Master file

# LD 229 WORK SESSION, April 3, 1995

1. **Brief review of Proposed Staff and Function Transfers**

2. **Discussion of Transfers: Where To?**

   - State Planning Office (Evan Richert)
   - Department of Economic and Community Development (Carolyn Manson)
   - Department of Conservation (Gloria Allen)

   Issues to Consider:
   * Compatibility with department function and goals
   * Visibility within department
   * Need for oversight/management within department

3. **Discussion of Funding Needs and Proposals**

   - Fee on Disposal of Special Waste (See 38 MRSA §2203, SBS p. 84)

   - Recycling Assistance Fee (See 36 MRSA §4832, SBS p. 4-6)

   - Unredeemed Bottle Deposits (See 32 MRSA §1866-A)

4. **Discussion of How Functions Are Carried Out**

   - Siting of State Solid Waste Facility

     Review of MWMA-Lincoln Pulp & Paper Agreement regarding Carpenter Ridge special waste site

     Review of host community rights

   - Review of Siting of Commercial Facilities

     Rep. Meres has asked for review of how this function will be performed in new department; consistency?

     Susan Hawkes asked to address committee regarding "public benefit" determination

   - Tire programs?

Master file.

5. **Ban on New Commercial Solid Waste Disposal Facilities**

   Review of legislation pending in Congress to allow States to limit importation of solid waste

   Data re: Maine's importation vs. export of solid waste

6. **Proposed Amendments**

6799nrg

Office of Policy & Legal Analysis

#1

**Staff Positions and Functions Transferred**
**(under Governor's King's Proposed Amendment to LD 229)**

<u>Transfer 6 Positions to State Planning Office</u>

| | | |
|---|---|---|
| Personal Services | $282,203 | $273,572 |
| All Other | $156,339 | $161,135 |
| TOTAL | $438,542 | $434,707 |

2 positions from MWMA Office of Planning
(to develop state waste management and recycling plan, collect and analyze municipal solid waste managament reports, analyze long-term disposal capacity needs, review and comment on proposals to expand or build new waste facilities)

4 positions from Office of Waste Reduction and Recycling
(municipal technical assistance)

All Other includes staff support and municipal grants

Who will manage Carpenter Ridge Site?

#1

# Maine Waste Management Agency Functions

Continued (with transfer to SPO)

- Development of state waste management and recycling plan
- Collection and analysis of municipal solid waste management reports and recycling rates
- Evaluation of "public benefit" for new or expanded solid waste disposal facilities
- Determination of whether new solid waste disposal facility meets the siting criteria established by rule by the MWMA
- Technical and financial assistance for recycling to municipalities (recycling demonstration grants)
- Recycling market development
- Education regarding recycling and composting
- Coordination of state and University recycling programs
- State ownership and control of any solid waste disposal facility developed by the State (currently only Carpenter Ridge)

Continued (responsibilities elsewhere)

- Collection of special waste fee (by DEP, for placement in the General Fund); collection of recycling assistance fee (Bureau of Taxation)
- Ban on development of new commercial solid waste disposal facilities
- State goal of recycling 50%, but changes date to 1998; includes composting and excludes waste paper and cardboard burned as fuel
- DEP licensing procedure for new solid waste disposal facility is dependent upon analysis of "public benefit" by SPO
- Regulation of certain dry-cell batteries and rechargeable consumer products
- Rights of host communities in which state disposal facility would be located

#1

Not Continued

- Penalty against municipalities that fail to meet 50% recycling goal
- Household hazardous waste collection program
- Municipal recycling incentive program
- Denial of access to state-owned waste facilities for municipalities that fail to provide recycling to its residents
- Special assistance for hard-to manage goods (white goods, tires, etc)
- Waste tire management incentives
- Scrap metal transportation cost subsidy
- Maine Solid Waste Management Fund as dedicated fund (fees go to General Fund instead; fees include recycling assistance fee, fee on dispoasl of special waste, state share of unredeemed bottle deposits)
- Technical and financial assistance to businesses for recycling (to be continued by MCCI)
- Payment in lieu of taxes??
- Annual audit
- Indemnification of employee
- Confidential information
- Eligibility for recycling or solid waste reduction investment tax credit

#3

# REVISED GOVERNOR'S PROPOSAL: SOLID WASTE MANAGEMENT FUND

| BUDGETED REVENUES | FY96 | FY97 | FY98/FY99 |
|---|---|---|---|
| Special Waste Fee | $700,000 | $800,000 | $1,000,000 |
| Recycling Assistance Fees: | | | |
| Tires | $750,000 | $750,000 | $750,000 |
| Batteries | $250,000 | $250,000 | $250,000 |
| Appliances — 6 Mos. Revenue → | $382,500 | $0 | $0 |
| Furniture | $680,000 | $340,000 ← 6 Mos. | $0 |
| Bathtubs — 6 Mos. Revenue → | $25,500 | $0 | $0 |
| Mattresses | $204,000 | $102,000 ← 6 Mos | $0 |
| Unclaimed bottle deposits | $400,000 | $400,000 | $400,000 |
| Interest | $15,000 | $15,000 | $15,000 |
| Total Revenues-SWMF | $3,407,000 | $2,657,000 | $2,415,000 |

| BUDGETED EXPENDITURES | FY96 | FY97 | FY98/FY99 |
|---|---|---|---|
| SPO/DEC-MWMA Transfer | $438,542 | $434,707 | $435,000 |
| Treasury-Bottle Red. (2 positions) | $68,468 | $70,313 | $70,000 |
| Taxation-SWMF/ITC Adm. | $41,532 | $39,687 | $35,000 |
| Recycling Tax Credits - phase out | $500,000 | $450,000 | $400,000 |
| DEP-Currently in SWMF (17 positions) | $959,850 | $959,850 | $960,000 |
| Total, Currently in SWMF | $2,008,392 | $1,954,557 | $1,900,000 |
| DEP Solid Waste Positions Currently in Gen Fund (9) | $512,142 | $512,455 | $515,000 |
| Lincoln P+P Contract | $500,000 | 0 | 0 |
| Total, New to SWMF | $1,012,142 | $512,455 | $515,000 |
| Total Expenditures-SWMF | $3,020,534 | $2,467,012 | $2,415,000 |
| Balance, SWMF | $386,466 | $189,988 | $0 |

NOTES:

| Fees Eliminated: | |
|---|---|
| Appliances, Bathtubs | 1/1/96 |
| Furniture, Mattresses | 1/1/97 |

March 24, 1995

#3

## SPECIAL WASTE FEE/ MSW LANDFILL FEE

### Revenue Estimate under Governor King's Proposal

| | | |
|---|---|---|
| Special Waste Fees | $700,000 | $800,000 |

Denise Lord: Increase attributable to expanded capacity; estimate for FY 98/99 is $1,000,000

Additional $2 fee per ton of imported special waste may become available if Congress passes law authorizing such fees; MWMA proposal is to allow fee on imports to be as high as allowed under federal law

~~2105~~ 2175-B, the agency shall make impact payments to a municipality in which a solid waste disposal facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the community involved or by the State Tax Assessor. The agency shall base its impact payments on measurable criteria including, without limitation:

1. **Roads.** Improvement, maintenance and repair of local roads directly affected by traffic to and from the facility;

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

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

**§2203, sub-§3** is amended to read:

3. **Imported special waste.** In addition to any other fee assessed under this section and to support those regulatory and administrative costs associated with imported special wastes, an administrative fee of $2 per ton, or the maximum fee on out-of-state waste authorized by federal law, which ever is greater, is imposed on special waste brought into the State for disposal, except that an administrative fee of $2 per cubic yard is imposed on asbestos brought into the State for disposal. The fee must be assessed at the first point of disposal, processing or treatment within the State.

**§2204, sub-§3** is amended to read:

3. **Imported municipal solid waste.** To support those regulatory and administrative costs associated with imported municipal solid wastes, an administrative fee of $4 per ton, or the maximum fee on out-of-state waste authorized by federal law, whichever is greater, is assessed on any municipal solid waste originating outside the State and delivered to a commercial solid waste disposal facility or solid waste disposal facility owned by the agency or a regional association for disposal.

Proposed Amendment to L.D. 229, "An Act To Abolish the Maine Waste Management Agency." #6

The purpose of this amendment is to delete all of Sections 7 and 8 of the bill and replace with the following:

**Sec.___. 32 M.R.S.A. §1863-B**, as enacted by PL 1991, c. 819, §3, is repealed.

**Sec. ___. 32 M.R.S.A. §1866, Sub-§7** as amended by PL 1991, c. 819, §9, is repealed.

**Sec. ___. 32 M.R.S.A. §1866-A**, as amended by PL 1991, c. 819, §§10, 11, is repealed.

**Sec. ___. 32 M.R.S.A. §1869, sub-§3**, as amended by PL 1991, c. 591, Pt. R, Sec. 5, is repealed.

**Sec. ___. 32 M.R.S.A. §1871**, 2nd ¶, as enacted by PL 1991, c. 591, Pt. R, Sec. 6, is repealed.

**Sec. ___.** Reports and reimbursements.

1. Notwithstanding the reporting requirements under the Maine Revised Statutes, Title 32, section 1866-A, subsection 1, each deposit initiator shall submit a final report on or before June 20, 1995 and need not submit a report for September, 1995.

2. Notwithstanding Title 32 section 1866-A, subsection 2, each deposit initiator shall submit a final payment to the Treasurer of State on or before June 20, 1995 in an amount equal to 50% of the unclaimed minimum deposits held by the deposit initiator for the 3-month period ending on the last day of March, 1995.

3. The Treasurer of State shall reimburse to a deposit initiator any documented claims of over-redeemed minimum deposits during the course of the previous calendar year.

4. The Treasurer of State shall reimburse to a deposit initiator an amount equal to any documented claims of over-redeemed minimum deposits as reported on or before June 20, 1995.

**Sec. ___. Retroactivity.** Section __ of this Act applies retroactively to June 20, 1995.

Further amend the bill by renumbering the sections of the bill to read consecutively.

**STATEMENT OF FACT**

This amendment repeals the laws relating to unclaimed beverage container deposits. The amendment also establishes transition language necessary for distributors of beverage containers to make final payments to and reimbursement requests from the State's Solid Waste Management Fund.

Amendment prepared by:

Dyer and Goodall
on behalf of
Maine Soft Drink Association

MEMORANDUM

TO: Senator Michael Pearson
FROM: Sherry F. Huber S. F. Huber
SUBJECT: Contract with Lincoln Pulp and Paper Co., Inc.
DATE: June 5, 1993

I am responding to inquiries from members of the Appropriations Committee about the July, 1992 agreement with Lincoln Pulp and Paper Co., Inc. (LP&P) with regard to 1500 acres of property in T2R8 which we are evaluating and hope to permit as a special waste landfill site. Members of the Energy and Natural Resources Committee have been informed of the process throughout and the agreement was discussed with them in January. The agreement is a legally enforceable contract which was entered into in good faith by both parties after lengthy negotiations. The Agency entered into this contract pursuant to its authority under 38 MRSA 2103(1).

## BACKGROUND

As Appropriations Committee members know from reviewing past efforts of this and other agencies, the identification and permitting of a disposal facility site is difficult and costly. Part of that cost is related to the "needle in a haystack" search effort that is commonly used, especially given the difficult soil and geological conditions in Maine. Part of the difficulty is related to finding a location that is reasonably accessible without being a major intrusion in the life of a community. The costs and community impacts generated by the search process have often led to a rejection of the sites identified and thus a result where there was no return on the investment. Our intent in developing the agreement with LP&P was to reduce those difficulties and costs, among others.

## THE AGREEMENT

The agreement was developed during numerous meetings between me and my staff and high level LP&P officials over a four month period in early 1992. Legal counsel from the Attorney General's Office and from LP&P's law firm participated in the later meetings as the details of the agreement began to take shape. The agreement was then reviewed by several additional persons from the staffs of the Attorney General and the Department of Transportation.

The most difficult part of the negotiation process was to balance the needs of both parties in a workable agreement that would anticipate a number of long term contingencies and, to some degree, maintain a joint interest in the site and the waste disposal process. As a result the agreement is very complex and prescriptive.

## BENEFITS TO STATE

This arrangement is beneficial to the state because LP&P had done considerable work on the site, received initial clearance from the DEP to continue with the application process, and had received a permit from the Corps of Engineers for the small amount of wetlands to be impacted. Consequently, the investment gave us a site whose attributes and limitations were known before any significant funds were expended, as opposed to investing in a search with unknown results. In addition, we established a potential partnership with a company which would become a customer for the landfill and which would provide an easy and cost effective solution for the disposal of leachate generated at the facility by treating it at the mill.

## BENEFITS TO LINCOLN PULP AND PAPER CO.

LP&P, in turn, got long term insurance for its waste disposal needs at a cost it could afford, a significant factor in resolving directives from DEP and assuring the company's future health. Given its economic impact on the Lincoln and Brewer regions, this is a beneficial byproduct to the State as well.

It should also be noted that the site is easily accessible to I-95, does not impact any year round residential or other development and, with 1500 acres, provides adequate buffer for a 40 acre landfill. The property was cut over timberland when purchased by LP&P and almost all of it will be retained in that condition by the agency when, and if, a landfill is developed on the site.

## FACILITY SITING BOARD APPROVAL

After making a $250,000 option payment, the agency had a consultant review the data available from LP&P's consultants and did additional on-site work to verify that data. As a result, we decided to move to the next step and a public hearing was conducted in Lincoln. The Facility Siting Board subsequently authorized the agency to move forward with evaluation and permitting. At that point we passed title on the property and began the detailed evaluation process which will last into next year. We also made the first of four payments to LP&P which, along with the option payment, will total approximately $1,000,000. These are the verified costs which LP&P incurred for the search and site evaluation process which they conducted in the late 1980's.

## PURCHASE TO BE COMPLETED AFTER RECEIPT OF PERMITS

The purchase price for the 1500 acres of property (there are no buildings) is $390,000, a per acre price which is consistent with land values in the area and which is LP&P's verified cost of purchasing the property in 1990 when it closed title with the previous owner. Although we have title to the property, no money has been paid to LP&P for the land and will not be until the evaluation and permitting process is complete. At that point the agency must make a decision about completing the purchase process by paying off the promissory note we provided to LP&P. The promissory note requires payment upon receipt of a permit from DEP. This provision was inserted to protect LP&P against dilatory action by the agency that would leave the company without a viable option to meet its own waste disposal needs.

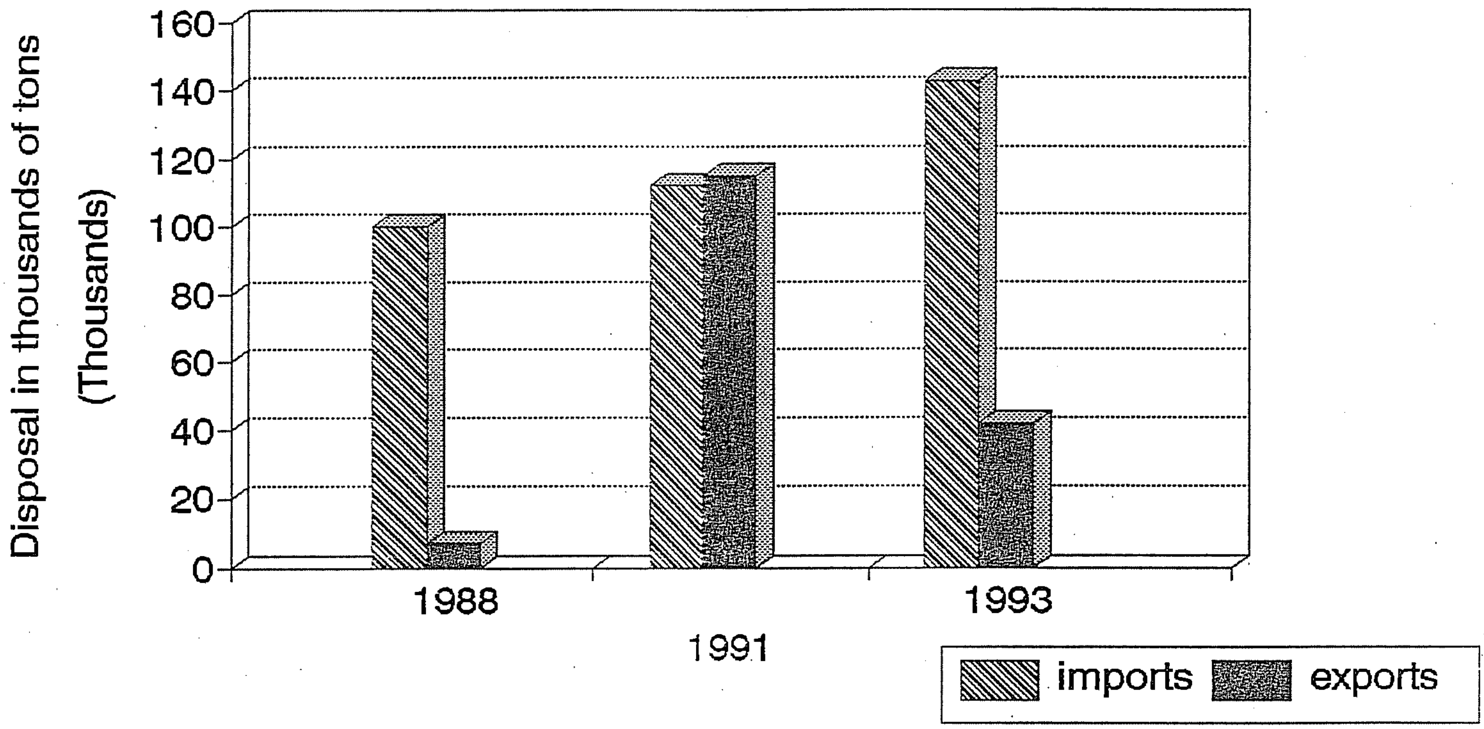
I hope this responds to the questions committee members have raised. I would be happy to discuss this project and the agreement with you at any time.

CARPENTER RIDGE EXPENSES 03/16/95

| | |
|---|---|
| CONSULTANTS | $1,424,694.60 |
| GERBER | $383,062.27 |
| CEH | $471,292.22 |
| ECO-ANALYSTS | $28,125.33 |
| WOODARD & CURRAN | $524,543.11 |
| HANK WARREN | $17,671.67 |
| LINCOLN PULP & PAPER | $1,037,620.00 |
| PENOB CNTY COMMISH. | $50,000.00 |
| DEP | $63,500.00 |
| CUMBERLAND COUNTY SWCD | $1,320.00 |
| BANGOR REAL ESTATE | $1,070.00 |
| TRAVEL | $4,643.91 |
| ADS | $1,798.01 |
| FSB PER DIEM | $7,000.00 |
| CHARLES BRADFORD | $500.00 |
| MISC | $1,533.28 |
| TOTAL | $2,593,679.80 |

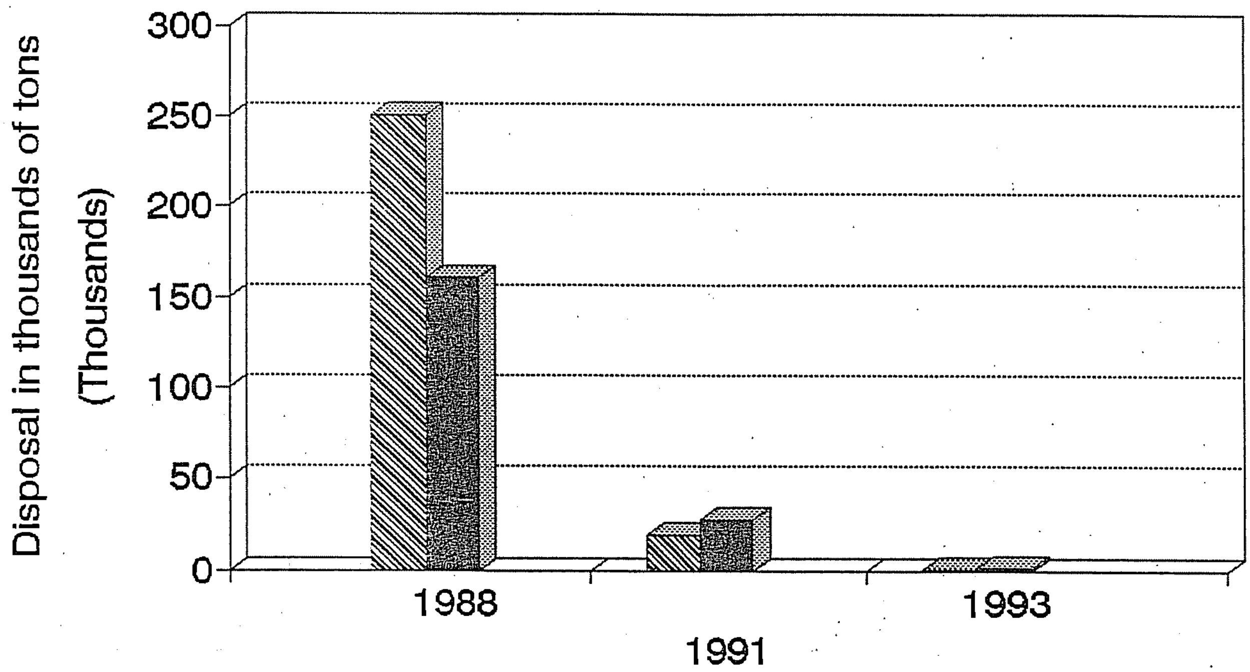
# MSW IMPORTS/EXPORTS

1988 -- 1993



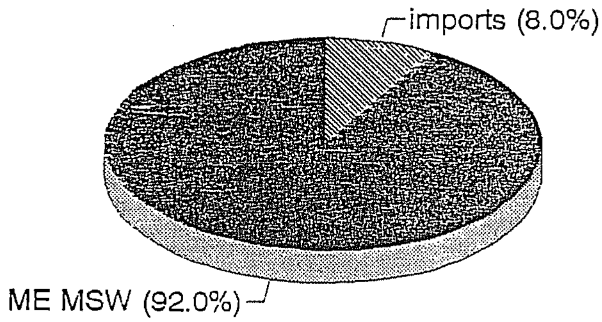

Prepared by the Maine Waste Management Agency

# SPECIAL WASTE IMPORTS/EXPC
## 1988 -- 1993

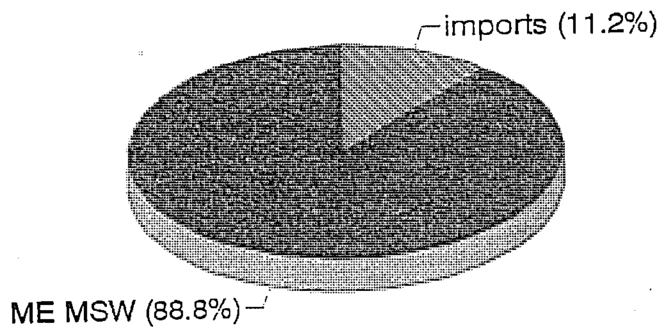



Prepared by the Maine Waste Management Agency

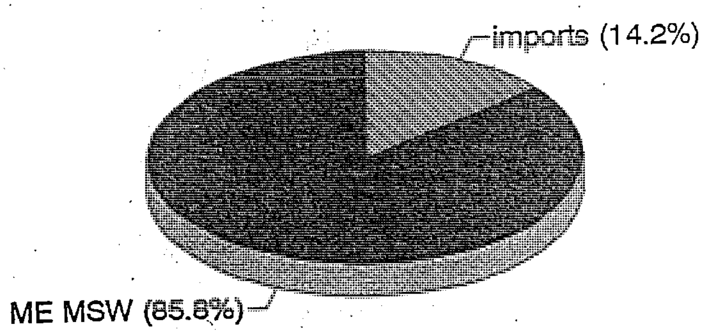
1988



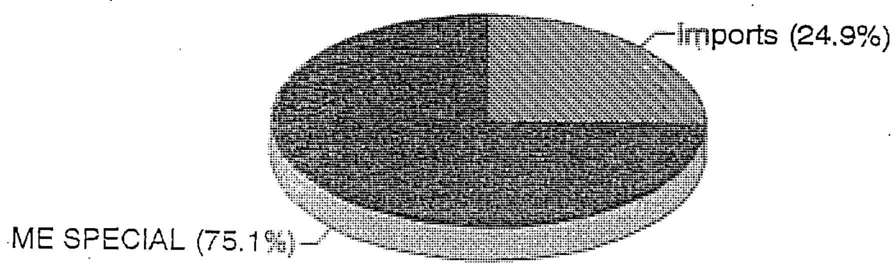

1991



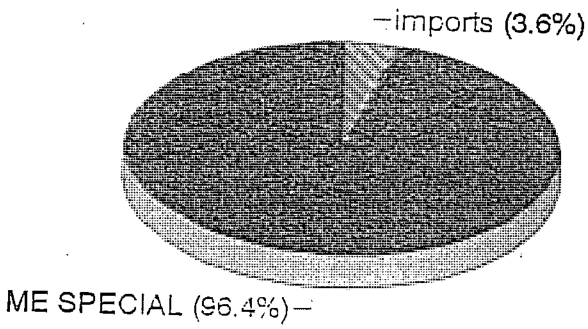

1993



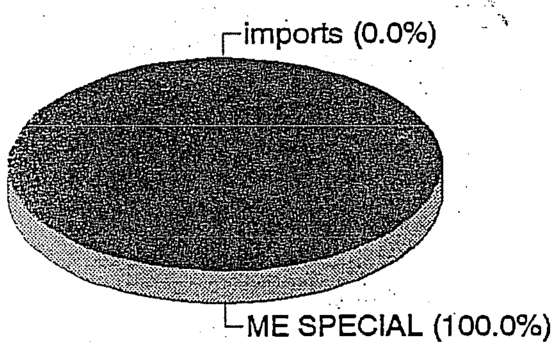
1988




1991




1993



MSW

| | imports | exports | Total Disposed | total Maine msw |
|---|---|---|---|---|
| 1988 | 100000 | 6860 | 1148771 | 1375646 |
| 1991 | 112120 | 115000 | 887855 | 1245750 |
| 1993 | 142640 | 41700 | 865350 | 1293400 |

SPECIAL

| | imports | exports | Total Disposed | total Maine |
|---|---|---|---|---|
| 1988 | 250490 | 160500 | 756650 | 1600150 |
| 1991 | 19050 | 26983 | 509831 | 1942100 |
| 1993 | 221 | 1413 | 509831 | 1942100 |

ASBESTOS

| | imports | exports | total Maine |
|---|---|---|---|
| 1988 | 81400 | | 15400 |
| 1991 | 68 | 3795 | 17007 |
| 1993 | 34 | 8138 | |

U.S. SENATE

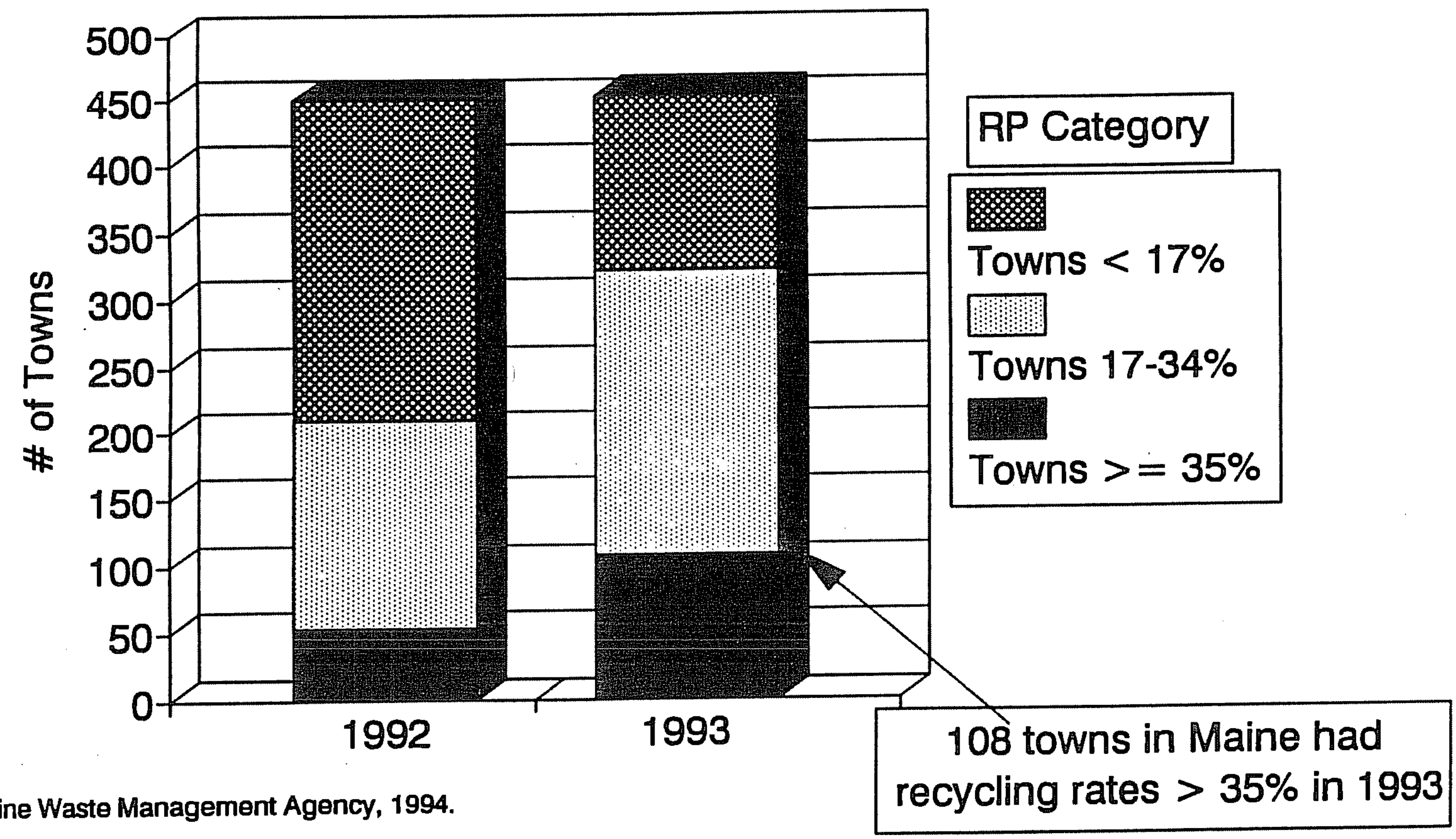
SUMMARY OF LEGISLATION
INTERSTATE WASTE

Title I of S. 534 would allow governors, at the request of local communities, to block out-of-state waste shipments to landfills and incinerators that didn't receive any waste in 1993. The legislation would allow governors to freeze waste shipments at 1993 levels for sites that imported waste during 1993. The bill would let states charge up to $1 per ton for all out-of-state waste shipments. The legislation would also allow governors to limit shipments from states that export more than 3.5 million tons in 1996; 3 million tons in 1997 and 1998; 2.5 million tons in 1999 and 2000; 1.5 million tons in 2001 and 2002; and 1 million tons for every year after 2003.

Figure 3.

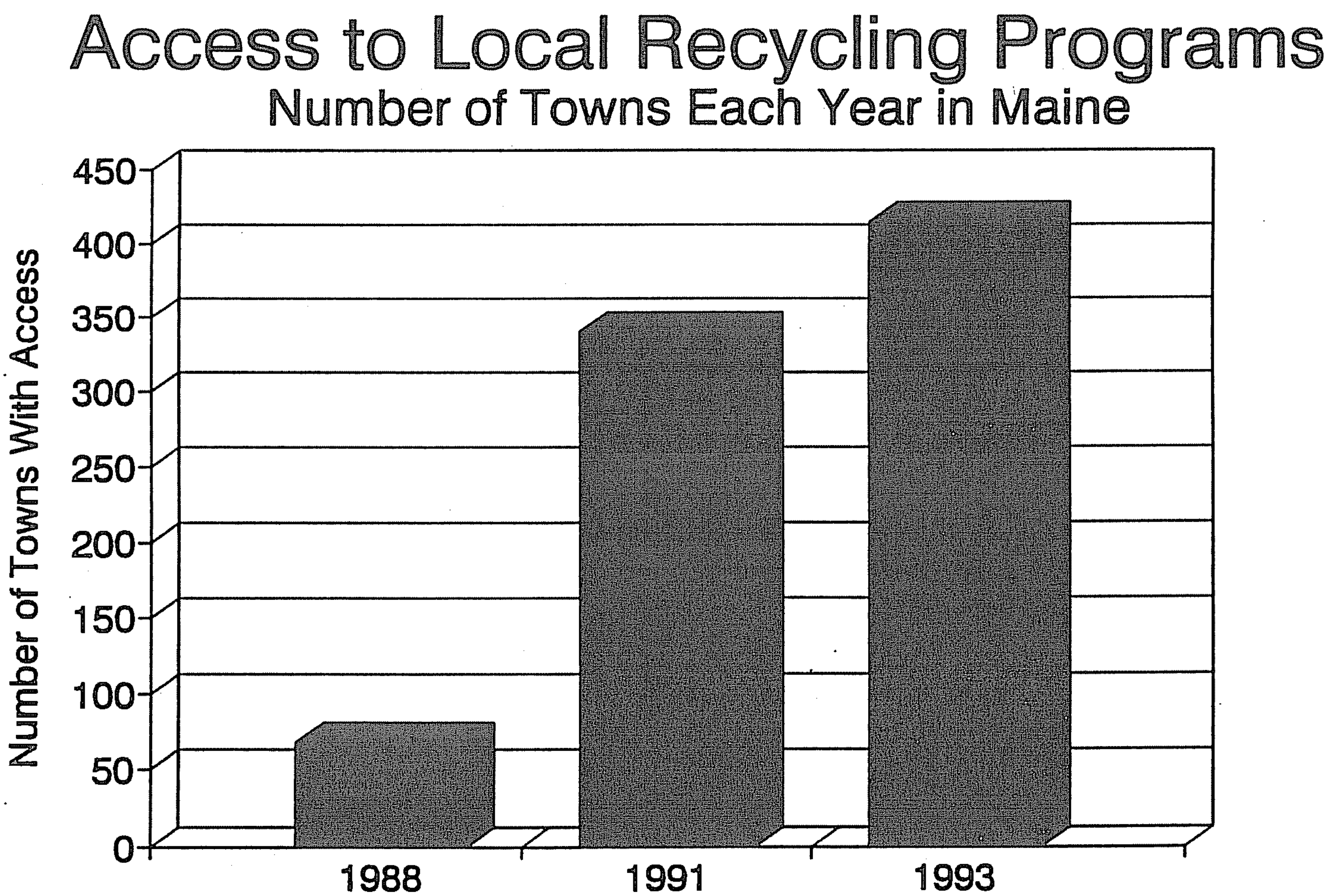
# The Reasonable Progress Standard

## # of towns in categories 1992 vs. 1993




Maine Waste Management Agency, 1994.

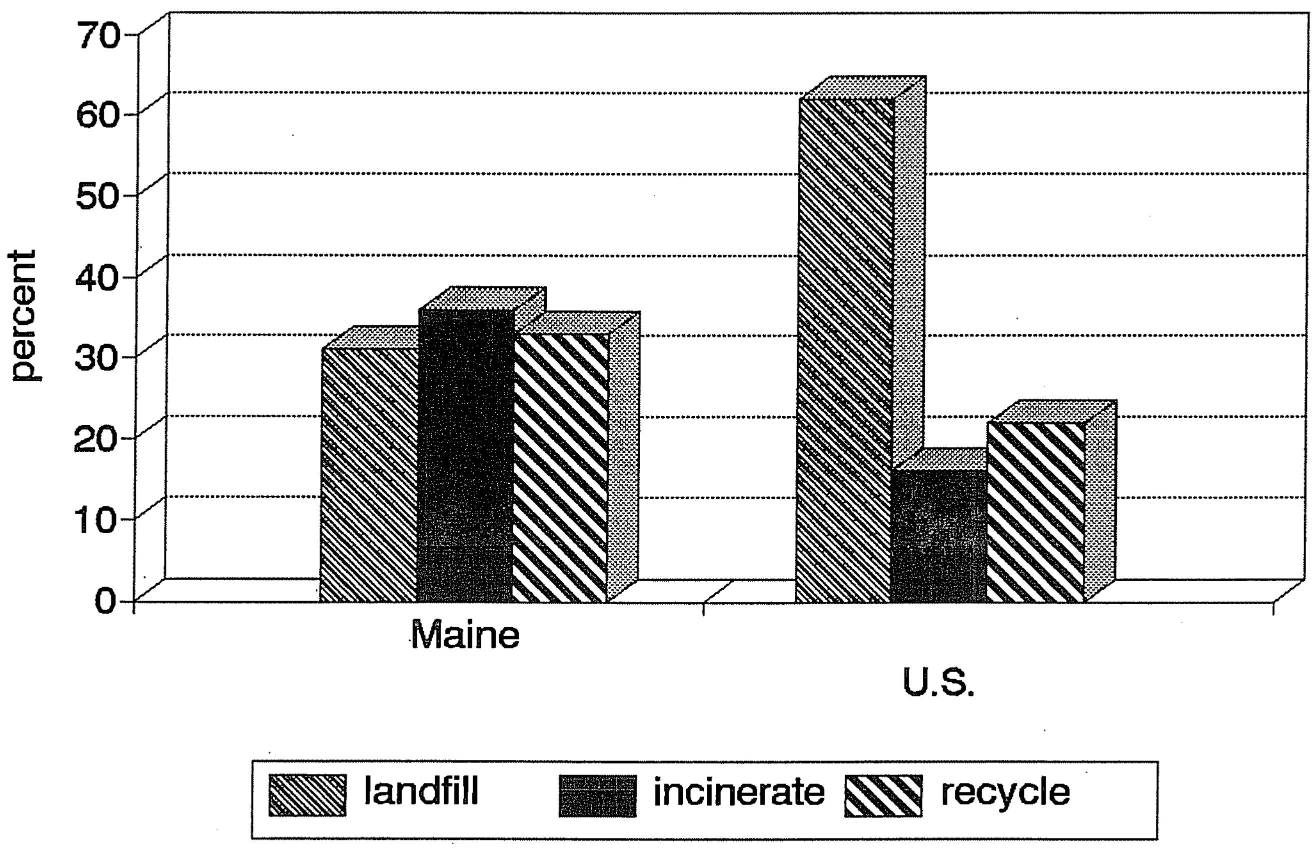
Figure 4.

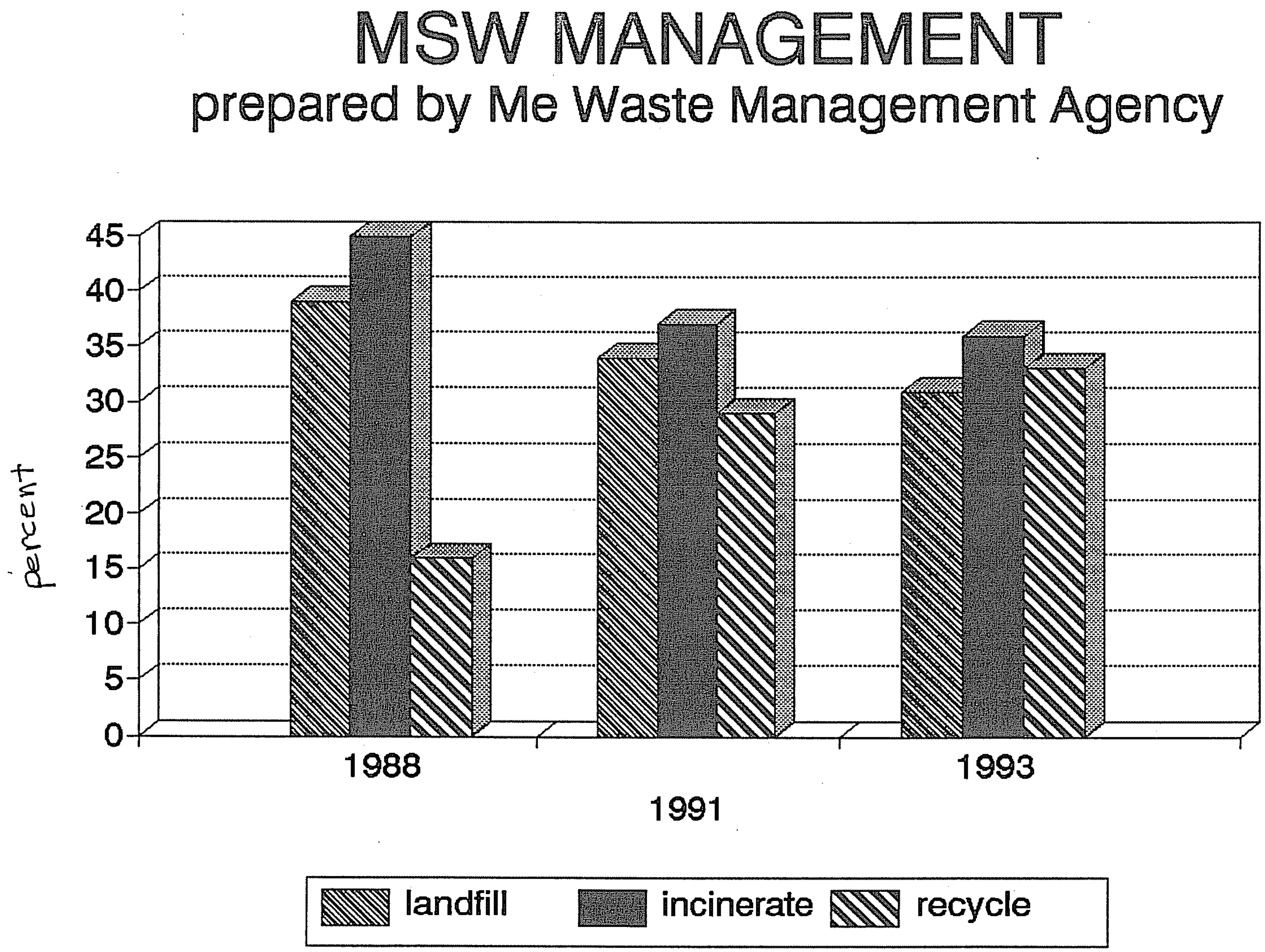



Maine Waste Management Agency, 1994.

# MSW MANAGEMENT

## Maine and the U.S. -- 1993




MSW MANAGEMENT
prepared by Me Waste Management Agency
45
40
35
30
25
20
15
10
5
0
percent
1988
1991
1993
landfill
incinerate
recycle

# Recycling and the Maine Economy

## FACT SHEET

**In wages, profits, savings, and secondary impacts, *recycling added nearly $300 million and over 2,000 jobs to the State of Maine economy in 1992.***

### $ Economic Activity

- **Overall, Maine municipalities, recycled materials brokers and manufacturers *added $297.2 million of value to the Maine economy from their recovery and use of recycled materials during 1992.***

- **Manufacturers, using recycled materials, *added $237 million in value to the Maine economy.*** Directly, manufacturers added $137 million in value to their products. Indirectly, they stimulated another $100 million in value-added activity.

- **Brokers, dealing in recycled materials, *added $20 million in value to the Maine economy.*** Directly, brokers produced $10.5 million in value added to the Maine economy. Indirectly, their activity stimulated another $9.4 million in value added.

- **Municipalities, by their sorting and storage activities, *added $40 million in value to the Maine economy.*** Instead of paying $50/ton to dispose of waste, municipalities avoided these costs and, in most cases, earned revenues by selling recovered materials to brokers and manufacturers.

### Jobs

- **Overall, Maine municipalities, recycled materials brokers and manufacturers *accounted for 2,144 jobs for Maine people from their recovery and use of recycled materials during 1992.***

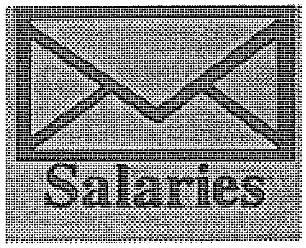
- **Manufacturers, using recycled materials, *accounted for 1,372 jobs.*** Directly, manufacturers employed 599 Mainers to create new products from recycled materials. Indirectly, they stimulated another 773 jobs in the Maine economy.

- **Brokers, dealing in recycled materials, *accounted for 572 jobs.*** Directly, brokers employed 395 Mainers to recover, store and process materials for sale to manufacturers. Indirectly, their activity stimulated another 177 jobs in the Maine economy.

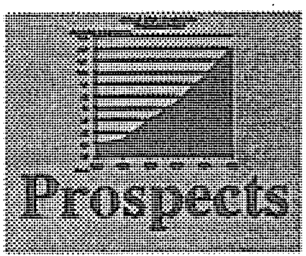
***printed on 100% recycled paper***

- **Municipalities, in their sorting and storage activities, *directly employed 200 Mainers.*** (note: This study did not attribute any indirect jobs to this municipal activity; however, spending by these employees undoubtedly accounts for additional jobs and economic activity.)

- The number of direct jobs in the field of recycling (1,194) is comparable to the number employed in several traditional sectors of the Maine economy including boat building and repairing (1,030), furniture and fixtures manufacturing (1,210) and leather tanning and finishing (1,240).




- **The jobs created are, by-and large, *quality jobs, not minimum wage, marginal opportunities. The average annual salary of all private sector jobs attributable directly to recycling in Maine is $18,476.*** Among brokers, annual average salary for recycling workers is $14,938 per year. Among manufacturers, the average annual salary for recycling workers is $20,813. By comparison, the Maine Department of Labor reported that the ***1990 average annual earnings of all Maine workers was $19,820.*** The average annual salary of Maine workers in other Maine industries range from $11,463 for the retail trade sector (low) to $29,659 for the mining sector (high).




- ***Both value-added economic activity and new jobs attributable to recycling are expected to double in the next few years*** as a result of just two new projects already well on the way to beginning operations: Bowater's paper recycling plant in East Millinocket (opening Summer 1993) and Stone and Webster's paper recycling plant in Auburn (opening 1994).[1] By 1995, recycling will produce over $550 million in value added and account for over 4,000 jobs. Furthermore, expansions of operations and work force anticipated by many existing brokers and manufacturers, to accommodate both the increasing supply of materials as Maine approaches the 50 percent recycling goal and the increasing market demand for products made from recycled materials, will foster even more value-added economic activity and job creation.



[1] ***Both of these plants will add significant new demand for recycled materials. Bowater's mill will require 105,000 tons of old newsprint and 45,000 tons of old magazines annually. Stone and Webster's plant will require 89,000 tons of high grade (i.e., office paper and mixed paper) paper annually.***

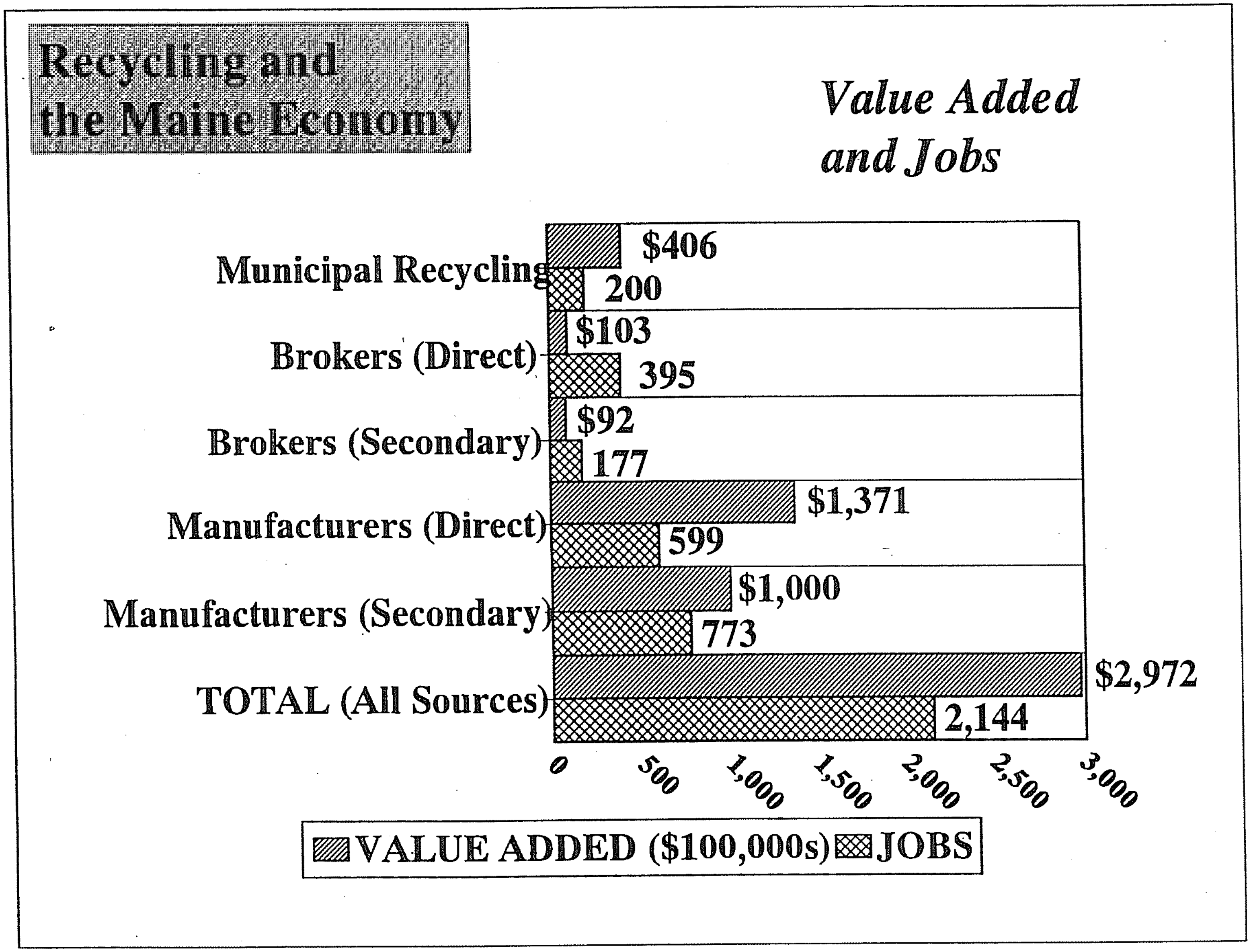



**Chart 1. Value Added and Jobs Created by Recycling in Maine**

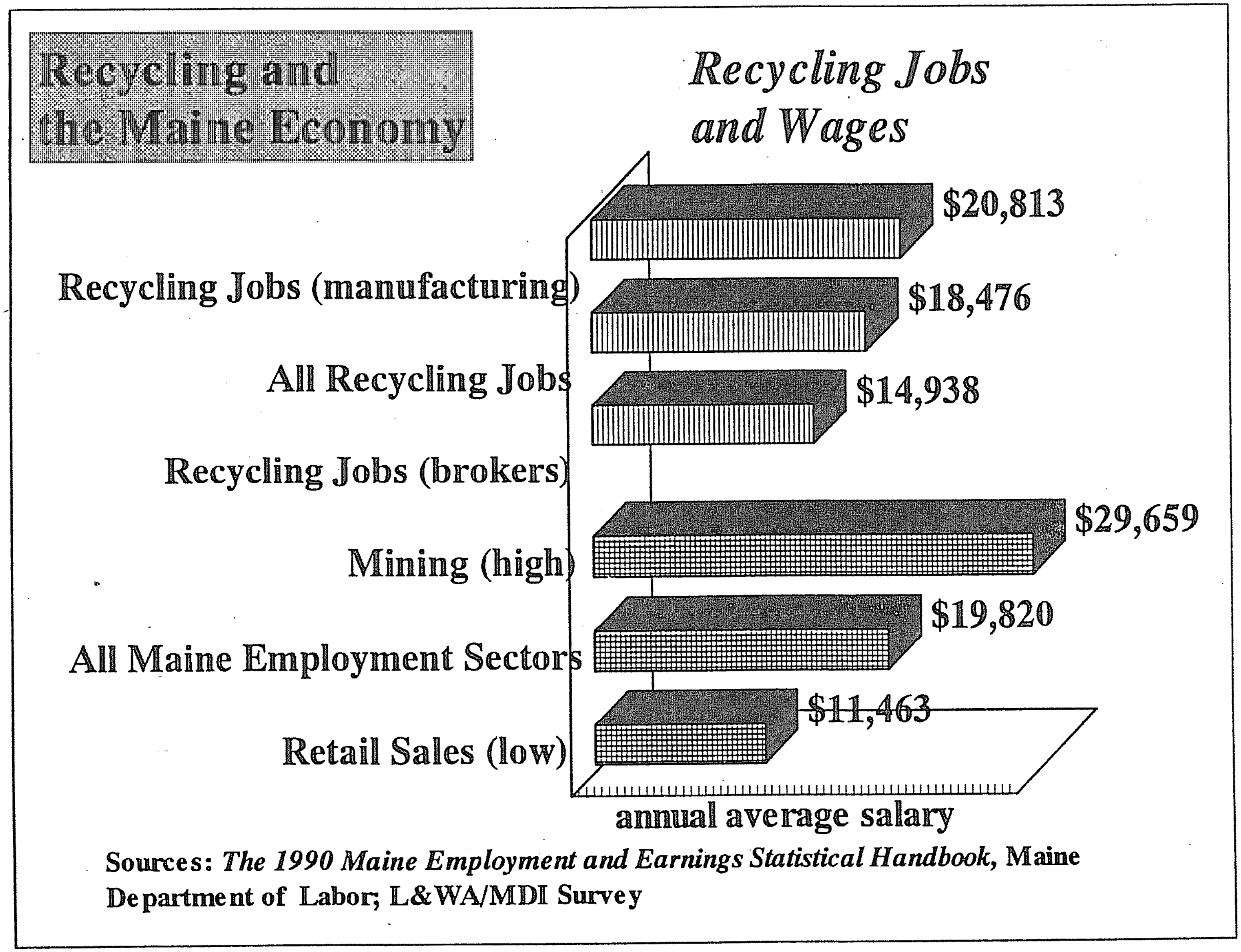
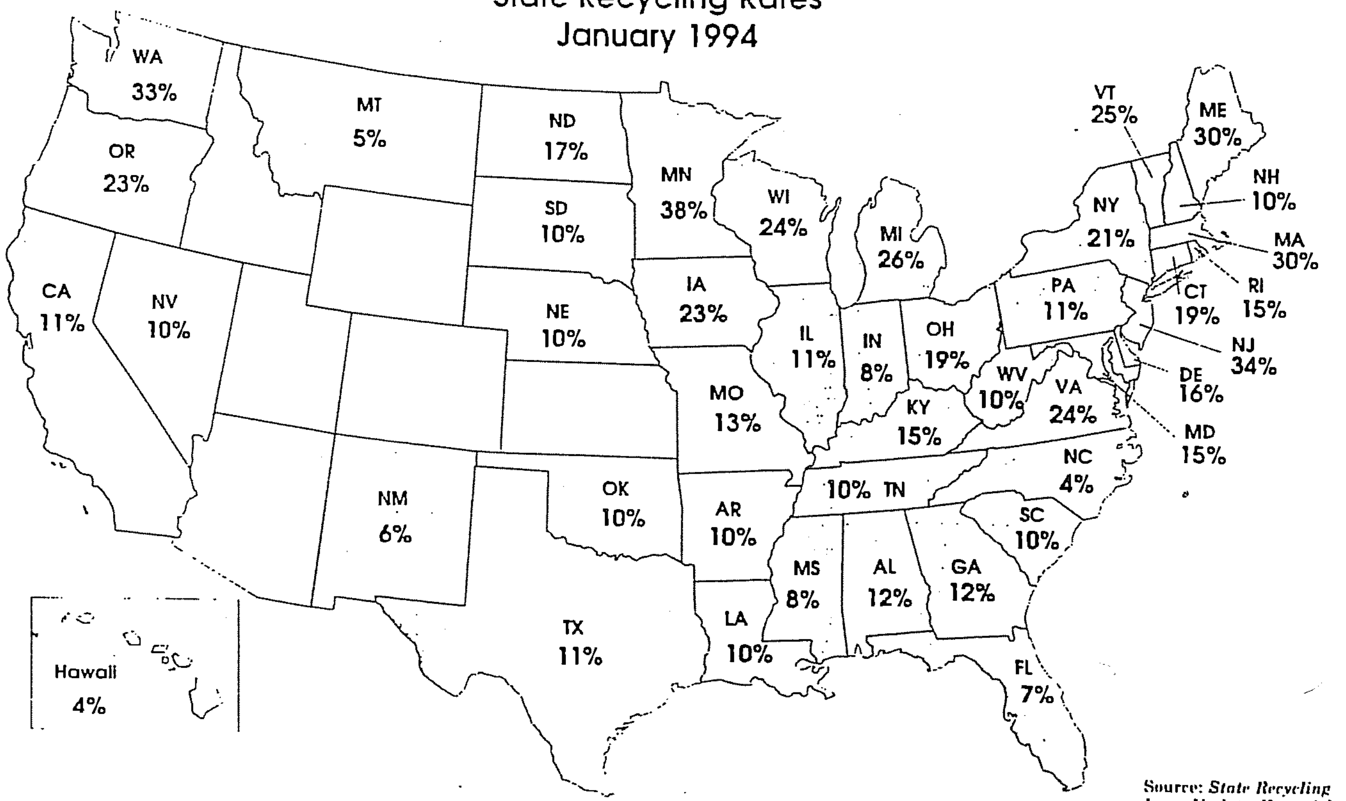



Chart 5. Maine Recycling Jobs and Wages

State Recycling Rates
January 1994




Source: *State Recycling Laws Update, Year-end Edition 1994*

11/16/94

PERC - IMPORTED MSW
1993

| STATE SOURCE | JAN - MAR | APR - JUNE | JUL - SEPT | OCT - DEC | TOTALS |
|---|---|---|---|---|---|
| MASS | 7,502.56 | 8,728.03 | 1,190.28 | 978.76 | 18,399.63 |
| NEW YORK | 271.92 | 2,449.13 | 411.01 | 250.84 | 3,382.90 |
| TOTALS | 7,774.48 | 11,177.16 | 1,601.29 | 1,229.60 | 21,782.53 |

MERC - IMPORTED MSW
1993

| STATE SOURCE | JAN - MAR | APR - JUNE | JUL - SEPT | OCT - DEC | TOTALS |
|---|---|---|---|---|---|
| N.H. | 5,390.81 | 6,088.90 | 10,871.37 | 10,371.48 | 32,722.56 |
| MASS | 20,077.39 | 11,350.52 | 5,003.03 | 11,199.67 | 47,630.61 |
| RHODE ISLAND | 5,503.78 | 5,718.73 | 0.00 | 22.75 | 11,245.26 |
| NEW YORK | 5,557.61 | 6,088.90 | 12,136.34 | 4,150.24 | 27,933.09 |
| VERMONT | 0.00 | 0.00 | 0.00 | 1,327.70 | 1,327.70 |
| TOTALS | 36,529.59 | 29,247.05 | 28,010.74 | 27,071.84 | 120,859.22 |

TOTAL - IMPORTED MSW
1993

| STATE SOURCE | JAN - MAR | APR - JUNE | JUL - SEPT | OCT - DEC | TOTALS |
|---|---|---|---|---|---|
| N.H. | 5,390.81 | 6,088.90 | 10,871.37 | 10,371.48 | 32,722.56 |
| MASS | 27,579.95 | 20,078.55 | 6,193.31 | 12,178.43 | 66,030.24 |
| RHODE ISLAND | 5,503.78 | 5,718.73 | 0.00 | 22.75 | 11,245.26 |
| NEW YORK | 5,829.53 | 8,538.03 | 12,547.35 | 4,401.08 | 31,315.99 |
| VERMONT | 0.00 | 0.00 | 0.00 | 1,327.70 | 1,327.70 |
| TOTALS | 44,304.07 | 40,424.21 | 29,612.03 | 28,301.44 | 142,641.75 |

41,700 exported MSW (mostly construction/demolition debris)

Committee: nat
LA: dcf
LR (item)#: 290(2)
WPP Doc. #: 6925NRG
New Title?: n
Add Emergency?: y
Date: 04/27/95

COMMITTEE AMENDMENT "." to L.D. 229, An Act to Abolish the Maine Waste Management Agency

Amend the bill by adding before the enacting clause the following:

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

**Whereas,** this legislation proposes to abolish the Maine Waste Management Agency, and to transfer certain of its functions to other state agencies; and

**Whereas,** the Governor's budget plan for fiscal year 1995-96 provides no funding for continued activities of the Maine Waste Management Agency; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

**'Sec. 1. 2 MRSA §6, subsection 2** is amended to read:

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

Superintendent of Banking;
Bureau of Consumer Credit Protection Superintendent;
State Tax Credit Assessor;
Superintendent of Insurance;

Associate Commissioner for Programs, Department of Mental Health and Mental Retardation;
Associate Commissioner of Administration, Department of Mental and Mental Retardation;
Associate Commissioner for Institutional Management; <u>and</u>
~~Executive-Director,-Maine-Waste-Management-Agency;-and-~~
Deputy Commissioner, Department of Administrative and Financial Services.

**Sec. 2. 2 MRSA §6, subsection 4** is amended to read:

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

Director of the Bureau of Parks and Recreation;
Director of Public Lands;
Director of Employee Relations;
Director, Bureau of Air Quality Control;
Director, Bureau of Water Quality Control;
Director, Bureau of Oil and Hazardous Materials Control;
Director, Bureau of Administration; <u>and</u>
~~Director,-Office-of-Planning;~~
~~Director,-Office-of-Waste-Reduction-and-Recycling;~~
~~Director,-Office-of-Siting-and-Disposal--Operations;~~
Executive Director, Board of Environmental Protection.

**Sec. 3. 3 MRSA §927, sub-§9, ¶B**, as repealed and replaced by PL 1991, c 376, §11, is amended to read:

B. Independent agencies:

(1) Maine Conservation School;
(2) Office of State Historian;
(3) Maine Arts Commission;
(4) Maine State Museum Commission;
(5) Maine Historic Preservation Commission;
(6) Maine Health Care Finance Commission;
(7) Board of Occupational Therapy Practice;
(8) Board of Respiratory Care Practitioners;
(9) Radiological Technology Board of Examiners;
(10) Maine Library Commission: <u>and</u>
~~(11)-Maine-Waste-Management-Agency;-and~~
(12) Maine Court Facilities Authority.

**Sec. 4. 5 MRSA §931, sub-§1, ¶k**, as amended by PL 1993, c. 349, §6, is further amended to read:

K. All major policy-influencing positions listed in sections 932 to ~~953~~-A <u>952</u>;

**Sec. 5 MRSA 953-A**, as enacted by PL 1989, c. 585, Pt. A., §4, is repealed.

**Sec. 6. 5 MRSA §12004-I, sub-§22**, as repealed and replaced by PL 1989, c. 585, Pt. A, §6, is repealed.

**Sec. 7. 32 MRSA §1866-A, sub-§3**, as enacted by PL 1991, c. 591, Pt. R, §4 and affected by §18, is amended to read:

**3. Over-redemption of beverage containers.** When a deposit initiator pays out more in refund values than it collects in deposits during the course of a calendar year, the deposit initiator may apply to the Treasurer of State for a reimbursement from the Maine Solid Waste Management Fund equal to 50% of the amount of over-redeemed minimum deposits. The Treasurer of State shall reimburse documented claims of over-redeemed minimum deposits.

**Sec. 8. 36 MRSA §2526, sub-§5** is amended to read:

**5. Application.** This section applies to equipment purchased and placed into use during the period from January 1, 1990 to June 30, 1991 or ~~in-any-tax-year-beginning-on-or-after~~ from January 1, 1993~~.~~ to June 30, 1995.

**Sec. 9. 36 MRSA §5219-D, sub-§5** is amended to read:

**5. Application.** This section applies to equipment purchased and placed into use during the period from January 1, 1990 to June 30, 1991 or ~~in-any-tax-year-beginning-on-or-after~~ from January 1, 1993~~.~~ to June 30, 1995.

**Sec. 10. 38 MRSA §343-D, sub-§1**, as amended by PL 1993, c. 500, §2 and affected by §5, is further amended to read:

**1. Appointment; composition.** The committee consists of 16 voting members.

A. The Governor shall appoint 2 representatives from the business community, 2 elected or appointed municipal officials who are not owners or representatives of owners of small business stationary sources, and 2 representatives of organized labor.

B. The President of the Senate shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

C. The Speaker of the House of Representatives shall appoint one member from a public health organization, one member from an environmental organization and one public member who is an owner or represents an owner of a small business stationary source.

D. The commissioner shall appoint a designee to represent the department.

E. The Senate Minority Leader and the House Minority Leader shall each appoint one member who is an owner or represents an owner of a small business stationary source.

F. The Director of the Bureau of Air Quality Control shall appoint a designee to represent the bureau.

The Commissioner of Labor~~,~~ and the Director of the Maine Emergency Management Agency and the Executive Director of the ~~Maine Waste Management Agency~~ State Planning Office serve as ex officio members and do not vote on committee matters.

As used in this subsection, unless the context otherwise indicates, a "small business stationary source" means a source that meets the eligibility requirements of 42 United States Code Annotated, Section 7661f.

**Sec 11. 38 MRSA §1303-C, sub-§35**, as enacted by PL 1989, c. 585, Pt. E, §4, is amended to read:

**35. State waste management and recycling plan.** "State waste management and recycling plan" means the plan adopted by the ~~agency~~ former Maine Waste Management Agency pursuant to former chapter 24, subchapter II, and subsequent plans developed by the State Planning Office pursuant to Title 5, section 3307-F, and may also be referred to as "state plan."

**Sec. XX. 38 MRSA §1310-M** is enacted to read:

***§1310-M. Public Benefit Determination***

*Prior to submitting an application under section 1310-N for a license to construct or expand a solid waste disposal facility, a person must apply to the commissioner for a determination of whether the proposed construction or expansion provides a substantial public benefit. The commissioner shall provide public notice of the filing of this application, shall accept written public comment on the application for 20 days after the date of the notice, and shall issue a decision on the matter within 45 days of receipt of the application. Commissioner decisions under this section may be appealed to the board, but the board is not authorized to assume* *jurisdiction of a decision under this section. The commissioner's determination must be made in accordance with the following provisions.*

*A. For the following facilities, the commissioner shall employ a rebuttable presumption of public benefit:*

*(1) Solid waste disposal facilities less than 6 acres in size that accept only inert fill, construction and demolition debris, debris from land clearing and wood wastes; and*

*(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, no more tham 15% of all solid waste accepted on an annual average which is not generated by the owner.*

*B. For all other facilities, the commissioner shall find that the proposed facility provides a substantial public benefit if the applicant demonstrates to the commissioner that the proposed facility:*

*(1) Meets immediate, short-term or long-term capacity needs identified in the state waste management and recycling plan in addition to capacity that is under development by the State Planning Office under chapter 24 or by any other party approved by the commissioner at the time of application;*

*(2) Except as provided in paragraph D, is consistent with the state waste management and recycling plan; and*

*(3) Is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal.*

*For purposes of this paragraph, capacity is "under development by the State Planning Office" when the State Planning Office commences construction of a facility or makes a written determination to commence construction of a facility within 2 years.*

*C. Except as provided in paragraph D, proceedings under this subsection are subject to the provisions of Title 5, chapter 375, subchapter IV.*

*D. An application for expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling is not subject to the provisions of Title 5, chapter 375, subchapter IV or the requirements of paragraph B.*

*subparagraph (2). In making the determination of whether expansion of such a facility provides a substantial public benefit, the commissioner shall consider the written information submitted in support of the application and any other written information the commissioner considers pertinent. In addition, the commissioner may hold a public meeting in the vicinity of the proposed expanion to take public comments and shall consider those comments in making the determination.*

**Sec. 12. 38 MRSA §1310-N, sub-§1, ¶B** is amended to read:

*B. In the case of a disposal facility, the commissioner has determined in accordance with section 1310-M that the facility provides a substantial public benefit; and*

**Sec. 13. 38 MRSA §1310-N, sub-§3**, as repealed and replaced by PL 1993, c. 680, Pt. A, §37, is repealed.

**Sec. 14. 38 MRSA §1310-R, sub-§3 ¶C** is repealed.

**Sec. 15. 38 MRSA §1310-R, sub-§4**, as affected by PL 1989, c. 890, Pt. A §40 and amended by Pt. B, §248, is repealed.

**Sec. 16. 38 MRSA §1310-X, sub-§§3, ¶C** is amended to read:

C. For a commercial solid waste disposal facility ~~and prior-to-the-adoption-of-the-state-plan-and-siting-criteria under-chapter-24,-the-department-determines-that-the-proposed expansion-is-consistent-with-the-provisions-of-section-1310-R, subsection-3,-paragraph-A-1-or,-after-the-adoption-of-the-state plan-and-siting-criteria-under-chapter-24~~, the ~~agency~~ commissioner determines in accordance with section 1310-M that the facility provides a substantial public benefit ~~that-the provisions-of-section-2157-are-met.~~

**Sec. 17. 38 MRSA §1316-C, last ¶** is amended to read:

Funds recovered under this section must be deposited into the ~~Maine-Solid-Waste-Management-Fund~~ Tire Management Fund.

**Sec. 17-A. 38 MRSA §1316-F** is enacted to read:

***§1316-F. Tire Management Fund***

*The Tire Management Fund is created within the department as a nonlapsing dedicated fund to pay the costs of tire stockpile abatement, remediation and cleanup. All funds appropriated or allocated to the Fund must be deposited in the Fund, and the Fund may accept grants, bequests, gifts or contributions from any person, corporation or governmental entity. The Fund must be used for the purposes set forth in section 1316-B. Permissible uses include providing financial incentives to tire processors to make the processing of tires economically feasible.*

**Sec. 18. 38 MRSA §1382, first ¶,** as amended by PL 1991, c. 517, Pt. B, §2, is further amended to read:

Members of the board of trustees are 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. The board of trustees consists of 8 members as follows: one member from the Department of Environmental Protection; one member from the Department of Agriculture, Food and Rural Resources; one member from the ~~Maine Waste Management Agency~~ State Planning Office; one member from an environmental interest group; one member from the Maine Waste Water Control Association; one member from the Maine Municipal Association; one member representing users of sludge or residuals; and one member representing generators of sludge and residuals.

**Sec. 19. 38 MRSA c.24, first 2 lines** are repealed and the following enacted in their place:

**Chapter 24**
**SOLID WASTE MANAGEMENT AND RECYCLING**

**Sec. 20. 38 MRSA 2101-A** is enacted to read:

**§2101-A. Definitions**

For the purposes of this chapter, the following terms shall have the following meanings:

**1. Agency.** "Agency" means the State Planning Office.

**2. Department.** "Department" means the Department of Environmental Protection.

**3. Office.** "Office" means the State Planning Office.

**Sec. 21. 38 MRSA §§2102 to 2110** are repealed.

**Sec. 22. 38 MRSA §2121** is repealed.

**Sec. 23. 38 MRSA §2122** is repealed and replaced with the following:

**§2122-A.**

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. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local level. ~~The-plan-must provide-a-needs-determination-for-existing-commercial-entities in-the-development-of-expanded-solid-waste-disposal-facilities.~~

**1. Consultation.** In developing the plan, the office shall consult with the Department of Environmental Protection. The office shall solicit public input and may hold hearings in different regions of the State.

**2. Revisions.** The office shall revise the analysis at least every 2 years to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies, development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate.

**Sec. 24. 38 MRSA §2123** is repealed and replaced with the following:

**§2123-A. Plan contents.**

The state plan includes the following elements.

**1. Waste characterization.** The plan must be based on a comprehensive analysis of solid waste generated, recycled and disposed of in the State. Data collected must include, but not be limited to, the source, type and amount of waste currently generated; and the costs and types of waste management employed including recycling, composting, landspreading, incineration or recycling.

**2. Waste reduction and recycling assessment.** The plan must include an assessment of the extent to which waste generation could be reduced at the source, and the extent to which recycling can be increased.

3. Determination of existing and potential disposal capacity. The plan must identify existing solid waste disposal and management capacity within the State, and the potential for expansion of that capacity.

4. Projected demand for capacity. The plan must identify the need in the State for current and future solid waste disposal capacity by type of solid waste, *including identification of need over the next 5, 10 and 20 year periods*.

**Sec. 25. 38 MRSA §2124** is amended to read:

**§2124. Reports**

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

**Sec. 26. 38 MRSA §2125** is amended to read:

**§2125. Evaluation of municipal implementation of solid waste hierarchy**

The ~~agency~~ office shall ~~adopt, by rule,~~ develop a system for acknowledging implementation by municipalities of solid waste management hierarchy set forth in section 2101 and the goals for solid waste management adopted in the waste management and recycling plan. The system must include the following elements.

**1. Evaluation.** Municipalities shall report annually, except as provided by the ~~agency~~ office, on their solid waste management practices. The annual report must include provision for designating how much of each type of solid waste is generated and how that solid waste is managed. The ~~agency~~ office shall assist municipal reporting by developing a municipal waste stream assessment model. The model must rely on actual waste data whenever possible, but incorporate default generation estimates when needed. Default generation estimates must incorporate factors such as commercial activity, geographical differences and municipal population.

**2. Progress report.** The ~~agency~~ office shall use the municipal annual reports and other appropriate information to prepare an annual report to the Governor and the Legislature on the progress made by municipalities toward implementing the solid waste management hierarchy.

**Sec. 27. 38 MRSA §2131** is repealed.

**Sec. 28. 38 MRSA §2132, sub-§1** is amended to read:

1. **State recycling goal~~;-interim-goal~~.** It is the policy of the State to recycle <u>or compost</u>, by January 1, ~~1994~~ <u>1998</u>, 50% of the municipal solid waste generated each year. ~~The Legislature-establishes-an-interim-goal-of-recycling-by-January 1,-1992,-25%-of-the-municipal-solid-waste-generated-each-year.~~

**Sec. 29. 38 MRSA §2132, sub-§2** is amended to read:

2. **Goal revision.** The ~~agency~~ <u>office</u> shall recommend revisions, if appropriate, to the state recycling goal established in 38 MRSA §2132 and shall establish a waste reduction goal. The ~~agency~~ <u>office</u> shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

**Sec. 30. 38 MRSA §2132, sub-§3** is repealed.

**Sec. 31. 38 MRSA §2133, sub-§1** is repealed and replaced with:

<u>1-A. **Recycling Progress.** Municipalities are not required to meet the state recycling goal in section 2132, rather they must demonstrate reasonable progress towards the goal. The office shall determine reasonable progress.</u>

**Sec. 32. 38 MRSA §2133, sub-§2** is repealed and replaced with:

<u>2-A. **Technical and financial assistance program.** A program of waste reduction and recycling technical and financial assistance is established in the office to assist municipalities with managing solid waste. The director shall administer these programs in accordance with the waste management hierarchy in section 2101.</u>

**Sec. 33. 38 MRSA §2133, sub-§3** is amended to read:

3. **Recycling Capital Investment Grants.** The office may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling <u>and composting</u> facilities and the purchase of recycling <u>and composting</u> equipment. The office may establish requirements for local cost sharing of up to 25% of the total grant amount. ~~The-office-shall-give-preference-to-recycling programs-that-require-the-participation-of-the-waste-generators served.~~

**Sec. 34. 38 MRSA §2133, subsection 4, ¶B** is repealed.

**Sec. 35. 38 MRSA §2133, subsection 5** is repealed.

**Sec. 36. 38 MRSA §2133, sub-§6** is enacted to read:

**3. Recycling Demonstration Grants.** The office may make demonstration grants to eligible municipalities, regional associations, or other public organizations to pilot waste reduction, recycling, and composting programs and to test their effectiveness and feasibility.

**Sec. 37. 38 MRSA §2134** is amended to read:

**§2134. Market development and assistance**

The office shall ~~design and~~ implement a market development and marketing assistance ~~strategy~~ programs, consistent with the recycling component of the state plan, which shall include, without limitation, the following elements:

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

~~**2. Incentive program.** An incentive program to encourage 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 program;~~

**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;

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

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

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

~~B.--Market-opportunities-in-Canada-and-other-export-markets;~~

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

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

**6. Reuse of waste.** Assisting industries in promoting the reuse of industrial <u>and commercial</u> wastes that are suitable raw materials for other processes. ~~The-office-shall-coordinate these-efforts-with-waste-exchanges-in-the-northeastern-United States.~~

**Sec. 38. 38 MRSA §2135** is repealed.

**Sec. 39. 38 MRSA §2135-A**, as enacted by PL 1991, c. 517, Pt. A is repealed.

**Sec. 40. 38 MRSA §2136** is repealed.

**Sec. 41. 38 MRSA §2137** is amended to read:

**§2137. State Government recycling and waste reduction**

The office, in cooperation with the Department of ~~Administration~~ <u>Administrative and Financial Services</u>, shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the State. ~~The programs-shall-include,-without-limitation,-recycling-of-office papers,-cardboard,-used-motor-oil,-yard-waste-and-other materials-produced-by-the-State-for-which-recycling-markets exist-or-may-be-developed.~~

~~1.--Waste-reduction-and-recycling-plan.--Each-state-agency shall-prepare-a-waste-reduction-and-recycling-plan-addressing the-requirements-of-subsections-3-and-4.--The-plan-shall-be submitted-to-the-Office-of-Waste-Reduction-and-Recycling-on-or before-July-1,-1990,-for-approval-as-consistent-with-the-goals and-guidelines-of-this-section-and-with-the-state-waste~~

~~management-and-recycling-plan.--The-plan-shall-be-updated-on-a biennial-basis-to-increase-the-amount-of-material-recycled-by taking-advantage-of-any-changed-circumstances.--Each-department shall-complete-an-analysis-of-additional-materials-to-determine recycling-potential,-and-shall-incorporate-these-materials-into plan-updates.--Updated-plans-shall-be-submitted-to-the-office for-approval-prior-to-adoption.~~

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

**3. Recycling.** ~~By-January-1,-1991,~~ eEach state agency ~~outside-the-Capitol-complex~~ shall establish and implement a source separation and collection program for recyclable materials produced as a result of agency operations, including, at a minimum, high grade paper and corrugated paper. The source separation and collection program shall include, at a minimum, procedures for collecting and storing recyclable materials, bins or containers for storing materials, and contractual and other arrangements with buyers. Each agency shall appoint a recycling coordinator for every 50 employees at a minimum and shall conduct educational programs for its employees on the recycling program.

**4. Waste reduction.** ~~By-January-1,-1991,~~ eEach state agency shall establish and implement a waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the maximum feasible reduction of waste generated as a result of agency operations.

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

~~A.--Each-campus-of-the-University-of-Maine-System-shall prepare-a-waste-reduction,-recycling-and-composting-plan addressing-the-requirements-of-paragraphs-B-to-D.--The-plan shall-be-submitted-to-the-Office-of-Waste-Reduction-and Recycling-on-or-before-July-1,-1990,-for-approval-as-consistent with-the-goals-and-guidelines-of-this-chapter-and-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.~~

~~Updated-plans-shall-be-submitted-to-the-office-for-approval prior-to-adoption.~~

B. ~~By-January-1,-1991,-e~~Each campus of the University of Maine System shall establish and implement a source separation and collection program for recyclable materials, 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.

C. ~~By-January-1,-1991,-e~~Each campus of the University of Maine System shall establish and implement a waste reduction 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.

D. ~~By-January-1,-1991,-e~~Each campus of the University of Maine System shall establish a leaf composting program.

<u>E. Each campus of the University of Maine System shall assess the status of their recycling efforts and shall evaluate existing programs and develop necessary new programs for recycling to reduce the generation of solid waste by the campus.</u>

**Sec. 42. 38 MRSA §2138** is amended to read:

**§2138. Office paper recycling program**

**1. Office paper recycling mandated.** Any person employing 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:~~

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

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

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

The office shall provide technical and market<u>ing</u> ~~development~~ assistance and direction to entities within the

State to assist ~~in~~ with meeting this ~~schedule~~ requirement. Municipalities and regional associations may assist employers in attaining the objectives of this section.

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

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

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

~~**5. Industrial waste reduction.** The office shall consult with the Maine Sludge and Residuals Utilization Research Foundation and the private sector to identify and examine solutions to the problems of reducing the volume and toxicity of industrial waste.~~

~~**6. Beneficial use of office paper.** Any person subject to the requirements of this section may use any office paper or corrugated cardboard as fuel in industrial boilers for the generation of heat, steam or electricity if these materials would otherwise be placed in a landfill, the office determines that there is no reasonably available market in the State for recycling those materials and if the materials are incinerated as a substitute for, or supplement to, fossil or biomass fuels that constitute the primary fuels incinerated in the industrial boiler.~~

**Sec. 43. 38 MRSA §2139** is amended to read:

**§2139. Public education**

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

**1. ~~Media campaign~~ Public education.** The office shall develop and disseminate educational material designed to establish broad public understanding and compliance with the

State's recycling and waste reduction goals.

2. **Kindergarten to grade 12 curriculum.** In cooperation with the Department of Education, the office shall develop a curriculum suitable for use in programs from kindergarten through high school and provide assistance to educators in using the curriculum.

**Sec. 44. 38 MRSA subchapter 4, first two lines** are repealed and the following enacted in their place:

**Subchapter IV**
**FACILITY SITING AND DEVELOPMENT**

**Sec. 45. 38 MRSA §2151** is repealed.

**Sec. 46. 38 MRSA §2151-A** is enacted to read:

***§2151-A. Indemnification***

*The office shall defend and indemnify any employee of the office, including the director, and any member of the Facility Siting Board against expenses actually and necessarily incurred by the person in connection with the defense of any action or proceeding in which the person is made party by reason of past or present association with the office.*

**Sec. 47. 38 MRSA §2152, sub-§1** is amended to read:

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~~ office. 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 decision on the choice of specific sites for solid waste disposal facilities under the jurisdiction of the ~~agency~~ office. The office shall provide staff support to the Facility Siting Board.

**Sec. 48. 38 MRSA §2153** is amended to read:

**§2153. Siting criteria**

1. **Siting criteria.** ~~By September 1, 1992, the Facility Siting Board shall amend its~~ With regard to state-owned facilities, the office shall administer rules adopted by the former Maine Waste Management Agency, Office of Siting and

Disposal Operations, for siting criteria for solid waste disposal facilities. The office may revise the rules if necessary based on the following factors.

A. A site may be located in anywhere within the State and need not be in proximity to the site of waste generation.

A-1. ~~Agency owned~~ sites for the disposal of special waste may not be located within a 5-mile radius of an existing commercial special waste landfill or a commercial incineration facility.

B. To the extent possible, a site must be located in proximity to the transportation systems, including existing or potential railroad systems, that are used to convey waste to the site or to convey residuals and materials to be recycled from the site.

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

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

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

F. A site must meet preliminary environmental standards developed jointly by the department and the Maine Land Use Regulation Commission, including ground water standards, geological standards and standards to protect public drinking water supplies.

G. Existing uses on adjacent properties including public or private schools, may not be in significant conflict with or significantly jeopardized by the use of a site.

**Sec. 49. 38 MRSA §2156, sub-§3** is amended to read:

**3. ~~Agency~~ Office Ownership.** The ~~agency~~ office shall maintain ownership of any solid waste disposal facility it develops and shall maintain full control over the use of the facility or facilities.

**Sec. 50. 38 MRSA §2157**, as amended by PL 1993, c. 732, Pt. B, §3, is repealed

**Sec. 51. 38 MRSA §2158** is repealed.

**Sec. 52. 38 MRSA §2164** is repealed.

**Sec. 53. 38 MRSA §2175-B** is enacted to read:

**§2175-B. Payment in lieu of taxes**

The office shall annually pay a municipality an amount in lieu of taxes equal to the amount of property taxes on a solid waste disposal facility owned or operated by the office not paid to that municipality during the previous calendar year. In the case of an unorganized territory, the office 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 office disagrees with the amount determined to be due in lieu of taxes under this section, it may appeal to the State Board of Property Tax Review as provided in Title 36, section 271.

**Sec. 54. 38 MRSA §2176, 1st ¶** is amended to read:

In addition to payment in lieu of taxes provided in section ~~2105~~ 2175-B, the ~~agency~~ office shall make impact payments to a municipality in which a solid waste disposal facility is located or, in the case of an unorganized territory, to the State Tax Assessor upon request by the community involved or by the State Tax Assessor. The agency shall base its impact payments on measurable criteria including, without limitation:

**Sec. 55. 38 MRSA §2201** is amended to read:

**§ 2201. Maine Solid Waste Management Fund established**

The Maine Solid Waste Management Fund, referred to in this section as the "fund," is established as a nonlapsing fund to support programs administered by the ~~Maine Waste Management Agency~~ State Planning Office and the Department of Environmental Protection. The fund must be segregated into 2 subsidiary accounts. The first subsidiary account, called operations, receives all fees established and received under article 1. The 2nd subsidiary account, called administration, receives all fees established under this article and under Title 36, chapter 719, all funds recovered by the department as reimbursement for departmental expenses incurred to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste and all unclaimed deposits returned to the State under Title 32, chapter 28.

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

Funds related to administration may only be expended in accordance with allocations approved by the Legislature for administrative expenses directly related to the agency's and the department's programs, including actions by the department necessary to abate imminent threats to public health, safety and welfare posed by the illegal disposal of solid waste. Funds related to operations may only be expended in accordance with allocations approved by the Legislature and solely for the development and operation of publicly owned facilities owned or approved by the agency and for the repayment of any obligations of the agency incurred under article 3. These allocations must be based on estimates of the actual costs necessary for the agency and the department to administer their programs, to provide financial assistance to regional associations and to provide other financial assistance necessary to accomplish the purposes of this chapter. Beginning in the fiscal year ending on June 30, 1991 and thereafter, the fund must annually transfer to the General Fund an amount necessary to reimburse the costs of the Bureau of Taxation incurred in the administration of Title 36, section 5219-D and Title 36, chapter 719 and an amount equal to the General Fund revenues lost as the result of Title 36, sections 2526 and 5219-D. Beginning in the fiscal year ending June 30, 1994 and thereafter, the fund must support allocations approved by the Legislature for administrative expenses and reimbursement costs directly related to the administration of Title 32, section 1866, subsection 7 and Title 32, section 1866-A by the Treasurer of State. Allowable expenditures include "Personal Services," "All Other" and "Capital Expenditures" associated with all agency activities other than those included in the operations account.

**Sec. 56. 38 MRSA §2202, sub-§ 1** is amended to read:

**1. Fees established.** The ~~agency~~ <u>department</u> shall establish procedures to charge fees specified in this article and pursuant to the requirements of this article. All fees collected by the ~~agency~~ <u>department under this article</u> shall be deposited into the Maine Solid Waste Management Fund.

**Sec. 57. 38 MRSA §2203, sub-§3** is amended to read:

**3. Imported special waste.** In addition to any other fee assessed under this section and to support the regulatory and administrative costs associated with imported special wastes, an administrative fee of $2 per ton<u>, or the maximum fee on</u>

out-of-state waste authorized by federal law, whichever is greater, is imposed on special waste brought into the State for disposal, except that an administrative fee of $2 per cubic yard is imposed on asbestos brought into the State for disposal. The fee must be assessed at the first point of disposal, processing or treatment within the State.

**Sec. 58. 38 MRSA §2204, subsection 2** is repealed.

**Sec. 59. 38 MRSA §2204, sub-§3** is amended to read:

**3. Imported municipal solid waste.** To support those regulatory and administrative costs associated with imported municipal solid wastes, an administrative fee of $4 per ton, or the maximum fee on out-of-state waste authorized by federal law, whichever is greater, is assessed on any municipal solid waste originating outside the State and delivered to a commercial solid waste disposal facility or solid waste disposal facility owned by the ~~agency~~ office or a regional association for disposal.

**Sec. 60. 38 MRSA §2205** is amended to read:

**§2205. Fee payments**

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee shall be paid to the ~~agency~~ department 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.

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

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

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

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

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

**3. Discount.** Any operator that makes a timely payment of 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.

**4. Refunds.** Any operator who believes the fee was overpaid by the operator may file a petition for refund to the ~~agency~~ department. If the ~~agency~~ department determines that the operator has overpaid the fee, the ~~agency~~ department shall refund to the operator the amount due the operator, together with interest at a rate established by the ~~agency~~ department.

**5. Alternative proof of payment.** For purposes of this 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.

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

**7. Additional penalty.** In addition to the interest 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.

**8. Assessment notice.** If the ~~agency~~ department determines that any operator has not made a timely payment of the fee, the ~~agency~~ department 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~~ department may estimate the weight or volume in the notice.

The operator charged with the deficiency shall have 30 days to pay the deficiency in full or, if the operator wishes to contest the deficiency, forward the amount of the deficiency to the ~~agency~~ department 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 ~~agency~~ department within 30 days shall result in a waiver of all legal rights to contest the deficiency.

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

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

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

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

**Sec. 61. 38 MRSA §2206** is amended to read:

**§2206. Hearings and appeals**

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

## PART B

**Sec. B-1. 5 MRSA § 3305, sub-§1, ¶¶ L and M** are enacted to read:

L. Coordinate the development of solid waste management policy including:

(1) Collecting and analyzing solid waste management and recycling data from all available sources including commercial and municipal entities;

(2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature every two years; and

(3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities; and.

*M. Own, design, develop, operate or contract with private parties to operate a solid waste disposal facility, as provided in Title 38, chapter 24, subchapter IV.*

**Sec. B-2. 5 MRSA §3305-A** is enacted to read:

***§3305-A. Authority to own and operate solid waste disposal facility***

*The office has all necessary power and authority to own, design, develop and operate a solid waste disposal facility or facilities as provided in Title 38, chapter 24, subchapter IV. Authority includes, but is not limited to:*

***1. Title to property.*** *Authority to take and hold title to such facility;*

***2. Contracts.*** *Authority to assume any and all rights and obligations under existing agreements related to such a facility and to enter into contracts and agreements on behalf of the state as the office may consider necessary or appropriate in connection with the facility; and*

***3. Rules.*** *Authority to adopt and amend rules in accordance with the Maine Administrative Procedures Act, Title 5, chapter 375, subchapter II.*

## PART C

**Sec. C-1. Allocations.** The following funds are allocated from the Maine Solid Waste Management Fund to carry out the purposes of this Act:

**EXECUTIVE**

Planning Office

| | | |
|---|---|---|
| Positions - Legislative Count | (6.0) | (6.0) |
| Personal Services | $282,203 | $273,572 |
| All Other | 156,339 | 161,135 |

Provides for the transfer of one Development Program Manager and one Planner II from the OFfice of Waste Reduction and Recycling; one Planner II and one Clerk Typist III from the Office of Siting and Disposal Operations; and one Senior Planner and one Planner II from the Office of Planning to the State Planning Office. Also provides All Other Funds for technical assistance to municipalities.

| | | |
|---|---|---|
| **TOTAL** | **$438,542** | **$434,707** |

**WASTE MANAGEMENT AGENCY, MAINE**

Administration - Office of the Executive Director

| | | |
|---|---|---|
| Positions - Other Count | (-3.0) | (-3.0) |
| Personal Services | (169,349) | (167,156) |
| All Other | (97,044) | (100,306) |
| TOTAL | (266,393) | (267,462) |

Provides for the deallocation of funds through the elimination of the Maine Waste Management Agency.

Office of Planning

| | | |
|---|---|---|
| Positions - Other Count | (-4.0) | (-4.0) |
| Personal Services | (217,382) | (215,208) |
| All Other | (100,567) | (105,287) |
| TOTAL | (317,949) | (320,495) |

Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

Office of Siting and Disposal Operations

| | | |
|---|---|---|
| Positions - Other Count | (-4.0) | (-4.0) |
| Personal Services | (205,452) | (206,748) |
| All Other | (835,531) | (501,672) |
| Capital Expenditures | (7,000) | (7,000) |
| TOTAL | (1,047,983) | (715,420) |

Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

Office of Waste Reduction and Recycling

| | | |
|---|---|---|
| Positions - Other Count | (-5.0) | (-5.0) |
| Personal Services | (265,107) | (263,348) |
| All Other | (690,718) | (1,021,425) |
| Capital Expenditures | (7,000) | (7,000) |
| TOTAL | (962,825) | (1,291,773) |

Provides for the deallocation of funds from the elimination of the Maine Waste Management Agency.

| | | |
|---|---|---|
| **MAINE WASTE MANAGEMENT AGENCY TOTAL** | (2,595,150) | (2,595,150) |

**Sec. C-2. Transition provisions.** The following provisions apply to the reassignment of the duties and responsibilities of the former Maine Waste Management Agency.

1. Except as otherwise provided in this section, the *Director of the State Planning Office* shall assume all remaining duties and responsibilities of the former Maine Waste Management Agency, its offices and its executive director, including administration of any rules adopted by that agency relating to these remaining duties. By December 1, 1995, the *director* shall submit legislation to the Second Regular Session of the 117th Legislature to revise all remaining references to the Maine Waste Management Agency in the Maine Revised Statutes to conform to the intent of this Act.

2. All rules and procedures in effect, in operation or adopted on the effective date of this Act in or by the former Maine Waste Management Agency or any of its administrative units or officers remain in effect until rescinded, revised or amended by the proper authority.

*3. Six authorized positions and incumbent personnel in the Maine Waste Management Agency are transferred to the State Planning Office, as provided in section XX of this Act. Those employees retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits.*

*4. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the former Maine Waste Management Agency must be transferred to the proper account by the State Controller upon the request of the State Budget Officer and with the approval of the Governor. Notwithstanding any other provision of law, the Department of Administrative and Financial Services is authorized to allot funds through a financial order, upon approval of the State Budget Officer and the Governor, in order to meet all outstanding obligations of the former Maine Waste Management Agency which are not specifically transferred to any other unit of State Government.*

5. The Department of Administrative and Financial Services shall serve as the fiscal agent for the former Maine Waste Management Agency for the purpose of effecting the repeal of that agency. The duties of the Department of Administrative and Financial Services are limited to those required to close out the agency and include functions such as processing payment vouchers, preparing budget documents, *processing contract documents,* preparing human resource documents, preparing the final personnel payrolls and other related administrative activities required. *Except for records transferred to the State Planning Office or the Department of Environmental Protection as necessary to enable those agencies to continue functions previously performed by the Maine Waste Management*

*Agency*, essential records related to the agency must be transferred to the Department of Administrative and Financial Services to be maintained and stored pursuant to standard procedure. *This section is effective retroactively to May 1, 1995.*

6. All personal property and equipment previously belonging to or allocated for the use of the former Maine Waste Management Agency must be transferred to the *State Planning Office*.

7. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Maine Waste Management Agency may be used by the *State Planning Office* and the Department of Environmental Protection until existing supplies of those items are exhausted.

8. All real estate held by the former Maine Waste Management Agency is transferred to the *State Planning Office.*

**Effective date.** Notwithstanding the emergency nature of this bill, the transfer of responsibilities and authorities described in this bill become effective on July 1, 1995.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

## FISCAL NOTE

### STATEMENT OF FACT

This amendment abolishes the Maine Waste Management Agency effective July 1, 1995, and transfers its essential services and responsibilities to the State Planning Office including planning for solid waste management, recycling technical and financial assistance, and permitting and potential development of Carpenter Ridge.

This amendment continues the ban on new commercial disposal facilities.

The Department of Environmental Protection will assume responsibility for approving expansions at existing commercial disposal facilities and applications for new or expanded public disposal facilities.

The Department of Environmental Protection will assume responsibility for collecting special waste fees.

# LD 229 ISSUES

I. **MWMA Positions Eliminated**

LD 229 Amendment Sections # 1, 2, 4, 5, Allocations Sections

II. **MWMA and its Offices Eliminated**

LD 229 Amendment Sections # 3 and 21 (MWMA), Sec. # 22 (Office of Planning); Sec. # 27 (Office of Waste Reduction and Recycling); Sec. # 45 (Office of Siting and Disposal Operations)

III. **Waste Management Advisory Council Eliminated**

(Purpose of Council was to assist the MWMA in developing the state plan and in facility siting and evaluatiuon activities)

LD 229 Amendment Sections # 6, 21

IV. **State Planning Office Assumption of Certain MWMA Functions**

A. Planning Activities

- Waste Management and Recycling Plan
  LD 229 Amendment Sections 11, 23, 24, 25, B-1
- Municipal Progress — Hierarchy
  LD 229 Amendment Section 26

B. Recycling

- LD 229 Amendment Section 28-43, B-1

C. State Waste Disposal Facility

- LD 229 Amendment Sections 46-54, B-1, B-2

V. **DEP Assumption of "Public Benefit" Determination**

LD 229 Amendment Sections XX, 12, 13, 16, 50, 51

VI. Tire Clean-Up

LD 229 Amendment Sections 17, 17-A

VII. Funding/Fees

LD 229 Amendment Sections 55-60

VIII. Investment tax Credit Cut-off

LD 229 Amendment Sections 8, 8

IX. Bottle Bill Over-redemptions

LD 229 Amendment Section 7

# LD 229 PROVISIONS RELATED TO TIRES

**Sec. 17. 38 MRSA §1316-C, last ¶** is amended to read:

Funds recovered under this section must be deposited into the ~~Maine Solid Waste Management Fund~~ Tire Management Fund.

**Sec. 17-A. 38 MRSA §1316-F** is enacted to read:

***§1316-F. Tire Management Fund***

*The Tire Management Fund is created within the department as a nonlapsing dedicated fund to pay the costs of tire stockpile abatement, remediation and cleanup. All funds appropriated or allocated to the Fund must be deposited in the Fund, and the Fund may accept grants, bequests, gifts or contributions from any person, corporation or governmental entity. The Fund must be used for the purposes set forth in section 1316-B. Permissible uses include providing financial incentives to tire processors to make the processing of tires economically feasible.*

Title 38 - DEP

Current Law - Tire Stockpiles

§ 1316. Prohibition

A person may not handle used motor vehicle tires at an uncontrolled tire stockpile in violation of an order issued under this subchapter.

§ 1316-A. Investigation and enforcement

Upon investigation, if the commissioner finds that an uncontrolled tire stockpile exists, the commissioner may issue notice to the responsible party or parties and conduct an enforcement hearing in accordance with section 347-A, subsection 2 and issue an order directing the responsible party or parties to mitigate or eliminate the threatening or hazardous conditions posed by the uncontrolled tire stockpile.

Upon investigation, if the commissioner finds that an uncontrolled tire stockpile is creating or is likely to create a substantial and immediate danger to public health or safety or to the environment, the commissioner may issue an emergency order in accordance with section 347-A, subsection 3 directing the responsible party or parties to take immediate action necessary to reduce or alleviate the danger.

§ 1316-B. Abatement; cleanup; mitigation

If a responsible party does not comply immediately with all conditions of an order issued pursuant to sections 347-A, subsection 3 and section 1316-A, the commissioner may act to abate, clean up or mitigate the threat or hazard posed by an uncontrolled tire stockpile. The commissioner may:

1. Assistance. Employ private consultants and other persons to evaluate, design or conduct tire removal or site remediation activities;

2. Process and remove. In consultation with the agency, cause the processing or removal of all stockpiled tires;

3. Secure. Have barriers constructed and sufficient security measures implemented to prohibit the access of unauthorized persons to the site, including the responsible party;

4. Equipment. Have fire-fighting or pollution abatement equipment purchased and stored either at or away from the tire stockpile;

5. Alter. Have the physical characteristics of the stockpile site altered, including the construction of fire lanes, fire or pollution barriers or other necessary site remediation activity; or

6. Close. Permanently close the stockpile and prohibit the use of the site for the storage or disposal of used motor vehicle tires.

§ 1316-C. Liability; recovery by State

Each responsible party is jointly and severally liable for all costs incurred by the State, including court costs and attorney's fees, for the abatement, cleanup or mitigation of the threat or hazard posed by an uncontrolled tire stockpile. The commissioner shall demand prompt reimbursement of all costs incurred under sections 1316-A and 1316-B. If payment is not received by the State within 30 days of demand, the Attorney General may file suit in the Superior Court and may seek reimbursement of other costs and any other relief provided by law. Notwithstanding the time limits stated in this section, neither a demand nor other recovery efforts against one responsible party may relieve any other responsible party of liability.

The commissioner may not demand from responsible parties that are municipalities reimbursement of more than 10% of all costs incurred by the State under sections 1316-A and 1316-B.



In any suit filed under this section, the State need not prove negligence in any form or matter by a defendant. The State need only prove that a defendant is a responsible party and the site poses or posed or potentially poses or posed a threat or hazard to the health, safety or welfare of any citizen of the State or the environment of the State, top which the acts or omissions of the defendant are or were causally related. Punitive damages may be awarded by the court upon a finding that a responsible party acted in willful violation of law, rule or order in creating, increasing or maintaining an uncontrolled tire stockpile.

Funds recovered under this section must be deposited into the Maine Solid Waste Management Fund.

§ 1316-D. Immunity

Notwithstanding Title 14, chapter 741, the State, its agencies or its employees are not liable for the death or injury of any person or for any property damage that results from abatement activities pursuant to this subchapter. This section does not affect the right of any person to receive workers' compensation or other applicable benefits.

§ 1316-E. Lien established

1. Establishment. All costs incurred by the State, including court costs and attorney's fees, for the abatement, cleanup or mitigation of an uncontrolled tire stockpile and all related interest and penalties constitute a lien against the real estate of the responsible party or parties.

2. Priority. The priority of a lien filed pursuant to this section is governed by the following.

A. Any lien filed pursuant to this section on real estate where an uncontrolled tire stockpile is located has precedence over all encumbrances on the real estate recorded after the effective date of this section. For the purposes of this paragraph, the term "real estate" includes all real estate of a responsible party that has been included in the property description of the real estate on which the stockpile is located within the 3-year period preceding the date of the filing of the lien or the period between the effective date of this section and the date on which the lien is filed, whichever period is shorter.

B. Any lien filed pursuant to this section on any other real estate of the responsible party has precedence over all transfers and encumbrances filed after the date that the lien is filed with the registry of deeds.

3. Notice. A certificate of lien signed by the commissioner must be mailed by certified mail, return receipt requested, to all persons of record holding an interest in the real estate over which the commissioner's lien is entitled to priority under subsection 2, paragraph A. A certificate may be filed for record in the office of the clerk of any municipality in which the real estate is situated.

4. Recording. Any lien filed pursuant to this section is effective when filed with the registry of deeds for the county in which the real estate is located. The lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

5. Limitation. This section does not apply to a unit of real estate that consists primarily of real estate used or under construction as single or multifamily housing at the time the lien is recorded or to property owned by a municipality.

6. Discharge of lien. When the amount of a lien recorded under this section has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall



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