 disposal facilities after the effective date of this section, if:

5 A. The board has previously licensed the facility prior to
6 the effective date of this section;

7 B. The board determines that the proposed expansion is
8 contiguous with the existing facility and is located on
9 property owned by the licensee on the effective date of this
10 section;

11 C. Prior to the adoption of the state plan and siting
12 criteria under chapter 24, the board determines that the
13 proposed expansion is consistent with the provisions of
14 section 1310-R, subsection 3, paragraph A-1; or

15 D. After the adoption of the state plan and siting criteria
16 under chapter 24, the agency determines that the provisions
17 of section 2157 are met.

18 **Sec. 35. 38 MRSA §§1604 and 1605 are enacted to read:**

19 **§1604. Connectors**

20 After July 1, 1991, no person may sell or offer to sell
21 products in containers connected to each other by plastic rings
22 or other plastic holding devices.

23 **§1605. Plastic bags**

24 After January 1, 1990, all retailers in this State shall use
25 paper bags to bag products at the point of retail sale unless the
26 consumer requests a plastic bag.

27 **Sec. 36. 38 MRSA §1706, as enacted by PL 1983, c. 820, §2, is**
28 **amended to read:**

29 **§1706. Relationship to other law**

30 This chapter provides an additional and alternative method
31 for carrying out the purposes of this chapter and is supplemental
32 and additional to powers conferred by other laws, including the
33 provisions of chapter 13, pertaining to solid waste, and is not
34 in derogation of any powers now existing. The exercise of
35 authority under this chapter is subject to any restriction
36 imposed under chapter 24.

37 **Sec. 37. Application of definitions.** A facility licensed or with
38 a completed application pending before the Board of

R. of S.

1 Environmental Protection prior to July 1, 1989, is not a
3 commercial waste facility or a commercial solid waste disposal
5 facility solely because it receives or will receive ash resulting
from the combustion of municipal solid waste or fuel derived from
municipal solid waste.

7 **PART F**

9 **Sec. 1. Appropriation.** The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Public Services - Agriculture		
Positions	(2.0)	(2.0)
Personal Services	\$28,170	\$40,860
All Other	6,165	8,520
Capital Expenditures	770	
Provides 2 additional staff to oversee the expansion of the returnable container law.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL	<u>\$35,105</u>	<u>\$49,380</u>
CONSERVATION, DEPARTMENT OF		
Maine Land Use Regulation Commission		
All Other	\$3,000	\$3,000
Provides funds for the costs of hearings involved with rulemaking for siting criteria.		
DEPARTMENT OF CONSERVATION TOTAL	<u>\$3,000</u>	<u>\$3,000</u>
FINANCE, DEPARTMENT OF		
Bureau of Taxation		
Positions	(3.0)	(3.0)
Personal Services	\$72,440	\$172,023
All Other	33,000	37,050

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1	Capital Expenditures	23,000	27,235
R. of S. 3	Provides funds for the		
5	administrative costs of		
7	collection of the advance		
9	disposal fees and the		
11	investment tax credit. These		
13	funds and the loss of General		
15	Fund revenues resulting from		
17	the investment tax credit		
19	will be reimbursed to the		
21	General Fund by an annual		
23	transfer from the Maine Solid		
25	Waste Fund.		
27	DEPARTMENT OF FINANCE		
29	TOTAL	<u>\$128,440</u>	<u>\$236,308</u>
31	ECONOMIC AND COMMUNITY		
33	DEVELOPMENT, DEPARTMENT OF		
35	Office of Waste Recycling and		
37	Reduction		
39	Positions	(-4.0)	(-4.0)
41	Personal Services	(\$83,179)	(\$120,415)
43	All Other	(63,962)	(93,590)
45	Deappropriates funds to		
47	account for the transfer of		
49	this office to the Maine		
51	Waste Management Agency.		
	DEPARTMENT OF ECONOMIC AND		
	COMMUNITY DEVELOPMENT		
	TOTAL	<u>(\$147,141)</u>	<u>(\$214,005)</u>
	SOLID WASTE MANAGEMENT FUND		
	Solid Waste Management Fund		
	All Other	\$884,101	
	Provides funds to be		
	transferred to the Maine		
	Solid Waste Management Fund		
	on the effective date of this		
	Act. The amount shall be		
	repaid in full by a transfer		
	of revenues from the Maine		
	Solid Waste Management Fund		

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 to the General Fund in fiscal
 2 year 1990-91.

3
 4 **SOLID WASTE MANAGEMENT FUND**
 5 **TOTAL** \$884,101

6
 7 **TOTAL APPROPRIATIONS** \$903,505 \$74,683

8
 9 **Sec. 2. Allocation.** The following funds are allocated from the
 10 Maine Solid Waste Management Fund to carry out the purposes of
 11 this Act.

12
 13 **1989-90** **1990-91**

14 **ENVIRONMENTAL PROTECTION,**
 15 **DEPARTMENT OF**

16 **Bureau of Solid Waste Management**

17	Positions	(25.0)	(25.0)
18	Personal Services	\$586,168	\$757,860
19	All Other	114,303	737,661
20	Capital Expenditures	48,000	48,960

21 Provides funds for 10 new
 22 positions and 15 positions
 23 which were funded by the
 24 Environmental Protection
 25 Fund. Also includes \$325,000
 26 in fiscal year 1990-91 to be
 27 transferred to the
 28 Environmental Protection Fund.

29 **DEPARTMENT OF ENVIRONMENTAL**
 30 **PROTECTION**
 31 **TOTAL** \$748,471 \$1,544,481

32 **FINANCE AUTHORITY OF MAINE**

33 **Waste Reduction and Recycling**
 34 **Loan Fund**

35 All Other \$400,000

36 Provides funds for a
 37 revolving loan fund to assist
 38 business projects related to
 39 recycling and waste reduction.

40 **FINANCE AUTHORITY OF MAINE**
 41 **TOTAL** \$0 \$400,000

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 **MAINE WASTE**
3 **MANAGEMENT AGENCY**

5 **Administration - Office of the**
7 **Executive Director**

9	Positions	(3.0)	(3.0)
	Personal Services	\$100,230	\$141,950
	All Other	86,427	97,670
11	Capital Expenditures	11,780	

13	TOTAL	<u>\$198,437</u>	<u>\$239,620</u>
----	-------	------------------	------------------

15 Provides funds for the
17 salaries of the Executive
19 Director, a Business Manager
21 II and an Administrative
23 Assistant; the per diem and
25 expenses of the Waste
Management Advisory Council;
rental costs for the agency;
and costs of services of the
Department of the Attorney
General.

27 **Office of Planning**

29	Positions	(4.0)	(4.0)
31	Personal Services	\$107,128	\$154,416
	All Other	115,000	100,000
33	Capital Expenditures	50,000	

35	TOTAL	<u>\$272,128</u>	<u>\$254,416</u>
----	-------	------------------	------------------

37 Provides funds for the Office
39 Director, 2 professional
41 staff, a clerical position
and data collection and
information systems costs.

43 **Office of Waste Reduction and**
45 **Recycling**

47	Positions	(5.0)	(5.0)
	Personal Services	\$130,784	\$188,910
49	All Other	282,500	2,260,000
	Capital Expenditures	25,000	

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1			
3	TOTAL	\$438,284	\$2,448,910
5	Provides funds for one		
7	position in addition to the 4		
9	positions transferred from		
11	the Department of Economic		
13	and Community Development.		
15	Funds allocated in fiscal		
17	year 1990-91 also include		
19	\$2,250,000 for transportation		
21	subsidies, feasibility grants		
23	and capital investment grants.		
25	Office of Siting and Disposal		
27	Operations		
29	Positions	(4.0)	(4.0)
31	Personal Services	\$113,770	\$164,525
33	All Other	12,500	517,500
35	Capital Expenditures	25,000	25,000
37	TOTAL	\$151,270	\$707,025
39	Provides funds for the office		
41	director, 2 professional		
43	staff, and a clerical		
45	position. Funding also		
47	includes \$500,000 in fiscal		
49	year 1990-91 for site		
51	selection consulting services.		
53	MAINE WASTE MANAGEMENT AGENCY		
	TOTAL	\$1,060,119	\$3,649,971
	TOTAL ALLOCATIONS	\$1,808,590	\$5,919,452
	Sec. 3. Allocation. The following funds are allocated from		
	Other Special Revenue funds to carry out the purposes of this Act.		
		1989-90	1990-91
	ATTORNEY GENERAL, DEPARTMENT OF		
	Administration - Attorney		
	General		
	Positions	(1.0)	(1.0)
	Personal Services	\$25,937	\$37,770
	All Other	2,500	2,500
	Capital Expenditures	590	

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1

3

5

Provides funds for an
additional attorney to
provide legal services to the
Maine Waste Management Agency.

7

**DEPARTMENT OF ATTORNEY GENERAL
TOTAL**

\$29,027

\$40,270

9

TREASURER OF STATE, (OFFICE OF)

11

**State - Municipal Revenue
Sharing**

13

15

All Other

(\$26,867)

17

Deallocates funds that will
not be available due to the
investment tax credit.

19

21

**(OFFICE OF) TREASURER OF STATE
TOTAL**

\$0

(\$26,867)

23

25

TOTAL ALLOCATIONS

\$29,027

\$13,403

27

FISCAL NOTE

29

The schedule below describes the fiscal impact of this bill
on the following revenues.

31

General Fund:

33

1989-90

1990-91

35

Appropriations

37

39

Department of Agriculture, Food
and Rural Resources

\$35,105

\$49,380

41

Department of Conservation(LURC)

\$3,000

\$3,000

43

Department of Economic and
Community Development

(\$147,141)

(\$214,005)

45

Department of Finance (Taxation)

\$128,440

\$236,308

47

Solid Waste Management Fund

\$884,101

\$0

49

TOTAL APPROPRIATIONS

\$903,505

\$74,683

51

Revenues:

53

License Application Fees

\$0

\$162,500

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1	Investment Tax Credit	\$0	(\$499,933)
	Loan From General Fund	\$0	\$884,101
3	Transfers to General Fund	\$0	\$736,241
R. of S. 5			
7	TOTAL REVENUES	\$0	\$1,282,909
9	Net effect on General Fund revenues	(\$903,505)	\$1,208,226
11	Solid Waste Management Fund:		
13	Allocations		
15	Department of Environmental		
17	Protection	\$748,471	\$1,869,481
19	Finance Authority of Maine		
	(FAME)	\$0	\$400,000
21	Solid Waste Management Fund	\$1,060,119	\$3,649,971
23	TOTAL ALLOCATIONS	\$1,808,590	\$5,919,452
25	Revenues:		
27	Advance Disposal Fees	\$0	\$5,415,000
29	Special Waste Disposal Fees	\$1,136,000	\$2,272,000
	Loan From General Fund	\$884,101	(\$884,101)
31	Transfers to General Fund	\$0	(\$736,241)
33	Charges for Attorney		
	General Services	\$0	\$0
35	TOTAL REVENUES	\$2,020,101	\$6,066,658
37	Net effect on Solid Waste Management		
39	Fund revenues	\$211,511	\$147,206
41	Other Special Revenue funds:		
43	Allocations:		
45	Department of Attorney General	\$29,027	\$40,270
47	State - Municipal Revenue Sharing		(\$26,867)
49	TOTAL ALLOCATIONS	\$29,027	\$13,403
51	Revenues:		
53			

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

R. of S.

1	Charges for Attorney General		
	Services	\$29,027	\$13,403
3	Investment Tax Credit		(\$26,867)
5			
	Net effect on Other Special Revenue funds	\$ 0	\$ 0
7			

STATEMENT OF FACT

11 This amendment is the majority report of the Joint Standing
 13 Committee on Energy and Natural Resources and replaces the
 15 original bill. The amendment provides a comprehensive program
 17 for managing the State's solid waste. This program addresses all
 19 aspects of solid waste management including waste reduction,
 recycling and the development of needed disposal capacity.
 Financing mechanisms are included to ensure adequate resources
 for state and local waste management.

21 Part A establishes the Maine Waste Management Agency within
 23 the executive branch of State Government. The agency has 3
 offices: the Office of Planning, the Office of Waste Reduction
 and Recycling and the Office of Siting and Disposal Operations.

25 The Office of Planning is charged with continuing the solid
 27 waste planning efforts initiated in the past 2 years by the
 Department of Environmental Protection and the Department of
 29 Economic and Community Development. The initial plan will be
 adopted by March 1, 1990. The state plan will serve as the basis
 31 for long-range development of waste reduction and recycling
 efforts as well as the means to identify future needs for further
 33 disposal capacity.

35 The Office of Waste Reduction and Recycling has overall
 responsibility for promoting waste reduction and recycling
 37 through state and local efforts. The amendment establishes a
 statewide recycling goal of 50% by the year 1994 with an interim
 39 goal in 1992 of 25%. The office will administer a major grants
 program to fund local and regional recycling feasibility studies
 41 and to fund the capital investments needed to put these recycling
 programs into place. The office will assist in the development
 43 of recycling markets through its own efforts and in cooperation
 with the Finance Authority of Maine.

45 Under the general oversight of the Office of Waste Reduction
 47 and Recycling, State Government will undertake a mandatory office
 recycling program. The Legislature and the University of Maine
 49 System are both included in state recycling efforts.

51 Businesses throughout the State are directed to undertake
 recycling efforts for office paper and corrugated cardboard.
 53 These requirements are phased in over a 4-year period.

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1
3 The Office of Siting and Disposal Operations is charged with
5 identifying sites for disposal facilities to be owned by the
7 agency. Siting decisions will be made by the Facility Siting
9 Board within the agency composed of appointed members with
11 technical expertise and public representation. This board will
develop and apply siting criteria which consider regional needs,
transportation requirements, compatibility with waste reduction
and recycling efforts, cost implications, environmental
considerations and compatibility with neighboring land uses.

13 The Facility Siting Board is directed to identify sites for
15 capacity needed in the near future by July 1, 1991. The office
is directed to develop the needed facilities by July 1, 1994.
17 The amendment anticipates that the office will use contractors
for most of the technical work in site selection, facility
development and facility operation. Sites developed by the Maine
Waste Management Agency will stay in public ownership. The
19 agency is given revenue bonding authority to support the capital
investments necessary for facility development. The bonds will
21 be repaid through tipping fees.

23 The Office of Siting and Disposal Operations is also charged
25 with reviewing proposals from regional associations of
municipalities for disposal facilities used by these groups.
27 While expansions of existing commercial disposal facilities are
allowed after review, new commercial disposal facilities are
prohibited. Private facilities owned and used by waste
29 generators are exempt from review by the agency. These exempt
facilities still require approval by the Board of Environmental
31 Protection under existing environmental law.

33 Finally, the office is directed to undertake a household
35 hazardous waste collection program in conjunction with its
disposal operations.

37 A host community benefits program is established to ensure
39 communications with citizens in any town which becomes the site
of a disposal facility owned by the agency or a regional
association. A citizens advisory committee will be established
41 in every potential host community. The agency or regional
association, as appropriate, will make payments in lieu of taxes
43 and additional impact payments. Neighboring property owners will
be compensated for losses in real estate values and a quarterly
45 ground water sampling program will be established with complete
replacement of water supplies in the event of contamination.

47
49 Municipalities are empowered to enforce all conditions of
the state license for a facility owned by the agency or a
regional association. In addition, municipalities may attach
51 additional conditions in those areas not addressed in the
conditions of the state license. Municipalities, however, may

1 not prohibit the siting of such a facility if it has been
3 approved by the Board of Environmental Protection.

5 Municipal siting and regulatory authority over private and
7 commercial facilities must use standards consistent with those
9 established in state law.

11 Disposal surcharges are imposed on all solid wastes being
13 disposed of in commercial landfills and on special wastes being
15 disposed of in any type of landfill. An additional surcharge may
17 be imposed on the disposal of municipal solid waste from towns
19 which fail to make reasonable progress towards meeting the state
21 recycling goals.

23 Part B establishes an advance disposal fee on tires, auto
25 batteries, white goods and brown goods. These fees are used to
27 support the agency and the recycling grant programs.

29 Part C includes a number of initiatives designed to further
31 waste reduction and recycling. The State Purchasing Agent is
33 directed to aggressively pursue purchases of products with
35 recycled content for state use. A price preference is
37 established for state purchases of paper with recycled content.
39 The Finance Authority of Maine is authorized to establish a loan
41 program to promote private sector activity in waste reduction and
43 recycling. Municipalities are directed to review local
45 procurement policies and are empowered to give a preference for
47 the purchase of products with recycled content. This part also
49 contains a requirement for a coding system to be used on most
51 plastic containers. This system will facilitate sorting by
plastic resin type and thus improve marketability. Part C also
includes an investment tax credit for the purchase of equipment
use in waste reduction and recycling. Finally, the Department of
Transportation will undertake a study of the potential uses of
recycled materials in highway construction and maintenance.

37 Part D expands the returnable beverage container law to
39 include liquor, wine and most other beverages packaged in glass,
41 metal or plastic. The handling fee is increased by 1¢ to support
43 the redemption centers and to alleviate the burden on small
45 businesses. This part also includes a prohibition on the sale of
47 "plastic cans" which closely resemble aluminum cans and severely
49 contaminate recycled aluminum. Also banned are aseptic packages
which, because of the wide variety of materials used in their
construction, are unrecyclable. The possession of more than 2
cases of unlabeled beverage containers is prohibited to
discourage out-of-state purchases of beverages and circumvention
of the State's returnable bottle law.

51 Part E amends the provisions of law administered by the
Department of Environmental Protection governing solid waste.
New definitions are provided as necessary. The regulatory

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 procedures governing siting of solid waste disposal facilities
2 are modified to coordinate the activities of the department with
3 the new Maine Waste Management Agency. This part also
4 coordinates the authority of the Maine Land Use Regulation
5 Commission with those of the department with regard to the siting
6 of solid waste disposal facilities. Finally, this part prohibits
7 the use of plastic ring connectors and directs retailers to offer
8 paper bags to all customers at the check-out counter.
9

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L.D. 1431

(Filing No. H-)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431, Bill, "An Act to Promote Reduction, Recycling and Integrated Management of Solid Waste and Sound Environmental Regulation"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

PART A

Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1981, c. 705, Pt. L, §§1 to 3, is amended to read:

2. Range 90. The salaries of the following state officials and employees shall be within salary range 90:

Superintendent of Banking;

Bureau of Consumer Credit Protection Superintendent;

State Tax Assessor; and

Superintendent of Insurance; and

Executive Director, Maine Waste Management Agency.

Sec. 2. 2 MRSA §6, sub-§4, as amended by PL 1987, c. 715, §2, and c. 787, §1, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees shall be within salary range 88:

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 State Purchasing Agent;
 3 Director, Arts and Humanities Bureau;
 5 Director, State Museum Bureau;
 7 Director of the Bureau of Parks and Recreation;
 9 State Director of Alcoholic Beverages;
 11 Director of Public Lands;
 13 State Librarian;
 15 Director of Employee Relations;
 17 Director, Bureau of Air Quality Control;
 19 Director, Bureau of Land Quality Control;
 21 Director, Bureau of Water Quality Control;
 23 Director, Bureau of Oil and Hazardous Materials Control;
 25 Director, Bureau of Solid Waste Management;
 27 Director, Bureau of Administration;
 29 Director, Office of Planning;
 31 Director, Office of Waste Reduction and Recycling; and
 33 Director, Office of Siting and Disposal Operations.

35 **Sec. 3. 3 MRSA §507, sub-§8-A, ¶B,** as amended by PL 1987, c.
 37 735, §1, is further amended to read:

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

- 43 (1) Board of Trustees of the University of Maine
45 System;
- 47 (2) Board of Trustees of the Maine Maritime Academy;
- 49 (3) State Government Internship Advisory Committee;
- 51 (6) Electricians' Examining Board;
- (7) Arborist Examining Board;

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(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. 4. 5 MRSA §953-A is enacted to read:

§953-A. Maine Waste Management Agency

1. Major policy-influencing positions. The following are
major policy-influencing positions within the Maine Waste
Management Agency. Notwithstanding any other law, these
positions and their successors are subject to this chapter:

A. Director, Office of Planning;

B. Director, Office of Waste Reduction and Recycling; and

C. Director, Office of Siting and Disposal Operations.

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

<u>4. Facility Siting</u>	<u>\$100 per day</u>	<u>38 MRSA §2152</u>
<u>Board</u>	<u>plus expenses</u>	

Sec. 6. 5 MRSA §12004-I, sub-§22, as enacted by PL 1987, c.
786, §5, is repealed and the following enacted in its place:

<u>22. Envi-</u>	<u>Waste</u>	<u>Legislative</u>	<u>38 MRSA</u>
<u>ronment: Natural</u>	<u>Management</u>	<u>Per Diem</u>	<u>\$2104</u>
<u>Resources</u>	<u>Advisory</u>		
	<u>Council</u>		

Sec. 7. 38 MRSA c. 24 is enacted to read:

CHAPTER 24

MAINE WASTE MANAGEMENT AGENCY

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SUBCHAPTER IMAINE WASTE MANAGEMENT AGENCY
GOALS AND ESTABLISHMENT§2101. Solid waste management hierarchy

1. Priorities. It is the policy of the State to plan for and implement an integrated approach to solid waste management, which shall be based on the following order of priority:

A. Reduction of waste generated at the source, including both amount and toxicity of the waste;

B. Reuse of waste;

C. Recycling of waste;

D. Composting of biodegradable waste;

E. Waste processing which reduces the volume of waste needing land disposal, including incineration; and

F. Land disposal of waste.

§2102. Establishment of the Maine Waste Management Agency

1. Establishment of agency. The Maine Waste Management Agency, referred to in this chapter as the "agency," is created as an agency in the executive branch of the State. The agency is an instrumentality of the State and a body corporate and politic. The exercise by the agency 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 agency. The Maine Waste Management Agency shall be comprised of 3 offices: the Office of Planning, the Office of Siting and Disposal Operations and the Office of Waste Reduction and Recycling.

3. Executive director. The Governor shall appoint the Executive Director of the Maine Waste Management Agency, referred to in this chapter as the "executive director," subject to review by the joint standing committee of the Legislature having jurisdiction over natural resource matters and to confirmation by the Legislature. The executive director shall serve at the pleasure of the Governor. The salary of the executive director is established under Title 2, section 6, subsection 2. The executive director is the chief executive officer of the agency.

§2103. Powers and duties of the agency

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

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

17 B. Acquire, hold and dispose of personal property;

19 C. Acquire, hold and dispose in the name of the agency by
21 purchase, lease or otherwise, real property and interests in
23 real property determined necessary or desirable for its
25 purposes and use of the property;

27 D. Establish and collect fees, assessments and other
29 charges and expend money received as provided in this
31 chapter;

33 E. Employ such assistants, agents, economists, engineering,
35 architectural and construction experts and inspectors, and
37 such other employees as it deems necessary or desirable to
39 carry out its purposes;

41 F. Obtain any information and conduct investigations useful
43 or convenient for carrying out any of its purposes, powers
45 or duties;

47 G. Enter, with the permission of the owner and during
49 normal working hours, upon any lands, waters and premises in
51 the State for the purpose of making surveys, soundings,
drillings and examinations as it deems necessary for the
purpose of this chapter;

H. Enter any property at reasonable hours, and enter any
building with the consent of the property owner, occupant,
or agent, to inspect the property or structure, to take
samples and to conduct tests, as appropriate, to determine
compliance with any provision of the laws administered by
the agency or the terms or conditions of any order,
regulation, license, permit, approval or decision of the
agency;

I. 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;

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

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3 K. Direct solid wastes from one public or private waste
4 facility to another facility when an emergency is determined
5 to exist by rule or by the Governor. The agency shall
6 negotiate to provide to the receiving facility fair
7 compensation for the disposal or processing of waste at that
8 facility during the period of emergency. The agency shall
9 consult with the department in the exercise of this power;

10 L. Control solid waste collection, transportation or
11 delivery to a specific facility owned by the agency when the
12 purpose and effect of this action is to gain management
13 control over solid waste;

14 M. Make agreements pertaining to the purchase, sale and use
15 of products, including recyclable materials, and the
16 generation, transmission and sale of energy in connection
17 with the purposes of the agency;

18 N. Enter into contracts, including, but not limited to, the
19 power to:

20 (1) Contract with architects, engineers, financial and
21 legal consultants and other experts for services;

22 (2) Contract with persons, firms, corporations, limited
23 partnerships, partnerships, associations, authorities
24 and agencies for the operation of waste facilities and
25 for services relating to the recycling and disposal of
26 solid waste;

27 (3) Contract for the handling of solid waste on the
28 basis of guaranteed amounts, whether delivered for
29 disposal and accepted for disposal or not, with
30 payments based on the guaranteed amounts, whether
31 actually disposed of or not. The payments may be
32 variable and may be determined by formulas expressed in
33 those contracts;

34 (4) Contract with another state agency, the United
35 States or any subdivision or agency thereof for
36 services; and

37 (5) Contract with any municipality for the services of
38 that municipality or its facilities; and

39 O. Use a negotiated or competitive bid process or any other
40 process which may be advantageous to the agency.

41 2. Duties. The agency shall undertake the following duties:

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

3
 4 B. Assist in regional and municipal waste recycling and
 5 waste reduction programs and provide technical assistance to
 6 regional associations, municipalities, state agencies and
 7 private entities to assist their implementation of this
 8 chapter;

9
 10 C. Promote and emphasize recycling and waste reduction in
 11 the State;

12
 13 D. Develop generic siting criteria and select sites for use
 14 by the agency;

15
 16 E. Review applications for new or expanded solid waste
 17 disposal facilities for consistency with state siting
 18 criteria and recommendations and the state plan;

19
 20 F. Enter into contracts for services to plan, design,
 21 construct and operate waste facilities;

22
 23 G. Initiate, conduct and support research, demonstration
 24 projects and investigations and coordinate all state agency
 25 research programs pertaining to waste management and
 26 recycling;

27
 28 H. Institute, in a court of competent jurisdiction,
 29 proceedings against any person to compel compliance with the
 30 provisions of this chapter, any regulation promulgated
 31 pursuant thereto, or any order of the agency;

32
 33 I. Cooperate with appropriate federal, state, interstate
 34 and local units of government and with appropriate private
 35 organizations in carrying out its duties under this chapter;

36
 37 J. Work with other state agencies, regional associations,
 38 municipalities, regional planning agencies and other
 39 community, private sector and environmental organizations to
 40 manage the State's solid waste; and

41
 42 K. Solicit public comment from all regions of the State.

43
 44 **§2104. Waste Management Advisory Council**

45
 46 There is established the Waste Management Advisory Council,
 47 referred to as the "council" in this section, to assist the
 48 agency in developing the state plan and in facility siting and
 49 evaluation activities.

50
 51 1. Membership; terms. The Governor shall appoint 12
members as follows:

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1 A. Three members from the general public;

3 B. Two members from each of the following:

5 (1) Municipal governments;

7 (2) Statewide and local environmental organizations;

9 (3) The recycling industry; and

11 (4) The waste disposal industry; and

13 C. One member representing industrial waste generators.

15 The Commissioner of Environmental Protection shall serve as an ex
17 officio member. All members, except the commissioner, shall be
19 appointed for staggered terms of 3 years. A vacancy shall be
21 filled by the Governor for the unexpired portion of the term.
23 The council shall annually elect a chair from its membership.

25 2. Compensation. Members shall be compensated according to
27 Title 5, section 12004-I, subsection 22.

29 3. Quorum; actions. A quorum shall be a majority of the
31 members of the council. An affirmative vote of the majority of
33 the members present at a meeting shall be required for any
35 action. No action may be considered unless a quorum is present.

37 4. Meetings. The council shall meet at least 4 times per
39 year and at any time upon the call of the chair or upon written
41 request to the chair by 4 of the members.

43 5. Annual report. The council shall report annually to the
45 Governor and to the Legislature on the status of the State's
47 planning and facility siting effort.

49 6. Staff support. The agency shall provide the council
51 with all necessary staff support.

§2105. Payment in lieu of taxes

The agency shall annually pay a municipality an amount in
 lieu of taxes equal to the amount of property taxes on a solid
 waste disposal facility 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 agency 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 agency disagrees with the amount
 determined to be due in lieu of taxes under this subsection, it

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1 may appeal to the State Board of Property Tax Review as provided
2 in Title 36, section 271.

3 §2106. Annual audit

5 Each year an audit shall be made of the accounts of the
6 agency. For this purpose, authorized agents of a certified
7 public accounting firm appointed by the agency shall have access
8 to all necessary papers, books and records. Upon the completion
9 of each audit, a copy shall be sent to the Governor and the
10 Legislature.

11 §2107. Staff employees; conflict of interest

13 1. Agency staff. The executive director may hire, on a
14 temporary or permanent basis, such staff as necessary, including
15 financial experts.

16 2. Civil Service Law. Professional employees of the agency
17 shall be unclassified and may be removed only for cause.
18 Employees are members of bargaining units subject to Title 26,
19 chapter 9-B.

20 3. Conflict of interest. Notwithstanding Title 5, section
21 18, subsection 1, each member of the agency and each employee,
22 contractor, agent or other representative of the agency is deemed
23 an "executive employee" solely for purposes of Title 5, section
24 18. In addition, Title 17, section 3104, shall be applicable, in
25 accordance with its provisions, to all such representatives of
26 the agency.

27 §2108. Indemnification

28 The agency shall defend and indemnify any employee of the
29 agency, including the executive director, and any member of the
30 Facility Siting Board established in section 2152 against
31 expenses actually and necessarily incurred by the person in
32 connection with the defense of any action or proceeding in which
33 the person is made a party by reason of past or present
34 association with the agency.

35 §2109. Sunset

36 For purposes of the Maine Sunset Act, Title 3, chapter 23,
37 the agency has its first justification report in accordance with
38 Title 3, section 504, due no later than October 31, 1998, and the
39 evaluation and analysis in accordance with Title 3, section 505,
40 by the joint standing committee of the Legislature having
41 jurisdiction over audit and program review due no later than
42 December 31, 1999, but notwithstanding Title 3, sections 506 and
43 507, the agency shall not terminate.

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§2110. Confidential information

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

SUBCHAPTER IIOFFICE OF PLANNING§2121. Office of Planning

The Office of Planning, 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 shall administer the office in accordance with the policies of the agency and consistent with the state waste management and recycling plan.

§2122. Recycling and management plan; schedule coordination

The office shall prepare and adopt, by rule, an analysis of, and plan for, the management, reduction and recycling of solid waste for the State by March 1, 1990. The plan shall be based on the priorities and recycling goals established in sections 2101 and 2132. The plan shall provide guidance and direction to the agency and municipalities in planning and implementing waste management and recycling programs at the state, regional and local level. To the extent that commercial entities continue to have a role in developing waste management and recycling facilities in the State, the plan shall provide guidance to those entities.

1. Consultation. In developing the plan, the office shall consult with the Bureau of Solid Waste Management in the Department of Environmental Protection, the Office of Siting and Disposal Operations and the Office of Waste Reduction and Recycling, and shall submit its draft plan to these offices for review and written comment before the agency publishes the plan as a proposed rule. The office shall solicit public input and shall hold hearings in different regions of the State. The office shall also seek comment and advice on its draft plan from the Waste Management Advisory Council established under section 2104.

2. Revisions. The office shall revise the analysis at least every 2 years to incorporate changes in the waste generation trends, changes in waste recycling and disposal technologies, the development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate. If the agency finds that rapidly changing conditions necessitate more timely revisions of the analysis, it

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1 may make those revisions pursuant to the rule-making provisions
2 of Title 5, chapter 375, subchapter II, including emergency
3 rulemaking, if necessary.

5 §2123. Plan contents

7 The state plan includes the following elements.

9 1. Data collection. The office shall develop and maintain
10 a comprehensive data base on solid waste generated or disposed of
11 in the State. Data collected shall include, but not be limited
12 to:

13 A. The amount of waste currently generated, handled or
14 transported within the State;

16 B. The source of the waste;

18 C. The type of waste;

20 D. The costs and types of management technologies currently
21 employed, including, without limitation, recycling,
22 composting, landspreading, incineration or landfilling;

24 E. The costs of collecting and transporting solid waste to
25 waste facilities; and

26 F. Assessment of the level of competition in the solid waste
27 disposal and recycling industry.

29 2. Determination of existing and potential disposal
30 capacity. The office shall identify existing solid waste
31 disposal and management capacity within the State, and the
32 potential for expansion of that capacity. The analysis shall
33 include, but not be limited to:

34 A. The capacity of existing licensed solid waste management
35 and disposal facilities receiving waste generated within the
36 State. This assessment shall identify the regional
37 availability of capacity, including consideration of
38 transportation costs;

39 B. The capacity of existing licensed solid waste management
40 and disposal facilities that is being utilized to dispose of
41 waste generated outside the State;

42 C. The rate at which existing capacity is being used and is
43 expected to be used;

44 D. A survey of the solid waste generators and the recycling
45 and disposal facilities they utilize;

1 E. Identification of projected facility closures with a
3 projected timetable for the closures and an estimate of the
5 amount of capacity these facilities represent;

7 F. The extent to which the State relies on solid waste
9 disposal capacity outside its jurisdiction; and

11 G. Additional disposal capacity anticipated to become
13 available within the next 2 to 5 years.

15 3. Waste reduction and recycling assessment. The plan
17 shall include investigation and assessment of the extent to which
19 waste generation could be reduced at the source, and the
21 potential for recycling to replace or reduce the need for
23 traditional disposal capacity. The assessment shall include the
25 following elements:

27 A. The current level of public and business recycling
29 efforts, including the quantities and categories of waste
31 currently recycled;

33 B. The current market structure of the recycling industry
35 in the State and in those areas receiving recycled materials
37 from the State. This element shall include identification
39 of the existing private and public recycling operations and
41 recycling capacity;

43 C. The current and projected capacity of existing markets
45 to absorb materials generated by recycling programs in the
47 State;

49 D. Market conditions that inhibit or affect demand for
51 materials generated by recycling programs;

E. Identification of solid wastes by type which are capable
of being reused or recycled in an environmentally sound
manner and the types and costs of the technologies which may
be utilized;

F. The potential for recycling in various regions of the
State, including estimates of the types and quantities of
waste available for recycling and an analysis of the
economic and institutional obstacles to increased recycling;

G. The potential for reducing waste quantities and toxicity
by reduction at the source, and the amount and type of
traditional disposal capacity that could be made available
by implementing waste reduction measures;

H. A description of various mechanisms that could be
utilized to stimulate and enhance waste reduction, including
their advantages and disadvantages. The mechanisms to be

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1 analyzed shall include, without limitation, incentives for
3 prolonging product life, methods of ensuring product
5 recyclability, taxes for excessive packaging, tax
7 incentives, prohibitions on the use of certain products, and
9 performance standards for products; and

11 I. The impact of consumer packaging on waste generation,
13 and the potential for waste reduction measures to reduce
15 this impact.

17 4. Projected demand for capacity. The office shall
19 identify the need in the State for current and future solid waste
21 disposal capacity by type of solid waste. The analysis shall
23 include, but not be limited to:

25 A. Estimation of waste generation by region and waste type
27 over the next 5-year, 10-year and 20-year periods based on
29 the best available forecasts of population growth, economic
31 activity within the State, tourism, estimates provided by
33 solid waste generators and other available information;

35 B. Estimation of the reduction in the waste stream needing
37 disposal capacity as a result of public and private
39 recycling efforts identified in subsection 3;

41 C. Comparison of the projected waste generation levels with
43 existing and potential capacity as identified in subsection
45 2; and

47 D. Identification of regional differences in available
49 disposal capacity and recycling facilities. The office
51 shall identify regions which are underserved with regard to
recycling, management or disposal capacity or which have
capacity in excess of regional needs. In determining
regional needs, the office may consider economic criteria,
including disposal and transportation costs, population
densities, regional differences in current industrial mix
and potential for economic growth, the level of competition
in the solid waste disposal industry and any other factors
the office considers relevant.

5. State management strategies. Based on the provisions of
section 2101 and the information and analysis developed in
subsections 1 to 4, the office shall examine various waste
management options for dealing with the projected waste stream,
available or anticipated disposal capacity and waste reduction
and recycling activities. The agency shall establish:

A. Strategies that promote, throughout the State, the
maximum reduction of waste, the maximum feasible recycling
of waste and the environmentally sound and cost-effective
management and disposal of those wastes that remain.

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1 Management and disposal alternatives shall be preferred
3 which do not foreclose the future ability of the State to
reduce, reuse and recycle waste; and

5 B. Strategies to promote waste reduction and utilization
7 research and initiatives, innovative pilot recycling or
9 utilization programs, development of recycling-related
businesses and public understanding and participation in
recycling.

11 6. Facility needs. The plan shall identify the number,
13 size and type of solid waste facilities required to meet the
capacity needs for which the agency has assumed responsibility as
15 described in the plan. The agency shall include a time schedule
and program for planning, design, siting, construction,
17 operation, and closure of each proposed facility.

19 7. Transition. Insofar as the state capacity needs analysis
21 and state recycling plan developed under former sections 1310-K
and 1310-O are consistent with the waste reduction and recycling
23 goals and waste management hierarchy adopted herein, the office
shall incorporate the data, analysis and recommendations of these
documents into the management plan.

25 §2124. Reports

27 The agency shall submit the adopted plan and subsequent
29 revisions to the Governor, the department and the joint standing
committee of the Legislature having jurisdiction over natural
resource matters.

31 SUBCHAPTER III

33 OFFICE OF WASTE REDUCTION AND RECYCLING

35 §2131. Office of Waste Reduction and Recycling; established

37 The Office of Waste Reduction and Recycling, referred to in
39 this subchapter as the "office," is established to carry out the
purposes of this subchapter. The director of the office shall
41 administer the office in accordance with the policies of the
agency and consistent with the state waste management and
43 recycling plan.

45 §2132. State goals

47 1. State recycling goal; interim goal. It is the policy of
49 the State to recycle, by January 1, 1994, 50% of the municipal
solid waste generated each year. The Legislature establishes an
51 interim goal of recycling, by January 1, 1992, 25% of the
municipal solid waste generated each year.

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1 2. Goal revision. The office shall recommend revisions, if
3 appropriate, to the state recycling goal and shall establish a
5 waste reduction goal. The office shall submit its
7 recommendations and any implementing legislation to the joint
9 standing committee of the Legislature having jurisdiction over
11 natural resource matters by January 1, 1993.

13 §2133. Municipal recycling

15 1. Technical and financial assistance program. The office
17 shall develop a program of technical and financial support to
19 assist municipalities in achieving the recycling goal of section
21 2132. The office shall develop a priority system for use in
23 allocating available financial and technical resources available
25 under this section to municipalities and regions. The priority
27 system shall address the following:

29 A. The type and number of materials to be recycled and
31 composted, and the resulting reduction of the municipal
33 waste stream;

35 B. Measures, including ordinances and incentives, to insure
37 source separation and local participation in the recycling
39 program;

41 C. The existence of an established recycling program;

43 D. The planning for logistical, administrative and
45 financial management;

47 E. Marketing agreements or the identification of markets
49 for materials to be recycled;

51 F. Utilization of any regional economies of scale;

G. Coordination of the recycling program with overall waste
 management; and

H. Consistency with the state plan, when adopted.

2. Recycling feasibility studies. The office shall provide
 professional technical assistance to municipalities or regional
 associations in the planning and design of recycling programs.
 The office may contract with regional councils, individual
 municipalities and regional associations to provide services
 under this subsection. Assistance shall include:

A. The assessment of economically feasible recycling
 potential including the supply of materials that can be
 recycled, probable markets for these materials and the
 avoided costs of solid waste disposal;

1 B. The planning for the logistical, administrative and
3 financial management requirements of a recycling program;

5 C. The design of any flow-control or other ordinances
7 necessary for the implementation of a recycling program;

9 D. The coordination of the proposed recycling program with
11 overall solid waste management; and

13 E. The assessment of the advantages of participation in a
15 regional recycling effort versus a local recycling program.

17 3. Recycling capital investment grants. The office may
19 make grants to eligible municipalities and regional associations
21 for the construction of public recycling facilities and the
23 purchase of recycling equipment. The office may establish
25 requirements for local cost sharing of up to 25% of the total
27 grant amount. The office shall give preference to recycling
29 programs that require the participation of the waste generators
31 served.

33 4. Recycling incentives. The office shall develop and
35 implement a program of incentives to encourage public recycling
37 programs to reach maximum feasible levels of recycling and to
39 meet the recycling goal of section 2132.

41 A. The office shall adopt, by rule, municipal waste stream
43 assessment models to assist municipalities in estimating the
45 volume or weight of municipal solid waste being generated
47 and disposed, and the levels of reduction resulting from
49 public recycling programs, including programs that deny
51 access to waste disposal facilities for any category of
recyclable materials. The models shall make use of best
available information, including without limitation, data
from state reports, municipalities, and public and private
operators of waste handling services, and shall consider
geographical and population differences, including seasonal
population variations, in waste composition and amount. The
models may be modified on a case-by-case basis when actual
waste data is documented by a municipality. The models
shall provide the basis for determining levels of reduction
achieved.

B. The incentive program shall include bonus grants to
municipalities which by January 1, 1992 meet or exceed the
interim recycling goal of section 2132 to the extent that
such funding is not required pursuant to subsections 2 and
3. After January 1, 1995, incentive grants shall be awarded
only if funds are available after the requirements of
subsections 2 and 3 are met.

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1 5. Access to state waste disposal services; additional
3 fees. Municipal access to agency-owned facilities shall be
5 limited under this subsection.

7 A. Any municipality that fails to provide recycling
9 opportunities to residents is prohibited from delivering
11 municipal solid waste, including residual waste, to a
13 state-owned solid waste disposal facility.

15 B. Any municipality that fails to make reasonable progress,
17 as determined by the office, toward achieving the recycling
19 goal of section 2132 shall pay an additional fee per ton on
21 any municipal solid waste delivered to a state-owned solid
23 waste disposal facility. "Reasonable progress" includes,
25 without limitation, the achievement of the interim recycling
27 goal of section 2132.

29 §2134. Market development and assistance

31 The office shall design and implement a market development
33 strategy, consistent with the recycling component of the state
35 plan, which shall include, without limitation, the following
37 elements:

39 1. Collection. Methods of collecting and marketing
41 recyclable materials that achieve necessary economies of scale
43 and product quality specifications. The strategy shall include a
45 model plan for source separation of materials to be recycled at
47 the household, municipal, regional or state level, as appropriate;

49 2. Incentive program. An incentive program to encourage
51 end users of materials to be recycled to locate or expand their
 operations within the State. The office shall consult with the
 Finance Authority of Maine and the Department of Economic and
 Community Development in developing this element;

3. Information clearinghouse. An information clearinghouse
 on recycling markets to improve the marketing of materials to be
 recycled. The office shall maintain a current list of recycling
 programs, together with a description of the recyclable materials
 available through the programs. The office shall also maintain
 listings of brokers, handlers, processors, transporters and other
 persons providing services and potential markets for recyclable
 materials. The office shall actively promote the services of the
 clearinghouse and shall seek to match programs with appropriate
 recycling businesses. The office shall make its information on
 recycling services available to private solid waste generators
 seeking markets or services for recyclable materials. The office
 shall make its technical reports and planning documents available
 to municipalities and regional associations on a timely basis;

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 4. Brokering service. Direct marketing and brokering
3 services for materials included in the state marketing plan when
5 municipal and regional association efforts to market the material
7 and the information clearinghouse are inadequate;

9 5. Marketing development plan. Based on the state plan, a
11 market development and marketing plan by January 1, 1990, which
13 includes:

15 A. Potential opportunities to increase demand for and use of
17 materials generated by recycling programs;

19 B. Market opportunities in Canada and other export markets;

21 C. Recommendations for specific actions to increase and
23 stabilize the demand for materials generated by recycling
25 programs, including, but not limited to, proposed
27 legislation, if necessary; and

29 D. Specific recommendations on markets for recycled
31 materials from the various areas of the State; and

33 6. Reuse of waste. Assisting industries in promoting the
35 reuse of industrial wastes that are suitable raw materials for
37 other processes. The office shall coordinate those efforts with
39 waste exchanges in the northeastern United States.

41 §2135. Special services

43 The office shall develop a program to provide
45 municipalities, regional associations and regional councils
47 grants to identify, design and develop tire and white goods
49 recycling and disposal facilities, including pickup of these
51 items, and stump and demolition debris disposal facilities.

53 §2136. Scrap metal transportation cost subsidy

55 The office may enter into annual agreements with a
57 municipality or regional association to reimburse a portion of
59 the direct costs of transporting material to a recycling facility
61 for intermediate processing or final use. The office shall base
63 grants on the value of the scrap metal, the distance to
65 acceptable scrap metal recycling facilities and the availability
67 of funding. The office shall adopt rules, in consultation with
69 the Waste Management Advisory Council, necessary for the
71 implementation of this section.

73 §2137. State Government recycling and waste reduction

75 The office, in cooperation with the Department of
77 Administration, shall assess the status of recycling efforts
79 undertaken directly by the State for its own solid waste and

1 shall evaluate existing programs and develop necessary new
3 programs for recycling to reduce the generation of solid waste by
5 the State. The programs shall include, without limitation,
7 recycling of office papers, cardboard, used motor oil, yard waste
9 and other materials produced by the State for which recycling
11 markets exist or may be developed.

13 1. Waste reduction and recycling plan. Each state agency
15 shall prepare a waste reduction and recycling plan addressing the
17 requirements of subsections 3 and 4. The plan shall be submitted
19 to the Office of Waste Reduction and Recycling on or before July
21 1, 1990, for approval as consistent with the goals and guidelines
23 of this section and with the state waste management and recycling
25 plan. The plan shall be updated on a biennial basis to increase
27 the amount of material recycled by taking advantage of any
29 changed circumstances. Each department shall complete an
31 analysis of additional materials to determine recycling
33 potential, and shall incorporate these materials into plan
35 updates. Updated plans shall be submitted to the office for
37 approval prior to adoption.

39 2. Capitol complex recycling program. The State House and
41 the State Office Building shall constitute the Capitol complex
43 recycling demonstration area. The House of Representatives, the
45 Senate, the office of the Governor, and each department that
47 occupies space in the State House or the State Office Building
49 shall, by July 1, 1990, institute a recycling program for its
51 respective offices in these buildings. The program shall
53 include, at a minimum, office paper, corrugated cardboard and
55 containers subject to the returnable container law, Title 32,
57 chapter 28, which are sold in the Capitol complex. The program
59 shall include procedures for collecting and storing recyclable
61 materials, bins or containers for storing materials, and
63 contractual and other arrangements with buyers.

65 3. Recycling. By January 1, 1991, each state agency
67 outside the Capitol complex shall establish and implement a
69 source separation and collection program for recyclable materials
71 produced as a result of agency operations, including, at a
73 minimum, high grade paper and corrugated paper. The source
75 separation and collection program shall include, at a minimum,
77 procedures for collecting and storing recyclable materials, bins
79 or containers for storing materials, and contractual and other
81 arrangements with buyers. Each agency shall appoint a recycling
83 coordinator for every 50 employees at a minimum and shall conduct
85 educational programs for its employees on the recycling program.

87 4. Waste reduction. By January 1, 1991, each state agency
89 shall establish and implement a waste reduction program for
91 materials used in the course of agency operations. The program
93 shall be designed and implemented to achieve the maximum feasible
95 reduction of waste generated as a result of agency operations.

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1 5. University of Maine System. The following provisions
3 shall apply to the University of Maine System.

5 A. Each campus of the University of Maine System shall
7 prepare a waste reduction, recycling and composting plan
9 addressing the requirements of paragraphs B to D. The plan
11 shall be submitted to the Office of Waste Reduction and
13 Recycling on or before July 1, 1990, for approval as
15 consistent with the goals and guidelines of this chapter and
17 with the state waste management and recycling plan. Each
19 campus shall complete an analysis of additional materials to
21 determine recycling potential, and shall incorporate these
23 materials into annual plan updates.

25 Updated plans shall be submitted to the office for approval
27 prior to adoption.

29 B. By January 1, 1991, each campus of the University of
31 Maine System shall establish and implement a source
33 separation and collection program for recyclable materials,
35 including at a minimum, high grade paper, corrugated paper
37 and glass. The source separation and collection program
39 shall include procedures for collecting and storing
41 recyclable materials, bins or containers for storing
43 materials and contractual and other arrangements with
45 buyers. Each campus shall appoint a recycling coordinator
47 and shall conduct educational programs for students and
49 employees on the recycling program.

51 C. By January 1, 1991, each campus of the University of
53 Maine System shall establish and implement a waste reduction
55 program for materials used in the course of its operations.
57 The program shall be designed and implemented to achieve the
59 maximum feasible reduction of waste.

61 D. By January 1, 1991, each campus of the University of
63 Maine System shall establish a leaf composting program.

65 §2138. Business recycling and waste reduction program

67 1. Office paper recycling mandated. Any person employing
69 15 or more people at a site within the State shall implement an
71 office paper and corrugated cardboard recycling program according
73 to the following schedule:

75 A. By July 1, 1991, when employing 200 or more persons at a
77 site;

79 B. By July 1, 1992, when employing 50 or more persons at a
81 site; and

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1 C. By July 1, 1993, when employing 15 or more persons at a
2 site.

3
4 The office shall provide technical and market development
5 assistance and direction to entities within the State to assist
6 in meeting this schedule. Municipalities and regional
7 associations may assist employers in attaining the objectives of
8 this section.

9
10 2. Office paper. For the purposes of this section, "office
11 paper" includes, but is not limited to, ledger, computer and bond
12 paper.

13
14 3. Certification of tax credit. The office, in cooperation
15 with the State Tax Assessor, shall assist in the administration
16 of tax credits for the purchase of machinery and equipment used
17 by businesses in new or expanded waste reduction, reuse or
18 recycling programs pursuant to Title 36, section 5219-C by
19 certifying that the machinery and equipment are eligible for the
20 credit.

21
22 4. Technical and financial assistance programs. The office
23 shall administer other financial assistance programs for projects
24 that reduce the waste stream or increase recycling that the
25 agency determines appropriate, including technology transfer to
26 businesses and assisting the Finance Authority of Maine in
27 determining eligible projects for low-interest loans.

28
29 5. Industrial waste reduction. The office shall consult
30 with the Maine Sludge and Residuals Utilization Research
31 Foundation and the private sector to identify and examine
32 solutions to the problems of reducing the volume and toxicity of
33 industrial waste.

34 §2139. Public education

35
36 The office shall design a program of public education in
37 support of the state recycling goals to promote waste reduction,
38 source separation and recycling efforts at the individual, local,
39 regional and state levels.

40
41 1. Media campaign. The office shall develop and
42 disseminate educational material designed to establish broad
43 public understanding and compliance with the State's recycling
44 and waste reduction goals.

45
46 2. Kindergarten to grade 12 curriculum. In cooperation
47 with the Department of Educational and Cultural Services, the
48 office shall develop a curriculum suitable for use in programs
49 from kindergarten through high school.

50 §2140. Interstate and national initiatives

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1 The office shall participate in interstate and national
3 initiatives to adopt uniform state laws when practicable, and to
5 enter compacts between the State and other states for the
 improved management, recycling and reduction of solid waste.

7 SUBCHAPTER IV

9 OFFICE OF SITING AND DISPOSAL OPERATIONS

11 §2151. Office of Siting and Disposal Operations

13 The Office of Siting and Disposal Operations, referred to as
15 the "office" in this subchapter, is established to carry out the
17 purposes of this subchapter. The director of the office shall
 administer the office in accordance with the policies of the
 agency and consistent with the state waste management and
 recycling plan.

19 §2152. Facility Siting Board

21 1. Board established. The Facility Siting Board, as
23 established in Title 5, section 12004-D, subsection 4, is created
25 to conduct a site screening and selection process for disposal
27 facilities owned, operated or controlled by the agency. The
 board shall undertake this process in a manner consistent with
 the state waste management and recycling plan and provisions of
 section 2154 and shall make all final decisions on the choice of
 specific sites for solid waste disposal facilities under the
 jurisdiction of the agency. The office shall provide staff
31 support to the Facility Siting Board.

33 2. Membership. The board consists of 5 members appointed by
35 the Governor, subject to review by the joint standing committee
 of the Legislature having jurisdiction over natural resources and
 to confirmation by the Legislature.

37 A. One of the members shall initially be appointed to a term
39 of 3 years, 2 members to terms of 4 years and 2 members to
41 terms of 5 years. The successor of each appointed member
43 shall be appointed for a term of 5 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
45 term. Each board member shall serve until the appointment
 and qualification of a successor.

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

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3 C. The Commissioner of Environmental Protection and the
5 Director of the Maine Geological Survey shall serve as
7 technical advisors to the board.

9 3. Qualifications. The Governor shall select the
11 membership of the board to include members of the general public
13 and persons with expertise in engineering, hydrogeology, public
15 health and government. The Governor shall also select the
17 membership of the board to include broad geographic
19 representation from all areas of the State.

21 4. Selection of officers; quorum. Annually, the board shall
23 elect one of its appointed members as the chair of the board.
25 Three members of the board shall constitute a quorum and the
27 affirmative vote by 3 members shall be necessary for any action
29 taken by vote of the board.

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

35 6. Meeting schedule. The board shall meet at least 4 times
37 annually and at any time upon the call of its chair or upon the
39 request in writing to the chair of 3 board members.

41 §2153. Siting criteria

43 1. Siting criteria. By May 1, 1990, the Facility Siting
45 Board shall adopt by rule siting criteria for solid waste
47 disposal facilities based on the following factors.

49 A. To the extent possible, a site shall be located in
51 proximity to the entities that generate the wastes placed at
53 the site.

55 B. To the extent possible, a site shall be located in
57 proximity to the transportation systems that are used to
59 convey waste to the site or to convey residuals and
61 materials to be recycled from the site.

63 C. The capacity or size of a site must be consistent with
65 the projected demand as determined in the state plan.

67 D. A site and its considered use must be consistent with,
69 and actively support, other waste management objectives,
71 including waste reduction and recycling.

73 E. The projected price for site development, construction
75 and operation must be fair and reasonable.

77 F. A site must meet preliminary environmental standards
79 developed jointly by the department and the Maine Land Use

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1 Regulation Commission, including ground water and geological
2 standards.

3
4 G. Existing uses on adjacent properties shall not be in
5 significant conflict with or significantly jeopardized by
6 the use of a site.

7
8 §2154. Site selection

9
10 1. Initial site screening. The Facility Siting Board shall
11 complete a site screening and selection process on or before July
12 1, 1991, to identify solid waste disposal capacity sufficient to
13 meet the projected needs through the year 1995 identified in the
14 analysis conducted under former section 1310-O and the needs that
15 have been identified in the state planning process under
16 subchapter II. The Facility Siting Board shall consider the need
17 for geographic distribution of facilities to adequately serve all
18 regions of the State. The Facility Siting Board also shall
19 consider in its site selection process the need for landfill
20 capacity to dispose of incinerator ash resulting from the
21 combustion of domestic and commercial solid waste generated
22 within its jurisdiction. Prior to recommending a site, the
23 Facility Siting Board shall hold a public hearing in every
24 municipality or plantation identified in the screening process as
25 a potential site. For potential sites within an unincorporated
26 township, the Facility Siting Board shall hold a public hearing
27 within the vicinity of the proposed site.

28
29 2. Siting; general. Subsequent to the siting process under
30 subsection 1, the Facility Siting Board shall identify additional
31 sites as requested by the office and as capacity needs are
32 identified in the state plan. The Facility Siting Board shall
33 employ the same criteria and considerations employed under
34 subsection 1. The Facility Siting Board shall hold a public
35 hearing in each municipality within which the agency may
36 recommend the location of any solid waste disposal or
37 refuse-derived fuel processing facility.

38
39 §2155. Notification

40
41 The office shall notify the municipal officers of any
42 municipality within which a waste disposal facility site is
43 recommended under this subchapter of that recommendation. The
44 office shall notify the municipal officers by certified mail
45 within 30 days of making the recommendation. If the proposed
46 site is located within the jurisdiction of the Maine Land Use
47 Regulation Commission, the office shall notify the Maine Land Use
48 Regulation Commission and the county commissioners in lieu of
49 the municipal officers.

50
51 §2156. Facility development

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1 1. Initial state facility required. On or before July 1,
3 1994, the office shall develop facilities sufficient to meet the
5 projected needs identified in the analysis conducted under former
7 section 1310-0 and the state plan and to serve all geographic
9 areas of the State.

11 2. Subsequent facility development. Subsequent to any
13 facility development under subsection 1, the office shall
15 initiate the development of solid waste disposal facilities as it
17 determines is necessary to meet the capacity needs identified in
19 the state plan. The office shall provide for solid waste
21 disposal facilities by contracting with private vendors for
23 facility design, construction or operation or, if necessary,
25 undertaking facility development itself.

27 3. Agency ownership. The agency shall maintain ownership
29 of any solid waste disposal facility it develops and shall
31 maintain full control over the use of the facility or facilities.

33 §2157. Review of proposed waste facilities

35 Subsequent to the adoption of the state plan, the Board of
37 Environmental Protection shall not approve an application of a
39 new or expanded solid waste disposal facility requiring review
41 under this section until the agency has approved the proposed
43 facility under this section.

45 1. Requirement. After the adoption of the state plan, no
47 permit for a new or expanded solid waste disposal facility may be
49 issued unless the applicant demonstrates to the agency that the
51 proposed facility:

A. Will meet capacity needs identified in the state plan in
 addition to capacity that is under development by the office
 under section 2156 or by any other party approved by the
 office at the time of the application;

B. Will be consistent with the state plan; and

C. Meets the following requirements:

(1) The proposed facility is consistent with local,
 regional or state waste collection, storage,
 transportation, processing or disposal; and

(2) After the adoption of the siting criteria, the
 proposed facility meets the criteria in section 2153.

Proceedings under this subsection are subject to the provisions
 of Title 5, chapter 375, subchapter IV.

§2158. Future commercial solid waste disposal facilities

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After the adoption of the state plan, the agency shall not approve an application for a new commercial solid waste disposal facility. The agency may approve expansions of a commercial solid waste disposal facility after adoption of the state plan, if:

1. Previously licensed facility. The facility had been previously licensed by the Board of Environmental Protection prior to the adoption of the state plan; and

2. Determination of compliance. The agency determines that the provisions of section 2157 are met.

§2159. Real and personal property; right of eminent domain

The agency may acquire and hold real and personal property which it deems necessary for its purposes, is granted the right of eminent domain and, for those purposes, may take and hold, either by exercising its right of eminent domain or by purchase, lease or otherwise, for public use, any land, real estate, easements or interest therein, necessary for constructing, establishing, maintaining, operating and the closure of solid waste disposal facilities.

§2160. Procedure in exercise of right of eminent domain

The right of eminent domain granted in section 2159 may only be exercised after complying with the following procedures.

1. Notice to owner. The agency shall provide to the owner or owners of record notice of the following:

A. The determination of the agency that it proposes to exercise the right of eminent domain;

B. A description and scale map of the land or easement to be taken;

C. The final amount offered for the land or easement to be taken, based on the fair value as estimated by the agency; and

D. Notice of the time and place of the hearing provided in subsection 4.

Notice may be made by personal service in hand by an officer duly qualified to serve civil process in this State or by certified mail, return receipt requested, to the last known address of the owner or owners. If the owner or owners are not known or cannot be notified by personal service or certified mail, notice may be given by publication in the manner provided in subsection 4.

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2. Notice to tenant. Notice shall be given to any tenant
3 in the same manner notice is given to the owner of the property.

5 3. Notice to the affected municipality. Notice shall be
6 given to the municipality in which the property to be acquired is
7 located in the same manner notice is given to the owner of the
8 property and shall be addressed to the municipal officers.

9
10 4. Hearing. The agency shall hold a public hearing on the
11 advisability of its proposed exercise of the right of eminent
12 domain. Notice of the hearing shall be made by publication in a
13 newspaper of general circulation in the area of the taking and
14 shall be given once a week for 2 successive weeks, the last
15 publication to be at least 2 weeks before the time appointed in
16 the hearing. The hearing notice shall include:

17 A. The time and place of the hearing;

19 B. A description of the land or easement to be taken; and

21 C. The name of the owners, if known.

23 §2161. Condemnation proceedings

25
26 At the time it sends the notice in section 2160, the agency
27 shall file in the office of the county commissioners of the
28 county in which the property to be taken is located and cause to
29 be recorded in the registry of deeds in the county plans of the
30 location of all lands, real estate, easements or interest
31 therein, with an appropriate description and the names of the
32 owners thereof, if known. When for any reason the agency fails
33 to acquire property which it is authorized to take and which is
34 described in that location, or if the location so recorded is
35 defective and uncertain, it may, at any time, correct and perfect
36 the location and file a new description. In that case, the
37 agency is liable in damages only for property for which the owner
38 had not previously been paid, to be assessed as of the time of
39 the original taking, and the agency is not liable for any acts
40 which would have been justified if the original taking had been
41 lawful. No entry may be made on any private lands, except to
42 make surveys, until the expiration of 10 days from the filing,
43 whereupon, possession may be had of all the lands, real estate,
44 easements or interests therein and other property and rights as
45 aforesaid to be taken, but title shall not vest in the agency
46 until payment for the property is made.

47 §2162. Office assistance in regional association siting

49
50 Upon request by a regional association, the office may
51 provide technical assistance to a regional association in the
52 establishment of approved waste facilities, including assistance

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1 in planning, location, acquisition, development and operation of
3 the site. The regional association shall describe fully the need
5 and justification for the request. The office may request
7 information from the regional association necessary to provide
9 assistance.

11 §2163. Exempt facilities

13 The following types of solid waste disposal facilities are
15 exempt from the provisions of this subchapter:

17 1. Inert fill. Solid waste disposal facilities less than 6
19 acres in size that accept only inert fill, construction and
21 demolition debris, debris from land clearing and wood wastes; and

23 2. Generator-owned facilities. Solid waste disposal
25 facilities used exclusively for the disposal of waste generated
27 by the owner of the facility except that the facility may accept,
29 on a nonprofit basis, no more than 15% of all solid waste
31 accepted on an annual average which is not generated by the
33 owner. Notwithstanding this section, a solid waste disposal
35 facility receiving ash resulting from the combustion of municipal
37 solid waste or fuel derived from municipal solid waste is not
39 exempt unless a completed application for the facility has been
41 accepted by the department prior to July 1, 1989.

43 §2164. Household and small generator hazardous waste

45 The office shall develop and implement by July 1, 1991, a
47 statewide system for the collection and disposal of hazardous
49 waste generated by households, public and private nonprofit
51 institutions and small quantity generators.

SUBCHAPTER V

HOST COMMUNITY BENEFITS

§2171. Citizen advisory committee

The municipal officers of each municipality identified by
the Facility Siting Board as a proposed site for a waste disposal
facility or a facility which produces refuse-derived fuel under
this chapter and each contiguous municipality which may be
affected by the construction or operation of that facility shall
jointly establish a single citizen advisory committee within 60
days of notification pursuant to section 2155.

1. Membership. The committee shall be comprised of
citizens from each affected municipality, including, but not
limited to: a municipal health officer; a municipal officer; and
at least 3 additional residents of the municipality, including
abutting property owners and residents potentially affected by

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1 pollution from the proposed facility. In addition, each
3 committee may include members representing any of the following
5 interests: environmental and community groups; labor groups;
7 professionals with expertise relating to landfills or
9 incinerators; experts in the areas of chemistry, epidemiology,
11 hydrogeology and biology; and legal experts.

13 2. Meetings. The committee shall meet as soon as practical
15 following appointment of its members and shall select a chair
17 from among its members. The committee shall establish procedures
19 for the conduct of meetings.

21 3. Responsibilities. Each committee established under this
23 section shall have the authority to:

25 A. Review proposed contracts, site analyses, applications
27 and other documents relating to the location, construction,
29 permitting and operation of the proposed facility;

31 B. Hold periodic public meetings to solicit the opinions of
33 residents concerning the proposed facility and any permit
35 applications, contracts or other provisions relating to the
37 facility and the regional plan;

39 C. Provide the agency and department with any alternative
41 contract provisions, permit conditions, plans or procedures
43 it deems appropriate; and

45 D. Serve as a liaison between the community and the agency,
47 project developer or the department to facilitate
49 communications during the development and operation of the
51 facility, and provide residents with updated information
about the project, including providing explanations of any
technical terms.

4. Unincorporated townships and plantations. For the
purposes of this subchapter, county commissioners shall act as
municipal officers for unincorporated townships and assessors of
plantations shall act as municipal officers for plantations.

§2172. Dispute resolution

A host municipality may establish a process, including, but
not limited to, negotiation, mediation and arbitration to resolve
disputes and to negotiate additional rights and benefits relating
to the siting and operation of a waste disposal or refuse-derived
fuel processing facility within the municipality. The citizen
advisory committee shall be consulted and shall assist in the
development and implementation of any process established under
this section. At the option of the municipality, the Chair of
the Board of Environmental Protection may appoint a neutral
mediator to resolve disputes. The municipality shall be eligible

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1 for grants from the agency to fund dispute resolution programs
2 under this section.

3
4 §2173. Property value offset

5
6 Owners of property contiguous to an agency-owned, operated
7 or approved facility licensed under chapter 13 are eligible for
8 reimbursement for loss in property value directly attributable to
9 the construction and operation of the facility. The agency shall
10 issue rules to establish a formula and process for reimbursement,
11 including, without limitation, definition of the impact area, a
12 process for establishing baseline real estate values, a time
13 frame within which the property value support program will be in
14 effect, determination of the percentage of property value to be
15 reimbursed, an accounting of real estate trends in the area and a
16 determination of the reimbursement mechanism.

17
18 §2174. Impact payments

19
20 In addition to payment in lieu of taxes provided in section
21 2105, the agency shall make impact payments to a municipality in
22 which an agency-owned solid waste landfill facility is located
23 or, in the case of an unorganized territory, to the State Tax
24 Assessor upon request by the community involved or by the State
25 Tax Assessor. The agency shall base its impact payments on
26 measurable criteria including, without limitation:

27
28 1. Roads. Improvement, maintenance and repair of local
29 roads directly affected by traffic to and from an agency-owned
30 landfill facility;

31
32 2. Emergency response. Development and maintenance of
33 adequate local emergency response capacity; and

34
35 3. Monitoring. Financial support for on-site, municipally
36 employed personnel or for other means determined necessary to
37 enable the municipality to monitor the facility's compliance with
38 state and local requirements.

39
40 §2175. Water supply monitoring and protection

41
42 Upon written request from persons owning land contiguous to
43 a waste landfill approved under subchapter IV, the operator of
44 the landfill shall have quarterly samplings and analyses
45 conducted of private water supplies used by the requestors for
46 drinking water. The sampling and analysis shall be conducted in
47 a manner specified by and shall meet criteria developed by the
48 department.

49
50 Any person owning or operating a waste landfill that
51 adversely affects a public or private water supply by pollution,
degradation, diminution or other means that result in a violation

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1 of the state drinking water standards as determined by the
3 department shall restore the affected supply at no cost to the
5 owner or replace the affected supply with an alternative source
of water that is of like quantity and quality to the original
supply at no cost to the owner.

7 1. Extent of analysis. Water supplies shall be analyzed
9 for all parameters or chemical constituents determined by the
11 department to be indicative of typical contamination from solid
13 waste landfills. The laboratory performing the sampling and
analysis shall provide written copies of sample results to the
landfill owner, the landowner and to the department.

15 2. Additional sampling required. If the analysis indicates
17 possible contamination from a solid waste landfill, the
19 department shall conduct, or require the landfill operator to
21 have the laboratory conduct, additional sampling and analysis to
determine more precisely the nature, extent and source of
contamination. The department shall, if necessary, require this
sampling beyond the boundaries of the contiguous property.

23 3. Written notice of rights. On or before December 1,
25 1989, for permits issued under this chapter prior to October 1,
27 1989, and at or before the time of permit issuance for permits
29 issued under this chapter after October 1, 1989, the operator of
each waste landfill shall provide owners of contiguous land with
written notice of their rights under this section on a form
prepared by the department.

SUBCHAPTER VI

LIABILITY AND LIMITATIONS

§2181. Effect on tort claims

35 Nothing in this chapter may be construed or understood as in
37 any way increasing any liability that may otherwise arise or be
39 limited under Title 14, chapter 741.

§2182. Ability to indemnify

41 Nothing in this subchapter may be construed to prevent any
43 host municipality, regional association or the State from
45 obtaining or giving such indemnities as may be appropriate in
47 connection with the ownership, operation or control of a
municipal solid waste facility.

§2183. Effect on existing contracts and facilities

49 Except as otherwise provided, nothing in this chapter may be
51 construed to impair any contract in force upon the effective date
of this chapter.

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3 §2184. Municipal contracts

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

19 1. Existing contracts. Except as otherwise provided in
21 this chapter, nothing in this chapter may be construed to
23 interfere with, or in any way modify, the provisions of any
25 contract for municipal waste disposal, processing or collection
27 with any regional association or municipality in force upon the
31 effective date of this chapter or prior to the adoption of the
33 state plan.

35 2. Renewals. No renewal of any existing contract upon the
37 expiration or termination of the original term of the contract,
39 and no new contract for municipal waste disposal, processing or
41 collection may be entered into after the effective date of this
43 chapter, if the renewal or new contract fails to conform to the
45 applicable provisions of this chapter or interferes with the
47 implementation of the state plan.

49 SUBCHAPTER VII

51 FINANCE, FEES AND CONTRACTS

53 Article 1. Fees and Contracts

55 §2191. Fees

57 The agency shall establish reasonable fees for waste
59 disposal services provided by the agency.

61 §2192. Purposes of the fees

63 The fees charged to users of agency-owned facilities and
65 established by the agency under this article, by rule, shall
67 provide revenue for the following purposes:

69 1. Current expenses. To pay the current expenses, either
71 incurred directly or through contractual agreements with another
73 party or parties, for operating and maintaining a facility or
75 delivering a service and to provide for normal maintenance and
77 replacement of equipment. Current expenses also include costs
79 incurred under subchapter V;

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2. Interest. To provide for the payment of interest on the indebtedness created or assumed by the agency;

3
4
5 3. Indebtedness. To provide an annual sum equal to not less than 2% nor more than 10% of the term indebtedness represented by the issuance of bonds created or assumed by the
6 agency, which sum shall be turned into a sinking fund and there maintained to provide for the extinguishment of term
7 indebtedness. The money set aside in this sinking fund shall be devoted to the retirement of the term obligations of the agency
8 and may be invested in such securities as savings banks in the State are allowed to hold;

9
10
11 4. Principal payments. To provide for annual principal payments on serial indebtedness created or assumed by the agency;

12
13
14 5. Contingency reserve fund allowance. To provide for a contingency reserve fund allowance by providing rates to reflect
15 up to a 5% addition to yearly revenues over that required to operate the facility;

16
17
18 6. Closing reserve fund. To provide for a closing and monitoring reserve fund by providing rates which, over the
19 expected life span of the facility including the post-closure monitoring period, will generate the amount determined to be
20 necessary by the department in its licensing process under chapter 13; and

21
22
23 7. Compliance costs. To provide for the costs associated with licensing, compliance and enforcement efforts of the
24 department.

25
26
27 §2193. Host municipality fees

28
29
30 The agency may set fees under this article for the host municipality at a level lower than the fees charged to other
31 municipalities or users, provided that such lower fees are set in a manner consistent with the rules promulgated by the agency.

32
33
34 Article 2. Maine Solid Waste Management Fund

35
36
37 §2201. Maine Solid Waste Management Fund established

38
39
40 The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to
41 support programs administered by the Maine Waste Management Agency and the Department of Environmental Protection. The fund
42 shall be segregated into 2 accounts. The first account, which shall be called the operations account, shall receive all fees
43 established and received under article 1 and shall be used solely for the development and operation of publicly owned facilities
44 owned or approved by the agency and for the repayment of any

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1 obligations of the agency incurred under article 3. The 2nd
3 account, which shall be called the administrative account, shall
5 receive all fees established under this article and under Title
7 36, chapter 719. All administrative expenses directly related to
9 the agency's and the department's programs shall be charged to
11 this account.

13 Money in the fund not currently needed to meet the
15 obligations of the agency shall be deposited with the Treasurer
17 of State to the credit of the fund and may be invested as
19 provided by law. Interest on these investments shall be credited
21 to the fund.

23 Money in the administrative account may only be expended in
25 accordance with allocations approved by the Legislature. These
27 allocations shall be based on estimates of the actual costs
29 necessary for the agency and the department to administer their
31 programs, to provide financial assistance to regional
33 associations and to provide other financial assistance necessary
35 to accomplish the purposes of this chapter. Beginning in the
37 fiscal year ending on June 30, 1991 and thereafter, the fund
39 shall annually transfer to the General Fund an amount necessary
41 to reimburse the costs of the Bureau of Taxation incurred in the
43 administration of Title 36, section 5219-C and Title 36, chapter
45 719 and an amount equal to the General Fund revenues lost as the
47 result of Title 36, section 5219-C. Allowable expenditures
49 include "Personal Services," "All Other" and "Capital
51 Expenditures" associated with all agency activities other than
those included in the operations account.

§2202. Fees

1. Fees established. The agency shall establish procedures
to charge fees specified in this article and pursuant to the
requirements of this article. All fees collected by the agency
shall be deposited into the Maine Solid Waste Management Fund.

2. Application. Fees established under this article become
effective upon the effective date of this chapter, with the first
payment due on January 20, 1990.

§2203. Fee on special waste

There are imposed fees in the following amounts to be levied
for special waste that is disposed of at commercial, municipal,
regional association or agency landfills.

<u>Asbestos</u>	<u>\$6 per cubic</u> <u>yard</u>
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<u>Oil spill debris</u>	<u>\$6 per ton</u>
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1	<u>Waste water facility sludge</u>	<u>\$2 per ton</u>
3	<u>Ash, coal and oil</u>	<u>\$6 per ton</u>
5	<u>Paper mill sludge</u>	<u>\$6 per ton</u>
7	<u>Industrial waste</u>	<u>\$6 per ton</u>
9	<u>Sandblast grit</u>	<u>\$6 per ton</u>
11	<u>Miscellaneous special waste</u>	<u>\$6 per ton</u>
13	<u>Municipal solid waste ash</u>	<u>\$2 per ton</u>

15 §2204. Municipal disposal surcharge

17 The agency shall impose a disposal surcharge of \$4 per ton
 19 on any municipal solid waste delivered to a commercial landfill
 21 facility or solid waste landfill owned by the agency of a
 23 regional association. The agency shall impose an additional
 25 \$1.50 per ton on any solid waste delivered to a commercial solid
waste disposal facility or solid waste disposal facility owned by
the agency or a regional association from a municipality that
does not meet the requirements of section 2133, subsection 5,
paragraph B.

27 §2205. Fee payments

29 Each operator of a solid waste disposal facility shall make
 31 the fee payment quarterly. The fee shall be paid to the agency
 33 on or before the 20th day of April, July, October and January for
the 3 months ending the last day of March, June, September and
December.

35 1. Quarterly reports. Each fee payment shall be
 37 accompanied by a form prepared and furnished by the agency and
 39 completed by the operator. The form shall state the total weight
or volume of solid waste disposed of at the facility during the
 41 payment period and provide any other aggregate information deemed
necessary by the agency to carry out the purposes of this
chapter. The form shall be signed by the operator.

43 2. Timeliness of payment. The operator shall be deemed to
 45 have made a timely payment of the fee if the operator complies
with all of the following:

47 A. The enclosed payment is for the full amount owed
 49 pursuant to this section and no further agency action is
required for collection;

51 B. The payment is accompanied by the required form and the
form is complete and accurate; and

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1
3 C. The letter transmitting the payment that is received by
5 the agency is postmarked by the United States Postal Service
on or prior to the final day on which the payment is to be
received.

7 3. Discount. Any operator that makes a timely payment of
9 the fee as provided in this section shall be entitled to apply
against the fee payable a discount of 1% of the amount of the fee
collected.

11
13 4. Refunds. Any operator who believes the fee was overpaid
15 by the operator may file a petition for refund to the agency. If
the agency determines that the operator has overpaid the fee, the
agency shall refund to the operator the amount due the operator,
together with interest at a rate established by the agency.

17
19 5. Alternative proof of payment. For purposes of this
21 section, presentation of a receipt indicating that the payment
was mailed by registered or certified mail on or before the due
date shall be evidence of timely payment.

23 6. Interest. If an operator fails to make a timely payment
25 of the fee, the operator shall pay interest on the unpaid amount
due at the rate established by the agency, from the last day for
timely payment to the date paid.

27
29 7. Additional penalty. In addition to the interest
31 provided in subsection 6, if an operator fails to make timely
payment of the fee, 5% of the amount of the fee shall be added to
the amount actually due if the failure to file a timely payment
is for not more than one month, with an additional 5% for each
additional month, or fraction of a month, during which the
failure continues, not exceeding 25% in the aggregate.

35
37 8. Assessment notice. If the agency determines that any
39 operator has not made a timely payment of the fee, the agency
will send the operator a written notice of the amount of the
deficiency, within 30 days of determining the deficiency. When
the operator has not provided a complete and accurate statement
of the weight or volume of waste received at the facility for the
payment period, the agency may estimate the weight or volume in
the notice.

45 The operator charged with the deficiency shall have 30 days to
47 pay the deficiency in full or, if the operator wishes to contest
the deficiency, forward the amount of the deficiency to the
agency for placement in an escrow account with the Treasurer of
State or any bank in the State, or post an appeal bond in the
amount of the deficiency. The bond shall be executed by a surety
licensed to do business in the State and be satisfactory to the
agency. Failure to forward the money or appeal bond to the

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1 agency within 30 days shall result in a waiver of all legal
2 rights to contest the deficiency.

3
4 If, through the administrative or judicial review of the
5 deficiency, it is determined that the amount of deficiency shall
6 be reduced, the agency shall within 30 days remit the appropriate
7 amount to the operator, with any interest accumulated by the
8 escrow deposit.

9
10 The amount determined after administrative hearing or after
11 waiver of administrative hearing shall be payable to the agency
12 and shall be collectible.

13
14 If any amount due under this subsection remains unpaid 30 days
15 after receipt of notice of the deficiency, the agency may order
16 the operator of the facility to cease receiving any solid waste
17 until the amount of the deficiency is completely paid.

18
19 9. Filing of appeals. Notwithstanding any other provision
20 of law, all appeals of final agency actions concerning the fee
21 shall be filed with the agency pursuant to section 2206.

22 §2206. Hearings and appeals

23
24 The agency shall establish rules governing procedures for
25 hearings and appeals under this article consistent with Title 5,
26 chapter 375.

27
28 Article 3. Revenue obligation securities and mortgage loans

29
30 §2211. Definitions

31
32 As used in this article, unless the context otherwise
33 indicates, the following terms have the following meanings.

34
35 1. Bond. "Bond" means revenue obligation security.

36
37 2. Cost of project. "Cost of project" means the cost or
38 value of land, buildings, real estate improvements, labor,
39 materials, machinery and equipment, property rights, easements,
40 franchises, financing charges, interest, engineering and legal
41 services, plans, specifications, surveys, cost estimates, studies
42 and other expenses as may be necessary or incidental to the
43 development, construction, acquisition, financing and placing in
44 operation of an eligible project. In addition to these costs,
45 reserves for payment of future debt on any revenue obligation
46 securities may be included as part of the cost of the project.

47
48 Any obligation or expenses incurred by the State, the agency, a
49 regional association, a municipality or any private person in
50 connection with any of the items of cost specified in this
51 subsection related to revenue obligation securities may be

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1 included as part of the cost and reimbursed to the State, the
3 agency, regional association, municipality or person out of the
5 proceeds of the securities issued.

7
9 3. Eligible collateral. "Eligible collateral" means an
11 eligible project.

13
15 4. Eligible project. "Eligible project" means any waste
17 facility or the capital costs of any waste disposal service
19 including, but not limited to, real property, personal property,
21 machinery and equipment and related expenses.

23
25 5. Facility. "Facility" means an eligible project or
27 eligible collateral.

29
31 6. Financial document. "Financial document" means a lease,
33 installment sale agreement, conditional sale agreement, note,
35 mortgage, loan agreement or other instrument pertaining to an
37 extension of financial assistance.

39
41 7. Financing assistance. "Financing assistance" or
43 "financial assistance" means guarantees, leases, insurance,
45 financing credits, loans or the purchase or discounts thereof,
47 letters of credit, financing assistance payments, grants or other
49 financial aid.

51
53 8. Financing institution. "Financing institution" or
55 "financial institution" means any bank, trust company, national
57 banking association, savings bank, savings and loan association,
59 federal savings and loan association, industrial bank, mortgage
61 company, insurance company, credit union, local development
63 corporation or any other institution or entity authorized to do
65 business in this State, or any state or federal agency that
67 customarily provides financing assistance.

69
71 9. Lease. "Lease" means a contract providing for the use
73 of a project or portions of a project for a term of years for a
75 designated or determinable rent. A lease may include an
77 installment sale contract. A lease may include other terms as
79 the agency may permit or require.

81
83 10. Lessee. "Lessee" means a tenant under a lease and may
85 include an installment purchaser.

87
89 11. Loan. "Loan" or "mortgage loan" means an extension of
91 credit made in consideration of a written promise of repayment or
93 any other conditions which may be established by the agency,
95 performance of which may be secured by a mortgage.

97
99 12. Maturity date. "Maturity date" means the date on which
101 final payment is due as provided in a note, revenue obligation
103 security or other financial document.

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1
3 13. Mortgage. "Mortgage" means an agreement granting a
5 lien on, or a security interest in, eligible collateral with
7 certain conditions and includes, but is not limited to, a
9 mortgage of real estate, an assignment of rents, a pledge or a
11 security agreement.

13
15 14. Mortgagee. "Mortgagee" means a grantee or obligee
17 under, or a transferee or successor of a grantee or obligee
19 under, a mortgage.

21
23 15. Mortgage payments. "Mortgage payments" means payments
25 required by or received on account of a mortgage or any other
27 financial document, including, but not limited to, payments
29 covering interest, installments of principal, taxes, assessments,
31 loan insurance premiums and hazard insurance premiums.

33
35 16. Mortgagor. "Mortgagor" means the grantor or party
37 giving rights to eligible collateral pursuant to a mortgage and
39 includes the successors or assigns of a mortgagor.

41
43 17. Note. "Note" means an evidence of indebtedness and
45 includes a revenue obligation security.

47
49 18. Rent or rental. "Rent or rental" means payments under
51 a lease.

19. Revenue obligation security. "Revenue obligation
security" or "security" means a note, bond, interim certificate,
debenture or other evidence of indebtedness, payment of which is
secured by a pledge of revenues, as provided in this article or
by assignment or pledge of other eligible collateral.

§2212. General powers

The agency may, in addition to its other powers and in
furtherance of the purposes of this chapter, assist itself or
applicants, who shall be limited to municipalities and regional
associations, in the financing of eligible projects by issuing
revenue obligation securities; by issuing or providing securities
for mortgage loans; drafting financial documents, trust
agreements and other contracts; and arranging the financing and
negotiating for the sale of the securities. The agency may
contract with the Finance Authority of Maine to administer the
provisions of this article.

The agency may also:

1. Kinds of projects. Acquire, construct, reconstruct,
maintain, renew, replace or provide financing assistance for
eligible waste facilities, waste disposal services or recycling
projects:

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2. Securities for projects. Issue revenue obligation securities to pay the cost of or to provide financial assistance for acquisition, construction, reconstruction, renewal or replacement of eligible projects. Any single issue of securities may provide for the cost of, or for financial assistance for, acquisition, construction, reconstruction, renewal or replacement of any one or more eligible projects which may be separate, unconnected and distinct. Any issue, the proceeds of any issue, or any revenue obligation securities shall, except as specifically authorized by the Legislature, meet the requirements of the Internal Revenue Code of 1986, as amended, relating to exempt facility bonds;

3. Acquire securities. Issue revenue obligation securities to acquire one or more issues of revenue obligation securities issued by municipalities or to acquire any other bond not eligible for purchase pursuant to Title 30-A, chapter 225. Any single issue of securities may provide funds for the acquisition of revenue obligation securities of one or more municipalities or of bonds for one or more eligible projects which may be separate, unconnected and distinct;

4. Refunding securities. Issue revenue refunding obligation securities as provided to refund any outstanding revenue obligation securities issued under this article;

5. Serve as broker or agent. Serve as a broker, agent or other financial intermediary for the secondary marketing of obligations issued or incurred in connection with the financing of eligible projects and for the encouragement of the flow of private funds for capital investment;

6. Facilities. Plan, carry out, acquire, lease and operate facilities and provide for the construction, reconstruction, improvement, alteration or repair of any facility or any part of a facility;

7. Acquisition and disposal of property. Acquire or enable a user to acquire, upon reasonable terms from funds provided under this article, the lands, structures, property, rights, rights-of-way, franchises, easements and other interests in lands, including lands under water and riparian rights, which are located within the State and considered necessary or convenient for the construction or operation of any eligible waste project, and dispose of them;

8. Contracts. Make and enter into all financial documents and other contracts and trust agreements securing revenue obligation securities issued under this article, provided all expenses are payable solely from funds made available under this article;

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1
3 9. Consent to modification of contracts, lease or
5 agreement. To the extent not forbidden under its contract with
7 the holders of bonds, consent to any modification of any
9 contract, lease or agreement of any kind to which the agency is a
11 party;

13 10. Employment of specialists. Employ consulting and other
15 engineers, attorneys, accountants, construction and financial
17 experts, superintendents, managers and other necessary employees
19 and agents and fix their compensation, provided all expenses are
21 payable solely from funds made available under this subchapter;

23 11. Government contracts. Enter into contracts with
25 regional associations, municipalities, the State or a federal
27 agency relating to any eligible solid waste project;

29 12. Government aid. Accept loans or grants for the
31 planning, construction or acquisition of any eligible solid waste
33 project from a municipality, an authorized agency of the State or
35 a federal agency and enter into agreements with the agency
37 respecting the loans or grants. In the case of all loans, grants
39 or other aid involving pollution-control facilities, the consent
41 of the Board of Environmental Protection must first be obtained,
43 notwithstanding section 362;

45 13. Private aid. Receive and accept aid and contributions
47 from any source of money, property, labor or other things of
49 value, to be held, used and applied only for the purposes for
51 which these loans, grants and contributions may be made;

14. Applicability. Provide financial assistance by means
of leases that are not subject to Title 14, section 6010. Leases
made under this section may provide that obligations of the
lessees are unconditional; and

15. Application. Provide financial assistance by means of
revenue obligation securities which are not subject to Title 32,
chapter 105, relating to dealers in securities.

§2213. Issuance of revenue obligation securities

1. Notice of intent to issue bonds; actions to contest
validity. The agency may provide, at one time or from time to
time, for the issuance of revenue obligation securities of the
agency for the purposes authorized in this chapter. No revenue
obligation securities of the agency may be issued until:

A. The project has been determined to be consistent with
the state plan pursuant to section 2157 and the necessary
permits have been obtained from the department;

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1 B. A notice of the intent of the agency to issue the
3 securities is published at least once in a newspaper of
5 general circulation in the region in which the project is to
7 be located:

9 (1) No later than 14 days after the date on which the
11 certification is issued;

13 (2) Describing the general purpose or purposes for
15 which the securities are to be issued;

17 (3) Stating the maximum principal amount of the
19 proposed securities; and

21 (4) Including a statement as to the time within which
23 any petition to contest the issuance of the securities
25 must be commenced.

27 Any action or proceeding in any court to contest the issuance of
29 the securities must be started within 30 days after the date of
31 the publication required by paragraph B and otherwise shall be
33 governed by Title 5, chapter 375, subchapter VII. For the
35 purposes of this subchapter and the Maine Administrative
37 Procedure Act, Title 5, chapter 375, the later date of newspaper
39 publication required by paragraph B shall constitute the final
41 agency action with respect to the issuance of the securities.
43 After the expiration of the 30-day period of limitation, no right
45 of action or defense founded upon the invalidity of the issuance
47 of the securities may be opened to question in any court upon any
49 grounds.

51 2. Treasurer of State as agent. The Treasurer of State
53 shall, at the direction of the agency, act as the agency's agent
55 for the sale and delivery of revenue obligation securities and
57 anticipatory notes. The Treasurer of State shall assist the
59 agency in the preparation, issuance, negotiation and sale of the
61 securities and notes and provide reasonable advice and management
63 assistance. The agency may employ further counsel or assistants
65 or act in its own behalf, provided that the sale and delivery of
67 revenue obligation securities and anticipatory notes shall be
69 carried out at the agency's direction with and through the
71 Treasurer of State.

73 3. Conclusive authorization. All revenue obligation
75 securities of the agency shall be conclusively presumed to be
77 fully authorized and issued under the laws of the State, and any
79 person or governmental unit shall be estopped from questioning
81 their authorization, sale, issuance, execution or delivery by the
83 agency.

85 4. Maturity; interest. The securities of each issue of
87 revenue obligation securities shall be dated, mature at a time or

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1 times not exceeding 20 years from the date of the securities and
3 bear interest at a rate or rates determined by the agency. At
5 the option of the agency, the securities may be made redeemable
7 before maturity at a price or prices and under terms and
9 conditions fixed prior to issuance.

11 5. Form. The agency shall determine the form of the
13 securities, including any attached interest coupons, the manner
15 of execution of the securities, the denomination or denominations
17 of the securities and the place or places for payment of
19 principal and interest, which may be at any financial institution
21 within or without the State. Revenue obligation securities shall
23 be executed in the name of the agency by the manual or facsimile
25 signature of the authorized official or officials. Any attached
27 coupons shall be executed with the manual or facsimile signature
29 of the authorized official or officials. Signatures and
31 facsimiles of signatures on securities and coupons are valid for
33 all purposes even if the authorized official ceases to hold
35 office before delivery of the securities. The securities may be
37 issued in coupon or registered form or both as the agency may
39 determine. Provision may be made for the registration of any
41 coupon securities to principal alone and to both principal and
43 interest, and for the reconversion into coupon securities of any
45 securities registered to both principal and interest. In
47 addition to this subsection, the agency may provide for transfer
49 of registration of the agency's registered revenue obligation
51 securities by book entry on the records of the entity designated
for that purpose and may enter into such contractual arrangements
as may be necessary to accomplish these purposes. In the event a
book entry method of transfer is used, principal of and interest
on those registered securities shall be payable to the registered
owner shown in the book entry, the owner's legal representatives,
successors or transferees.

35 6. Sale. The agency may sell the securities at a public or
37 private sale, in a manner and at a price the agency determines to
39 be in the best interest of the agency. The agency shall not sell
41 the securities to any firm, partnership, corporation or
43 association, including an affiliate or subsidiary, which is a
45 party to any contract pertaining to the financed project or which
47 is to rent, purchase, lease or otherwise occupy premises
49 constituting part of the project. The agency may sell the
51 securities to a seller of the project if the project is to be
used and operated by a 3rd party.

47 7. Proceeds. The proceeds of each issue shall be used
49 solely for the authorized purposes and shall be disbursed as
51 provided in the securing trust agreement or other document.
Administration costs incurred by the agency under this program
may be drawn from those proceeds. If the proceeds are less than
the cost of the project, by error in the estimate or otherwise,
additional securities may be issued in a like manner to provide

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1 the amount of the deficit and, unless otherwise provided in the
3 securing trust agreement or other document, the additional
5 securities are deemed to be of the same issue and shall be
7 entitled to payment from the same fund without preference or
9 priority of the securities first issued for the same purpose.
11 The agency may place limits or restrictions on the issuance of
13 additional revenue obligation securities through the securing
15 trust agreement or other document. The agency may provide for
17 the replacement of mutilated, destroyed or lost securities.
19 Revenue obligation securities may be issued under this subchapter
without obtaining the consent of any department, division,
commission, board, bureau or agency of the State and without any
other proceedings or the occurrence of any conditions or things
other than those proceedings, conditions or things which are
specifically required by this subchapter. Notwithstanding any of
the other provisions of this subchapter, or of any recitals in
any securities issued under this subchapter, all such securities
are deemed to be negotiable instruments issued under the laws of
this State.

21 8. Credit not pledged. Except as provided in this
23 subsection, securities issued under this subchapter shall not
25 constitute any debt or liability of the State or of any
27 municipality in the State or any political subdivision of the
29 State, or of the agency or a pledge of the faith and credit of
31 the State or of any such municipality or political subdivision,
33 but shall be payable solely from the revenues of the project or
35 projects for which the securities are issued or from other
eligible collateral or the revenues or proceeds of other eligible
collateral pledged to the payment of the revenue obligation
securities and all such securities shall contain on the
securities' face a statement to that effect. The issuance of
securities under this subchapter shall not directly or indirectly
or contingently obligate the State or any municipality or
political subdivision to levy or to pledge any form of taxation
whatever or to make any appropriation for payment.

37
39 9. Anticipatory borrowing. In anticipation of the sale of
41 securities under this article, the agency may issue temporary
43 notes and renewal notes, the total face amount of which does not
45 exceed at any one time outstanding the authorized amount of the
securities. The period of anticipatory borrowing shall not
exceed 3 years and the time within which the securities are to
become due shall not be extended by the anticipatory borrowing
beyond the term permitted by law.

47 10. Environmental protection. Revenue obligation
49 securities of the agency shall not be issued for a project until
the department has certified to the agency that all licenses
required by the department with respect to the project have been
51 issued or that none are required. Any subsequent enlargement or

1 addition to the project for which approval is sought from the
2 agency requires certification by the department.

3 §2214. Trust agreements or other documents

4
5 1. Trust agreements or other documents. At the discretion
6 of the agency, revenue obligation securities may be issued under
7 this subchapter pursuant to a trust agreement or other document.
8 The trust agreement or other document may:

9
10
11 A. Pledge or assign the revenues or proceeds of the project
12 or projects or other eligible collateral;

13
14 B. Set forth the rights and remedies of the security
15 holders and other persons and contain any reasonable and
16 legal provisions for protecting the rights and remedies of
17 the security holders;

18
19 C. Restrict the individual right of action by security
20 holders; and

21
22 D. Include covenants setting forth the duties of the agency
23 and user in relation to:

24
25 (1) Acquisition of property or eligible collateral;

26
27 (2) Construction, reconstruction, renewal, replacement
28 and insurance of the project or eligible collateral;

29
30 (3) Rents to be charged or other payments to be made
31 for use;

32
33 (4) Payment for the project or eligible collateral; and

34
35 (5) Custody, safeguarding and application of all money.

36
37 Any financial institution may furnish indemnifying bonds or
38 pledge the securities as may be required by the agency.

39
40 2. Mortgages. To further secure the payment of the revenue
41 obligation securities, the trust agreement or other document may
42 mortgage or assign the mortgage of the project, or any part of
43 the project, and create a lien on or security interest in any or
44 all of the project. In the event of a default with respect to
45 the revenue obligation securities, the trustee, mortgagee or
46 other person may be authorized by the trust agreement or other
47 document containing a mortgage or assignment of a mortgage to
48 take possession of, hold, manage and operate all or any part of
49 the mortgaged property and, with or without taking possession, to
50 sell or from time to time lease the property in accordance with
51 law. Any security interest granted by the authority under this
chapter may be created and perfected in accordance with the

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1 Uniform Commercial Code, Title 11, Article 9, notwithstanding
3 Title 11, section 9-104, subsection 5.

5 3. Additional provisions. Any trust agreement or other
7 document may contain provisions which shall be a part of the
9 contract with holders of revenue obligation securities as to:

11 A. Pledging any specified revenues or assets of the agency
13 to secure the payment of the securities, subject to
15 agreements with existing holders of securities;

17 B. Pledging all or any part of the unencumbered revenues or
19 assets of the agency to secure the payment of securities,
21 subject to agreements with existing holders of securities;

23 C. Setting aside, regulating and disposing of reserves or
25 sinking funds;

27 D. Limitations on the purpose to which the proceeds of sale
29 of securities may be applied and the pledge of the proceeds
31 to secure the payment of the securities or of any issue of
33 securities;

35 E. Limitations on the issuance of additional securities;

37 F. The terms on which additional securities may be issued
39 and secured and the refunding of outstanding or other
41 securities;

43 G. The procedure, if any, by which the terms of any
45 contract with holders of securities may be amended or
47 abrogated, including the proportion of the holders which
49 must consent and the manner in which the consent may be
51 given;

H. Limitations on the amount of money to be expended by the
agency for operating expenses of the agency;

I. Vesting in a trustee or trustees such property, rights,
powers and duties in trust as the agency may determine,
which may include any or all of the rights, powers and
duties of the trustee appointed by the holders of the
securities under this subchapter, and limiting or abrogating
the right of the holders of the securities to appoint a
trustee under this chapter or limiting the rights, powers
and duties of the trustee;

J. Defining the acts or omissions to act which will
constitute a default in the obligations and duties of the
agency to the holders of the securities and providing for
the rights and remedies of the holders of the securities in
the event of default, including, as a matter of right, the

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1 appointment of a receiver, but only if the rights and
3 remedies are not inconsistent with the laws of the State and
other provisions of this subchapter; and

5 K. Any other matters, of like or different character, which
7 in any way affect the security or protection of the holders
of the securities.

9 4. Expenses; pledges. All expenses incurred in carrying
11 out a trust agreement or financial document may be treated as a
13 part of the cost of the operation of the project. All pledges of
15 revenue or eligible collateral under this subchapter shall be
17 valid and binding from the time when the pledge is made. All the
19 revenues or eligible collateral pledged and later received by the
21 agency shall immediately be subject to the lien of the pledges
without any physical delivery or further action under the Uniform
Commercial Code or otherwise. The lien of the pledges shall be
valid and binding against all parties having claims of any kind
in tort, contract or otherwise, against the agency, irrespective
of whether the parties have notice thereof.

23 5. Other provisions. A trust agreement or financial
25 document may contain other provisions the agency deems reasonable
and proper for the security of the security holders.

27 §2215. Rentals and revenues

29 1. Provisions. Before issuing revenue obligation
31 securities, the agency shall determine that there shall at all
times be revenues and funds sufficient to:

33 A. Pay the principal and interest of the securities as they
35 become due and payable and, in its discretion, to create and
maintain reserves for that purpose; and

37 B. Pay the cost of maintaining and, where applicable,
39 repairing the project unless provision is made in the
financial document or other contract for maintenance and,
where applicable, repair.

41 2. Sinking fund. All project rentals and other revenues,
43 except those required in subsection 1, paragraph B or to provide
45 reserves for maintenance and, where applicable, repair, may be
47 set aside at regular intervals as provided in the trust agreement
49 or other document and deposited to the credit of a sinking fund
charged with payment of the interest and principal of the
securities as they fall due, any necessary charges of paying
agents for paying principal and interest and the redemption price
or the purchase price of securities retired by call or purchase.
Use of money deposited to the credit of the sinking fund shall be
51 subject to regulations prescribed in the trust agreement or other
document. Except as may otherwise be provided in the trust

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1 agreement or other document, the sinking fund shall be a fund for
2 the benefit of all securities issued for the project or projects
3 without distinction or priority of one over another.

5 3. Trust funds. All money received under this subchapter
6 shall be deemed trust funds, to be held and applied solely as
7 provided in this subchapter. Any officer to whom, or any bank,
8 trust company or other fiscal agency or trustee to which, the
9 money shall be paid shall act as trustees of the money and shall
10 hold and apply it for the purposes of this subchapter, subject to
11 the requirements of this subchapter, the trust agreement or other
12 applicable document.

13 §2216. Remedies

15 Any holder of revenue obligation securities or coupons
16 issued under this subchapter and the trustee under any trust
17 agreement, except as restricted by the trust agreement or
18 applicable document, may, by appropriate legal action, protect
19 and enforce any and all rights under the laws of this State or
20 granted under this subchapter, the trust agreement or other
21 document, including the appointment of a receiver, and may
22 enforce and compel the performance of all duties required by this
23 subchapter, the trust agreement or other document to be performed
24 by the agency, including the collecting of rates, fees and
25 charges for the use of the project. Any proceeding shall be
26 brought for the benefit of all holders of the securities and any
27 coupons.

29 §2217. Revenue refunding securities

31 The agency may provide for the issuance of revenue refunding
32 securities of the agency to refund any outstanding revenue
33 securities issued under this subchapter or to refund any
34 obligations or securities of any municipality, including the
35 payment of any redemption premiums and any interest accrued or to
36 accrue to the date of redemption, and, if deemed advisable for
37 the agency, to construct or enable the construction of
38 improvements, extensions, enlargements or additions of the
39 original project. The agency may provide for the issuance of
40 revenue obligation securities of the agency for the combined
41 purpose of refunding any outstanding revenue obligation
42 securities or revenue refunding securities issued under this
43 subchapter or to refund any obligations or securities of any
44 municipality, including the payment of redemption premiums and
45 interest accrued or to accrue and paying all or any part of the
46 cost of acquiring or constructing or enabling the acquisition or
47 construction of any additional project or part of any
48 improvements, extensions, enlargements or additions of any
49 project. The issuance of the securities, the maturities and
50 other details, the rights and remedies of the holders and the
51 rights, powers, privileges, duties and obligations of the agency

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1 shall be governed by the provisions of this subchapter insofar as
2 they are applicable.

3
4 §2218. Tax exemption

5
6 Revenue obligation securities issued under this article
7 shall constitute a proper public purpose and the securities,
8 their transfer and the income from them, including any profits
9 made on their sale, shall at all times be exempt from taxation
10 within the State, whether or not those securities, their transfer
11 or the income from them, including any profits on their sale, are
12 subject to taxation under the United States Internal Revenue Code.

13
14 §2219. Leasehold or other interests of lessee taxable

15
16 The interest of the user of any project is subject to
17 taxation in the manner provided for similar interests in Title
18 36, section 551, subject to Title 36, sections 655 and 656.

19
20 §2220. Bonds as legal investments

21
22 The revenue obligation securities of the agency and any loan
23 or extension of credit issued under this article shall be legal
24 investments in which all public officers and public bodies of the
25 State, its political subdivisions, all regional associations and
26 municipalities and municipal subdivisions, all insurance
27 companies and associations and other persons carrying on an
28 insurance business, all banks, bankers, banking associations,
29 trust companies, savings banks and savings associations,
30 including savings and loan associations, building and loan
31 associations, investment companies and other persons carrying on
32 a banking business, all administrators, guardians, executors,
33 trustees and other fiduciaries and all other persons who are now
34 or may later be authorized to invest bonds or other obligations
35 of the State, may properly and legally invest funds, including
36 capital, in their control or belonging to them. The revenue
37 obligation securities and any loan or extension of credit which
38 is issued under this subchapter are also made securities, which
39 may properly and legally be deposited with all public officers
40 and bodies of the State or any agency or political subdivisions
41 and all municipalities and public corporations for any purpose
42 for which the deposit of bonds or other obligations of the State
43 is now or may later be authorized by law.

44
45 §2221. Capital reserve funds; obligation of State

46
47 1. Capital reserve fund. The agency may create and
48 establish one or more capital reserve funds and may pay into any
49 such capital reserve fund any money appropriated and made
50 available by the State for the purposes of any such fund, any
51 proceeds of sale by the agency of revenue obligation securities
to the extent determined by the agency and any other money

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1 available to the agency. For purposes of this section, the
2 amount of any letter of credit, insurance contract, surety bond,
3 indemnification agreement or similar financial undertaking
4 available to be drawn on and applied to obligations to which
5 money in any such fund may be applied shall be deemed to be and
6 counted as money in the capital reserve fund.

7
8 2. Application. Money in any capital reserve fund created
9 pursuant to subsection 1, except as provided in this section,
10 shall be used solely with respect to revenue obligation
11 securities or mortgage loans, repayment of which is secured by
12 any such fund and solely for the payment of principal, accrued
13 interest and costs and expenses chargeable to the mortgage loan
14 or securities, the purchase or redemption of the securities,
15 including any fees or premiums or the payment of interest on the
16 securities. Money in excess of the reserve requirement set forth
17 in subsection 3 may be transferred to other funds and accounts of
18 the agency.

19
20 3. Reserve requirement. The agency may provide that money
21 in any such fund shall not be withdrawn at any time in an amount
22 which would reduce the amount of any such fund to less than the
23 maximum amount of principal and interest becoming due and payable
24 under any applicable trust agreement or other agreement in the
25 next succeeding 12-month period, the amount being referred to as
26 the capital reserve requirement, except for the purpose of paying
27 the amount due and payable with respect to revenue obligation
28 securities or mortgage loans, repayment of which is secured by
29 any such fund.

30
31 4. Issuance limit. The agency may provide that it shall
32 not issue revenue obligation securities if the capital reserve
33 requirement with respect to securities outstanding and then to be
34 issued and secured by any such fund will exceed the amount of any
35 such fund, including the amount available to be drawn on any
36 letter of credit given to secure the capital reserve requirement,
37 at the time of issuance, unless the agency, at the time of
38 issuance of the securities, shall deposit in any such fund from
39 proceeds of the securities to be issued, or from other sources,
40 an amount which, together with the amounts then in any such fund
41 and amounts available to be drawn under any letter of credit,
42 will not be less than the capital reserve requirement.

43
44 5. Security for mortgage loans. With respect to any
45 mortgage loans which may be secured under this article, the
46 agency may provide that such mortgage loans shall be secured by
47 one or more capital reserve funds established pursuant to
48 subsection 1. Any commitment with respect to a mortgage loan
49 executed and delivered pursuant to this section shall be
50 conclusive evidence of the eligibility of the mortgage loan for
51 capital reserve fund security and the validity of any such
52 commitment or contract shall be incontestable in the hands of a

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1 mortgage lender except for fraud or misrepresentation on the part
2 of the mortgage lender. Mortgages secured by capital reserve
3 funds under this section are made legal investments for all
4 insurance companies, trust companies, banks, investment
5 companies, savings banks, savings and loan associations,
6 executors, trustees and other fiduciaries, public and private
7 pension or retirement funds and other persons.

9 6. Appropriation. On or before December 1st, annually, the
10 agency shall certify to the Governor the amount, if any,
11 necessary to restore the amount in any capital reserve fund, to
12 which this subsection is stated in any written agreement, the
13 trust agreement or other document to apply, to the capital
14 reserve requirement. The Governor shall pay directly from the
15 State Contingent Account to any such fund as much of the amount
16 as is available in that account, as determined by the Governor,
17 and shall transmit directly to the Legislature certification and
18 a statement of the amount, if any, remaining to be paid. The
19 certified amount shall be appropriated and paid to the agency
20 during the current state fiscal year.

21 7. Obligations and securities outstanding. The agency
22 shall not have at any one time outstanding obligations or revenue
23 obligation securities to which subsection 6 is stated in any
24 agreement or the trust agreement or other document to apply in
25 principal amount exceeding an amount equal to \$50,000,000. This
26 subsection constitutes specific legislative approval to issue up
27 to \$50,000,000 in tax-exempt revenue securities obligations. The
28 amount of revenue obligation securities issued to refund
29 securities previously issued shall not be taken into account in
30 determining the principal amount of securities outstanding,
31 provided that proceeds of the refunding securities are applied as
32 promptly as possible to the refunding of the previously issued
33 securities. In computing the total amount of revenue obligation
34 securities of the agency which may at any time be outstanding for
35 any purpose, the amount of the outstanding revenue obligation
36 securities that have been issued as capital appreciation bonds or
37 as similar instruments shall be valued as of any date of
38 calculation at their then current accreted value rather than
39 their face value.

40 §2222. Taxable bond option

41 With respect to all or any portion of any issue of any bonds
42 or any series of bonds which the agency may issue in accordance
43 with the limitations and restrictions of this subchapter, the
44 agency may covenant and consent that the interest on the bonds
45 shall be includable, under the United States Internal Revenue
46 Code of 1986, as amended, or any subsequent corresponding
47 internal revenue law of the United States, in the gross income of
48 the holders of the bonds to the same extent and in the same
49 manner that the interest on bills, bonds, notes or other
50 securities is included in the gross income of the holders of such
51 securities.

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1 obligations of the United States is includable in the gross
2 income of the holders under the United States Internal Revenue
3 Code or any subsequent law. The foregoing grant of power shall
4 not be construed as limiting the inherent power of the State or
5 its agencies under any other provision of law to issue debt, the
6 interest on which is includable in the gross income of the
7 holders of the interest under the United States Internal Revenue
8 Code or any subsequent law.

9
10 **Sec. 8. Transition; Office of Waste Reduction and Recycling.** The
11 provisions of this section shall govern the transfer of the
12 Office of Waste Recycling and Reduction in the Department of
13 Economic and Community Development to the Office of Waste
14 Reduction and Recycling in the Maine Waste Management Agency.

15
16 1. **Funds.** Notwithstanding the Maine Revised Statutes,
17 Title 5, sections 1585 and 1586, all accrued expenditures,
18 assets, liabilities, balances, appropriations or allocations,
19 transfers, revenues or other available funds in any account or
20 subdivision of an account, and any equipment and property of the
21 Department of Economic and Community Development, Office of Waste
22 Recycling and Reduction shall be transferred to the Maine Waste
23 Management Agency, Office of Waste Reduction and Recycling.

24 2. **Personnel.** Employees of the Office of Waste Recycling
25 and Reduction shall be transferred to the Office of Waste
26 Reduction and Recycling. Upon transfer, the position of office
27 director shall be a major policy-influencing position. Upon
28 transfer, incumbents in classified positions shall retain their
29 classified status.

30 3. **Employee benefits.** Any employees of the Office of Waste
31 Recycling and Reduction transferred to the Office of Waste
32 Reduction and Recycling shall be transferred with their accrued
33 rights and benefits. The accrued fringe benefits, including
34 vacation and sick leave, health and life insurance, and
35 retirement of those employees shall remain with those employees.

36 4. **Contracts and agreements.** All contracts and agreements
37 currently in effect with respect to any unit or program of State
38 Government affected by this Act shall remain in effect until
39 rescinded, terminated or modified as provided by state law.

40 5. **Organization and operation.** Notwithstanding any other
41 provision of law, any appointment required by this Act and
42 preparation work may be made or may occur prior to the
43 appropriate effective date of this Act, but shall not become
44 binding until the appropriate effective date.

45 6. **Financial order required.** The Commissioner of Economic
46 and Community Development shall request, by financial order
47

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through the State Budget Office, the Governor's approval of the funds, positions, equipment and property to be transferred.

Sec. 9. Transition; Waste Management Advisory Council. The existing membership of the Recycling Advisory Council appointed under the Maine Revised Statutes, Title 38, section 1310-L, as repealed in this Act, shall serve the remainder of their terms as members of the Waste Management Advisory Council created by this Act.

Sec. 10. Study on the impact of optional plastic bags. The Maine Waste Management Agency, Office of Waste Reduction and Recycling shall study any change in the relative number of plastic versus paper bags used by retail outlets as a result of the enactment of Title 38, section 1605. The office shall submit a report on their findings to the Joint Standing Committee on Natural Resources by March 1, 1991.

PART B

36 MRSA c. 719 is enacted to read:

CHAPTER 719

SOLID WASTE ADVANCE DISPOSAL FEE

§4831. Definitions

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

1. Brown good. "Brown good" means an electronic device containing printed circuit boards, capacitors, resistors or transistors that is not included in the definition of "white good" and that weighs more than 10 pounds.

2. Lead-acid battery. "Lead-acid battery" means a device designed and used for the storage of electrical energy through chemical reactions involving lead and acids.

3. Motorized vehicle. "Motorized vehicle" means any self-propelled vehicle, including motorcycles, construction and farm vehicles and other off-road vehicles, not operating exclusively on tracks.

4. Tire. "Tire" means the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the motor vehicle or trailer.

5. Trailer. "Trailer" means any vehicle without motive power that is designed to be drawn by a motorized vehicle.

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1 6. White good. "White good" means any appliance employing
3 electricity, natural gas or any liquified petroleum gas to supply
5 heat or motive power to preserve or cook food, to wash clothing,
7 dishes, kitchen utensils, glasses or other related items or to
9 cool or heat air or water.

11 §4832. Fee imposed

13 1. Imposition. A fee is imposed on the retail sale in this
15 State of new tires, new lead-acid batteries, new white goods and
17 new brown goods. The fee is in the amount of \$1 per tire or lead
19 battery and \$15 per white good or brown good whether sold
21 separately or incorporated with other tangible personal
23 property. Additionally, fees in the same amounts are imposed on
25 the storage, use or other consumption in this State of tires,
27 lead batteries, white goods and brown goods purchased new in this
29 State by the user or purchased out of State by the user unless
31 either of the fees imposed by this section has been paid.

33 2. Exemption. Transactions which, under the laws of the
35 United States, may not be subjected to taxation by this State and
37 sales for immediate removal from this State are exempt from the
39 fee imposed by subsection 1.

41 §4833. Administration

43 The fee imposed by this chapter shall be administered as
45 provided in chapter 7 and Part 3, with the fee imposed pursuant
47 to this chapter to be considered as imposed under Part 3 except
49 that exclusions, exemptions and credits provided under Part 3 and
51 any other provision inconsistent with this chapter shall not
53 apply.

55 The Maine Waste Management Agency shall by rule identify in
57 specific detail those items subject to fee under this chapter.
59 The purpose of the rule is to assist retail sellers, consumers
61 and fee administrators in understanding the application of the
63 fee to specific purchases.

65 The revenue derived from the fee imposed by this chapter
67 shall be deposited in the Maine Solid Waste Management Fund
69 established under Title 38, chapter 24, which shall reimburse the
71 General Fund for the administrative costs of the fee as certified
73 by the Bureau of Taxation.

75 §4834. Effective date

77 This chapter shall be effective for taxable purchases made
79 in this State on or after July 1, 1990 and for taxable items
81 brought into this State by the user on or after July 1, 1990.

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PART C

Sec. 1. 5 MRSA §1812, first ¶, as amended by PL 1985, c. 785, Pt. A, §72, is further amended to read:

The terms "services," "supplies," "materials" and "equipment" as used in this chapter, ~~shall be held to~~ mean any and all services, articles or things which shall be used by or furnished to the State or any department or agency thereof, and any and all printing, binding, publication of laws, journals and reports. Except as provided in chapters 141 to 155, any and all services, supplies, materials and equipment needed by one or more departments or agencies of the State Government shall be directly purchased or contracted for by the State Purchasing Agent, as may be determined from time to time by rules adopted pursuant to chapters 141 to 155, which rules the Department of Administration is authorized and empowered to make. It is the intent and purpose of this chapter that the State Purchasing Agent shall purchase collectively all services, supplies, materials and equipment for the State or any department or agency thereof in a manner that will best secure the greatest possible economy consistent with the grade or quality of the services, supplies, materials and equipment best adapted for the purposes for which they are needed. Whenever supplies and materials are available for purchase which are composed in whole or in part of recycled materials and are shown by the seller, supplier or manufacturer to be equal in quality and are competitively priced, except for paper and paper products, the State Purchasing Agent shall purchase such recycled supplies and materials. For the purposes of this section and section 1812-B, ~~recycled materials~~ "recycled materials" means materials that are composed in whole or in part of elements that are reused or reclaimed.

Sec. 2. 5 MRSA §1812-A, as enacted by PL 1987, c. 517, §1, is amended to read:

§1812 A. Report on purchase of recycled products

The State Purchasing Agent shall report on or before January 1, ~~1988~~, 1st of the First Regular Session of each Legislature to the joint standing committee of the Legislature having jurisdiction over natural resources ~~and to the same committee of the First Regular Session of each subsequent Legislature on or before January 1st~~ on the State's efforts to purchase supplies and materials composed in whole or in part of recycled materials pursuant to ~~section 1812~~. The State Purchasing Agent shall also report on any procurement policies, incentives, educational programs, promotional efforts or other activities undertaken by the Bureau of Purchases to encourage the purchase of those supplies and materials. The State Purchasing Agent shall include in the report any recommendations to increase or facilitate the purchase of those supplies and materials.

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1 Sec. 3. 5 MRSA §§1812-B to 1812-D are enacted to read: .

3 §1812-B. Purchasing of paper and paper products

5 1. Purchase of paper and paper products with recycled
7 material content. Subject to subsection 3, the State Purchasing
9 Agent shall provide that of the total dollar amount spent in each
 fiscal year on paper and paper products purchased by the State:

11 A. On or after October 1, 1989, not less than 15% shall be
13 spent on paper and paper products with recycled material
 content;

15 B. On or after October 1, 1991, not less than 30% shall be
17 spent on paper and paper products with recycled material
 content; and

19 C. On or after October 1, 1993, not less than 50% shall be
21 spent on paper and paper products with recycled material
 content.

23 2. Federal guidelines and cooperative purchases. To
25 qualify as having recycled material content, paper or paper
27 products must have recycled material content which meets or
 exceeds the standards established for that paper or paper product
29 category in Table 1 of the Guideline for Federal Procurement of
 Paper and Paper Products, 40 Code of Federal Regulations, Part
31 250. The State Purchasing Agent shall determine whether a paper
 or paper product qualifies. The State Purchasing Agent may join
 with other states in making cooperative requests for bids to
 supply paper and paper products.

33 3. Bids; price preference. A person who submits a bid for
35 a contract to supply paper or paper products shall certify the
37 percentage and nature of any recycled materials content in the
 product subject to bid. Bids offering paper or paper products
39 with recycled material content that are within 10% of the lowest
 bid that meets all other specifications may receive up to a 10%
41 price preference. Any bids to supply paper or paper products
 with recycled material content that exceed by more than 10% the
43 low bid which meets all other specifications shall not be
 considered. If no bids are received on a request for bids which
45 offer paper or paper products with recycled material content,
 the State Purchasing Agent may award the contract to a bidder
47 whose paper or paper product has substandard percentages of or no
 recycled materials content.

49 §1812-C. Use of composted materials

51 All state agencies responsible for the maintenance of public
 lands in this State shall, to the maximum extent practical and

consistent with sound environmental practices, give preference to the use of compost materials in all land maintenance activities which are to be paid for by public funds. The Department of Agriculture, Food and Rural Resources shall develop standards for fertilizers and soil conditioners made from different mixes of compostible wastes, that could be used by state agencies involved in land preparation and improvement work. These standards shall be adopted by rule by January 1, 1990.

§1812-D. Coordination of procurement information and policies

The Bureau of Purchases shall coordinate with the Department of Transportation, the Department of Agriculture, Food and Rural Resources, the Department of Environmental Protection and the Office of Waste Reduction and Recycling to develop a central data base of information including, but not limited to, procurement policies, market information, technical data and demonstration project results. This data shall be compiled annually and provided to local public agencies by the Office of Waste Reduction and Recycling.

Sec. 4. 10 MRSA §963-A, sub-§10, ¶J, as amended by PL 1987, c. 846, §2, is further amended to read:

J. Any underground oil storage facility replacement project; or

Sec. 5. 10 MRSA §963-A, sub-§10, ¶K, as enacted by PL 1987, c. 846, §3, is amended to read:

K. Any overboard discharge replacement project; or

Sec. 6. 10 MRSA §963-A, sub-§10, ¶L is enacted to read:

L. Any hazardous waste or solid waste recycling or reduction project.

Sec. 7. 10 MRSA §963-A, sub-§32, as enacted by PL 1985, c. 344, §7, is amended to read:

32. **Manufacturing enterprise.** "Manufacturing enterprise" means knowledge, skill or labor applied to giving of new shapes, new qualities or new combinations to matter as material products and includes assembling, fabricating, making, creating, working, preparing, milling, processing, recycling, manufacturing, finishing, fashioning, producing, storing, warehousing, preserving, distributing, handling or transporting in any manner goods, wares, merchandise, metals, fabrics, materials, substances, product or matter of any kind or nature including materials recovered from solid and hazardous wastes.

Sec. 8. 10 MRSA §963-A, sub-§45-A is enacted to read:

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1
2 45-A. Recycling or waste reduction project. "Recycling or
3 waste reduction project" means any building, structure,
4 machinery, equipment or facility which may be considered
5 necessary for recovery, separation, remanufacture or reuse of
6 materials contained in solid or hazardous waste or for the
7 reduced generation of solid or hazardous waste, together with all
8 land, property, rights, rights-of-way, franchises, easements and
9 interests in lands necessary or convenient for the construction
10 or operation of the project.

11
12 Sec. 9. 10 MRSA §1023-F is enacted to read:

13
14 §1023-F. Waste Reduction and Recycling Loan Fund

15
16 1. Creation. The Waste Reduction and Recycling Loan Fund,
17 referred to in this section as the "fund," is created under the
18 jurisdiction and control of the authority.

19
20 2. Sources of money. The fund shall consist of the
21 following:

22
23 A. All money appropriated or allocated for inclusion in the
24 fund;

25
26 B. Subject to any pledge, contract or other obligation, all
27 interest, dividends or other pecuniary gains from investment
28 of money from the fund;

29
30 C. Subject to any pledge, contract or other obligations,
31 any money that the authority receives in repayment of
32 advances from the fund; and

33
34 D. Any other money available to the authority and directed
35 by the authority to be paid into the fund.

36
37 3. Application of fund. Money in the fund may be used for
38 direct loans to finance all or part of any project when the
39 authority determines that:

40
41 A. The project is:

42
43 (1) Designed to substantially reduce or eliminate the
44 production in a trade or business of solid waste or
45 hazardous waste as defined in Title 38, section 1303-C;

46
47 (2) A project devoted to resource recovery, as defined
48 in Title 38, section 1303-C, except that the combustion
49 of solid or hazardous waste shall not be considered
50 resource recovery for the purposes of this section; or
51

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1 (3) A project devoted to the reuse of post-consumer
3 materials;

5 B. There is a reasonable likelihood that the applicant will
7 be able to repay the loan;

9 C. The amount and terms of the loan are reasonable to
11 provide an incentive to the applicant to undertake the
13 project, which may include a below-market interest rate, and
15 the project will not result in a net increase in solid or
17 hazardous waste to be disposed of within the State; and

19 D. The project will contribute to achieving the goals
21 identified in the state waste management and recycling plan
23 adopted under Title 38, chapter 24 and is determined by the
25 Maine Waste Management Agency to be consistent with that
27 plan. Prior to adopting the state waste management and
29 recycling plan, the fund may be used for projects that help
31 achieve the goals identified in the state recycling plan
33 approved under former Title 38, section 1310-M.

35 The authority, pursuant to Title 5, chapter 375, subchapter II,
37 shall adopt rules for determining eligibility, feasibility,
39 terms, conditions and security for the loans. Money in the fund
41 not needed currently to meet the obligations of the authority as
43 provided in this section may be invested in such a manner as
45 permitted by law.

47 4. Accounts within fund. The authority may divide the fund
49 into separate accounts as it determines necessary or convenient
51 for carrying out this section, including, but not limited to,
53 accounts reserved for direct loan funds.

55 5. Revolving fund. The fund shall be a nonlapsing,
57 revolving fund. All money in the fund shall be continuously
59 applied by the authority to carry out this section.

61 Sec. 10. 10 MRSA §1041, sub-§§16 and 17, as enacted by PL 1985,
63 c. 344, §61, are amended to read:

65 16. Energy conservation. Provide financial assistance for
67 energy conservation. The Office of Energy Resources shall provide
69 assistance to the authority in determining technical eligibility
71 and merit of applications for energy conservation loans. Each
73 recipient of a loan under this section shall provide the
75 authority, within one year, with detailed information on energy
77 consumption before and after the completion of the energy
79 conservation project; and

81 17. Electricity. Provide financial assistance for
83 electricity generation projects. Any municipality, firm or
85 corporation producing electricity by means of projects described

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 in section 1044, subsection 12, or by means of a
2 pollution-control project, recreational project, multi-level
3 parking facility or combined project may, without the approval of
4 and regulation by the Public Utilities Commission, generate and
5 distribute electricity solely for its own use or the use of its
6 tenant, but may not, without proper approval, sell electricity to
7 other than an electric public utility corporation or cooperative
8 authorized to make, generate, sell and distribute electricity;
9 and

11 **Sec. 11. 10 MRSA §1041, sub-§18 is enacted to read:**

13 18. Recycling and waste reduction. Provide financial
14 assistance to businesses for recycling and waste reduction
15 projects that are consistent with the management goals and
16 objectives outlined in the state waste management and recycling
17 plan under Title 38, chapter 24. The Maine Waste Management
18 Agency shall provide assistance to the authority in determining
19 consistency, technical eligibility and merit of application for
20 recycling loans.

21 **Sec. 12. 10 MRSA §1043, sub-§2, ¶E-1 is enacted to read:**

23 E-1. In the case of recycling and waste reduction projects,
24 the proposed facility must be consistent with the state
25 waste management and recycling plan under Title 38, chapter
26 24, and will reduce the amount of solid or hazardous waste
27 requiring disposal.

29 **Sec. 13. 10 MRSA §1063, sub-§2, ¶E, as enacted by PL 1981, c.**
31 **476, §2, is amended to read:**

33 E. The Department of Environmental Protection has certified
34 to the authority that all licenses required by that
35 department with respect to the project have been issued or
36 that none are required provided, however, that such
37 certification need not be obtained from the Department of
38 Environmental Protection prior to issuance of a certificate
39 of approval for a project of a public waste disposal
40 corporation as described in Title 38, section 1304-B,
41 subsection 5, which as of June 9, 1989, has filed an
42 application with the authority seeking a certificate of
43 approval for revenue obligation security to be issued in
44 accordance with this subchapter provided further, that
45 nothing herein shall be deemed to allow issuance of revenue
46 obligation securities for any such project prior to
47 obtaining all necessary permits from the Department of
48 Environmental Protection. Any subsequent enlargement or
49 addition to the project for which approval is sought from
50 the authority shall also require certification by the
51 department;

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Sec. 14. 10 MRSA §1063, sub-§2, ¶I-1 is enacted to read:

I-1. In the case of recycling and waste reduction projects, the proposed facility is consistent with and will contribute to the management goals and objectives outlined in the state waste management and recycling plan under Title 38, chapter 24 and will reduce the amount of solid or hazardous waste requiring disposal. The Maine Waste Management Agency shall provide assistance to the authority in determining consistency, technical eligibility and merit of applications for assistance under this subchapter.

Sec. 15. 30-A MRSA §5656 is enacted to read:

§5656. Procurement of recycled goods

1. Review of standards. Each municipality shall review its procurement procedures and specifications to identify procedures and specifications that explicitly discriminate against goods, supplies, equipment, materials and printing with recycled content. Each municipality may revise its procedures and specifications to:

A. Encourage the use of goods, supplies, equipment, materials and printing with recycled content; and

B. Ensure, to the maximum extent economically feasible, that it purchases goods, supplies, equipment, materials and printing that may be recycled or reused when such goods, supplies, equipment, materials and printing are discarded.

2. Preferences for recycled goods. In revising its procurement procedures and specifications under subsection 1, each municipality may:

A. Establish a preference for paper with recycled content consistent with the standards established for state agencies under Title 5, section 1812-B; and

B. Establish specifications for bids for public contracts that require all bidders to propose that a stated minimum percentage of goods, supplies, equipment or materials to be used for the contract be made from recycled material.

3. Other laws. The options set forth in this section may be exercised, notwithstanding any other provision of law to the contrary.

4. Interlocal cooperation. The provisions of this section shall apply to agreements of interlocal cooperation established pursuant to chapter 115 and to cooperative purchasing programs

1 administered by regional councils established pursuant to chapter
2 119.

3
4 Sec. 16. 32 MRSA c. 26 is enacted to read:

5
6 CHAPTER 26

7
8 CODING OF PLASTIC CONTAINERS

9
10 §1721. Definitions

11
12 As used in this chapter, unless the context otherwise
13 indicates, the following terms have the following meanings.

14
15 1. Plastic bottle. "Plastic bottle" means any plastic
16 container with a neck smaller than the container body and a
17 capacity not less than 16 fluid ounces and not more than 5
18 gallons.

19
20 2. Plastic container. "Plastic container" means any
21 bottle, can, jar, case, package or other receptacle intended to
22 hold, carry, or enclose fluids, food items or nonfood products
23 that is composed predominately of plastic resins, including, but
24 not limited to, plastic resins listed in section 1723.

25
26 3. Rigid plastic container. "Rigid plastic container"
27 means any formed or molded plastic container, except plastic
28 bottles, with a capacity not less than 8 fluid ounces and not
29 more than 5 gallons that retains the same shape whether full or
30 empty.

31
32 §1722. Coding of plastic containers

33
34 On or after July 1, 1991, no person may distribute, sell or
35 offer for sale any plastic bottle or rigid plastic container
36 without a molded, imprinted or raised label indicating the type
37 of plastic resin used to produce the plastic bottle or rigid
38 plastic container.

39
40 §1723. Labels

41
42 1. Labels. The label shall appear on the bottom of the
43 plastic bottle or rigid plastic container and be clearly
44 visible. This label shall consist of a number with letters
45 placed below the number. The numbers and letters shall be as
46 follows:

47
48 A. For polyethylene terephthalate, the letters "PETE" and
49 the number 1;

50
51 B. For high-density polyethylene, the letters "HDPE" and
52 the number 2;

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1 C. For vinyl, the letter "V" and the number 3;

3 D. For low-density polyethylene, the letters "LDPE" and the
5 number 4;

7 E. For polypropylene, the letters "PP" and the number 5;

9 F. For polystyrene, the letters "PS" and the number 6; or

11 G. For any other plastic resins, including multilayer, the
13 letters "OTHER" and the number 7.

15 §1724. Ancillary symbols

17 No label may include a chasing arrow symbol or any other
19 configuration of arrows to indicate recyclable materials or
21 products with recycled content.

23 §1725. Penalties

25 1. Civil violation. A violation of this chapter shall be a
27 civil violation for which a forfeiture of not more than \$100 may
29 be adjudged.

31 2. Separate violation. Each container in violation
33 constitutes a separate offense.

35 §1726. Rules and enforcement

37 The Maine Waste Management Agency, Office of Waste Reduction
39 and Recycling shall adopt and enforce rules implementing the
41 provisions of this chapter including, but not limited to,
43 criteria for labeling containers made of more than one plastic
45 resin. In adopting rules, the office shall consult with the
47 Waste Management Advisory Council, the Department of Agriculture,
49 Food and Rural Resources, plastic container manufacturers and
51 distributors, and the recycling industry. Rules shall be adopted
in accordance with the provisions of Title 5, chapter 375.

Sec. 17.36 MRSA §5219-C is enacted to read:

§5219-C. Solid waste reduction investment tax credit

1. Definitions. As used in this section, unless the
contents otherwise indicates, the following terms have the
following meanings.

A. "Employing unit" has the same meaning as in Title 26,
section 1043.

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1 B. "Solid waste" has the same meaning as in Title 38,
2 section 1303-C.

3
4 C. "Waste reduction, reuse or recycling equipment" means
5 structures, machinery or devices, singly or in combination,
6 designed and required to separate, process, modify, convert,
7 treat or repair solid waste generated by the employing unit
8 so that component materials or substances or recoverable
9 resources may be used as a raw material or for productive
10 use and includes:

11 (1) Add-ons or trailers designed to modify collection
12 vehicles and dedicated to sorting and separating of
13 collected wastes generated by the employing unit and
14 held for the purpose of recycling; or

15 (2) Containers for the source separation and temporary
16 storage of recyclable wastes by the employing unit or
17 its employees.

18
19
20 2. Credit allowed. A taxpayer constituting an employing
21 unit who purchases waste reduction, reuse or recycling equipment,
22 or other equipment used exclusively by that unit, in the
23 implementation of a solid waste reduction, reuse or recycling
24 program, shall be entitled to a credit against the tax imposed by
25 this Part equal to 30% of the cost of the machinery or equipment.

26
27 3. Eligible machinery and equipment. Purchases eligible
28 for the credit allowed under this section include machinery and
29 equipment used exclusively for the purpose of reducing, reusing
30 or recycling solid waste generated principally by the employing
31 unit. Machinery and equipment associated with the separation of
32 wastes prior to incineration are eligible when the Maine Waste
33 Management Agency certifies the separated wastes are being
34 recycled.

35
36 4. Carry-over; carry-back. The amount of the credit that
37 may be used by a taxpayer for a taxable year may not exceed the
38 amount of tax otherwise due under this section. Any unused
39 credit may be carried over to the following year or years for a
40 period not to exceed 15 years or may be carried back for a period
41 not to exceed 3 years.

42
43 5. Effective date. The provisions of this section apply to
44 purchases of eligible machinery and equipment made after January
45 1, 1990.

46
47 **Sec. 18. Department of Transportation recycling project.** The
48 Department of Transportation shall undertake a comprehensive
49 review to evaluate the use of recyclable materials in
50 construction.
51

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1 .1. By January 1, 1991, the Department of Transportation
3 shall report to the Joint Standing Committee on Natural
5 Resources, the Joint Standing Committee on Transportation and the
7 State Purchasing Agent on a comprehensive review of feasible
9 alternatives for utilizing recyclable materials in construction.
11 Particular attention shall be paid to ground rubber from
13 automobile tires; recycled mixed-plastic material for guardrail
posts or right-of-way fence posts; construction steel, including
reinforcing rods and I-beams, manufactured from scrap materials;
and recycled glass and glass aggregates. The report shall
include recommendations for demonstration projects to be
undertaken along with time frames and associated costs. This
report shall further identify, to the extent possible, the
following:

- 15 A. Life cycle costs;
17 B. Safety; and
19 C. Conformance with applicable federal and state
21 requirements.

23 2. By March 1990, the department shall submit a preliminary
25 report to the Joint Standing Committee on Natural Resources, the
27 Joint Standing Committee on Transportation and to the State
29 Purchasing Agent regarding the use of ground tire rubber as an
additive to asphalt concrete, which would utilize waste tires.
The report shall include, but shall not be limited to, the
following:

- 31 A. Evaluating how effective the use of ground tire rubber
33 has been in providing acceptable properties in asphalt
concrete mix;
35 B. Determining effects and procedures for recycling asphalt
37 containing ground tire rubber;
39 C. Determining the amount of ground tire rubber that may be
used in road construction and the expected cost of that use;
41 D. Identifying changes needed in departmental and local
43 government specifications and procedures to allow for the
45 use of ground tire rubber from waste tires in asphalt
concrete pavements; and
47 E. In conjunction with the Department of Environmental
49 Protection and the Office of Waste Reduction and Recycling,
the inventory of discarded tires in the State.

51 3. All state agencies shall cooperate with the Department
of Transportation in carrying out this section.

PART D

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1 Sec. 4. 32 MRSA §1863, as amended by PL 1979, c. 462, §3, is
3 repealed and the following enacted in its place:

5 §1863. Refund value

7 Every beverage container sold or offered for sale to a
9 consumer in this State shall have a refund value. The refund
11 value shall be:

13 1. Refillable containers. For refillable beverage
15 containers, except spirits containers, the refund value shall be
17 determined by the manufacturer according to the type, kind and
19 size of the beverage container but shall not be less than 5¢;

21 2. Nonrefillable containers. For nonrefillable beverage
23 containers, except spirits containers, the deposit and refund
25 value shall be determined and initiated by the distributor
27 according to the type, kind and size of the beverage container,
29 but shall not be less than 5¢; and

31 3. Spirits containers. For spirits containers of greater
33 than 50 milliliters, the refund value shall not be less than
35 15¢. On January 1, 1992, the department shall issue a finding on
37 the percentages of spirits containers returned for deposit. If
39 the department finds the return rate of spirits containers was
41 less than 60% during 1991, then, on July 1, 1992, the refund
43 value of spirits containers shall not be less than 25¢.

45 Sec. 5. 32 MRSA §1867, sub-§1, as enacted by PL 1975, c. 739,
47 §16, is amended to read:

49 1. Establishment. Local redemption centers may be
51 established and operated by any person or municipality, the Maine
53 Waste Management Agency or a regional association as defined
55 under Title 38, section 1303-C, subject to the approval of the
57 commissioner, to serve local dealers and consumers, at which
59 consumers may return empty beverage containers as provided under
61 section 1866.

63 Sec. 6. 32 MRSA §1868, as amended by PL 1987, c. 373, §§4 and
65 5, is further amended to read:

67 §1868. Prohibition on certain types of containers and holders

69 No beverage container shall may be sold or offered for sale
71 to consumers in this State:

73 1. Flip tops. In a metal container designed or constructed
75 so that part of the container is detachable for the purpose of
77 opening the container without the aid of a separate can opener;
79 and

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1 ~~2. --- Connectors. --- With containers connected to each other by~~
2 ~~plastic rings or other plastic holding device, which does not~~
3 ~~decompose --- by --- photodegradation, --- chemical --- degradation --- or~~
4 ~~biodegradation within a reasonable period of time upon exposure~~
5 ~~to the elements.~~

7 3. Plastic cans. In a container composed of one or more
8 plastics if the basic structure of the container, exclusive of
9 the closure device, also includes aluminum or steel; and

11 4. Aseptic beverage packs. In a container composed of
12 aseptic packaging composed of aluminum, paper and plastic, in
13 combination thereof, where those materials are for practical
14 reasons inseparable, and commonly referred to as a "brick-pack."

15 Sec. 7. 32 MRSA §1872 is enacted to read:

17 §1872. Unlawful possession of beverage containers

19 A person is guilty of a violation of this section if that
20 person possesses more than 48 beverage containers that are not
21 labeled under section 1865. This section shall not apply to
22 licensed waste facilities as defined in Title 38, section 1303-C.

24 1. Warning. Any person committing a violation of this
25 section during the first year this section is in effect shall be
26 issued a warning that a violation of this section has occurred.

28 2. Penalty. Following the first year warning period, a
29 violation of this section is a civil violation for which a
30 forfeiture of \$20 per container in excess of 48 beverage
31 containers may be adjudged.

32 3. Enforcement. The State Police shall enforce this
33 section and prosecute any persons found in violation.

37 Sec. 8. Advisory committee. The Department of Agriculture,
38 Food and Rural Resources shall form an advisory committee
39 consisting of representatives of the Office of Waste Reduction
40 and Recycling, the Bureau of Alcoholic Beverages, the operator of
41 the bailment warehouse, the certificate of approval holders for
42 spirits and fortified wines and other affected interests as the
43 department finds necessary. The Department of Agriculture, Food
44 and Rural Resources shall consult with the advisory committee in
45 developing proposed rules for the implementation of sections 1 to
46 4 of this Part. The Department of Agriculture, Food and Rural
47 Resources shall submit a report on the proposed implementation
48 and the proposed rules for approval by the joint standing
49 committee of the Legislature having jurisdiction over natural
50 resource matters by January 1, 1990. The committee may introduce
51 any legislation necessary to address the report or rules proposed
 by the department.

COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

PART E

The commission shall establish coordination and assistance procedures for all land use permits issued by agencies of

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1 the State for proposed development within the unorganized
2 townships and plantations. Such procedures shall, to the
3 extent practicable, ensure: The availability to the public
4 of necessary information concerning such land use permits;
5 the provision of assistance to applicants in obtaining such
6 permits from such agencies; the coordination of application
7 procedures, time schedules, application forms and similar
8 requirements so as to reduce delay and duplication of effort
9 by applicants and the issuing agencies. Such permit issuing
10 agencies shall cooperate with the commission in the
11 development and effectuation of such coordination and
12 assistance procedures.

13 Approval by the Board of Environmental Protection of a
14 proposed development under Title 38, chapter 13, article 3,
15 shall be a sufficient basis to support, but shall not
16 require, a finding by the commission that the proposed
17 development meets the requirements of subsection 4, and of
18 the land use standards and rules adopted by the commission.
19 Disapproval by the Board of Environmental Protection of a
20 proposed development under Title 38, chapter 13, article 3,
21 shall be a sufficient basis to support, but shall not
22 require, a finding by the commission that the proposed
23 development does not meet the requirements of subsection 4,
24 and of the land use standards and rules adopted by the
25 commission.

26
27 Sec. 2. 38 MRSA §1302, as repealed and replaced by PL 1987,
28 c. 517, §5, is repealed and the following enacted in its place:

29
30 §1302. Declaration of policy

31
32 For the purposes of this chapter and chapter 24, the
33 Legislature finds and declares it to be the policy of the State,
34 consistent with its duty to protect the health, safety and
35 welfare of its citizens, enhance and maintain the quality of the
36 environment, conserve natural resources and prevent air, water
37 and land pollution, to establish a coordinated statewide waste
38 reduction, recycling and management program.

39
40 The Legislature finds and declares that it is the policy of
41 the State to pursue and implement an integrated approach to
42 hazardous and solid waste management, which shall be based on the
43 following priorities: reduction of waste generated at the source,
44 including both the amount and toxicity of waste; waste reuse;
45 waste recycling; waste composting; waste processing which reduces
46 the volume of waste needing disposal, including waste-to-energy
47 technology; and land disposal.

48
49 The Legislature finds that it is in the best interests of
50 the State to prefer waste management options with lower health
51 and environmental risk and to ensure that such options are

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 neither foreclosed nor limited by the State's commitment to
2 disposal methods. The Legislature declares that it is in the
3 public interest to aggressively promote waste reduction, reuse
4 and recycling as the preferred methods of waste management.

5
6 The Legislature finds that environmentally suitable sites
7 for waste disposal are in limited supply and represent a critical
8 natural resource. At the same time, new technologies and
9 industrial developments are making recycling and reuse of waste
10 an increasingly viable and economically attractive option which
11 carries minimal risk to the State and the environment and an
12 option which allows the conservation of the State's limited
13 disposal capacity.

14
15 The Legislature further finds that needed municipal waste
16 recycling and disposal facilities have not been developed in a
17 timely and environmentally sound manner because of diffused
18 responsibility for municipal waste planning, processing and
19 disposal among numerous and overlapping units of local
20 government. The Legislature also finds that direct state action
21 is needed to assist municipalities in separating, collecting,
22 recycling and disposing of solid waste, and that sound
23 environmental policy and economics of scale dictate a preference
24 for public solid waste management planning and implementation on
25 a regional and state level.

26
27 The Legislature finally declares that the provisions of this
28 chapter shall be construed liberally to address the findings and
29 accomplish the policies in this section.

30
31 Sec. 3. 38 MRSA §1303, as amended by PL 1987, c. 517, §6, is
32 repealed.

33
34 Sec. 4. 38 MRSA §1303-C is enacted to read:

35 §1303-C. Definitions

36
37 As used in this chapter, unless the context otherwise
38 indicates, the following terms have the following meanings.

39
40
41 1. Agency. "Agency" means the Maine Waste Management Agency.

42
43 2. Board. "Board" means the Board of Environmental
44 Protection.

45
46
47 3. Closing reserve fund. "Closing reserve fund" means a
48 fund created for the purpose of financing the closing and
49 maintenance after closing of a waste facility.

50
51 4. Commercial hazardous waste facility. "Commercial
hazardous waste facility" means:

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1 A. A waste facility that handles hazardous wastes generated
2 off the site of the facility; or

3 B. A facility that, in the handling of a waste generated
4 off the site, generates hazardous waste.

5 5. Commercial landfill facility. "Commercial landfill
6 facility" means a commercial solid waste facility that is used
7 for the burial of solid waste.

8 6. Commercial solid waste disposal facility. "Commercial
9 solid waste disposal facility" means a commercial waste facility
10 which is a solid waste disposal facility.

11 7. Commercial waste facility. "Commercial waste facility"
12 means a privately owned waste facility that accepts waste from
13 another for consideration and is used for the management of waste
14 generated by persons who do not own or operate the facility. The
15 term does not include a waste facility owned, controlled,
16 operated or used exclusively by:

17 A. A public waste disposal corporation under section
18 1304-B, subsection 5;

19 B. A municipality under section 1305;

20 C. A refuse disposal district under chapter 17;

21 D. The agency under chapter 24; or

22 E. The person generating the solid waste disposed of at the
23 facility, except that the facility may accept, on a
24 nonprofit basis, no more than 15% of all solid waste
25 accepted on an annual average that is not generated by the
26 owner. A waste facility receiving ash resulting from the
27 combustion of municipal solid waste or fuel derived from
28 municipal solid waste is not exempt from this subsection
29 solely by operation of this paragraph.

30 8. Construction and demolition debris. "Construction and
31 demolition debris" means debris resulting from construction,
32 remodeling, repair, and demolition of structures. It excludes
33 asbestos and other special wastes.

34 9. Contingency reserve fund. "Contingency reserve fund"
35 means a fund maintained for the purpose of meeting unexpected
36 contingencies in the operation of a waste facility.

37 10. Conveyance. "Conveyance" means any aircraft,
38 watercraft, vehicle or other machine used for transportation on
39 land, water or in the air.

1 11. Department. "Department" means the Department of
2 Environmental Protection.

3
4 12. Disposal. "Disposal" means the discharge, deposit,
5 dumping, incineration, spilling, leaking or placing of any
6 hazardous or solid waste, refuse-derived fuel, sludge or septage
7 into or on any land, air or water so that the hazardous or solid
8 waste, sludge or septage or any constituent thereof may enter the
9 environment or be emitted into the air, or discharged into any
10 waters, including ground waters.

11
12 13. Generation. "Generation" means the act or process of
13 producing hazardous or solid waste, sludge or septage.

14
15 14. Handle. "Handle" means to store, transfer, collect,
16 separate, salvage, process, recycle, reduce, recover, incinerate,
17 dispose of or treat.

18
19 15. Hazardous waste. "Hazardous waste" means a waste
20 substance or material, in any physical state, designated as
21 hazardous by the board under section 1319-O. It does not include
22 waste resulting from normal household or agricultural activities.
23 The fact that a hazardous waste or part or constituent may have
24 value or other use or may be sold or exchanged does not exclude
25 it from this definition.

26
27 16. Incineration facility. "Incineration facility" means a
28 facility where municipal solid waste or refuse-derived fuel is
29 disposed of through combustion, including combustion for the
30 generation of heat, steam or electricity.

31
32 17. Inert fill. "Inert fill" means clean soil material,
33 rocks, bricks, and cured concrete, which are not mixed with other
34 waste, and which are not derived from an ore mining activity.

35
36 18. Land clearing debris. "Land clearing debris" means
37 solid wastes resulting from the clearing of land and consisting
38 solely of brush, stumps, soil material and rocks.

39
40 19. Manifest. "Manifest" means the form used for
41 identifying the quantity, composition and the origin, routing and
42 destination of hazardous waste during its transport.

43
44 20. Recyclable. "Recyclable" means possessing physical and
45 economic characteristics that allow a material to be recycled.

46
47 21. Recycle. "Recycle" means to recover, separate, collect
48 and reprocess waste materials for sale or reuse other than use as
49 a fuel for the generation of heat, steam or electricity.

50
51 22. Recycling. "Recycling" means the collection,
separation, recovery and sale or reuse of materials that would

1 otherwise be disposed of or processed as waste or the mechanized
3 separation and treatment of waste, other than through combustion,
5 and the creation and recovery of reusable materials other than as
7 a fuel for the generation of electricity.

9
11 23. Refuse-derived fuel. "Refuse-derived fuel" means
13 municipal solid waste which has been processed prior to
15 combustion to increase the heat input value of the waste.

17
19 24. Regional association. "Regional association" means 2 or
21 more municipalities that have formed a refuse disposal district
23 under chapter 17 or a public waste disposal corporation under
25 section 1304-B or that have entered into a joint exercise of
27 powers agreement under Title 30-A, chapter 115, in order to
29 manage the solid waste generated within the participating
31 municipalities and for which those municipalities are responsible.

33
35 25. Residual waste. "Residual waste" means waste resulting
37 from the handling, processing, disposal or recycling of solid
39 waste including, without limitation, front end waste and ash from
41 incineration facilities.

43
45 26. Resource recovery. For the purposes of section 1304-B
47 only, "resource recovery" means the recovery of materials or
49 substances that still have useful physical or chemical properties
51 after serving a specific purpose and can be reused or recycled
53 for the same or other purposes.

55
57 27. Septage. "Septage" means waste, refuse, effluent,
59 sludge and any other materials from septic tanks, cesspools or
61 any other similar facilities.

63
65 28. Site. "Site" means the same or geographically
67 contiguous property which may be divided by a public or private
69 right-of-way, provided that the entrance and exit between the
71 properties is at a crossroads intersection and access is by
73 crossing as opposed to going along the right-of-way.
75 Noncontiguous properties owned by the same person but connected
77 by a right-of-way which he controls and to which the public does
79 not have access is also considered site property.

81
83 29. Solid waste. "Solid waste" means useless, unwanted or
85 discarded solid material with insufficient liquid content to be
87 free-flowing, including, but not limited to, rubbish, garbage,
89 refuse-derived fuel, scrap materials, junk, refuse, inert fill
91 material and landscape refuse, but does not include septic tank
93 sludge or agricultural wastes. The fact that a solid waste or
95 constituent of the waste may have value or other use or may be
97 sold or exchanged does not exclude it from this definition.

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1 30. Solid waste disposal facility. "Solid waste disposal
2 facility" means a waste facility for the disposal of solid waste
3 except that the following facilities are not included:

5 A. A waste facility that employs controlled combustion to
6 dispose of waste generated exclusively by an institutional,
7 commercial or industrial establishment that owns the
8 facility; and

9 B. Lime kilns; wood chip, bark and hogged fuel boilers;
10 kraft recovery boilers and sulfite process recovery boilers,
11 which combust solid waste generated exclusively at the
12 facility.

13 31. Solid waste facility. "Solid waste facility" means a
14 waste facility used for the handling of solid waste.

15 32. Solid waste landfill. "Solid waste landfill" means a
16 waste disposal facility for the disposal of solid waste on or in
17 land. This term does not include landspreading sites used in
18 programs approved by the department.

19 33. Source separation. "Source separation" means the
20 preparation of materials for recycling by separation from wastes
21 at the point of generation.

22 34. Special waste. "Special waste" means any nonhazardous
23 waste generated by sources other than domestic and typical
24 commercial establishments that exists in such an unusual quantity
25 or in such a chemical or physical state, or any combination
26 thereof, which may disrupt or impair effective waste management
27 or threaten the public health, human safety or the environment
28 and requires special handling, transportation and disposal
29 procedures. Special waste includes, but is not limited to:

30 A. Oil, coal, wood and multifuel boiler and incinerator ash;

31 B. Industrial and industrial process waste;

32 C. Waste water treatment plant sludge, paper mill sludge
33 and other sludge waste;

34 D. Debris and residuals from nonhazardous chemical spills
35 and cleanup of those spills;

36 E. Contaminated soils and dredge spoils;

37 F. Asbestos and asbestos-containing waste;

38 G. Sand blast grit and nonliquid paint waste;

1 H. Medical and other biological waste not identified under
2 section 1319-O, subsection 1, paragraph A, subparagraph (4);

3 I. High and low pH waste;

4 J. Spent filter media and residue; and

5 K. Other waste designated by the board, by rule.

6
7
8 35. State waste management and recycling plan. "State
9 waste management and recycling plan" means the plan adopted by
10 the agency pursuant to chapter 24, subchapter II, and may also be
11 referred to as "state plan."

12
13 36. Storage. "Storage" means the containment of hazardous
14 wastes, either on a temporary basis or for a period of years, in
15 such a manner as not to constitute disposal of the hazardous
16 wastes.

17
18 37. Substantially expand. "Substantially expand" means the
19 expansion of an existing licensed hazardous waste facility by
20 more than 25%, as measured by volume of waste or affected land
21 area, from the date of its initial licensed operation.

22
23 38. Transport. "Transport" means the movement of hazardous
24 or solid waste, waste oil, sludge or septage from the point of
25 generation to any intermediate points and finally to the point of
26 ultimate disposition. Movement of hazardous waste on the site
27 where it is generated or on the site of a licensed waste facility
28 for hazardous waste is not "transport." Movement of waste oil on
29 the site where it is generated or on the site of a licensed waste
30 oil dealer's facility is not "transport."

31
32 39. Treatment. "Treatment" means any process designed to
33 change the character or composition of any hazardous waste so as
34 to render the waste less hazardous.

35
36 40. Waste facility. "Waste facility" means any land area,
37 structure, location, equipment or combination of them, including
38 dumps, used for handling hazardous or solid waste, sludge or
39 septage. A land area or structure does not become a waste
40 facility solely because:

41
42 A. It is used by its owner for disposing of septage from
43 the owner's residence;

44
45 B. It is used to store for 90 days or less hazardous wastes
46 generated on the same premises;

47
48 C. It is used by individual homeowners or lessees to open
49 burn leaves, brush, deadwood and tree cuttings accrued from
50

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1 normal maintenance of their residential property, when such
2 burning is permitted under section 599, subsection 3; or

3
4 D. It is used by its residential owner to burn highly
5 combustible domestic, household trash such as paper,
6 cardboard cartons or wood boxes, when such burning is
7 permitted under section 599, subsection 3.

8
9 41. Waste management. "Waste management" means purposeful,
10 systematic and unified control of the handling and transportation
11 of hazardous or solid waste, sludge or septage.

12
13 42. Waste oil. "Waste oil" means a petroleum based oil
14 which, through use or handling, has become unsuitable for its
15 original purpose due to the presence of impurities or loss of
16 original properties. Waste oil which exhibits hazardous wastes
17 characteristics, or which has been contaminated with hazardous
18 wastes in excess of quantities normally occurring in waste oil,
19 shall be subject to the provisions of this chapter dealing with
20 hazardous wastes.

21
22 43. Waste oil dealer. "Waste oil dealer" means any person
23 in the business of transporting or handling more than 1,000
24 gallons of waste oil for the purpose of resale in a calendar
25 month. A person who collects or stores waste oil on the site of
26 generation, whether or not for the purpose of resale, is not a
27 waste oil dealer.

28
29 44. Waste reduction. "Waste reduction" means an action
30 that reduces waste at the point of generation and may also be
31 referred to as "source reduction."

32
33 45. Waste resulting from agricultural activities. "Waste
34 resulting from agricultural activities" means wastes which result
35 from agricultural activities defined in section 361-A, subsection
36 1-B, which are returned to the soils as fertilizers and includes
37 waste pesticides when generated by a farmer in his own use,
38 provided that he triple rinses each emptied pesticide container
39 in accordance with departmental rules and disposes of the
40 pesticide residues in a manner consistent with the disposal
41 instructions on the pesticide label.

42
43 46. Wood wastes. "Wood wastes" means brush, stumps,
44 lumber, bark, woodchips, shavings, slabs, edgings, slash, and
45 sawdust, which are not mixed with other waste.

46
47 **Sec. 5. 38 MRSA §1304, sub-§1, as amended by PL 1981, c. 470,**
48 **Pt. A, §171, is further amended to read:**

49
50 **1. Rules. Subject to the Maine Administrative Procedure**
51 **Act, Title 5, chapter 375, the board may adopt, amend and enforce**
rules as it deems necessary to govern waste management, including

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1 the location, establishment, construction and alteration of waste
2 facilities as the facility affects the public health and welfare
3 or the natural resources of the State. The rules shall be
4 designed to encourage--logical--utilization--of--recoverable
5 resources, minimize pollution of the state's State's air, land
6 and surface and ground water resources, prevent the spread of
7 disease or other health hazards, prevent contamination of
8 drinking water supplies and protect public health and safety. In
9 adopting these rules, the board shall also consider economic
10 impact, technical feasibility and such differences as are created
11 by population, hazardous or solid waste, sludge or septage volume
12 and geographic location.

13
14 Sec. 6. 38 MRSA §1304, sub-§3, as enacted by PL 1973, c. 387,
15 is repealed.

16
17 Sec. 7. 38 MRSA §1304, sub-§4, as amended by PL 1987, c. 883,
18 §1, is further amended to read:

19
20 4. Technical assistance. The department is authorized to
21 establish guidelines for effective waste management, to provide
22 technical assistance to persons planning, constructing or
23 operating waste facilities, and to conduct applied research
24 activities in the field of waste management, disposal technology
25 and environmental effects, including methods of recycling
26 hazardous or solid waste, sludge or septage. ~~The department~~
27 ~~shall--develop--a--pilot--program--to--provide--grants--for--the~~
28 ~~identification--design--and--development--of--tire--and--white--goods~~
29 ~~disposal--facilities--including--pickup--of--these--items--and--stump~~
30 ~~and--demolition--debris--disposal--facilities--by--municipalities,~~
31 ~~county--governments--and--regional--planning--agencies.~~ The
32 department shall cooperate with the agency in the design and
33 delivery of this assistance.

34
35 Sec. 8. 38 MRSA §1304, sub-§5, as repealed and replaced by PL
36 1979, c. 383, §7, is repealed.

37
38 Sec. 9. 38 MRSA §1304, sub-§11, as enacted by PL 1985, c. 157,
39 is amended to read:

40
41 11. Imported waste report. The board shall report to the
42 Legislature on the solid waste imported and disposed of in the
43 State. The report shall include consideration of the following
44 areas:

45
46 A. The categories of imported waste materials, including
47 hazardous waste, solid waste and any other waste material
48 designated by the board as special waste;

49
50 B. The volumes or weights, as appropriate, of imported
51 waste;

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

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

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

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

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

29 **Sec. 10. 38 MRSA §1304, sub-§13, as enacted by PL 1987, c.**
31 **517, §12, is amended to read:**

33 **13. Innovative disposal and utilization.** Recognizing that
environmentally suitable sites for waste disposal are in limited
35 supply and represent a critical natural resource, the
commissioner may investigate and implement with the approval of
37 the board innovative programs for managing, utilizing and
disposing of solid waste. Innovative programs may include
39 agricultural and forest land spreading of wood-derived ash,
utilization of ash resulting from combustion of municipal solid
41 waste, paper mill sludges and municipal waste water treatment
43 plant sludges. The agency shall first determine that the
proposed innovative disposal and waste management programs are
45 consistent with the state plan. The board shall review proposed
innovative programs for each waste category and shall apply all
47 controls necessary to ensure the protection of the environment
and public health consistent with this chapter. The board may
49 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
51 shall adopt provisions for municipal notification prior to use of
individual utilization sites.

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1
2 **Sec. 11. 38 MRSA §1304, sub-§§14 and 15**, as enacted by PL 1987,
3 c. 517, §12, are repealed.

5 **Sec. 12. 38 MRSA §1304-B, sub-§1**, as enacted by PL 1983, c.
6 380, §1, is amended to read:

7
8 1. Findings and purpose. The Legislature makes the
9 following findings of fact. The Subject to the provisions of
10 chapter 24, the State requires each municipality to provide for
11 the disposal facility--of services for domestic and commercial
12 solid waste generated within the municipality. Solid waste
13 contains valuable recoverable resources, including energy. Many
14 municipalities have found that energy recovery reduces the cost
15 of solid waste disposal. Energy recovery technology is complex
16 and the equipment requires a steady supply of waste to operate
17 efficiently. Because of the complicated technology, most energy
18 recovery facilities have high capital costs and long payback
19 periods. In order to remain cost effective throughout their
20 lives, these energy recovery facilities require a guaranteed,
21 steady supply of waste. Consequently, municipalities utilizing
22 energy recovery facilities are usually required to enter
23 long-term agreements to provide the facilities with specific
24 amounts of waste. In order to make these energy recovery
25 facilities financially feasible, and thereby simultaneously
26 improve the environmental impacts and the economics of municipal
27 solid waste disposal, municipalities shall have the legal
28 authority to control the handling of solid waste generated within
29 their borders.

31 The purpose of this section is to promote the recovery of
32 resources from solid waste by creating one of the conditions
33 which make energy recovery economically feasible, assuring
34 municipalities the authority to guarantee a steady supply of
35 solid waste to specific waste facilities.

37 **Sec. 13. 38 MRSA §1304-B, sub-§2**, as amended by PL 1987, c.
38 517, §§14 and 15, is further amended to read:

39
40 2. Flow control. Municipalities Subject to the provisions
41 of chapter 24, municipalities are expressly authorized to enact
42 ordinances that control solid waste collection, its
43 transportation or its delivery to a specific facility, when the
44 purpose and effect of such an ordinance is to gain management
45 control over solid waste and enable the reclamation of resources,
46 including energy, from these wastes. This authorization includes,
47 but is not limited to, ordinances:

49 A. Requiring segregation of wastes;

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1 B. Requiring delivery of wastes generated within the
3 municipality, or any portion of those wastes, to a
designated disposal or reclamation facility; and

5 C. Designating certain materials as recyclable and exempt
7 from the provisions of paragraph B.

9 Sec. 14. 38 MRSA §1304-B, sub-§3, as amended by PL 1987, c.
517, §16, is repealed.

11 Sec. 15. 38 MRSA §1304-B, sub-§4-A, ¶D is enacted to read:

13 D. A municipality which anticipates that it will be unable
15 to meet its contract obligation to supply a minimum BTU
17 content level or minimum tonnage due to waste reduction or
19 recycling programs and is unable to reach an agreement with
21 the incinerator for the anticipated reduction may request
23 the agency to intercede. The agency shall assist the
25 incinerator in soliciting solid waste to mitigate any
anticipated shortfall in minimum BTU content level or
minimum tonnage. If no agreement on mitigation of a
anticipated shortfall is reached, the terms of the original
contract shall prevail, except as otherwise provided in this
chapter.

27 Sec. 16. 38 MRSA §1304-B, sub-§7 is enacted to read:

29 7. Subjugation. Notwithstanding any provision of this
31 section to the contrary, the exercise of any power or authority
granted under this section is subject to the provisions of
chapter 24.

33 Sec. 17. 38 MRSA §1305, sub-§1, as enacted by PL 1973, c. 387,
is repealed and the following enacted to read:

35 1. Disposal services. Each municipality shall provide
37 solid waste disposal services for domestic and commercial solid
39 waste generated within the municipality and may provide these
services for industrial wastes and sewage treatment plant sludge.

41 Sec. 18. 38 MRSA §1305, sub-§4, as enacted by PL 1973, c. 387,
is repealed.

43 Sec. 19. 38 MRSA §1309, as amended by PL 1987, c. 517, §22,
45 is further amended to read:

47 §1309. Interstate cooperation

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

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management of hazardous and solid waste; and compacts between this and other states for the improved management of hazardous and solid waste.

Sec. 20. 38 MRSA §1310-J, as enacted by PL 1987, c. 517, §25, is repealed.

Sec. 21. 38 MRSA §1310-K, as amended by PL 1987, c. 752, §§1 and 2, is repealed.

Sec. 22. 38 MRSA §1310-L, as amended by PL 1987, c. 769, Pt. A, §182, is repealed.

Sec. 23. 38 MRSA §1310-M, as enacted by PL 1987, c. 517, §25, is repealed.

Sec. 24. 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 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, in addition to any other requirement, the board shall require compliance with existing standards of the commission.

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

Sec. 26. 38 MRSA §1310-N, sub-§3, as enacted by PL 1987, c. 517, §25, is repealed and the following enacted in its place:

3. Public benefit determination. The board shall determine the public benefit of a proposed facility according to the following provisions.

A. Prior to the initial adoption of the state plan, the board shall find that a proposed facility provides a substantial public benefit when the applicant demonstrates that the facility is designed, located and will be operated so that it is consistent with and meets the needs identified in the capacity needs analysis under former section 1310-O.

B. Subsequent to the initial adoption of the state plan and for those facilities not subject to chapter 24, subchapter IV, the board shall employ a rebuttable presumption of public benefit.

C. Subsequent to the adoption of the state plan and for those facilities subject to chapter 24, subchapter IV, the

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1 agency shall determine whether or not the proposed facility
2 meets the requirements of section 2157.

3
4 **Sec. 27. 38 MRSA §1310-N, sub-§4,** as enacted by PL 1987, c.
5 517, §25, is repealed.

6
7 **Sec. 28. 38 MRSA §1310-N, sub-§5, ¶B,** as enacted by PL 1987, c.
8 517, §25, is amended to read:

9
10 B. The applicant has shown consistency with the most-recent
11 ~~state-recycling-plan-approved-by-the-Legislature-pursuant-to~~
12 ~~section-1310-M,--subsection--3~~ recycling provisions of the
13 state plan.

14
15 **Sec. 29. 38 MRSA §1310-O,** as enacted by PL 1987, c. 517,
16 §25, is repealed.

17
18 **Sec. 30. 38 MRSA §1310-R, sub-§§2 and 3,** as enacted by PL 1987, c.
19 517, §25, are amended to read:

20
21 2. **Recycling.** The recycling requirements shall apply as
22 follows.

23
24 A. The board shall apply the provisions of section 1310-N,
25 subsection 5, paragraph A, when relicensing any solid waste
26 disposal facility, except that, to the extent that waste
27 disposal contracts in effect on the ~~effective date of this~~
28 ~~article June 29, 1987,~~ are inconsistent with section 1310-N,
29 subsection 5, paragraph A, in which case, those provisions
30 shall apply at the expiration of the term of those contracts
31 without consideration of any renewals or extensions of those
32 contracts.

33
34 B. The board shall require an applicant for a new or
35 expanded solid waste disposal facility or for a license
36 renewal submitting a complete application prior to the
37 ~~approval-by-the-Legislature-of-the-first-state-recycling~~
38 ~~plan-pursuant-to-section-1310-M,--subsection-3,~~ adoption of
39 the state plan to demonstrate that the applicant--has
40 ~~considered-recycling-alternatives-that-are-reasonably-within~~
41 ~~the-applicant's-control~~ facility furthers the purposes of
42 section 2101 and satisfies the regulations under section
43 1310-N.

44
45 C. The provisions of section 1310-N, subsection 5,
46 paragraph B, do not apply to the relicensing of any solid
47 waste disposal facility licensed prior to the ~~effective date~~
48 ~~of this article June 29, 1987.~~

49
50 3. **Public benefit.** The public benefit requirements shall
51 apply as follows.

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

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

17 B. The provisions of section 1310-N, subsection 1,
18 paragraph B, and section 1310-N, subsection 3, do not apply
19 to the relicensing of a solid waste disposal facility
20 licensed prior to the ~~effective date of this article~~ June
21 29, 1987.

23 C. The board shall apply the provisions of section 1310-N,
24 subsection 3, paragraph A, to any application for a waste
25 disposal facility receiving ash resulting from the
26 combustion of municipal solid waste or from fuel derived
27 from municipal solid waste when the application was accepted
28 as complete by the department prior to July 1, 1989, and is
29 still pending before the department on or after the date of
30 the initial adoption of the state plan under chapter 24.

31 Sec. 31. 38 MRSA §1310-R, sub-§4 is enacted to read:

33 4. Incineration facilities. The board shall not license
34 any new incineration facility prior to the adoption of the state
35 plan and siting criteria.

37 Sec. 32. 38 MRSA §1310-S, sub-§1, as enacted by PL 1987, c.
38 517, §25, is amended to read:

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

47 Sec. 33. 38 MRSA §1310-U, as enacted by PL 1987, c. 517, §25,
48 is repealed and the following enacted in its place:

50 §1310-U. Municipal ordinances

1 1. Solid waste disposal facilities. Except as provided in
2 this subsection and subsection 2 and 3, a municipality may not
3 regulate any solid waste disposal facility. A municipality may
4 adopt a local ordinance authorizing the municipal officers to
5 issue a local permit containing the same findings, conclusions
6 and conditions contained in a license issued by the department
7 for a solid waste disposal facility located within the
8 municipality's jurisdiction. The municipality may also attach to
9 the permit additional conditions for the operation of solid waste
10 disposal facilities on any issues not specifically addressed in a
11 condition of the department's license. Such conditions may not
12 unreasonably restrict the operation of the facility and must be
13 attached to the local permit by the municipal officers within 90
14 days of issuance of the department's license or within 30 days of
15 a final decision by the department to relicense the facility.

17 A. An enforcement action brought by the municipality to
18 enforce local permit conditions shall not preclude the State
19 from bringing an action to enforce the conditions of any
20 license issued by the State or any other provision of law.
21 In addition, the State shall have a right to intervene in
22 any enforcement action brought by a municipality under this
23 section. A municipality that has adopted local permit
24 conditions described in this subsection shall employ an
25 inspector certified under this section to enforce permit
26 conditions.

27 B. The host municipality of a solid waste disposal facility
28 shall have a right to the all information from the
29 department and the solid waste disposal facility operator
30 for all solid waste disposal facilities licensed under
31 chapter 13, pursuant to Title 1, chapter 13, subchapter 1.
32 All information provided under this section shall be made
33 available to the citizen advisory committee, if one has been
34 established under chapter 24, and the public by the host
35 municipality.

37 C. The department shall provide all of the following
38 information to the municipal officers of host municipalities
39 of solid waste disposal facilities licensed under chapter 13:

41 (1) Copies of any inspection report of the facility
42 within 5 working days of the preparation of the report;

45 (2) Prompt notification of all enforcement or emergency
46 orders for those facilities, including but not limited
47 to, abatement orders, cessation orders, final civil
48 penalty assessments and consent orders and decrees and
49 notices of violation;

51 (3) Copies of all air, soil and water quality
monitoring data, including leachate and ash testing

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1 results, collected by the department at such
2 facilities, within 5 working days after complete
3 laboratory analysis becomes available to the
4 department; and

5
6 (4) Copies of all departmental analyses of the data
7 under subparagraph (3).

8
9 D. The operator of the facility shall provide the host
10 municipality copies of all air, soil and water quality
11 monitoring data, including leachate and ash testing results,
12 conducted by or on behalf of the operator, within 5 days
13 after that information becomes available to the operator.

14
15 E. The municipality shall provide all of the following
16 information to the department:

17
18 (1) Copies of any inspection report of the facility
19 within 5 working days of the preparation of the report;

20
21 (2) Prompt notification of all enforcement or emergency
22 orders for those facilities, including but not limited
23 to, abatement orders, cessation orders, final civil
24 penalty assessments and consent orders and decrees and
25 notices of violation;

26
27 (3) Copies of all air, soil and water quality
28 monitoring data, including leachate and ash testing
29 results, collected by the municipality at such
30 facilities, within 5 working days after complete
31 laboratory analysis becomes available to the
32 municipality and

33
34 (4) Copies of all analyses of the data under
35 subparagraph (3).

36
37 2. Certification; right to inspect facilities and issue
38 orders. The rights of a host municipality to inspect solid waste
39 disposal facilities and issue orders are governed by this
40 subsection.

41
42 A. The department shall establish and conduct a training
43 program to certify host municipality inspectors. This
44 program shall be made available to persons who have been
45 designated by the municipality. The department shall offer
46 training programs at least twice a year. The department
47 shall pay for the host inspection training program. The
48 department may certify and decertify host municipality
49 inspectors pursuant to rules promulgated by the Board of
50 Environmental Protection.

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1 B. Certified inspectors are authorized to enter property,
3 inspect records required by the department, take samples and
5 conduct inspections in accordance with departmental
7 regulations applicable to employees of the department. A
9 certified inspector may order the operator of a solid waste
11 disposal facility to cease any operation or activity at the
13 facility which constitutes an immediate threat to public
15 health or safety or to the environment. The inspector shall
17 notify the department and the municipal officers of the host
19 municipality within 2 hours of issuing such an order.

21 3. Department inspections. Whenever any host municipality
23 notifies the department of an order issued pursuant to a local
25 permit requirement under this section, which gives the department
27 reason to believe that any solid waste disposal facility,
29 licensed under chapter 13, is in violation of any law or
31 regulation administered by the department, or any order or the
33 condition of any permit issued pursuant thereto, the department
35 shall promptly conduct an inspection of the facility.

37 If the department finds that there is insufficient information to
39 believe that there is a violation, the department shall, within
41 10 working days of a municipality's request for an inspection,
43 provide to the municipality a written explanation of its decision
45 not to conduct an inspection.

47 4. Other solid waste facilities. Under the municipal home
49 rule authority granted by the Constitution of Maine, Article
51 VIII, Part Second and Title 30-A, section 3001, municipalities,
53 except as provided in this section, may enact ordinances with
55 respect to solid waste facilities other than solid waste disposal
57 facilities which contain such standards as the municipality finds
59 reasonable, including, without limitation, conformance with
61 federal and state solid waste rules; fire safety; traffic safety;
63 levels of noise which can be heard outside the facility; distance
65 from existing residential, commercial or institutional uses;
67 ground water protection; and compatibility of the solid waste
69 facility with local zoning and land use controls; provided,
71 however, that the standards are not more strict than those
73 contained in this chapter and in chapter 3, articles 5-A and 6
75 and the rules adopted thereunder. Municipal ordinances shall use
77 definitions consistent with those adopted by the department.

79 5. Filing. A municipality adopting an ordinance under this
81 section shall forward a copy of the ordinance to the department
83 within 30 days of its adoption.

85 Sec. 34.38 MRSA §1310-X is enacted to read:

87 §1310-X. Future commercial landfills

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1 The board shall not approve an application for a new
2 commercial solid waste disposal facility after March 1, 1990.
3 The board may relicense or approve a transfer of license for
4 commercial solid waste disposal facilities after March 1, 1990,
5 if those facilities had been previously licensed by the board
6 prior to the effective date of this section, and all other
7 provisions of law have been satisfied.

9 The board may license expansions of commercial solid waste
10 disposal facilities after the effective date of this section, if:

11 A. The board has previously licensed the facility prior to
12 the effective date of this section;

13 B. The board determines that the proposed expansion is
14 contiguous with the existing facility and is located on
15 property owned by the licensee on the effective date of this
16 section;

17 C. Prior to the adoption of the state plan and siting
18 criteria under chapter 24, the board determines that the
19 proposed expansion is consistent with the provisions of
20 section 1310-R, subsection 3, paragraph A-1; or

21 D. After the adoption of the state plan and siting criteria
22 under chapter 24, the agency determines that the provisions
23 of section 2157 are met.

24 Sec. 35. 38 MRSA §§1604 and 1605 are enacted to read:

25 §1604. Connectors

26 After July 1, 1991, no person may sell or offer to sell
27 products in containers connected to each other by plastic rings
28 or other plastic holding devices.

29 §1605. Plastic bags

30 After January 1, 1990, all retailers in this State shall use
31 paper bags to bag products at the point of retail sale unless the
32 consumer requests a plastic bag.

33 Sec. 36. 38 MRSA §1706, as enacted by PL 1983, c. 820, §2, is
34 amended to read:

35 §1706. Relationship to other law

36 This chapter provides an additional and alternative method
37 for carrying out the purposes of this chapter and is supplemental
38 and additional to powers conferred by other laws, including the
39 provisions of chapter 13, pertaining to solid waste, and is not
40 in derogation of any powers now existing. The exercise of

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

authority under this chapter is subject to any restriction imposed under chapter 24.

Sec. 37. Application of definitions. A facility licensed or with a completed application pending before the Board of Environmental Protection prior to July 1, 1989, is not a commercial waste facility or a commercial solid waste disposal facility solely because it receives or will receive ash resulting from the combustion of municipal solid waste or fuel derived from municipal solid waste.

PART F

Sec. 1. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1989-90	1990-91
CONSERVATION, DEPARTMENT OF		
Maine Land Use Regulation Commission		
All Other	\$3,000	\$3,000
Provides funds for the costs of hearings involved with rulemaking for siting criteria.		
DEPARTMENT OF CONSERVATION TOTAL	<u>\$3,000</u>	<u>\$3,000</u>

FINANCE, DEPARTMENT OF

Bureau of Taxation

Positions	(3.0)	(3.0)
Personal Services	\$72,440	\$172,023
All Other	33,000	37,050
Capital Expenditures	23,000	27,235
Provides funds for the administrative costs of collection of the advance disposal fees and the investment tax credit. These funds and the loss of General Fund revenues resulting from the investment tax credit will be reimbursed to the		

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 General Fund by an annual
2 transfer from the Maine Solid
3 Waste Fund.

5 **DEPARTMENT OF FINANCE**
6 **TOTAL**

\$128,440 \$236,308

7 **ECONOMIC AND COMMUNITY**
8 **DEVELOPMENT, DEPARTMENT OF**

11 **Office of Waste Recycling and**
12 **Reduction**

13 Positions (-4.0) (-4.0)
14 Personal Services (\$83,179) (\$120,415)
15 All Other (63,962) (93,590)

16 Deappropriates funds to
17 account for the transfer of
18 this office to the Maine
19 Waste Management Agency.

23 **DEPARTMENT OF ECONOMIC AND**
24 **COMMUNITY DEVELOPMENT**
25 **TOTAL**

(\$147,141) (\$214,005)

27 **SOLID WASTE MANAGEMENT FUND**

29 **Solid Waste Management Fund**

31 All Other \$884,101

32 Provides funds to be
33 transferred to the Maine
34 Solid Waste Management Fund
35 on the effective date of this
36 Act. The amount shall be
37 repaid in full by a transfer
38 of revenues from the Maine
39 Solid Waste Management Fund
40 to the General Fund in fiscal
41 year 1990-91.

43 **SOLID WASTE MANAGEMENT FUND**
44 **TOTAL**

\$884,101

47 **TOTAL APPROPRIATIONS**

\$868,400 \$25,303

49 **Sec. 2. Allocation.** The following funds are allocated from the
50 Maine Solid Waste Management Fund to carry out the purposes of
51 this Act.

	1989-90	1990-91
ENVIRONMENTAL PROTECTION, DEPARTMENT OF		
Bureau of Solid Waste Management		
Positions	(25.0)	(25.0)
Personal Services	\$586,168	\$757,860
All Other	114,303	737,661
Capital Expenditures	48,000	48,960
Provides funds for 10 new positions and 15 positions which were funded by the Environmental Protection Fund. Also includes \$325,000 in fiscal year 1990-91 to be transferred to the Environmental Protection Fund.		
DEPARTMENT OF ENVIRONMENTAL PROTECTION		
TOTAL	<u>\$748,471</u>	<u>\$1,544,481</u>
FINANCE AUTHORITY OF MAINE		
Waste Reduction and Recycling Loan Fund		
All Other		\$400,000
Provides funds for a revolving loan fund to assist business projects related to recycling and waste reduction.		
FINANCE AUTHORITY OF MAINE		
TOTAL	<u>\$0</u>	<u>\$400,000</u>
MAINE WASTE MANAGEMENT AGENCY		
Administration - Office of the Executive Director		
Positions	(3.0)	(3.0)
Personal Services	\$100,230	\$141,950
All Other	86,427	97,670
Capital Expenditures	11,780	

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1			
3	TOTAL	\$198,437	\$239,620
5	Provides funds for the		
7	salaries of the Executive		
9	Director, a Business Manager		
11	II and an Administrative		
13	Assistant; the per diem and		
15	expenses of the Waste		
	Management Advisory Council;		
	rental costs for the agency;		
	and costs of services of the		
	Department of the Attorney		
	General.		
17	Office of Planning		
19	Positions	(4.0)	(4.0)
21	Personal Services	\$107,128	\$154,416
23	All Other	115,000	100,000
25	Capital Expenditures	50,000	
27			
29	TOTAL	\$272,128	\$254,416
31	Provides funds for the Office		
33	Director, 2 professional		
35	staff, a clerical position		
37	and data collection and		
39	information systems costs.		
41	Office of Waste Reduction and Recycling		
43	Positions	(5.0)	(5.0)
45	Personal Services	\$130,784	\$188,910
47	All Other	282,500	2,260,000
49	Capital Expenditures	25,000	
51			
	TOTAL	\$438,284	\$2,448,910
	Provides funds for one		
	position in addition to the 4		
	positions transferred from		
	the Department of Economic		
	and Community Development.		
	Funds allocated in fiscal		
	year 1990-91 also include		
	\$2,250,000 for transportation		
	subsidies, feasibility grants		
	and capital investment grants.		

**Office of Siting and Disposal
Operations**

Positions	(4.0)	(4.0)
Personal Services	\$113,770	\$164,525
All Other	12,500	517,500
Capital Expenditures	25,000	25,000

TOTAL	\$151,270	\$707,025
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Provides funds for the office director, 2 professional staff, and a clerical position. Funding also includes \$500,000 in fiscal year 1990-91 for site selection consulting services.

MAINE WASTE MANAGEMENT AGENCY TOTAL	\$1,060,119	\$3,649,971
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TOTAL ALLOCATIONS	\$1,808,590	\$5,919,452
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Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1989-90	1990-91
--	----------------	----------------

ATTORNEY GENERAL, DEPARTMENT OF

**Administration - Attorney
General**

Positions	(1.0)	(1.0)
Personal Services	\$25,937	\$37,770
All Other	2,500	2,500
Capital Expenditures	590	

Provides funds for an additional attorney to provide legal services to the Maine Waste Management Agency.

DEPARTMENT OF ATTORNEY GENERAL TOTAL	\$29,027	\$40,270
---	-----------------	-----------------

TREASURER OF STATE, (OFFICE OF)

State - Municipal Revenue

Sharing

All Other (\$26,867)

Deallocates funds that will
not be available due to the
investment tax credit.

**(OFFICE OF) TREASURER OF STATE
TOTAL**

\$0 (\$26,867)

TOTAL ALLOCATIONS

\$29,027 \$13,403

FISCAL NOTE

The schedule below describes the fiscal impact of this bill
on the following funds.

General Fund:

1989-90 1990-91

Appropriations

Department of Agriculture, Food and Rural Resources	\$35,105	\$49,380
Department of Conservation(LURC)	\$3,000	\$3,000
Department of Economic and Community Development	(\$147,141)	(\$214,005)
Department of Finance (Taxation)	\$128,440	\$236,308
Solid Waste Management Fund	\$884,101	\$0

TOTAL APPROPRIATIONS \$903,505 \$74,683

Revenues:

License Application Fees	\$0	\$162,500
Investment Tax Credit	\$0	(\$499,933)
Loan From General Fund	\$0	\$884,101
Transfers to General Fund	\$0	\$736,241
Changes for Attorney		
General Services	\$0	\$0

TOTAL REVENUES \$0 \$1,282,909

Net effect on General Fund revenues (\$903,505) \$1,208,226

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1			
3	Solid Waste Management Fund:		
5	Allocations		
7	Department of Environmental Protection	\$748,471	\$1,869,481
9	Finance Authority of Maine (FAME)	\$0	\$400,000
11	Solid Waste Management Fund	\$1,060,119	\$3,649,971
13			
15	TOTAL ALLOCATIONS	\$1,808,590	\$5,919,452
17	Revenues:		
19	Advance Disposal Fees	\$0	\$5,415,000
21	Special Waste Disposal Fees	\$1,136,000	\$2,272,000
23	Loan From General Fund	\$884,101	(\$884,101)
25	Transfers to General Fund	\$0	(\$736,241)
27	Charges for Attorney General Services	\$0	\$0
29			
31	TOTAL REVENUES	\$2,020,101	\$6,066,658
33	Net effect on Solid Waste Management Fund revenues	\$211,511	\$147,206
35	Other Special Revenue funds:		
37	Allocations:		
39	Department of Attorney General State - Municipal Revenue Sharing	\$29,027	\$40,270 (\$26,867)
41			
43	TOTAL ALLOCATIONS	\$29,027	\$13,403
45	Revenues:		
47	Charges for Attorney General Services	\$29,027	\$13,403 (\$26,867)
49	Investment Tax Credit		
51	Net effect on Other Special Revenue funds	\$ 0	\$ 0

STATEMENT OF FACT

This amendment is the minority report of the Joint Standing Committee on Energy and Natural Resources and replaces the original bill. The amendment establishes a comprehensive program for managing the State's solid waste. This program addresses all aspects of solid waste management including waste reduction, recycling and the development of needed disposal capacity. Financing mechanisms are included to ensure adequate resources for state and local waste management.

Part A establishes the Maine Waste Management Agency within the executive branch of State Government. The agency has 3 offices: the Office of Planning, the Office of Waste Reduction and Recycling and the Office of Siting and Disposal Operations.

The Office of Planning is charged with continuing the solid waste planning efforts initiated in the past 2 years by the Department of Environmental Protection and the Department of Economic and Community Development. The initial plan will be adopted by March 1, 1990. The state plan will serve as the basis for long-range development of waste reduction and recycling efforts as well as the means to identify future needs for further disposal capacity.

The Office of Waste Reduction and Recycling has overall responsibility for promoting waste reduction and recycling through state and local efforts. The amendment establishes a statewide recycling goal of 50% by the year 1994 with an interim goal in 1992 of 25%. The office will administer a major grants program to fund local and regional recycling feasibility studies and to fund the capital investments needed to put these recycling programs into place. The office will assist in the development of recycling markets through its own efforts and in cooperation with the Finance Authority of Maine.

Under the general oversight of the Office of Waste Reduction and Recycling, State Government will undertake a mandatory office recycling program. The Legislature and the University of Maine System are both included in state recycling efforts.

Businesses throughout the State are directed to undertake recycling efforts for office paper and corrugated cardboard. These requirements are phased in over a 4-year period.

The Office of Siting and Disposal Operations is charged with identifying sites for disposal facilities to be owned by the agency. Siting decisions will be made by the Facility Siting Board within the agency composed of appointed members with technical expertise and public representation. This board will

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

1 develop and apply siting criteria which consider regional needs,
2 transportation requirements, compatibility with waste reduction
3 and recycling efforts, cost implications, environmental
4 considerations and compatibility with neighboring land uses.

5
6 By July 1, 1991, the Facility Siting Board is directed to
7 identify sites for capacity needed in the near future by July 1,
8 1991. The office is directed to develop the needed facilities by
9 July 1, 1994. The amendment anticipates that the office will use
10 contractors for most of the technical work in site selection,
11 facility development and facility operation. Sites developed by
12 the Maine Waste Management Agency will stay in public ownership.
13 The agency is given revenue bonding authority to support the
14 capital investments necessary for facility development. The
15 bonds will be repaid through tipping fees.

16
17 The Office of Siting and Disposal Operations is also charged
18 with reviewing proposals from regional associations of
19 municipalities for disposal facilities used by these groups.
20 While expansions of existing commercial disposal facilities are
21 allowed after review, new commercial disposal facilities are
22 prohibited. Private facilities owned and used by waste
23 generators are exempt from review by the agency. These exempt
24 facilities still require approval by the Board of Environmental
25 Protection under existing environmental law.

26
27 Finally, the office is directed to undertake a household
28 hazardous waste collection program in conjunction with its
29 disposal operations.

30
31 A host community benefits program is established to ensure
32 communications with citizens in any town which becomes the site
33 of a disposal facility owned by the agency or a regional
34 association. A citizens advisory committee will be established
35 in every potential host community. The agency or regional
36 association, as appropriate, will make payments in lieu of taxes
37 and additional impact payments. Neighboring property owners will
38 be compensated for losses in real estate values and a quarterly
39 ground water sampling program will be established with complete
40 replacement of water supplies in the event of contamination.

41
42 Municipalities are empowered to enforce all conditions of
43 the state license for a facility owned by the agency or a
44 regional association. In addition, municipalities may attach
45 additional conditions in those areas not addressed in the
46 conditions of the state license. Municipalities, however, may
47 not prohibit the siting of such a facility if it has been
48 approved by the Board of Environmental Protection.

49
50 Municipal siting and regulatory authority over private and
51 commercial facilities must use standards consistent with those
established in state law.

Disposal surcharges are imposed on all solid wastes being disposed of in commercial landfills and on special wastes being disposed of in any type of landfill. An additional surcharge may be imposed on the disposal of municipal solid waste from towns which fail to make reasonable progress towards meeting the state recycling goals.

Part B establishes an advance disposal fee on tires, auto batteries, white goods and brown goods. These fees are used to support the agency and the recycling grant programs.

Part C includes a number of initiatives designed to further waste reduction and recycling. The State Purchasing Agent is directed to aggressively pursue purchases of products with recycled content for state use. A price preference is established for paper with recycled content. The Finance Authority of Maine is authorized to establish a loan program to promote private sector activity in waste reduction and recycling. Municipalities are directed to review local procurement policies and are empowered to give a preference for the purchase of products with recycled content. This part also contains a requirement for a coding system to be used on most plastic containers. This system will facilitate sorting by plastic resin type and thus improve marketability. Part C also includes an investment tax credit for the purchase of equipment use in waste reduction and recycling. Finally, the Department of Transportation will undertake a study of the potential uses of recycled materials in highway construction and maintenance.

Part D expands the returnable beverage container law to include liquor, wine and most other beverages packaged in glass, metal or plastic. The handling fee is increased by 1¢ to support the redemption centers and to alleviate the burden on small businesses. This part also includes a prohibition on the sale of "plastic cans" which closely resemble aluminum cans and severely contaminate recycled aluminum. Also banned are aseptic packages which, because of the wide variety of materials used in their construction, are unrecyclable. The possession of more than 2 cases of unlabeled beverage containers is prohibited to discourage out-of-state purchases of beverages and circumvention of the State's returnable bottle law.

Part E amends the provisions of law administered by the Department of Environmental Protection governing solid waste. New definitions are provided as necessary. The regulatory procedures governing siting of solid waste disposal facilities are modified to coordinate the activities of the department with the new Maine Waste Management Agency. This part also coordinates the authority of the Maine Land Use Regulation Commission with those of the department with regard to the siting of solid waste disposal facilities. Finally, this part prohibits

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COMMITTEE AMENDMENT " " to H.P. 1025, L.D. 1431

the use of plastic ring connectors and directs retailers to offer paper bags to all customers at the check-out counter.

VOTING TALLY SHEET

Committee: ENERGY & NATURAL RESOURCES

Date: 6-17-89

Question: L.D. 1431 OTPAM-Maj. OTPAM-Min.
Yeas. Days.

Motion by: _____

SENATORS		Yea	Nay	Absent	Abstained
1	Senator Judy Kany	✓			
2	Senator Edgar Erwin	✓			
3	Senator Margaret Ludwig	✓			
REPRESENTATIVES					
1	Representative Michaud	✓			
2	Representative Jacques	✓			
3	Representative Mitchell	✓			
4	Representative Coles	✓			
5	Representative Hoglund	✓			
6	Representative Gould		✓		
7	Representative Simpson	✓			
8	Representative Dexter		✓		
9	Representative Lord	✓			
10	Representative Anderson	✓			
TOTAL		11	2	—	

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MAJORITY

HOUSE REPORT

THE COMMITTEE ON

ENERGY AND NATURAL RESOURCES

to which was referred the Bill

"An Act to Promote Reduction,
Recycling and Integrated
Management of Solid Waste and
Sound Environmental Regulation

(EMERGENCY)

H.P. 1025 L.D. 1431

have had the same under consideration, and ask leave
to report that the same

Ought to Pass as Amended by

Committee Amendment " "

Edgar E. Ewing
Paul Jacques
William G. Lord
Malcolm Anderson
James C. Kany
Michael M. Kany
Annette M. Hoglund
James Mitchell
Margaret Ludwig
Judy C. Kany

For the Committee.

This form to be used ONLY in reporting House Bills

Rep. Simpson of Casco
Sen. Erwin of Oxford
Rep. Jacques of Waterville
Rep. Lord of Waterboro
Rep. Anderson of Woodland
Rep. Coles of Harpswell
Rep. Michaud of East Millinocket
Rep. Hoglund of Portland
Rep. Mitchell of Freeport
Sen. Ludwig of Aroostook
Sen. Kany of Kennebec

MINORITY

HOUSE REPORT

THE COMMITTEE ON

ENERGY AND NATURAL RESOURCES

to which was referred the Bill

"An Act to Promote Reduction,
Recycling and Integrated
Management of Solid Waste and
Sound Environmental Regulation"

(EMERGENCY)

H.P. 1025 L.D. 1431

have had the same under consideration, and ask leave
to report that the same

Ought to Pass as Amended by

Committee Amendment " "

Edward H. Dexter
Richard A. Gould

This form to be used ONLY in reporting House Bills

Rep. Dexter of Kingfield
Rep. Gould of Greenville

For the Committee.

Town