

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1499

H.P. 1107 House of Representatives, May 11, 1987
Reported by Representative MICHAUD from the Committee on
Energy and Natural Resources pursuant to Private and Special
Law 1985, Chapter 137.

Reference to the Joint Standing Committee on Energy and
Natural Resources suggested and printing ordered under Joint
Rule 18.

EDWIN H. PERT, Clerk

STATE OF MAINE

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

1 AN ACT to Ensure Safe Management, Recycling
2 and Disposal of Solid Waste and to
3 Reorganize the Solid Waste Law.
4

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

7 Sec. 1. 5 MRSA §1812-A is enacted to read:

8 §1812-A. Report on purchase of recycled products

9 The State Purchasing Agent shall report on or be-
10 fore January 1, 1988, to the joint standing committee
11 of the Legislature having jurisdiction over natural
12 resources and to the same committee of the First Reg-
13 ular Session of each subsequent Legislature on or be-
14 fore January 1st on the State's efforts to purchase
15 supplies and materials composed in whole or in part

1 of recycled materials pursuant to section 1812. The
2 State Purchasing Agent shall also report on any pro-
3 curement policies, incentives, educational programs,
4 promotional efforts or other activities undertaken by
5 the Bureau of Purchases to encourage the purchase of
6 those supplies and materials. The State Purchasing
7 Agent shall include in the report any recommendations
8 to increase or facilitate the purchase of those sup-
9 plies and materials.

10 Sec. 2. 5 MRSA §12004, sub-§8, ¶A, sub-¶(8-A) is
11 enacted to read:

12	(8-A) <u>Environment</u>	<u>Recycling</u>	<u>Legislative</u>	38 MRSA
13	<u>/Natural</u>	<u>Advisory</u>	<u>Per Diem</u>	<u>§1310-M</u>
14	<u>Resources</u>	<u>Council</u>		

15 Sec. 3. 38 MRSA §349, sub-§1, as amended by PL
16 1985, c. 162, §2, is further amended to read:

17 1. Criminal penalties. Any person who violates
18 any provisions of the laws administered by the de-
19 partment or the terms or conditions of any order,
20 rule, license, permit, approval or decision of the
21 board is guilty of a Class E crime and may be pun-
22 ished accordingly, except notwithstanding Title 17-A,
23 section 1301, subsection 1, paragraph C, or subsec-
24 tion 3, paragraph E, the fine for such a violation
25 shall not exceed \$25,000 for each day of the viola-
26 tion.

27 This subsection does not apply to actions subject to
28 the criminal penalties set forth in section 1306-A
29 1319-T.

30 Sec. 4. 38 MRSA c. 13, first 4 lines, as
31 amended, are repealed and the following enacted in
32 its place:

33 CHAPTER 13

34 WASTE MANAGEMENT

35 SUBCHAPTER I

36 GENERAL PROVISIONS

1 Sec. 5. 38 MRSA §1302, as amended by PL 1983, c.
2 342, §1, is repealed and the following enacted in
3 its place:

4 §1302. Declaration of policy

5 The Legislature declares it to be the policy of
6 the State consistent with its responsibility to pro-
7 tect the health, safety and welfare of its citizens,
8 enhance and maintain the quality of the environment,
9 conserve natural resources and prevent water, air and
10 land pollution, that it shall encourage hazardous
11 waste, septage, and solid waste programs, public and
12 private, which will reduce the volume of hazardous
13 waste, septage and solid waste generation, increase
14 the level of recycling of all wastes, improve ef-
15 forts to reuse and recover valuable resources cur-
16 rently being wasted and which will not adversely af-
17 fect the public health, safety and welfare nor de-
18 grade the environment.

19 The Legislature also finds and declares that eco-
20 nomically, efficient and environmentally sound methods of
21 waste recycling and disposal are of the highest pri-
22 ority. Municipalities and other persons are generat-
23 ing increasing amounts of hazardous waste, septage
24 and solid waste with no systematic or consistent
25 methods being used to reduce the volume, recycle
26 waste or to soundly dispose of it.

27 The Legislature finds that environmentally suit-
28 able sites for waste disposal are in limited supply
29 and represent a critical natural resource. At the
30 same time, new technologies and industrial develop-
31 ments are making the recycling and reuse of waste an
32 increasingly viable and economically attractive op-
33 tion; an option which carries minimal risk to the
34 State and the environment and an option which allows
35 the conservation of the State's limited safe disposal
36 capacity. In addition, the Legislature finds that it
37 is in the best interests of the State to maintain a
38 broad diversity of waste reduction, waste recycling,
39 reuse and disposal methods and that options with low-
40 er health and environmental risk should not be fore-
41 closed by the State's over-commitment to any single
42 option.

1 The Legislature further finds that failure to an-
2 alyze and plan properly for future hazardous waste,
3 septage and solid waste disposal and recycling needs
4 may reduce the options open to the State and may fur-
5 ther deplete already taxed natural resources and
6 aggravate environmental and public health problems
7 resulting from present inadequate practices of re-
8 source recovery and conservation, recycling, waste
9 storage and management, transportation, treatment and
10 disposal.

11 The Legislature declares that a program to
12 rigorously analyze and plan for the hazardous waste,
13 septage and solid waste disposal requirements of the
14 State is necessary to protect the public health,
15 safety and welfare of the State.

16 The Legislature further finds that substantial
17 quantities of waste oil are contaminated by hazardous
18 waste and that waste oil, if not properly handled, is
19 a threat to the public health, safety and welfare and
20 to the environment and therefore must be controlled.

21 The Legislature finally declares that the provi-
22 sions of this chapter shall be construed liberally to
23 address the findings and to accomplish the policies
24 established in this section.

25 Sec. 6. 38 MRSA §1303, sub-§9-B is enacted to
26 read:

27 9-B. Special waste. "Special waste" means any
28 nonhazardous waste generated by sources other than
29 domestic and typical commercial establishments that
30 exists in such an unusual quantity or in such a chem-
31 ical or physical state, or any combination thereof,
32 which may disrupt or impair effective waste manage-
33 ment or threaten the public health, human safety or
34 the environment and requires special handling, trans-
35 portation and disposal procedures. Special waste in-
36 cludes:

37 A. Oil, coal, wood and multifuel boiler and in-
38 cinerator ash;

39 B. Industrial and industrial process waste;

- 1 C. Waste water treatment plant, papermill and
2 other sludge wastes;
- 3 D. Debris and residuals from nonhazardous chemi-
4 cal spills and clean up of those spills;
- 5 E. Contaminated soils and dredge spoils;
- 6 F. Asbestos and asbestos-containing wastes;
- 7 G. Sand blast grit and paint wastes;
- 8 H. Hospital and other potentially infectious or
9 pathogenic wastes;
- 10 I. High and low pH wastes;
- 11 J. Spent filter media and residue; and
- 12 K. Other wastes designated by the board, by
13 rule.

14 Sec. 7. 38 MRSA §1303-A, as amended by PL 1985,
15 c. 506, Pt. A, §81, is repealed.

16 Sec. 8. 38 MRSA §1303-B, as enacted by PL 1983,
17 c. 342, §4, is repealed.

18 Sec. 9. 38 MRSA §1304, sub-§§1-A and 1-B are en-
19 acted to read:

20 1-A. Rules; transportation. The board shall
21 adopt rules relating to the transportation of solid
22 waste, including, without limitation:

23 A. Licensing categories of transporters of solid
24 wastes, conveyances used for the transportation
25 of solid waste and the operators of these convey-
26 ances as the board finds necessary to effect
27 sound waste management;

28 B. Establishment of transporter licensing and
29 conveyance registration fees which, considering
30 the criteria of subsection 14, paragraphs A to C,
31 are sufficient to recover all costs of adminis-
32 tering, monitoring compliance with and enforcing
33 the provisions of this subsection and which fees

1 shall be paid to the Maine Environmental Protec-
2 tion Fund;

3 C. A manifest system for categories of solid
4 wastes which shall provide a means to account for
5 solid waste handled, transported and disposed of
6 in the State; and

7 D. Evidence of financial capacity of transport-
8 ers to protect public health, safety and welfare
9 and the environment, including, without limita-
10 tion:

11 (1) Liability insurance;

12 (2) Performance bonding; and

13 (3) Financial ability to comply with statu-
14 tory and regulatory requirements or condi-
15 tions.

16 1-B. Handling of special waste. The board may
17 adopt rules relating to the handling of special
18 wastes, including, without limitation:

19 A. Containerization and labeling of special
20 wastes;

21 B. Reporting on handling of special wastes;

22 C. Wastes which are not compatible; and

23 D. A marking system, by waste category, to
24 clearly identify vehicles transporting solid
25 waste.

26 Sec. 10. 38 MRSA §1304, sub-§8, as amended by PL
27 1985, c. 822, §4, is repealed.

28 Sec. 11. 38 MRSA §1304, sub-§10, as reallocated
29 by PL 1981, c. 698, §191, is amended to read:

30 10. Legislative review. Rules adopted by the
31 board under this section and section 1303-A 1319-O,
32 subsection 1 which impose standards or requirements
33 more stringent than final regulations of the United
34 States Environmental Protection Agency shall be sub-

1 mitted to the legislative committee having jurisdiction
2 over energy and natural resources for review.

3 Sec. 12. 38 MRSA §1304, sub-§§13, 14 and 15 are
4 enacted to read:

5 13. Innovative disposal and utilization. Recognizing the desirability of conserving the limited landfill capacity of the State, the commissioner may investigate and implement with the approval of the board innovative programs for managing, utilizing and disposing of solid wastes. Innovative programs may include, agricultural and forest land spreading of wood ash, papermaking sludges and municipal waste water treatment plant sludges. The board shall review proposed innovative programs for each waste category and shall apply all controls necessary to ensure the protection of the environment and public health consistent with this chapter. The board may adopt application review procedures designed to review individual applicants and their individual waste sources with prior approval of classes of disposal or utilization sites. The board shall adopt provisions for municipal notification prior to use of individual utilization sites.

24 14. Disposal fees. To support the licensing, monitoring and enforcement activities of the department under this chapter, the board shall establish by rule a schedule of reasonable tipping fees on the disposal of solid waste. Fees received under this subsection shall be deposited in the Maine Environmental Protection Fund. The board may establish solid waste categories with different tipping fees. In adopting the fee schedule, the board shall consider the following criteria:

34 A. The level of environmental hazard posed by
35 the waste;

36 B. The costs of administering, monitoring and
37 enforcing compliance with the provisions of this
38 chapter; and

39 C. The degree to which the general or other special
40 revenues of the State or the State's municipalities
41 are currently employed to manage and

1 dispose of the waste or are currently employed to
2 administer, monitor compliance with and enforce
3 the provisions of this chapter with regard to a
4 particular solid waste category.

5 15. Special services to municipalities. The de-
6 partment shall develop a program of technical and fi-
7 nanacial assistance to municipalities to assist in the
8 development of management programs for certain solid
9 wastes. The department shall investigate and identi-
10 fy categories of municipal solid waste for which
11 environmentally sound and economically acceptable
12 disposal options do not currently exist. The depart-
13 ment may make available grants to municipalities and
14 regional councils to study the feasibility of devel-
15 oping local or regional programs to manage those sol-
16 id wastes identified by the department, including,
17 without limitation, discarded tires, white goods,
18 demolition and woody debris and household hazardous
19 wastes.

20 Sec. 13. 38 MRSA §1304-A, as amended by PL 1985,
21 c. 481, Pt. A, §97, is reallocated to 38 MRSA
22 §1319-Q.

23 Sec. 14. 38 MRSA §1304-B, sub-§2, ¶¶A and B, as
24 enacted by PL 1983, c. 380, §1, are amended to read:

25 A. Requiring segregation of wastes; and

26 B. Requiring delivery of wastes generated within
27 the municipality, or any portion of those wastes,
28 to a designated disposal or reclamation facili-
29 ty; and

30 Sec. 15. 38 MRSA §1304-B, sub-§2, ¶C is enacted
31 to read:

32 C. Designating certain materials as recyclable
33 and exempt from the provisions of paragraph B.

34 Sec. 16. 38 MRSA §1304-B, sub-§3, as amended by
35 PL 1983, c. 743, §16, is further amended to read:

36 3. Ordinances. This chapter shall not be con-
37 strued as limiting the authority of any municipality
38 to enact ordinances for the regulation of solid waste

1 or septage disposal, provided that these ordinances
2 are not less stringent than or inconsistent with section
3 1310-U or other provisions of this chapter or
4 the regulations rules adopted under this chapter.

5 **Sec. 17.** 38 MRSA §1304-B, sub-§4-A is enacted to
6 read:

7 4-A. Contract limitations. Contracts for the
8 provision of waste disposal, transportation or han-
9 dling services to municipalities are subject to the
10 following limitations:

11 A. No contract for waste disposal, transporta-
12 tion or handling services, including any contract
13 created under this section, may prevent a munici-
14 pality from recycling any portion of its solid
15 waste, provided that any minimum BTU content lev-
16 el and minimum tonnage level required by that
17 contract is maintained by the municipality; and

18 B. No contract for waste disposal, transporta-
19 tion or handling services, including any contract
20 created under this section, may prevent a munici-
21 pality from meeting its obligations to supply a
22 minimum BTU content level and minimum tonnage
23 level required by that contract using solid waste
24 generated outside its borders, provided that the
25 municipality shall remain responsible for all the
26 waste it relies upon to satisfy the provisions of
27 any contract created under this section, includ-
28 ing liability for any damages caused by the solid
29 waste.

30 **Sec. 18.** 38 MRSA §1305-A, as amended by PL 1985,
31 c. 737, Pt. A, §113, is repealed.

32 **Sec. 19.** 38 MRSA §1306-A, as amended by PL 1981,
33 c. 430, §§13 to 16, is reallocated to 38 MRSA
34 §1319-T.

35 **Sec. 20.** 38 MRSA §1306-C, as amended by PL 1985,
36 c. 785, Pt. A, §113, is reallocated to 38 MRSA
37 §1319-U.

38 **Sec. 21.** 38 MRSA §1308-A, as amended by PL 1983,
39 c. 432, §8, is reallocated to 38 MRSA §1319-S.

1 Sec. 22. 38 MRSA §1309, as enacted by PL 1979,
2 c. 383, §11, is amended to read:

3 §1309. Interstate cooperation

4 The Legislature encourages cooperative activities
5 by the department with other states for the improved
6 management of hazardous and solid wastes; for im-
7 proved, and so far as is practicable, uniform state
8 laws relating to the management of hazardous and
9 solid wastes; and compacts between this and other
10 states for the improved management of hazardous and
11 solid wastes.

12 Sec. 23. 38 MRSA §1310-A, as reallocated by PL
13 1979, c. 663, §238, is reallocated to 38 MRSA
14 §1319-P.

15 Sec. 24. 38 MRSA §1310-B, sub-§1, as amended by
16 PL 1981, c. 470, Pt. A, §172, is further amended to
17 read:

18 1. Public records. Except as provided in subsec-
19 tions 2 and 3, information obtained by the department
20 under this subchapter chapter shall be a public
21 record as provided by Title 1, chapter 13, subchapter
22 I.

23 Sec. 25. 38 MRSA c. 13, sub-c. I-A is enacted to
24 read:

25 SUBCHAPTER I-A

26 SOLID WASTE

27 ARTICLE I

28 REMEDIATION AND CLOSURE

29 §1310-C. Program established

30 There is established within the Department of En-
31 vironmental Protection a program of remediation and
32 closure for solid waste landfills.

33 1. Objectives. The program shall have the fol-
34 lowing objectives:

1 A. To accomplish the prompt closure of solid
2 waste landfills which, through inappropriate sit-
3 ing, inadequate design and construction or im-
4 proper operation, pose an actual or potential
5 hazard to the environment and public health; and

6 B. To conduct remedial activities to eliminate
7 the existing hazards posed by those landfills.

8 2. Open and closed or abandoned landfills. The
9 department shall organize the program into 2 compo-
10 nents to address the problems created by:

11 A. Open-municipal solid waste landfills; and

12 B. Abandoned or improperly or inadequately
13 closed, municipal or privately-owned solid waste
14 landfills.

15 3. New facilities. The department shall ensure
16 that the siting, design, operating and closure re-
17 quirements imposed on new solid waste disposal facil-
18 ities under this chapter and under chapter 3, article
19 6, site location of development, are consistent with
20 the provisions of this article.

21 4. Definitions. For the purposes of this arti-
22 cle, the term "solid waste landfill" means a waste
23 facility for the disposal of solid waste on or in
24 land. The term "municipal solid waste landfill"
25 means a landfill owned by a municipality or municipi-
26 palities.

27 §1310-D. Closure and remediation of open-municipal
28 landfills

29 To accomplish the objectives of this article with
30 regard to open-municipal solid waste landfills, the
31 department shall undertake the following activities.

32 1. Initial ranking. On or before January 1,
33 1988, the board shall adopt by rule an initial rank-
34 ing of all open-municipal solid waste landfills on
35 the basis of the hazard each poses to the environment
36 and public health. The ranking process shall be sub-
37 ject to the following provisions.

1 A. In assessing the hazard to public health, the
2 department shall consult with the Bureau of
3 Health and may consider epidemiological data and
4 risk assessment information the bureau has devel-
5 oped.

6 B. In assessing the hazard to the environment,
7 the department shall employ all existing
8 hydrogeological and other scientific information,
9 including, without limitation, geological infor-
10 mation developed by the Maine Geological Survey
11 and studies previously conducted by municipali-
12 ties.

13 C. The department shall revise the ranking as
14 necessary to reflect new information developed
15 during the course of the program.

16 D. The ranking shall be adopted by rule, accord-
17 ing to the provisions of Title 5, chapter 375,
18 subchapter II.

19 2. Evaluation. In the order of the priorities
20 established in the initial ranking, the department
21 shall conduct and complete by January 1, 1992,
22 hydrogeological evaluations of each open-municipal
23 solid waste landfill. The department may employ pri-
24 ivate consultants to avoid additions to departmental
25 staff and to accomplish the evaluations in a timely
26 manner. The department may utilize existing analysis
27 of facilities, subject to the provisions of this sub-
28 section. When the department has sufficient knowl-
29 edge of existing hazards to the environment and pub-
30 lic health posed by a specific site, it may take mea-
31 sures necessary to effect proper remediation and clo-
32 sure of the landfill, notwithstanding the site's
33 listed priority. In those cases, the department
34 shall ensure that the requirements of this subsection
35 are substantially met. The department shall design
36 each evaluation to achieve the following objectives:

37 A. To identify the actual hazards, if any, to
38 the environment and public health posed by the
39 landfill and to determine the closure require-
40 ments of the landfill;

1 B. To establish a ground water monitoring sys-
2 tem, including monitoring wells and test borings
3 sufficient to assure identification and monitor-
4 ing of potential hazards;

5 C. When hazards are identified, to provide:

6 (1) A complete description of the movement
7 of surface and ground waters on or near the
8 facility;

9 (2) An identification of pollutants in
10 those waters;

11 (3) An evaluation of the scope, direction
12 and rate of movement of the contamination
13 plume, if any; and

14 (4) Any other information that the depart-
15 ment deems necessary to prepare the closure
16 or remediation recommendations pursuant to
17 this subchapter;

18 D. To provide a recommended closure plan for all
19 existing facilities and, when necessary, a recom-
20 ended plan for the remediation of any hazards
21 identified by the evaluation. Closure and
22 remediation recommendations shall ensure a level
23 or standard of control of pollutants in ground
24 and surface waters at least as stringent as the
25 water quality criteria established under chapter
26 3, subchapter I, article 4-A. Those recommenda-
27 tions shall also seek to achieve the drinking wa-
28 ter standards established under Title 22, chapter
29 601, subchapter II, unless the board finds that
30 meeting those standards is technically infeasible
31 and that other measures will be implemented to
32 ensure protection of public health and safety;
33 and

34 E. To consult with and involve the affected mu-
35 nicipality or municipalities in the conduct of
36 the evaluation and the analysis of its results.

37 3. Plan adoption. The board may adopt the rec-
38 ommendations of the landfill evaluations subject to
39 the following provisions.

1 A. Within 90 days of the receipt of a landfill
2 evaluation, together with the recommendations for
3 closure and, if any, remediation actions, the
4 commissioner shall issue a proposed plan for clo-
5 sure and remediation. Subject to the provisions
6 of sections 1310-F and 1310-G, a timetable for
7 implementation and all pertinent cost-sharing
8 shall be included as part of the proposed plan.
9 The board shall subsequently adopt the plan sub-
10 ject to the provisions of Title 5, chapter 375,
11 subchapter IV.

12 4. Implementation. The municipality owning the
13 landfill is the party responsible for the implementa-
14 tion of the plan adopted by the board, subject to the
15 cost-sharing provisions of section 1310-F.

16 5. Entry. The department and its authorized
17 agents have the authority to enter onto the landfill
18 site at any reasonable time to undertake the evalua-
19 tions necessary to accomplish the purposes of this
20 section.

21 §1310-E. Closure and remediation of closed or aban-
22 doned solid waste landfills

23 To accomplish the objectives of this article with
24 regard to closed or abandoned solid waste landfills
25 in both public and private ownership, the department
26 shall undertake the following activities.

27 1. Initial ranking. On or before January 1,
28 1989, the board shall adopt, by rule, an initial
29 ranking of closed or abandoned solid waste landfills
30 on the basis of the hazard each poses to the environ-
31 ment and public health. The ranking process shall be
32 subject to the following provisions.

33 A. In assessing the hazard to public health, the
34 department shall consult with the Bureau of
35 Health and may consider epidemiological data and
36 risk assessment information the bureau has devel-
37 oped.

38 B. In assessing the hazard to the environment,
39 the department shall employ all existing scien-
40 tific information, including, without limitation,

1 geological information developed by the Maine Ge-
2 ological Survey and studies previously conducted
3 by municipalities.

4 C. The department shall revise the ranking as
5 necessary to reflect new information developed
6 during the course of the program.

7 D. Any person who is or may be substantially and
8 directly adversely affected by a closed or aban-
9 doned solid waste landfill may petition the de-
10 partment to include that site in its subsequent
11 evaluations.

12 2. Evaluation. In the order of the priorities
13 established in the initial ranking, the department
14 shall conduct and complete by January 1, 1992,
15 hydrogeological evaluations of each closed or aban-
16 doned solid waste landfill. The department may em-
17 ploy private consultants to avoid additions to de-
18 partmental staff and to accomplish the evaluations in
19 a timely manner. The department may utilize existing
20 analysis of these facilities, subject to the provi-
21 sions of this subsection. When the department has
22 sufficient knowledge of existing hazards to the envi-
23 ronment and public health posed by a specific site,
24 it may take measures necessary to effect proper
25 remediation and closure of the landfill, notwith-
26 standing the site's listed priority. In those cases,
27 the department shall ensure that the requirements of
28 this subsection are substantially met. The depart-
29 ment shall design each evaluation to achieve the fol-
30 lowing objectives:

31 A. To identify the actual threats, if any, to
32 the environment and public health posed by the
33 landfill and to determine the closure require-
34 ments of the landfill;

35 B. To establish a ground water monitoring sys-
36 tem, including monitoring wells and test borings
37 sufficient to assure identification and monitor-
38 ing of potential hazards;

39 C. When hazards are identified, to provide:

1 (1) A complete description of the movement
2 of surface and ground waters on or near the
3 facility;

4 (2) An identification of pollutants in
5 those waters;

6 (3) An evaluation of the scope, direction
7 and rate of movement of the contamination
8 plume, if any; and

9 (4) Any other information that the depart-
10 ment deems necessary to prepare the closure
11 or remediation recommendations pursuant to
12 this subchapter;

13 D. To provide, when necessary, a recommended
14 closure plan and a recommended plan for the
15 remediation of any hazards identified by the
16 evaluation. Closure and remediation recommenda-
17 tions shall ensure a level or standard of control
18 of pollutants in ground and surface waters at
19 least as stringent as the water quality criteria
20 established under chapter 3, subchapter I, arti-
21 cle 4-A. Those recommendations shall also seek
22 to achieve the drinking water standards estab-
23 lished under Title 22, chapter 601, subchapter
24 II, unless the board finds that meeting those
25 standards is technically infeasible and that oth-
26 er measures will be implemented to ensure protec-
27 tion of public health and safety; and

28 E. To identify, when possible, the owner, former
29 owners and former operators of and former waste
30 generators and waste transporters that used the
31 landfill.

32 3. Plan adoption. The board shall adopt the
33 recommendations of the landfill evaluations subject
34 to the following provisions.

35 A. Within 90 days of the receipt of a landfill
36 evaluation, together with the recommendations for
37 closure and, if any, remediation actions, the
38 commissioner shall issue a proposed plan for clo-
39 sure and remediation. A timetable for implemen-
40 tation shall be included as part of the proposed

1 plan. The board shall subsequently adopt the
2 plan, by rule, subject to Title 5, chapter 375,
3 subchapter IV.

4 B. Any person who is aggrieved by the board's
5 action may appeal the adoption of the formal plan
6 as provided in Title 5, chapter 375, subchapter
7 IV.

8 4. Implementation. The owner, past owners and
9 past operators of the landfill and past waste genera-
10 tors and waste transporters using the landfill are
11 the parties jointly and severally responsible for the
12 implementation of the plan adopted by the department.
13 If the department is unable to identify the party or
14 parties responsible for the site or is unable to en-
15 ter into a voluntary agreement with that party or
16 parties within 90 days following adoption of the
17 plan, the department shall implement the plan. The
18 department is authorized to proceed in court against
19 all parties responsible for the site to recover the
20 costs of closure, remediation and collection.

21 5. Entry. The department and its authorized
22 agents have the authority to enter onto the landfill
23 site at any time to undertake the evaluations and,
24 when necessary, the closure and remediation activi-
25 ties necessary to accomplish the purposes of this
26 section.

27 §1310-F. Cost sharing.

28 The department shall administer a closure and
29 remediation grants program to assist municipalities
30 in the implementation of the closure and remediation
31 plans. The program is subject to the following pro-
32 visions.

33 1. Cost-share fraction. Subject to the availa-
34 bility of funds, the department shall issue grants to
35 eligible municipalities for 75% of the costs of clo-
36 sure and for 90% of the costs of remediation.

37 2. Eligibility. Any municipality owning a solid
38 waste landfill for which a remediation or closure
39 plan has been adopted is eligible for grants. A mu-
40 nicipality, which has acted to close its solid waste

1 landfill or to remedy environmental and public health
2 hazards posed by the landfill prior to the award of a
3 grant under this section, but after January 1, 1983,
4 is also eligible for reimbursement of past and future
5 costs consistent with the plan adopted under this
6 subchapter. The board may apportion available funds
7 in an equitable manner between municipalities eligi-
8 ble for grants under this subsection and those eligi-
9 ble for reimbursement of closure and remediation
10 costs under this subsection.

11 3. Appeal. A grant applicant may not appeal to
12 the board the amount of the grant award more than 60
13 days after the department's decision. The board's
14 decision on the appeal shall constitute final agency
15 action.

16 §1310-G. Time schedules for closure of existing fa-
17 ilities

18 The board shall establish, as part of the pro-
19 posed closure and remediation plan, reasonable time
20 schedules for the implementation of the plan.

21 1. Criteria. In establishing the time schedule,
22 the board shall consider the following criteria:

23 A. The level of environmental and public health
24 hazard posed by the landfill in its current
25 state; and

26 B. The availability of reasonable, alternative
27 disposal options available to the municipality
28 following closure of the existing landfill.

29 2. Appeal of schedule. A person may not appeal
30 to the board the implementation schedule more than 60
31 days after the board's decision. The board's deci-
32 sion on the appeal shall constitute final agency ac-
33 tion.

34 3. Violation of schedule. A party responsible
35 for closure or remediation under this article is not
36 in violation of a time schedule, established under
37 this section, if the party is eligible for a cost-
38 sharing grant under section 1310-F and that grant is
39 not currently available from the department, unless

1 the board finds that the level of environmental haz-
2 ard poses an immediate hazard to public health. When
3 making a grant subsequent to such a delay, the de-
4 partment shall revise the time schedule to reflect
5 the delay as long as there is no immediate hazard to
6 public health and the environment.

7 §1310-H. Supervision and enforcement of schedules

8 The department shall monitor implementation of
9 closure and remediation plans. If the board deter-
10 mines, after opportunity for public hearing, that any
11 party responsible for the implementation of a plan
12 has failed substantially to meet the established time
13 schedule or has failed to execute the provisions of
14 the plan, the board may:

15 1. Departmental implementation. Authorize the
16 department or its agents to enter onto the site and
17 complete the remaining provisions of the plan; and

18 2. Cost recovery. Initiate proceedings to re-
19 cover any costs incurred by the department in imple-
20 menting a plan from the party or parties responsible
21 for implementation of the plan and, in the case of a
22 municipal landfill, to recover from the municipality
23 the full amount of any grants and loans made to it
24 under this article in connection with closure and
25 remediation of the landfill.

26 §1310-I. Citizen enforcement

27 Any person aggrieved by the failure of any other
28 person to comply with this article may commence a
29 civil action against the other person, including the
30 State, any state agency or municipality, in Superior
31 Court when that other person is alleged to be in vio-
32 lation of the terms of this article. The court shall
33 have the authority to order compliance with this ar-
34 article.

35 §1310-J. Report to the Legislature

36 The department shall report annually on the
37 progress of the closure and remediation program to
38 the joint standing committee of the Legislature hav-
39 ing jurisdiction over natural resources. The depart-
40 ment shall report on:

1 1. Environmental risks. The specific environ-
2 mental and public health hazards, by landfill;

3 2. Priority ranking. The ranking of open, aban-
4 doned and closed landfills;

5 3. Costs. The estimated costs of implementation
6 together with any anticipated shortfalls in the cost-
7 sharing portion of the program; and

8 4. Progress. Overall progress towards the ob-
9 jectives of the program, including where appropriate,
10 the status of the initial ranking efforts, completion
11 of landfill evaluations, closure and remediation of
12 landfills, any enforcement actions taken in connec-
13 tion with this program and any legislative recommen-
14 dations the department deems necessary.

15 ARTICLE 2

16 RECYCLING AND SOURCE REDUCTION

17 §1310-K. Program established; goals

18 The Office of Waste Recycling and Reduction, re-
19 ferred to as "the office," is established in the
20 State Development Office to develop a plan to encour-
21 age recycling of waste materials and the reduction of
22 waste volumes generated within the State to the maxi-
23 mum extent possible in order to conserve the natural
24 resources of the State, reduce the detrimental envi-
25 ronmental effects of waste disposal, to safeguard the
26 public health and welfare, reduce the disposal costs
27 incurred by municipalities and waste generators and
28 to reduce the amount of waste requiring incineration
29 and landfilling.

30 §1310-L. State recycling plan

31 The office shall complete, on or before January
32 1, 1989, a plan, in cooperation with the Recycling
33 Advisory Council, municipalities, regional councils
34 and the private sector, to identify and encourage
35 recycling opportunities throughout the State. The
36 office shall revise the plan or components of the
37 plan as necessary, but in no case less than once ev-
38 ery 5 years.

1 1. Assessment elements. The plan shall include
2 investigation and assessment of the following ele-
3 ments:

4 A. The current level of public recycling ef-
5 forts, including the quantities and categories of
6 waste currently recycled;

7 B. The current market structure of the recycling
8 industry in the State and in those areas receiv-
9 ing recycled materials from the State. This ele-
10 ment shall include identification of the existing
11 private and public recycling operations,
12 recycling capacity and the quantities and catego-
13 ries of materials currently recycled;

14 C. The potential for recycling in various re-
15 gions of the State, including estimates of the
16 types and quantities of waste available for
17 recycling and an analysis of the economic and in-
18 stitutional obstacles to increased recycling;

19 D. The categories of industrial waste which
20 present opportunities for reuse in other indus-
21 trial processes; and

22 E. Opportunities to reduce waste quantities by
23 reducing generation at the source.

24 2. Program elements. The plan shall also in-
25 clude the development of the following program ele-
26 ments which shall be in the form of specific recom-
27 mendations, including, when necessary, additional
28 legislative authority for implementation and estimat-
29 ed staff, operating and capital costs of the State's
30 implementation of the plan.

31 A. The office shall design a program of public
32 education in support of the state recycling plan
33 to promote waste reduction, source separation and
34 feasible recycling efforts at the individual, lo-
35 cal and regional level.

36 B. The office shall design a market development
37 strategy, consistent with the state recycling
38 plan, which shall include, without limitation,
39 the following elements:

1 (1) Methods of collecting and marketing of
2 recyclable materials, including those with a
3 direct state role, in order to achieve nec-
4 essary economies of scale and product quali-
5 ty specifications. The strategy shall in-
6 clude a plan for source separation of recy-
7 clable materials at the household, municipal
8 or regional level as appropriate;

9 (2) An incentives program to encourage
10 end-users of recyclable materials to locate
11 or expand their operations within the State.
12 The office shall consult with the Finance
13 Authority of Maine in developing this ele-
14 ment;

15 (3) A program for facilitating the market-
16 ing of recyclable materials consistent with
17 this paragraph. The program may include a
18 clearinghouse of information for municipali-
19 ties and recycling businesses to improve the
20 flow of recyclable materials in the market,
21 as well as direct state involvement in mar-
22 keting recyclable materials where private
23 sector capacity is inadequate; and

24 (4) The establishment of an industrial ma-
25 terials exchange to promote the reuse of in-
26 dustrial wastes which may be suitable raw
27 materials for other processes. The office
28 shall coordinate those efforts with other
29 waste exchanges in the northeastern United
30 States.

31 C. The office shall develop a program of assist-
32 ance for municipalities, groups of municipalities
33 and regional councils as follows:

34 (1) Technical assistance and grants to
35 study the feasibility of local or regional
36 recycling programs consistent with the state
37 recycling plan;

38 (2) Technical assistance and grants to im-
39 plement the feasibility studies developed
40 under this section when the proposed activi-
41 ties are consistent with the state recycling
42 plan; and

1 (3) The office shall establish a preference
2 for proposals which involve groups of munic-
3 ipalities or which are coordinated by re-
4 gional councils.

5 D. The office, after consulting with the Commis-
6 sioner of Administration, shall assess the status
7 of recycling efforts undertaken directly by the
8 State for its own solid wastes and shall develop
9 a proposal for a program of recycling to reduce
10 the generation of solid waste by the State. The
11 program shall include, without limitation,
12 recycling of office papers, cardboard, used motor
13 oil, yard waste and other materials used by the
14 State for which recycling markets exist or may be
15 developed.

16 E. The office shall develop, after reviewing
17 waste and source reduction programs in other
18 countries and states, a recommended waste reduc-
19 tion strategy for Maine.

20 3. Plan development. The office may contract
21 with regional councils and municipalities to develop
22 the initial assessment of recycling options and waste
23 disposal problems in the various regions of the
24 State. The office shall coordinate its efforts with
25 the Department of Environmental Protection to ensure
26 consistency with the disposal capacity needs analysis
27 developed pursuant to section 1310-P and to ensure
28 compatibility with state and local environmental re-
29 quirements. The Department of Environmental Protec-
30 tion shall provide the office with any information it
31 possesses on the quantities of waste materials
32 recycled and any other relevant information developed
33 pursuant to section 1310-P. The office shall develop
34 the recycling plan, including the interim progress
35 report and any revisions to the plan with the advice
36 of the Recycling Advisory Council. The final plan
37 shall include regional components and shall seek to
38 maximize reliance on private sector recycling capaci-
39 ty. In preparing the plan, the office shall examine
40 the recycling plans and programs of other states, in-
41 cluding, without limitation, Illinois, Michigan, New
42 Hampshire, New York, New Jersey, Oregon, Rhode Island
43 and Vermont to determine their efficacy and applica-
44 bility to Maine.

1 4. Research. The office shall conduct a program
2 of research in support of the state recycling plan
3 which may include, without limitation, the areas of
4 innovative recycling technologies and markets; indus-
5 trial waste exchanges; and waste reduction strate-
6 gies. The office shall consult with the Recycling
7 Advisory Council on the development of the research
8 program.

9 §1310-M. Recycling Advisory Council

10 There is established a Recycling Advisory Council
11 to provide the office with information and advice
12 concerning the recycling needs and opportunities of
13 the State.

14 1. Membership; terms. The Governor shall ap-
15 point 13 members with 2 members each representing mu-
16 nicipal governments, statewide and local environmen-
17 tal organizations, the recycling industry and the
18 waste disposal industry and with 4 members from the
19 general public. The Commissioner of Environmental
20 Protection shall serve as an ex officio member. All
21 members, except the commissioner, shall be appointed
22 for a term of 3 years. For the initial appointments,
23 4 members shall be appointed for a term of one year;
24 4 members shall be appointed for a term of 2 years;
25 and 4 members shall be appointed for a term of 3
26 years. A vacancy shall be filled for the unexpired
27 portion of the term.

28 2. Compensation. Members shall be compensated
29 according to Title 5, section 12004, subsection 8.

30 3. Quorum; actions. A quorum shall be a majori-
31 ty of the members of the council. An affirmative
32 vote of the majority of the members present at a
33 meeting shall be required for any action. No action
34 may be considered unless a quorum is present.

35 4. Meetings. The council shall meet at least 4
36 time per year.

37 5. Annual report. The council shall report an-
38 nually to the Governor and to the Legislature on the
39 status of the State's recycling planning effort.

1 §1310-N. Report to the Legislature

2 1. Progress report. The office shall submit an
3 interim progress report to the joint standing commit-
4 tee of the Legislature having jurisdiction over natu-
5 ral resources on or before February 15, 1988. The
6 report shall include any recommendations requiring
7 legislative action to enable the office to complete
8 its initial planning effort and to fulfill the objec-
9 tives of this article.

10 2. Submission of plan; recommendations. The of-
11 vice shall report on its plan and proposed programs
12 in market development, municipal assistance, state
13 waste recycling, waste reduction and public education
14 to the joint standing committee of the Legislature
15 having jurisdiction over natural resources on or be-
16 fore January 1, 1989. In addition to the plan and
17 programs proposed under section 1310-L, the report
18 shall include recommendations for:

19 A. A proposed goal for the State's recycling
20 program. The goal shall be expressed in terms of
21 the proportion of specific waste streams that
22 could be recycled based upon an assessment of
23 current and reasonably attainable market condi-
24 tions and the net economic benefits to the State;

25 B. Specific market development strategies for
26 recycling of the following materials:

27 (1) Waste paper, including newsprint, cor-
28 rugated cardboard, office papers and mixed
29 papers;

30 (2) Glass, including deposit beverage con-
31 tainers and other glass containers; and

32 (3) Metal, including deposit beverage con-
33 tainers, white goods, automobile frames and
34 motors and other scrap metals;

35 C. Model municipal ordinances to accomplish
36 recycling objectives; and

37 D. All legislation necessary to implement the
38 objectives of the proposed plan and related pro-
39 grams.

1 public benefit when the applicant demonstrates that
2 the proposed facility is consistent with and will
3 serve to satisfy the capacity needs identified pursu-
4 ant to section 1310-P. The board shall make a find-
5 ing of consistency when it determines that the pro-
6 posed facility is designed and located and will be
7 operated so that it meets the needs identified in the
8 capacity needs analysis.

9 4. Presumption of public benefit. A waste dis-
10 posal facility receiving only wastes generated within
11 the municipality in which the facility is located is
12 presumed to have met the requirements of subsection
13 3.

14 5. Recycling and source reduction determination.
15 The board shall find that the provisions of subsec-
16 tion 1, paragraph C, are satisfied when the applicant
17 demonstrates that all requirements of this subsection
18 have been satisfied.

19 A. The proposed solid waste disposal facility
20 will accept solid waste which is, at its source
21 or point of generation, subject to recycling and
22 source reduction programs, voluntary or other-
23 wise, at least as effective as those imposed by
24 this chapter and other provisions of state law.

25 (1) The board shall attach this requirement
26 as a standard condition to the license of a
27 solid waste disposal facility governing the
28 future acceptance of solid waste at the pro-
29 posed facility.

30 B. The applicant has shown consistency with the
31 most recent state recycling plan approved by the
32 Legislature pursuant to section 1310-N.

33 6. Terms and compliance schedules. Licenses
34 shall be issued under the terms and conditions as the
35 board may prescribe, and for a term not to exceed 5
36 years. The board may establish reasonable time
37 schedules for compliance with this article and rules
38 promulgated by the board.

39 7. Criminal or civil record. The board may
40 refuse to grant a license under this article if it
41 finds that:

1 A. The applicant or any person with a beneficial
2 interest in the proposed facility other than an
3 equity interest has been found guilty of:

4 (1) A criminal or civil violation of the
5 laws administered by the department, other
6 environmental laws administered by the Fed-
7 eral Government or by other states;

8 (2) A criminal or civil violation of the
9 United States Racketeer Influenced and Cor-
10 rupt Organizations Act, United States Code,
11 Title 18, Section 1961, et. seq.; or

12 (3) A criminal violation of the following
13 provisions of Maine laws:

14 (a) Conspiracy, pursuant to Title
15 17-A, section 151;

16 (b) Offenses against the person, pur-
17 suant to Title 17-A, sections 201, 202,
18 203, 208 and 210;

19 (c) Kidnapping, pursuant to Title
20 17-A, section 301;

21 (d) Theft and related crimes, pursuant
22 to Title 17-A, chapter 15;

23 (e) Burglary, pursuant to Title 17-A,
24 section 401;

25 (f) Falsification in official matters,
26 pursuant to Title 17-A, chapter 19;

27 (g) Bribery and corrupt practices,
28 pursuant to Title 17-A, chapter 25;

29 (h) Robbery, pursuant to Title 17-A,
30 chapter 27;

31 (i) Forgery, pursuant to Title 17-A,
32 chapter 29;

33 (j) Arson and other property destruc-
34 tion, pursuant to Title 17-A, chapter
35 33;

- 1 (k) Fraud, pursuant to Title 17-A,
2 sections 901 to 904;
- 3 (l) Gambling, pursuant to Title 17-A,
4 chapter 39;
- 5 (m) Criminal use of explosives, pursu-
6 ant to Title 17-A, section 1001;
- 7 (n) Weapons, pursuant to Title 17-A,
8 chapter 43; or
- 9 (o) Drugs, pursuant to Title 17-A,
10 chapter 45; and

11 B. These violations or convictions preclude a
12 reasonable assurance that the applicant will
13 faithfully execute the conditions and terms of a
14 license or comply with other provisions of this
15 Title.

16 §1310-P. Capacity needs analysis

17 The board shall complete and adopt by rule an
18 analysis of the solid waste disposal capacity needs
19 of the State by January 1, 1989. The analysis shall
20 be considered by the board in making its finding of
21 consistency in facility siting decisions as provided
22 in section 1310-O, subsection 1, paragraph B and sec-
23 tion 1310-O, subsection 3. The analysis shall also
24 serve as a guide for municipal and commercial enti-
25 ties interested in developing solid waste facilities
26 to meet needs identified in this analysis. The board
27 shall prepare the capacity needs analysis according
28 to the following provisions.

29 1. Data collection. The board shall develop and
30 maintain a comprehensive data base on solid waste
31 generated or disposed of in the State. The types of
32 data collected shall include:

33 A. The amount of solid waste generated, handled
34 or transported within the State;

35 B. The source of the waste;

36 C. The type of waste;

1 D. The costs and types of treatment or disposal
2 technologies currently employed, including, with-
3 out limitation, recycling, composting,
4 landspreading, incineration or landfilling; and

5 E. The capacity of existing licensed solid waste
6 treatment and disposal facilities receiving
7 wastes generated within the State.

8 2. Needs analysis. The board shall identify the
9 need for current and future expansions in solid waste
10 treatment and disposal capacity by type of solid
11 waste. Specifically, the analysis shall include:

12 A. Identification of solid wastes by type which
13 are capable of being reused or recycled in an
14 economically and environmentally sound manner and
15 the preferred technologies to be utilized;

16 B. A survey of the solid waste generators and
17 the recycling and disposal facilities they uti-
18 lize;

19 C. Estimation of waste generation by region and
20 waste type over the next 10-year and 20-year pe-
21 riods based on the best available forecasts of
22 population growth, economic activity within the
23 State, estimates provided by the solid waste gen-
24 erators and other available information; and

25 D. Comparison of the projected waste generation
26 levels with existing capacity.

27 3. Regional and local considerations. In devel-
28 oping the capacity needs analysis, the board shall
29 consult with industrial waste generators, regional
30 councils and municipal officials concerning the spe-
31 cific needs of their locale. The board shall identi-
32 fy areas of the State which are underserved with re-
33 gard to waste treatment or disposal capacity or which
34 have capacity in excess of regional needs. In deter-
35 mining regional needs, the board may consider econom-
36 ic criteria, population densities, regional differ-
37 ences in current industrial mix and the potential for
38 economic growth and any other factors as the board
39 deems relevant.

1 4. Revisions. The board shall revise the analy-
2 sis at least every 2 years to incorporate changes in
3 the waste generation trends, changes in waste dispos-
4 al technologies, the development of new waste gener-
5 ating activities and other factors affecting solid
6 waste management as the board finds appropriate. If
7 the board finds that rapidly changing conditions nec-
8 essitate more timely revisions of the analysis, it
9 may make those revisions pursuant to the emergency
10 rule-making provisions of Title 5, chapter 375, sub-
11 chapter II.

12 5. Coordination. The board shall coordinate de-
13 velopment of the solid waste capacity needs analysis
14 with the hazardous waste facility needs plan devel-
15 oped annually pursuant to section 1310-Q and with the
16 state recycling plan developed pursuant to section
17 1310-L. The board may prepare recommendations to the
18 Legislature, using the data developed under this
19 chapter, to ensure that suitable waste facilities are
20 available for the State's solid and hazardous wastes.

21 6. Rules and procedural requirements. The board
22 may adopt rules as necessary, subject to the require-
23 ments of Title 5, chapter 375, to require waste gen-
24 erators, handlers and disposal facility operators to
25 report on the types, quantities and characteristics
26 of the solid wastes they handle and on the capacity
27 of the facilities they operate. The board shall sub-
28 mit the capacity needs analysis to the joint standing
29 committee of the Legislature having jurisdiction over
30 natural resources at the beginning of the first regu-
31 lar session of each Legislature for review. The com-
32 mittee may introduce legislation it deems necessary
33 to clarify the legislative intent of this article.

34 §1310-Q. Escrow Closure Accounts

35 The board shall apply this section to every li-
36 cence for a new or expanded solid waste disposal fa-
37 ility and to the license of every existing solid
38 waste disposal facility at the time of relicensing.

39 1. Escrow account. The owner or operator of ev-
40 ery solid waste disposal facility shall accrue an
41 amount sufficient to satisfy the estimated costs of
42 closure and post-closure care and maintenance. The

1 owner or operator shall deposit the amount according
2 to rules adopted by the board pursuant to subsection
3 4. The account established pursuant to this subsection
4 shall constitute an escrow account for the closure
5 and post-closure care and maintenance of that
6 solid waste disposal facility. No withdrawals from
7 the escrow account may be made without written approval
8 of the commissioner or as otherwise authorized
9 by the commissioner.

10 2. Penalty. Any owner or operator of a solid
11 waste disposal facility who fails to deposit funds
12 into an escrow account or uses those funds for any
13 purpose other than closure or post-closure care and
14 maintenance costs, or as approved by the commissioner,
15 commits a Class E crime subject to section 349.
16 In addition, the commissioner may seek a restraining
17 order to prevent the owner or operator from accepting
18 solid waste for disposal in the facility.

19 3. Annual audit. Every owner or operator of a
20 solid waste disposal facility shall file with the department
21 an annual audit of the escrow account established for the
22 closure of the facility pursuant to this section. The audit
23 shall be conducted by a certified public accountant and shall
24 be filed with the department no later than October 31st of each
25 year or such other annual date as the commissioner may designate.
26 ate.
27

28 4. Rules. The commissioner shall adopt rules
29 prescribing the type of closure account, the minimum
30 duration of the account by type of disposal facility,
31 the amount to be deposited to the account, the manner
32 in which account records shall be maintained and how
33 a licensee shall make deposits to and withdrawals from
34 the account and other matters considered necessary to
35 administer this section.

36 5. Money remaining in account. Any money remaining
37 in the escrow account of any solid waste disposal facility
38 after proper closure and completion of post-closure care and
39 maintenance requirements as determined by the department shall
40 be released, no less than 20 years after the closure except as
41 otherwise provided by the board, to the owner, operator or
42 their designated beneficiary.
43

1 §1310-R. Transfer of license

2 In the event that a person possessing a license
3 issued pursuant to this article transfers the owner-
4 ship of the property, facility or structure which
5 constitutes or is part of the solid waste disposal
6 facility, without transfer of the license being ap-
7 proved by the board, the license granted by the board
8 shall continue to authorize operation of the solid
9 waste disposal facility within the limits and subject
10 to the terms and conditions stated in the license,
11 provided that the parties to the transfer shall be
12 jointly and severally liable for any violation of the
13 license until such time as the board approves the
14 transfer or issuance of a new license to the new own-
15 er. The board may in its discretion require that the
16 new owner apply for a new license or may approve the
17 transfer of the existing license upon a satisfactory
18 showing that the new owner can abide its terms and
19 conditions and will be able to comply with this sub-
20 chapter.

21 §1310-S. Transition provisions

22 The following transition provisions shall apply
23 to applicants for solid waste disposal facility li-
24 censes as described in this section.

25 1. General. Except as provided in this section,
26 the provisions of this article pertaining to opera-
27 tion of a solid waste disposal facility shall not ap-
28 ply to the operation of any solid waste disposal fa-
29 ility licensed prior to the effective date of this
30 article.

31 2. Recycling. The recycling requirements shall
32 apply as follows:

33 A. Section 1310-O, subsection 1, paragraph C,
34 and subsection 5, paragraph A shall apply to any
35 new or expanded solid waste disposal facility li-
36 censed after the effective date of this article.

37 B. After the effective date of this article, the
38 board shall apply section 1310-O, subsection 5,
39 paragraph A, when relicensing any solid waste
40 disposal facility, unless the disposal facility

1 has waste disposal contracts in effect on the ef-
2 fective date of this article in which case sec-
3 tion 1310-O, subsection 5, paragraph A, shall ap-
4 ply at the expiration of the term of those con-
5 tracts without consideration of any renewals or
6 extensions of those contracts.

7 C. Section 1310-O, subsection 5, paragraph B,
8 does not apply to any solid waste disposal facil-
9 ity licensed prior to the effective date of this
10 article.

11 D. An applicant for a new or expanded solid
12 waste disposal facility or for a license renewal
13 submitting a complete application prior to the
14 adoption of the first state recycling plan pursu-
15 ant to section 1310-N may be required by the
16 board to demonstrate that the applicant has con-
17 sidered recycling alternatives that are reason-
18 ably within the applicant's control.

19 3. Public benefit. The public benefit require-
20 ments shall apply as follows:

21 A. Section 1310-O, subsection 1, paragraph B,
22 and section 1310-O, subsection 3, shall apply to
23 any license application for a new or expanded
24 solid waste disposal facility accepted after the
25 adoption of the capacity needs analysis pursuant
26 to section 1310-P;

27 B. An applicant for a new or expanded solid
28 waste disposal facility submitting a complete ap-
29 plication prior to the initial adoption of the
30 capacity needs analysis shall submit such infor-
31 mation as the board may require to demonstrate
32 that the proposed facility provides a substantial
33 public benefit, including such information de-
34 scribed in section 1310-P as the board deems rel-
35 evant to the proposed facility or proposed expan-
36 sion.

37 C. Section 1310-O, subsection 1, paragraph B,
38 and subsection 3 does not apply to any solid
39 waste disposal facility licensed prior to the ef-
40 fective date of this article.

1 §1310-T. Public and local participation

2 In addition to provisions for public participa-
3 tion provided pursuant to Title 5, chapter 375, the
4 following provisions shall apply to an application
5 for a solid waste disposal facility.

6 1. Notification. A person applying for a li-
7 cence under this article or giving notice to the de-
8 partment pursuant to section 483, shall give, at the
9 same time, written notice to the municipal officers
10 of the municipality in which the proposed facility
11 may be located and shall publish notice of the appli-
12 cation in a newspaper of general circulation in the
13 area.

14 2. Mandatory hearing. The board shall hold an
15 adjudicatory public hearing within the municipality
16 in which the facility may be located or in such other
17 convenient location in the vicinity of the proposed
18 facility as the municipal officers may agree.

19 3. Automatic municipal intervenor status. The
20 board shall grant intervenor status to any single
21 group of municipal representatives designated by the
22 municipal legislative body from the municipality in
23 which the facility will be located. If the municipal
24 legislative body does not designate any representa-
25 tive or representatives, the board shall grant inter-
26 venor status to the municipal officers from the mu-
27 nicipality in which the facility will be located.
28 The automatic intervenor status shall apply in any
29 proceeding for a license under this article. The
30 board may grant this status only if requested by the
31 municipal legislative body or the municipal officers
32 within 60 days of notification under subsection 1.

33 4. Financial assistance. The department shall
34 reimburse or make assistance grants for the direct
35 expenses of intervention of any party granted inter-
36 venor status under subsection 3, not to exceed
37 \$50,000. The board shall adopt rules governing the
38 award and management of intervenor assistance grants
39 and reimbursement of expenses to ensure that the
40 funds are used in support of direct, substantive par-
41 ticipation in the proceedings before the board. Al-
42 lowable expenses include, without limitation,

1 hydrogeological studies, waste generation and
2 recycling studies, traffic analyses, the retention of
3 expert witnesses and attorneys and other related
4 items. Expenses otherwise eligible under this sec-
5 tion which are incurred by the municipality after no-
6 tification pursuant to subsection 1, shall be eligi-
7 ble for reimbursement under this subsection only if a
8 completed application is accepted by the department.
9 The board shall also establish rules governing:

10 A. The right of an intervenor under subsection 3
11 to gain the right of entry to the proposed facil-
12 ity site at any reasonable time; and

13 B. The reduction in the maximum level of reim-
14 bursable costs to the extent the municipality es-
15 tablishes by local ordinance any substantially
16 similar financial requirements of the applicant.

17 §1310-U. Municipal ordinances

18 Municipalities are prohibited from enacting
19 stricter standards than those contained in this chap-
20 ter and in the solid waste management rules adopted
21 pursuant to this chapter governing the
22 hydrogeological criteria for siting or designing sol-
23 id waste facilities or governing the engineering cri-
24 teria related to waste handling and disposal areas of
25 a solid waste disposal facility.

26 Under the municipal home rule authority granted
27 by the Constitution of Maine, Article VIII, Part Sec-
28 ond and Title 30, section 1917, municipalities, ex-
29 cept as provided in this section, may enact ordi-
30 nances with respect to solid waste facilities which
31 contain such standards as the municipality finds rea-
32 sonable, including, without limitation, conformance
33 with federal and state solid waste rules; fire safe-
34 ty; traffic safety; levels of noise which can be
35 heard outside the facility; distance from existing
36 residential, commercial or institutional uses; ground
37 water protection; and compatibility of the solid
38 waste facility with local zoning and land use con-
39 trols.

40 §1310-V. Moratorium

1 Prior to 91 days after the First Regular Session
2 of the 113th Legislature adjourns, the department
3 shall not process or act upon any application for,
4 and the board shall not issue, a license for a new
5 commercial landfill facility or the substantial ex-
6 pansion of a commercial landfill facility. In pro-
7 cessing applications after the moratorium, priority
8 shall be given to applications for commercial
9 landfill facilities used for the disposal of hazard-
10 ous waste which is generated by an energy recovery
11 facility designed to reduce the volume or alter the
12 physical characteristics of municipal hazardous waste
13 and to produce electricity through incineration.

14 Sec. 26. 38 MRSa §1319-E, sub-§1, ¶D, as amended
15 by PL 1985, c. 162, §12, is further amended to read:

16 D. Amounts necessary to reimburse municipalities
17 as required by section 1305-A 1319-R, subsection
18 3; and

19 Sec. 27. 38 MRSa §1319-I, sub-§9, as amended by
20 PL 1983, c. 467, §2, is further amended to read:

21 9. Hazardous waste subject to fees. No hazardous
22 waste may be subject to the fees established in this
23 section unless the waste is identified under section
24 1303-A 1319-O, subsection 1, provided that waste
25 identified under section 1303-A 1319-O, subsection 1,
26 paragraph B, shall not be subject to the fees until
27 90 days after the next regular session of the Legis-
28 lature.

29 Sec. 28. 38 MRSa c. 13, sub-c. V is enacted to
30 read:

31 SUBCHAPTER V

32 HAZARDOUS WASTE AND WASTE OIL

33 §1319-O. Rulemaking authority; hazardous waste and
34 waste oil

35 1. Hazardous waste. Rulemaking for hazardous
36 waste shall be as follows:

1 A. The board may adopt and amend rules identify-
2 ing hazardous waste. It is the intent of the
3 Legislature that the board shall identify as haz-
4 ardous waste those substances which are identi-
5 fied by the United States Environmental Protec-
6 tion Agency in proposed or final regulations.
7 The Legislature also intends that the board may
8 identify as hazardous waste, in accordance with
9 paragraph B, other substances in addition to
10 those identified by the United States Environmen-
11 tal Protection Agency. Further, the Legislature
12 intends that a substance which has been identi-
13 fied as a hazardous waste by the board shall be
14 removed from identification only by further
15 rulemaking by the board.

16 Hazardous waste may be identified as follows.

17 (1) The board may identify any substance as
18 a hazardous waste if that substance is identi-
19 fied as hazardous by particular substance,
20 by characteristic, by chemical class or as a
21 waste product of a specific industrial ac-
22 tivity in proposed or final rules of the
23 United States Environmental Protection Agen-
24 cy.

25 (2) The board may identify any substance as
26 a hazardous waste if the board, after evalu-
27 ation based on existing data or data reason-
28 ably extrapolated from previously conducted
29 studies using similar classes of substances
30 or compounds under similar circumstances,
31 has determined that the substance is an
32 acute or chronic toxin causing significant
33 potential adverse public health or environ-
34 mental effects. An acute or chronic toxin
35 may include the characteristics of:

36 (a) Carcinogenicity;

37 (b) Mutagenicity;

38 (c) Teratogenicity; or

39 (d) Infectiousness.

1 Rules adopted under this subparagraph shall
2 be submitted to the joint standing committee
3 of the Legislature having jurisdiction over
4 natural resources for review. These rules
5 shall remain in effect until 90 days after
6 adjournment of the next regular session of
7 the Legislature unless adopted by legisla-
8 tive enactment.

9 (3) Whenever the board proposes to adopt or
10 amend rules identifying hazardous waste or
11 removing hazardous waste from identifica-
12 tion, it shall hold a public hearing.

13 (4) In addition to hazardous waste identi-
14 fied under subparagraphs (1) and (2), the
15 Legislature identifies the following chemi-
16 icals, materials, substances or waste as be-
17 ing hazardous waste:

18 (a) Polychlorinated biphenyls and any
19 substance containing polychlorinated
20 biphenyls.

21 (b) Pathogenic and infectious wastes,
22 as defined by the department, unless
23 those wastes are disposed of at a fa-
24 cility licensed by the department.

25 B. The board may adopt rules relating to the
26 handling of hazardous wastes, including, but not
27 limited to:

28 (1) Containerization and labeling of haz-
29 ardous wastes, consistent with applicable
30 rules of other federal and state agencies;

31 (2) Reporting of handling of hazardous
32 wastes; and

33 (3) Wastes which are not compatible.

34 C. The board may adopt rules relating to trans-
35 portation of hazardous wastes, including, but not
36 limited to:

1 (1) Licensing of transporters of hazardous
2 wastes, conveyances used for the transporta-
3 tion of hazardous wastes and the operators
4 of these conveyances; and licensing fees
5 shall be paid to the Maine Hazardous Waste
6 Fund; and

7 (2) A manifest system for hazardous wastes
8 which takes into consideration the require-
9 ments of the United States Resource Conser-
10 vation and Recovery Act of 1976, Public Law
11 94-580, and this subchapter. The manifest
12 system shall provide a means by which haz-
13 ardous waste is accounted for, from its
14 point of generation through all intermediate
15 points to its point of ultimate disposition;
16 shall allocate responsibilities and liabili-
17 ties at each point among generators, trans-
18 porters and handlers of the hazardous waste;
19 and shall require record keeping and regular
20 reporting to the department at each point.

21 D. The board may adopt rules relating to the in-
22 terim and final licensing and operation of waste
23 facilities for hazardous wastes, including, but
24 not limited to:

25 (1) Standards for the safe operation and
26 maintenance of the waste facilities, includ-
27 ing, but not limited to, record keeping,
28 monitoring before and during operation of
29 the facility and after its termination of
30 use or closure, inspections and contingency
31 plans to minimize potential damage from haz-
32 ardous waste;

33 (2) The training of personnel and the cer-
34 tification of supervisory personnel involved
35 in the operation of the waste facilities;

36 (3) The termination, closing and potential
37 future uses of the waste facilities; and

38 (4) Rules equivalent to rules of the United
39 States Environmental Protection Agency which
40 provide for licensing or permitting by rule.

1 E. The board may adopt rules relating to evi-
2 dence of financial capacity of hazardous waste
3 facilities' owners or operators, and of those who
4 transport hazardous waste, to protect public
5 health, safety and welfare and the environment,
6 including, but not limited to:

7 (1) Liability insurance;

8 (2) Bonding; and

9 (3) Financial ability to comply with statu-
10 tory and regulatory requirements or condi-
11 tions.

12 2. Waste oil. Rulemaking for waste oil shall be
13 as follows:

14 A. The board may adopt rules relating to the
15 transportation, collection and storage of waste oil
16 by waste oil dealers to protect public health, safety
17 and welfare and the environment. The rules may in-
18 clude, without limitation, rules requiring licenses
19 for waste oil dealers and the location of waste oil
20 storage sites which are operated by waste oil deal-
21 ers, evidence of financial capability and manifest
22 systems for waste oil. A person licensed by the
23 board to transport or handle hazardous waste shall
24 not be required to obtain a waste oil dealer's li-
25 cence, but his hazardous waste license must include
26 any terms or conditions deemed necessary by the board
27 relating to his transportation or handling of waste
28 oil.

29 §1319-R. Facility siting

30 1. Licenses for hazardous waste facilities. The
31 board shall issue a license for a hazardous waste fa-
32 cility whenever it finds it will not pollute any wa-
33 ter of the State, contaminate the ambient air, con-
34 stitute a hazard to health or welfare or create a
35 nuisance. Licenses shall be issued under the terms
36 and conditions as the board may prescribe and for a
37 term not to exceed 5 years. The board may establish
38 reasonable time schedules for compliance with this
39 subchapter and regulations promulgated by the board.

1 A. The board shall also find that:

2 (1) The applicant presents evidence of suf-
3 fficient financial capacity, including pro-
4 jections of utilization of the facility by
5 hazardous waste generators, to justify
6 granting the license;

7 (2) Issuing the license is consistent with
8 the applicable standards, requirements and
9 procedures of this chapter; and

10 (3) In the case of a disposal facility, the
11 volume of the waste and the risks related to
12 its handling have been reduced to the maxi-
13 imum practical extent by treatment and volume
14 reduction prior to disposal.

15 B. The board shall issue an interim license for
16 a waste facility for hazardous wastes or shall
17 deem the facility to be so licensed if:

18 (1) The waste facility is in existence on
19 the effective date of this Act;

20 (2) The owner or operator has:

21 (a) Notified the department of its lo-
22 cation;

23 (b) Provided a detailed description of
24 the operation of the facility;

25 (c) Identified the hazardous waste it
26 handles; and

27 (d) Applied for a license to handle
28 hazardous wastes;

29 (3) The waste facility is not altered or
30 operated except in accordance with the
31 board's rules; and

32 (4) If the waste facility has a discharge
33 or emission license under sections 414 or
34 591, and the facility is operated in accord-
35 ance with that license.

1 C. Interim licenses shall expire on the earliest
2 of the following dates:

3 (1) The date of the final administrative
4 disposition of the application for a hazard-
5 ous waste facility license;

6 (2) The date of a finding of the board that
7 the disposition referred to in subsection 1
8 has not been made because of the applicant's
9 failure to furnish information reasonably
10 required or requested to process the appli-
11 cation;

12 (3) The date of expiration of the license
13 issued under section 414 or 591; or

14 (4) The date on which the application for a
15 hazardous waste facility license is due and
16 the person operating under the interim li-
17 cence has failed to apply for the hazardous
18 waste facility license.

19 2. Municipal ordinances. Municipalities may en-
20 act necessary police power ordinances dealing with
21 commercial hazardous waste facilities, provided that
22 they are not more stringent than or duplicative of
23 the hazardous waste provisions of this chapter or
24 rules and orders promulgated by the board. The board
25 shall incorporate all applicable local requirements
26 to the fullest extent practicable.

27 3. Site review. All persons who make application
28 for a license to construct, operate or substantially
29 expand a commercial hazardous waste facility, at the
30 same time, shall give written notice to the municipal
31 officers of the municipality in which the proposed
32 facility will be located. The municipality through
33 its municipal officers shall be granted intervenor
34 status in any proceeding for site review of a commer-
35 cial hazardous waste facility. The department shall
36 reimburse the municipalities' direct costs, not to
37 exceed \$5,000, for participation in the proceedings.

38 The Governor may appoint a person to facilitate com-
39 munications between the applicant and the municipali-
40 ty and between the department and the municipality.

1 The State may accept public and private funds from
2 any source for the purpose of carrying out responsi-
3 bilities under this section.

4 The board shall hold at least one public hearing
5 within the municipality in which the facility will be
6 located.

7 During any proceeding for site review of a commercial
8 hazardous waste facility, the legislative body of the
9 municipality in which the facility is to be located
10 may appoint 4 representatives to the board. If the
11 facility is proposed to be located within an unorga-
12 nized township, the county commissioners of that
13 county may appoint 4 representatives. These repre-
14 sentatives may vote on board decisions related to the
15 proposed commercial hazardous waste facility. All
16 representatives appointed under this subsection shall
17 participate on the board only for that site review,
18 until final disposition of the application, including
19 any administrative or judicial appeals. The municipal
20 members shall receive the same pay for each day and
21 expenses as regular board members during the period
22 of their service, to be paid by the department.

23 4. Municipal fees authorized. A municipality, by
24 ordinance, may levy a fee on a commercial hazardous
25 waste facility located in the municipality. These
26 fees shall be applied as a percentage of the annual
27 billings of the facility to its customers. No fee so
28 levied may exceed 2% of the annual billings. The de-
29 partment may audit the accounts of a facility to de-
30 termine the amount of the fee owed to the municipali-
31 ty.

32 5. Application. Except for substantial expansion,
33 this section does not apply to any facility
34 which has been granted an interim or final license
35 prior to the effective date of this Act.

36 Sec. 29. 38 MRSA §1362, sub-§1, ¶A, as enacted
37 by PL 1983, c. 569, §1, is amended to read:

38 A. Any substance identified by the board under
39 section ~~1303-A~~ 1319-O;

40 Sec. 30. 38 MRSA §1370, first ¶, as enacted by
41 PL 1983, c. 569, §1, is amended to read:

1 This bill also clarifies the structure of the
2 solid and hazardous waste laws.

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