

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of H.P. 1107, L.D. 1499)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1862

H.P. 1360 House of Representatives, June 15, 1987
Reported by Representative JACQUES from the Committee on
Energy and Natural Resources and printed under Joint Rule 2.
EDWIN H. PERT, Clerk
Original bill submitted by the Joint Standing Committee
on Energy and Natural Resources pursuant to Private and
Special Law 1985, Chapter 137.

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 Emergency preamble. Whereas, Acts of the Legis-
6 lature do not become effective until 90 days after
7 adjournment unless enacted as emergencies; and

8 Whereas, the proper management and disposal of
9 solid waste is imperative to safeguard the public
10 health and welfare and the environment; and

11 Whereas, large numbers of municipal landfills
12 must be properly cleaned up and closed in a timely
13 and effective manner to protect ground water quality;
14 and

1 Whereas, local financial and technical resources
2 necessary to accomplish this objective are not avail-
3 able and state assistance is required; and

4 Whereas, adequate waste disposal capacity is es-
5 sential to the economic well-being of the citizens of
6 the State; and

7 Whereas, sites suitable for environmentally sound
8 waste disposal are in limited supply and must be con-
9 served for maximum public benefit; and

10 Whereas, recycling and source reduction are ef-
11 fective means of reducing the solid waste stream and
12 thus conserving limited waste disposal capacity; and

13 Whereas, a comprehensive and coordinated, state-
14 wide recycling and source reduction strategy is
15 urgently needed to achieve the maximum benefit of
16 these techniques; and

17 Whereas, a comprehensive waste management and
18 disposal facility siting procedure is also necessary
19 to conserve limited waste disposal capacity, to en-
20 sure the availability of adequate disposal capacity
21 and the protection of the State's natural resources;
22 and

23 Whereas, in the judgment of the Legislature,
24 these facts create an emergency within the meaning of
25 the Constitution of Maine and require the following
26 legislation as immediately necessary for the preser-
27 vation of the public peace, health and safety; now,
28 therefore,

29 Be it enacted by the People of the State of Maine as
30 follows:

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

32 §1812-A. Report on purchase of recycled products

33 The State Purchasing Agent shall report on or be-
34 fore January 1, 1988, to the joint standing committee
35 of the Legislature having jurisdiction over natural
36 resources and to the same committee of the First Reg-

1 ular Session of each subsequent Legislature on or be-
2 fore January 1st on the State's efforts to purchase
3 supplies and materials composed in whole or in part
4 of recycled materials pursuant to section 1812. The
5 State Purchasing Agent shall also report on any pro-
6 curement policies, incentives, educational programs,
7 promotional efforts or other activities undertaken by
8 the Bureau of Purchases to encourage the purchase of
9 those supplies and materials. The State Purchasing
10 Agent shall include in the report any recommendations
11 to increase or facilitate the purchase of those sup-
12 plies and materials.

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

15	<u>(8-A) Environment</u>	<u>Recycling</u>	<u>Legislative</u>	<u>38 MRSA</u>
16	<u>/Natural</u>	<u>Advisory</u>	<u>Per Diem</u>	<u>§1310-L</u>
17	<u>Resources</u>	<u>Council</u>		

18 Sec. 3. 38 MRSA §349, sub-§1, as amended by PL
19 1985, c. 162, §2, is further amended to read:

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

30 This subsection does not apply to actions subject to
31 the criminal penalties set forth in section ~~1306-A~~
32 1319-T.

33 Sec. 4. 38 MRSA c. 13, first 4 lines, as
34 amended, are repealed and the following enacted in
35 its place:

36 CHAPTER 13

37 WASTE MANAGEMENT

38 SUBCHAPTER I

1 The Legislature further finds that failure to analyze and plan properly for future hazardous waste, septage and solid waste disposal and recycling needs
2 may reduce the options open to the State and may further deplete already taxed natural resources and
3 aggravate environmental and public health problems resulting from current inadequate practices of resource recovery and conservation, recycling, waste
4 storage and management, transportation, treatment and disposal.
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11 The Legislature declares that a program to rigorously analyze and plan for the hazardous waste, septage and solid waste disposal requirements of the
12 State is necessary to protect the public health, safety and welfare of the State.
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16 The Legislature further finds that substantial quantities of waste oil are contaminated by hazardous
17 waste and that waste oil, if not properly handled, is a threat to the public health, safety and welfare and
18 to the environment and, therefore, must be controlled.
19
20
21

22 The Legislature finally declares that the provisions of this chapter shall be construed liberally to
23 address the findings and to accomplish the policies established in this section.
24
25

26 **Sec. 6. 38 MRSA §1303, sub-§10-B is enacted to**
27 **read:**

28 10-B. Special waste. "Special waste" means any nonhazardous waste generated by sources other than
29 domestic and typical commercial establishments that exists in such an unusual quantity or in such a chemical or physical state, or any combination thereof,
30 which may disrupt or impair effective waste management or threaten the public health, human safety or
31 the environment and requires special handling, transportation and disposal procedures. Special waste includes, but is not limited to:
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38 A. Oil, coal, wood and multifuel boiler and incinerator ash;
39

40 B. Industrial and industrial process waste;

1 C. Waste water treatment plant sludge, paper
2 mill sludge and other sludge waste;

3 D. Debris and residuals from nonhazardous chemi-
4 cal spills and cleanup of those spills;

5 E. Contaminated soils and dredge spoils;

6 F. Asbestos and asbestos-containing waste;

7 G. Sand blast grit and nonliquid paint waste;

8 H. Medical and other potentially infectious or
9 pathogenic waste;

10 I. High and low pH waste;

11 J. Spent filter media and residue; and

12 K. Other waste designated by the board, by rule.

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

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

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

19 1-A. Rules; transportation. The board shall
20 adopt rules relating to the transportation of solid
21 waste, including, without limitation:

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

27 B. Establishment of transporter licensing and
28 conveyance registration fees which, considering
29 the criteria of subsection 14, paragraphs A to C,
30 are sufficient to recover all costs of adminis-
31 tering, monitoring compliance with and enforcing
32 the provisions of this subsection and which fees
33 shall be paid to the Maine Environmental Protec-
34 tion Fund;

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

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

9 (1) Liability insurance;

10 (2) Performance bonding; and

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

14 1-B. Handling of special waste. The board may
15 adopt rules relating to the handling of special
16 waste, including, without limitation:

17 A. Containerization and labeling of special
18 waste;

19 B. Reporting on handling of special waste;

20 C. Waste which is not compatible; and

21 D. A marking system, by categories of waste, to
22 clearly identify vehicles transporting solid
23 waste.

24 Sec. 10. 38 MRSA §1304, sub-§8, as amended by PL
25 1985, c. 822, §4, is repealed.

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

28 10. Legislative review. Rules adopted by the
29 board under this section and section 1303-A 1319-O,
30 subsection 1 which impose standards or requirements
31 more stringent than final regulations of the United
32 States Environmental Protection Agency shall be sub-
33 mitted to the legislative committee having jurisdic-
34 tion over energy and natural resources for review.
35 Any rules adopted by the board under this section

1 shall be submitted to the legislative committee hav-
2 ing jurisdiction over energy and natural resources
3 for review pursuant to Title 5, section 8053-A.

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

6 13. Innovative disposal and utilization. Recogn-
7 izing that environmentally suitable sites for waste
8 disposal are in limited supply and represent a criti-
9 cal natural resource, the commissioner may investi-
10 gate and implement with the approval of the board in-
11 novative programs for managing, utilizing and dispos-
12 ing of solid waste. Innovative programs may include
13 agricultural and forest land spreading of
14 wood-derived ash, paper mill sludges and municipal
15 waste water treatment plant sludges. The board shall
16 review proposed innovative programs for each waste
17 category and shall apply all controls necessary to
18 ensure the protection of the environment and public
19 health consistent with this chapter. The board may
20 adopt application review procedures designed to re-
21 view individual applications and their individual
22 waste sources with prior approval of classes of dis-
23 posal or utilization sites. The board shall adopt
24 provisions for municipal notification prior to use of
25 individual utilization sites.

26 14. Disposal fees. To support the licensing,
27 monitoring and enforcement activities of the depart-
28 ment under this chapter, the board shall establish by
29 rule a schedule of reasonable disposal fees on the
30 disposal of solid waste. Fees received under this
31 subsection shall be deposited in the Maine Environ-
32 mental Protection Fund. The board may establish sol-
33 id waste categories with different disposal fees. In
34 adopting the fee schedule, the board shall consider
35 the following criteria:

36 A. The level of environmental hazard posed by
37 the waste;

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

1 C. The degree to which the general or other special
2 revenues of the State or the State's municipi-
3 palities are currently employed to manage and
4 dispose of the waste or administer, monitor com-
5 pliance with and enforce the provisions of this
6 chapter with regard to a particular solid waste
7 category.

8 15. Special services program. The department
9 shall formulate a program to assist municipalities in
10 the management and disposal of municipal solid waste
11 for which environmentally sound and economically ac-
12 ceptable disposal options do not currently exist, in-
13 cluding, without limitation, discarded tires, white
14 goods and demolition debris.

15 The plan shall be completed and submitted to the
16 joint standing committee of the Legislature having
17 jurisdiction over natural resources by January 1,
18 1989, and shall include:

19 A. A survey and assessment of current management
20 and disposal practices for discarded tires, white
21 goods, demolition and woody debris and any other
22 portions of the municipal solid waste stream the
23 department deems relevant; and

24 B. A proposal for a financial and technical as-
25 sistance program directed to municipalities with
26 a preference for the development of regional dis-
27 posal solutions for the waste investigated pursu-
28 ant to paragraph A.

29 Sec. 13. 38 MRSA §1304-A, as amended by PL 1985,
30 c. 481, Pt. A, §97, is reallocated to 38 MRSA
31 §1319-Q.

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

34 A. Requiring segregation of waste; and

35 B. Requiring delivery of waste generated within
36 the municipality, or any portion of those waste,
37 to a designated disposal or reclamation facili-
38 ty; and

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

3 C. Designating certain materials as recyclable
4 and exempt from the provisions of paragraph B.

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

7 3. Ordinances. This chapter shall not be con-
8 strued as limiting the authority of any municipality
9 to enact ordinances for the regulation of solid waste
10 or septage disposal, provided that these ordinances
11 are not less stringent than or inconsistent with sec-
12 tion 1310-U or other provisions of this chapter or
13 the regulations rules adopted under this chapter.

14 Sec. 17. 38 MRSA §1304-B, sub-§4-A is enacted to
15 read:

16 4-A. Contract limitations. Any contract, in-
17 cluding any contract in existence on the effective
18 date of this subsection, for the provision of waste
19 disposal, transportation or handling services to mu-
20 nicipalities is subject to the following limitations.

21 A. No contract for waste disposal, transporta-
22 tion or handling services may prevent a municipi-
23 ality from recycling any portion of its solid
24 waste, provided that any minimum BTU content lev-
25 el and minimum tonnage level required by that
26 contract is maintained by the municipality.

27 B. No contract for waste disposal, transporta-
28 tion or handling services may prevent a municipi-
29 ality from meeting its obligations to supply a
30 minimum BTU content level and minimum tonnage
31 level required by that contract using solid waste
32 generated outside its borders, provided that:

33 (1) The municipality is or will be unable,
34 as the direct result of recycling or source
35 reduction efforts, to meet the obligations
36 using solid waste generated within its ju-
37 risdiction; and

1 (2) The municipality is liable for any dam-
2 ages caused by any solid waste it relies
3 upon to satisfy the provisions of its con-
4 tract.

5 C. For those waste disposal, transportation or
6 handling services contracts which do not princi-
7 pally rely upon requiring minimum BTU content
8 level or minimum tonnage level to secure solid
9 waste for the waste disposal facility, but which
10 instead rely upon a requirement that the munici-
11 pality provide all or most of its solid waste to
12 the waste disposal facility, no such contract may
13 prohibit a municipality during the term of the
14 contract from recycling those materials which the
15 municipality determines to be recyclable.

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

18 Sec. 19. 38 MRSA §1306-A, as amended by PL 1981,
19 c. 430, §§13 to 16, is repealed.

20 Sec. 20. 38 MRSA §1306-C, as amended by PL 1985,
21 c. 785, Pt. A, §113, is reallocated to 38 MRSA
22 §1319-U.

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

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

27 §1309. Interstate cooperation

28 The Legislature encourages cooperative activities
29 by the department with other states for the improved
30 management of hazardous and solid waste; for im-
31 proved, and so far as is practicable, uniform state
32 laws relating to the management of hazardous and
33 solid waste; and compacts between this and other
34 states for the improved management of hazardous and
35 solid waste.

36 Sec. 23. 38 MRSA §1310-A, as reallocated by PL
37 1979, c. 663, §238, is reallocated to 38 MRSA
38 §1319-P.

1 B. Abandoned or improperly or inadequately
2 closed, municipal or privately-owned solid waste
3 landfills.

4 3. New facilities. The department shall ensure
5 that the siting, design, operating and closure re-
6 quirements imposed on new solid waste disposal facil-
7 ities pursuant to this chapter and chapter 3, article
8 6, site location of development, are consistent with
9 the provisions of this article.

10 4. Definitions. As used in this article, unless
11 the context indicates otherwise, the following terms
12 have the following meanings.

13 A. "Abandoned" means not handling solid waste on
14 or after the effective date of this article when
15 the cessation of handling operations has not been
16 approved by the department.

17 B. "Closed" means not handling solid waste on or
18 after the effective date of this article when the
19 cessation of handling operations has occurred in
20 accordance with the provisions of a permanent
21 closure plan approved by the department.

22 C. "Municipal solid waste landfill" means a sol-
23 id waste landfill owned by a municipality or
24 group of municipalities.

25 D. "Open" means handling solid waste on or after
26 the effective date of this article.

27 E. "Solid waste landfill" means a waste facility
28 for the permanent disposal of solid waste on or
29 in land. This term does not include land spread-
30 ing sites used in programs approved by the de-
31 partment.

32 5. Coordination with uncontrolled sites program.
33 Nothing in this article shall be construed to limit
34 the authority of the department under any other pro-
35 visions of law administered by the department. At
36 any time prior to or following the evaluations con-
37 ducted pursuant to section 1310-D, subsection 2, the
38 department may proceed under chapter 13-B to properly
39 close any landfill or mitigate any threats posed by

1 the landfill to public health, safety or the environ-
2 ment.

3 §1310-D. Closure and remediation of open-municipal
4 landfills

5 To accomplish the objectives of this article with
6 regard to open-municipal solid waste landfills, the
7 department shall undertake the following activities.

8 1. Initial ranking. On or before January 1,
9 1988, the board shall adopt by rule an initial rank-
10 ing of all open-municipal solid waste landfills on
11 the basis of the hazard each poses to the environment
12 and public health. The ranking process shall be sub-
13 ject to the following provisions.

14 A. In assessing the hazard to public health, the
15 department shall consult with the Bureau of
16 Health and may consider epidemiological data and
17 risk assessment information the bureau has devel-
18 oped.

19 B. In assessing the hazard to the environment,
20 the department shall employ all existing
21 hydrogeological and other scientific information,
22 including, without limitation, geological infor-
23 mation developed by the Maine Geological Survey
24 and studies previously conducted by municipali-
25 ties.

26 C. The department shall revise the ranking as
27 necessary to reflect new information developed
28 during the course of the program.

29 D. The ranking shall be adopted by rule, accord-
30 ing to the provisions of Title 5, chapter 375,
31 subchapter II.

32 2. Evaluation. In the order of the priorities
33 established in the initial ranking and the objectives
34 of paragraphs A to D, the department shall conduct
35 and complete by January 1, 1993, environmental evalu-
36 ations of each open-municipal solid waste landfill.
37 The department may employ private consultants to
38 avoid additions to departmental staff and to accom-
39 plish the evaluations in a timely manner. The de-

1 partment may utilize existing analyses of facilities,
2 subject to the provisions of this subsection. When
3 the department has sufficient knowledge of existing
4 hazards to the environment and public health posed by
5 a specific site, it may take measures necessary to
6 effect proper remediation and closure of the
7 landfill, notwithstanding the site's listed priority.
8 In those cases, the department shall ensure that the
9 requirements of this subsection are substantially
10 met. The department shall design each evaluation to
11 achieve the following objectives:

12 A. To identify the actual hazards, if any, to
13 the environment and public health posed by the
14 landfill and to determine the closure and
15 remediation requirements of the landfill;

16 B. To establish a ground water monitoring sys-
17 tem, including monitoring wells and test borings
18 sufficient to assure identification and monitor-
19 ing of potential hazards;

20 C. When hazards are identified, to provide:

21 (1) A complete description of the movement
22 of surface and ground waters on or near the
23 landfill;

24 (2) An identification of pollutants in
25 those waters;

26 (3) An evaluation of the scope, direction
27 and rate of movement of the contamination
28 plume, if any; and

29 (4) Any other information that the depart-
30 ment deems necessary to prepare the closure
31 or remediation recommendations pursuant to
32 this subchapter;

33 D. To provide a recommended closure plan for the
34 landfill and, when necessary, a recommended plan
35 for the remediation of any hazards identified by
36 the evaluation. Closure and remediation recom-
37 mendations shall ensure a level or standard of
38 control of pollutants in surface waters at least
39 as stringent as the water quality criteria estab-

1 lished under chapter 3, subchapter I, article
2 4-A. Those recommendations shall also seek to
3 achieve a level or standard of control of
4 pollutants in ground water at least as stringent
5 as the water quality criteria established under
6 under sections 465-C and 470, unless the board
7 finds that meeting those standards is technically
8 and economically infeasible and that other mea-
9 sures can be implemented to ensure protection of
10 public health and safety; and

11 E. To consult with and involve the affected mu-
12 nicipality or municipalities in the conduct of
13 the evaluation and the analysis of its results.

14 3. Plan adoption. The board may adopt the rec-
15 ommendations of the landfill evaluations subject to
16 the following provisions.

17 A. Within 90 days of the receipt of a landfill
18 evaluation, together with the recommendations for
19 closure and, if any, remediation actions, the
20 commissioner shall issue a proposed plan for clo-
21 sure and remediation. Subject to the provisions
22 of sections 1310-F and 1310-G, a timetable for
23 implementation and all pertinent cost-sharing
24 shall be included as part of the proposed plan.
25 The board shall subsequently adopt the plan sub-
26 ject to the provisions of Title 5, chapter 375,
27 subchapter IV.

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

32 4. Implementation. The municipality owning the
33 landfill is the party responsible for the implementa-
34 tion of the plan adopted by the board.

35 §1310-E. Closure and remediation of closed or aban-
36 doned solid waste landfills

37 To accomplish the objectives of this article with
38 regard to closed or abandoned solid waste landfills
39 in both public and private ownership, the department
40 shall undertake the following activities.

1 1. Initial ranking. On or before January 1,
2 1989, the board shall adopt, by rule, an initial
3 ranking of closed or abandoned solid waste landfills
4 on the basis of the hazard each poses to the environ-
5 ment and public health. The ranking process shall be
6 subject to the following provisions.

7 A. In assessing the hazard to public health, the
8 department shall consult with the Bureau of
9 Health and may consider epidemiological data and
10 risk assessment information the bureau has devel-
11 oped.

12 B. In assessing the hazard to the environment,
13 the department shall employ all existing scien-
14 tific information, including, without limitation,
15 geological information developed by the Maine Ge-
16 ological Survey and studies previously conducted
17 by municipalities.

18 C. The department shall revise the ranking as
19 necessary to reflect new information developed
20 during the course of the program.

21 D. Any person may request the department to in-
22 clude a closed or abandoned solid waste landfill
23 site in its subsequent evaluations.

24 E. The department shall report on the ranking
25 developed pursuant to this section, together
26 with the department's recommendations for
27 remediation and closure efforts and related costs
28 necessary to protect the public health and the
29 environment, to the joint standing committee of
30 the Legislature having jurisdiction over natural
31 resources. The department shall submit the re-
32 port on or before January 1, 1989.

33 §1310-F. Cost sharing.

34 The department shall administer a closure and
35 remediation grants program to assist municipalities
36 in the implementation of the closure and remediation
37 plans. The program is subject to the following pro-
38 visions.

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

5 2. Eligibility. Any municipality owning a solid
6 waste landfill for which a remediation or closure
7 plan has been adopted is eligible for grants. A mu-
8 nicipality, which has acted to close its solid waste
9 landfill or to remedy environmental and public health
10 hazards posed by the landfill prior to the award of a
11 grant under this section, but after January 1, 1983,
12 is also eligible for reimbursement of past and future
13 costs consistent with the plan adopted under this
14 subchapter. The board may apportion available funds
15 in an equitable manner between municipalities eligi-
16 ble for grants under this subsection and those eligi-
17 ble for reimbursement of closure and remediation
18 costs under this subsection.

19 §1310-G. Time schedules for closure of existing fa-
20 cilities

21 The board shall establish, as part of the pro-
22 posed closure and remediation plan, reasonable time
23 schedules for the implementation of the plan.

24 1. Criteria. In establishing the time schedule,
25 the board shall consider the following criteria:

26 A. The level of environmental and public health
27 hazard posed by the landfill in its current
28 state;

29 B. The availability of reasonable, alternative
30 disposal options available to the municipality
31 following closure of the existing landfill; and

32 C. The period reasonably needed by the munici-
33 pality to raise its share of plan costs.

34 2. 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. In addition to any
10 other remedy available to it by law, if the board de-
11 termines, after opportunity for public hearing, that
12 any party responsible for the implementation of a
13 plan has failed substantially to meet the established
14 time schedule or has failed to execute the provisions
15 of the plan, the board may:

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

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

27 §1310-I. Report to the Legislature

28 The department shall report annually to the joint
29 standing committee of the Legislative having juris-
30 isdiction over natural resources on the progress of the
31 closure and remediation program. The department
32 shall report on:

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

35 2. Priority ranking. The ranking of open, aban-
36 doned and closed landfills;

37 3. Costs. The estimated costs of implementa-
38 tion, together with any anticipated shortfalls in the
39 cost-sharing portion of the program; and

1 B. The current market structure of the recycling
2 industry in the State and in those areas receiv-
3 ing recycled materials from the State. This ele-
4 ment shall include identification of the existing
5 private and public recycling operations,
6 recycling capacity and the quantities and catego-
7 ries of materials currently recycled;

8 C. The potential for recycling in various re-
9 gions of the State, including estimates of the
10 types and quantities of waste available for
11 recycling and an analysis of the economic and in-
12 stitutional obstacles to increased recycling;

13 D. The categories of industrial waste which
14 present opportunities for reuse; and

15 E. Opportunities to reduce waste quantities by
16 reducing generation at the source.

17 2. Program elements. The plan shall also in-
18 clude the development of the following program ele-
19 ments which shall be in the form of specific recom-
20 mendations, including, when necessary, additional
21 legislative authority for implementation and estimat-
22 ed staff, operating and capital costs of the State's
23 implementation of the plan.

24 A. The office shall design a program of public
25 education in support of the state recycling plan
26 to promote waste reduction, source separation and
27 feasible recycling efforts at the individual, lo-
28 cal, regional and state level.

29 B. The office shall design a market development
30 strategy, consistent with the state recycling
31 plan, which shall include, without limitation,
32 the following elements:

33 (1) Methods of collecting and marketing of
34 recyclable materials, including those with a
35 direct state role, in order to achieve nec-
36 essary economies of scale and product quali-
37 ty specifications. The strategy shall in-
38 clude a plan for source separation of recy-
39 clable materials at the household, municip-
40 al, regional or state level, as appropri-
41 ate;

1 (2) An incentive program to encourage
2 end-users of recyclable materials to locate
3 or expand their operations within the State.
4 The office shall consult with the Finance
5 Authority of Maine in developing this ele-
6 ment;

7 (3) A program for facilitating the market-
8 ing of recyclable materials consistent with
9 this paragraph. The program may include a
10 clearinghouse of information for municipali-
11 ties and recycling businesses to improve the
12 flow of recyclable materials in the market,
13 as well as direct state involvement in mar-
14 keting recyclable materials where private
15 sector capacity is inadequate; and

16 (4) The establishment of an industrial ma-
17 terials exchange to promote the reuse of in-
18 dustrial waste which may be suitable raw ma-
19 terials for other processes. The office
20 shall coordinate those efforts with other
21 waste exchanges in the northeastern United
22 States.

23 C. The office shall develop in coordination with
24 the department a program of assistance for munic-
25 ipalities, groups of municipalities and regional
26 councils. The office shall establish a preference
27 for proposals which involve groups of municipali-
28 ties or which are coordinated by regional coun-
29 cils. This program shall include without limita-
30 tion:

31 (1) Technical assistance and grants to
32 study the feasibility of local or regional
33 recycling programs consistent with the state
34 recycling plan; and

35 (2) Technical assistance and grants to im-
36 plement the feasibility studies developed
37 under this section when the proposed activi-
38 ties are consistent with the state recycling
39 plan.

40 D. The office, after consulting with the Commis-
41 sioner of Administration, shall assess the status

1 of recycling efforts undertaken directly by the
2 State for its own solid waste and shall develop a
3 proposal for a program of recycling to reduce the
4 generation of solid waste by the State. The pro-
5 gram shall include, without limitation, recycling
6 of office papers, cardboard, used motor oil, yard
7 waste and other materials used by the State for
8 which recycling markets exist or may be devel-
9 oped.

10 E. The office shall develop, after reviewing
11 waste and source reduction programs in other
12 countries and states, a recommended waste reduc-
13 tion strategy for this State.

14 3. Plan development. The office may contract
15 with regional councils and municipalities to develop
16 the initial assessment of recycling options and waste
17 disposal problems in the various regions of the
18 State. The office shall coordinate its efforts with
19 the Department of Environmental Protection to ensure
20 consistency with the disposal capacity needs analysis
21 developed pursuant to section 1310-0 and to ensure
22 compatibility with state and local environmental re-
23 quirements. The Department of Environmental Protec-
24 tion shall provide the office with any information it
25 possesses on the quantities of waste materials
26 recycled and any other relevant information developed
27 pursuant to section 1310-0. The office shall develop
28 the recycling plan, including the interim progress
29 report and any revisions to the plan with the advice
30 of the Recycling Advisory Council. The final plan
31 shall include regional components and shall seek to
32 maximize reliance on private sector recycling capaci-
33 ty. In preparing the plan, the office shall examine
34 the recycling plans and programs of other states to
35 determine their efficacy and applicability to this
36 State.

37 4. Research. The office shall conduct a program
38 of research in support of the state recycling plan
39 which may include, without limitation, the areas of
40 innovative recycling technologies and markets, indus-
41 trial waste exchanges and waste reduction strategies.

42 §1310-L. Recycling Advisory Council

1 There is established a Recycling Advisory Council
2 to provide the office with information and advice
3 concerning the recycling needs and opportunities of
4 the State.

5 1. Membership; terms. The Governor shall ap-
6 point 13 members, with 2 members each representing
7 municipal governments, statewide and local environ-
8 mental organizations, the recycling industry and the
9 waste disposal industry, one member representing in-
10 dustrial waste generators and 3 members from the gen-
11 eral public. The Commissioner of Environmental Pro-
12 tection shall serve as an ex officio member. All
13 members, except the commissioner, shall be appointed
14 for a term of 3 years. For the initial appointments,
15 4 members shall be appointed for a term of one year;
16 4 members shall be appointed for a term of 2 years;
17 and 4 members shall be appointed for a term of 3
18 years. A vacancy shall be filled for the unexpired
19 portion of the term.

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

22 3. Quorum; actions. A quorum shall be a majori-
23 ty of the members of the council. An affirmative
24 vote of the majority of the members present at a
25 meeting shall be required for any action. No action
26 may be considered unless a quorum is present.

27 4. Meetings. The council shall meet at least 4
28 time per year.

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

32 6. Staff support. The office shall provide the
33 council with all necessary staff support.

34 §1310-M. Report to the Legislature

35 1. Progress report. The office shall submit an
36 interim progress report to the joint standing commit-
37 tee of the Legislature having jurisdiction over natu-
38 ral resources on or before February 15, 1988. The
39 report shall include any recommendations requiring

1 legislative action to allow implementation of se-
2 lected pilot-scale and regional program elements and
3 to enable the office to complete its initial planning
4 effort and to fulfill the objectives of this article.

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

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

20 B. Specific market development strategies for
21 recycling of the following materials:

22 (1) Waste paper, including newsprint, cor-
23 rugated cardboard, office papers and mixed
24 papers;

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

27 (3) Metal, including deposit beverage con-
28 tainers, white goods, automobile frames and
29 motors and other scrap metals;

30 C. Model municipal ordinances to accomplish
31 recycling objectives; and

32 D. All legislation necessary to implement the
33 objectives of the proposed plan and related pro-
34 grams.

35 3. Legislative review. The joint standing com-
36 mittee of the Legislature having jurisdiction over
37 natural resources may recommend to the Legislature
38 approval of the plan by resolve or may introduce leg-

1 isolation as it deems necessary to clarify legislative
2 intent regarding this article.

3 ARTICLE 3

4 SOLID WASTE FACILITY SITING

5 §1310-N. Site location license

6 No person may locate, establish, construct, ex-
7 pend disposal capacity or operate any solid waste fa-
8 ility unless approved by the board under the site
9 location of development laws, chapter 3, subchapter
10 1, article 6 and the provisions of this chapter.

11 1. Licenses. The board shall issue a license
12 for a waste facility whenever it finds that:

13 A. The facility will not pollute any water of
14 the State, contaminate the ambient air, consti-
15 tute a hazard to health or welfare or create a
16 nuisance;

17 B. In the case of a disposal facility, the fa-
18 ility provides a substantial public benefit; and

19 C. In the case of a disposal facility, the vol-
20 ume of the waste and the risks related to its
21 handling and disposal have been reduced to the
22 maximum practical extent by recycling and source
23 reduction prior to disposal.

24 2. Finding of environmental suitability. The
25 board shall issue a finding of environmental suit-
26 ability when it determines that the applicant has
27 satisfied the requirements of subsection 1, paragraph
28 A, and the site location of development laws, chapter
29 3, subchapter 1, article 6. The board shall make
30 this determination prior to making its determina-
31 tions, pursuant to subsection 1, paragraphs B and C.

32 3. Public benefit determination. The board
33 shall find that a facility provides a substantial
34 public benefit when the applicant demonstrates that
35 the proposed facility is consistent with and will
36 serve to satisfy the capacity needs identified pursu-
37 ant to section 1310-O. The board shall make this

1 finding when it determines that the proposed facility
2 is designed and located and will be operated so that
3 it meets the needs identified in the capacity needs
4 analysis.

5 4. Presumption of public benefit. A publicly
6 owned waste disposal facility is presumed to have met
7 the requirements of subsection 3 when it receives on-
8 ly waste generated within the municipality in which
9 the facility is located or when it receives only
10 waste generated within municipalities which are mem-
11 bers of the facility.

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

17 A. The proposed solid waste disposal facility
18 will accept solid waste which is subject to
19 recycling and source reduction programs, volun-
20 tary or otherwise, at least as effective as those
21 imposed by this chapter and other provisions of
22 state law.

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

28 B. The applicant has shown consistency with the
29 most recent state recycling plan approved by the
30 Legislature pursuant to section 1310-M, subsec-
31 tion 3.

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

38 7. Criminal or civil record. The board may
39 refuse to grant a license under this article if it
40 finds that the applicant or, if the applicant is oth-

1 er than a natural person, any person having legal in-
2 terest in the applicant has been found guilty of a
3 criminal or civil violation of laws administered by
4 the board or other laws of the State, other states,
5 the United States or another country.

6 §1310-O. Capacity needs analysis

7 The board shall complete and adopt by rule an
8 analysis of the solid waste disposal capacity needs
9 of the State by January 1, 1989. The analysis shall
10 be considered by the board in making its finding of
11 consistency in facility siting decisions as provided
12 in section 1310-N, subsection 1, paragraph B and sec-
13 tion 1310-N, subsection 3. The analysis shall also
14 serve as a guide for municipal and commercial enti-
15 ties interested in developing solid waste facilities
16 to meet needs identified in this analysis. The board
17 shall prepare the capacity needs analysis according
18 to the following provisions.

19 1. Data collection. The board shall develop and
20 maintain a comprehensive data base on solid waste
21 generated or disposed of in the State. The types of
22 data collected shall include:

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

25 B. The source of the waste;

26 C. The type of waste;

27 D. The costs and types of treatment or disposal
28 technologies currently employed, including, with-
29 out limitation, recycling, composting,
30 landspreading, incineration or landfilling;

31 E. The capacity of existing licensed solid waste
32 treatment and disposal facilities receiving waste
33 generated within the State;

34 F. The costs of transporting solid waste to dis-
35 posal facilities; and

36 G. The extent to which the State relies on solid
37 waste disposal capacity outside its jurisdiction.

1 2. Needs analysis. The board shall identify the
2 need in the State for current and future expansions
3 of solid waste treatment and disposal capacity by
4 type of solid waste. The analysis shall include, but
5 not be limited to:

6 A. Identification of solid waste by type which
7 are capable of being reused or recycled in an
8 economically and environmentally sound manner and
9 the preferred technologies to be utilized;

10 B. A survey of the solid waste generators and
11 the recycling and disposal facilities they uti-
12 lize;

13 C. Estimation of waste generation by region and
14 waste type over the next 10-year and 20-year pe-
15 riods based on the best available forecasts of
16 population growth, economic activity within the
17 State, estimates provided by the solid waste gen-
18 erators and other available information;

19 D. Comparison of the projected waste generation
20 levels with existing capacity, including consid-
21 eration of expected facility closures under this
22 chapter;

23 E. Identification of the regional availability
24 of solid waste disposal capacity, including con-
25 sideration of transportation costs; and

26 F. Assessment of the level of competition in the
27 solid waste disposal industry.

28 3. Regional and local considerations. In devel-
29 oping the capacity needs analysis, the board shall
30 consult with industrial waste generators, regional
31 councils and municipal officials concerning the spe-
32 specific needs of their locale. The board shall identi-
33 fy areas of the State which are underserved with re-
34 gard to waste treatment or disposal capacity or which
35 have capacity in excess of regional needs. In deter-
36 mining regional needs, the board may consider econom-
37 ic criteria, including disposal and transportation
38 costs, population densities, regional differences in
39 current industrial mix and the potential for economic
40 growth, the level of competition in the solid waste

1 disposal industry and any other factors as the board
2 deems relevant.

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

14 5. Coordination. The board shall coordinate de-
15 velopment of the solid waste capacity needs analysis
16 with the hazardous waste facility needs plan devel-
17 oped annually pursuant to section 1319-Q and with the
18 state recycling plan developed pursuant to section
19 1310-K. The board may prepare recommendations to the
20 Legislature, using the data developed under this
21 chapter, to ensure that suitable waste facilities are
22 available for the State's solid and hazardous waste.

23 6. Report. The board shall submit the capacity
24 needs analysis to the joint standing committee of the
25 Legislature having jurisdiction over natural re-
26 sources at the beginning of the first regular session
27 of each Legislature for review. The committee may
28 introduce legislation it deems necessary to clarify
29 the legislative intent of this article.

30 §1310-P. Escrow closure accounts

31 The board shall apply this section to every li-
32 cence for a new or expanded solid waste disposal fa-
33 ility and to the license of every existing solid
34 waste disposal facility at the time of relicensing.

35 1. Escrow account. The owner or operator of ev-
36 ery solid waste disposal facility shall accrue an
37 amount sufficient to satisfy the estimated costs of
38 closure and post-closure care and maintenance. The
39 owner or operator shall deposit the amount according
40 to rules adopted by the board pursuant to subsection
41 3. The account established pursuant to this subsec-

1 tion shall constitute an escrow account for the clo-
2 sure and post-closure care and maintenance of that
3 solid waste disposal facility. No withdrawals from
4 the escrow account may be made without written ap-
5 proval of the commissioner or as otherwise authorized
6 by the commissioner.

7 2. Annual report. Every owner or operator of a
8 solid waste disposal facility shall file annually
9 with the department a report containing a sworn
10 statement providing the calendar year-end balance of
11 the escrow account established for the closure of the
12 facility pursuant to this section. The report shall
13 be filed with the department no later than March 31st
14 of each year or such other annual date as the commis-
15 sioner may designate.

16 3. Rules. The board shall adopt rules prescrib-
17 ing the type of closure account, the minimum duration
18 of the account by type of disposal facility, the
19 amount to be deposited to the account, the manner in
20 which account records shall be maintained and how a
21 licensee shall make deposits to and withdrawals from
22 the account and other matters considered necessary to
23 administer this section.

24 4. Money remaining in account. No less than 20
25 years after the closure, except as otherwise provided
26 by the board, any money remaining in the escrow ac-
27 count of any solid waste disposal facility after
28 proper closure and completion of post-closure care
29 and maintenance requirements, as determined by the
30 department, shall be released to the owner, operator
31 or its designated beneficiary.

32 5. Municipal exemption. A solid waste disposal
33 facility owned by a municipality or group of municipi-
34 palities is exempt from the provisions of this sec-
35 tion.

36 §1310-Q. Transfer of license

37 No person may transfer a license issued pursuant
38 to this Title without the transfer of the license be-
39 ing approved by the board prior to transfer of the
40 ownership of the property, facility or structure
41 which constitutes or is part of the solid waste dis-

1 posal facility. The board, at its discretion, may
2 require that the proposed new owner of the facility
3 apply for a new license or may approve the transfer
4 of the existing license upon a satisfactory showing
5 that the new owner can abide its terms and conditions
6 and will be able to comply with the provisions of
7 this Title.

8 §1310-R. Transition provisions

9 1. General. Except as otherwise provided, the
10 provisions of this article apply to any new, expanded
11 or existing solid waste disposal facility licensed or
12 relicensed after the effective date of this article.

13 2. Recycling. The recycling requirements shall
14 apply as follows.

15 A. The board shall apply the provisions of sec-
16 tion 1310-N, subsection 5, paragraph A, when
17 relicensing any solid waste disposal facility,
18 except that, to the extent that waste disposal
19 contracts in effect on the effective date of this
20 article are inconsistent with section 1310-N,
21 subsection 5, paragraph A, in which case, those
22 provisions shall apply at the expiration of the
23 term of those contracts without consideration of
24 any renewals or extensions of those contracts.

25 B. The board shall require an applicant for a
26 new or expanded solid waste disposal facility or
27 for a license renewal submitting a complete ap-
28 plication prior to the approval by the Legisla-
29 ture of the first state recycling plan pursuant
30 to section 1310-M, subsection 3, to demonstrate
31 that the applicant has considered recycling al-
32 ternatives that are reasonably within the appli-
33 cant's control.

34 C. The provisions of section 1310-N, subsection
35 5, paragraph B, do not apply to the relicensing
36 of any solid waste disposal facility licensed
37 prior to the effective date of this article.

38 3. Public benefit. The public benefit require-
39 ments shall apply as follows.

1 A. The board shall require an applicant for a
2 new or expanded solid waste disposal facility
3 submitting a complete application prior to the
4 initial adoption of the capacity needs analysis
5 pursuant to section 1310-O to submit such infor-
6 mation as the board requires to demonstrate that
7 the proposed facility provides a substantial pub-
8 lic benefit, including such information described
9 in section 1310-O.

10 B. The provisions of section 1310-N, subsection
11 1, paragraph B, and section 1310-N, subsection 3,
12 do not apply to the relicensing of a solid waste
13 disposal facility licensed prior to the effective
14 date of this article.

15 §1310-S. Public and local participation

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

20 1. Notification. A person applying for a li-
21 cence under this article or giving notice to the de-
22 partment pursuant to section 483, shall give, at the
23 same time, written notice to the municipal officers
24 of the municipality in which the proposed facility
25 may be located and shall publish notice of the appli-
26 cation in a newspaper of general circulation in the
27 area.

28 2. Mandatory hearing. The board shall hold an
29 adjudicatory public hearing within the municipality
30 in which the facility may be located or in such other
31 convenient location in the vicinity of the proposed
32 facility as the municipal officers may agree.

33 3. Automatic municipal intervenor status. The
34 board shall grant intervenor status to the municipal
35 officers, or their designees, from the municipality
36 in which the facility will be located. The interve-
37 nor status granted under this subsection shall apply
38 in any proceeding for a license under this article.
39 The board may grant this status only if requested by
40 the municipal officers within 60 days of notification
41 under subsection 1.

1 4. Financial assistance. The department shall
2 reimburse or make assistance grants for the direct
3 expenses of intervention of any party granted inter-
4 venor status under subsection 3, not to exceed
5 \$50,000. The board shall adopt rules governing the
6 award and management of intervenor assistance grants
7 and reimbursement of expenses to ensure that the
8 funds are used in support of direct, substantive par-
9 ticipation in the proceedings before the board. Al-
10 lowable expenses include, without limitation,
11 hydrogeological studies, waste generation and
12 recycling studies, traffic analyses, the retention of
13 expert witnesses and attorneys and other related
14 items. Expenses otherwise eligible under this sec-
15 tion which are incurred by the municipality after no-
16 tification pursuant to subsection 1, shall be eligi-
17 ble for reimbursement under this subsection only if a
18 completed application is accepted by the department.
19 The board shall also establish rules governing:

20 A. The process by which an intervenor under sub-
21 section 3 may gain entry to the proposed facility
22 site for purposes of reasonable inspection and
23 site investigations under the auspices of the
24 board; and

25 B. The reduction in the maximum level of reim-
26 bursable costs to the extent the municipality es-
27 tablishes by local ordinance any substantially
28 similar financial requirements of the applicant.

29 §1310-T. Application fee

30 In addition to any fees imposed pursuant to sec-
31 tion 352, the applicant shall pay a fee of \$50,000 at
32 the time of filing an application for a solid waste
33 disposal facility. The fee shall be deposited in the
34 Maine Environmental Protection Fund and shall be used
35 only to make reimbursements and grants to the inter-
36 venor in the applicant's license proceedings pursuant
37 to section 1310-S. Any portion of the fee not dis-
38 bursed by the department for these purposes shall be
39 reimbursed to the applicant, together with any inter-
40 est that may have accrued on that portion.

41 §1310-U. Municipal ordinances

1 Municipalities are prohibited from enacting
2 stricter standards than those contained in this chap-
3 ter and in the solid waste management rules adopted
4 pursuant to this chapter governing the
5 hydrogeological criteria for siting or designing soli-
6 d waste disposal facilities or governing the engi-
7 neering criteria related to waste handling and dis-
8 posal areas of a solid waste disposal facility.

9 Under the municipal home rule authority granted
10 by the Constitution of Maine, Article VIII, Part Sec-
11 ond and Title 30, section 1917, municipalities, ex-
12 cept as provided in this section, may enact ordi-
13 nances with respect to solid waste facilities which
14 contain such standards as the municipality finds rea-
15 sonable, including, without limitation, conformance
16 with federal and state solid waste rules; fire safe-
17 ty; traffic safety; levels of noise which can be
18 heard outside the facility; distance from existing
19 residential, commercial or institutional uses; ground
20 water protection; and compatibility of the solid
21 waste facility with local zoning and land use con-
22 trols.

23 §1310-V. Moratorium

24 Prior to 91 days after the First Regular Session
25 of the 113th Legislature adjourns, the department
26 shall not process or act upon any application for,
27 and the board shall not issue, a license for a new
28 commercial landfill facility or the substantial ex-
29 pansion of a commercial landfill facility. In pro-
30 cessing applications after the moratorium, priority
31 shall be given to applications for commercial
32 landfill facilities used for the disposal of solid
33 waste which is generated by an energy recovery facil-
34 ity designed to reduce the volume or alter the phys-
35 ical characteristics of municipal solid waste and to
36 produce electricity through incineration. Notwith-
37 standing the provisions of Title 1 section 302, any
38 application pending or filed after the effective date
39 of this article shall be subject to departmental
40 rules regarding solid waste adopted pursuant to sec-
41 tion 1304 and the provisions of Private and Special
42 Law 1987, chapter 28. Notwithstanding other provi-
43 sions of this Title, the department shall not issue a
44 license under this article until it has adopted rules

1 pursuant to the provisions of Private and Special Law
2 1987, chapter 28.

3 **Sec. 26. 38 MRSA §1319-E, sub-§1, ¶D,** as amended
4 by PL 1985, c. 162, §12, is further amended to read:

5 D. Amounts necessary to reimburse municipalities
6 as required by section ~~§305-A~~ 1319-R, subsection
7 3; and

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

10 9. Hazardous waste subject to fees. No hazardous
11 waste may be subject to the fees established in this
12 section unless the waste is identified under section
13 ~~§303-A~~ 1319-O, subsection 1, provided that waste
14 identified under section ~~§303-A~~ 1319-O, subsection 1,
15 paragraph B, shall not be subject to the fees until
16 90 days after the next regular session of the Legis-
17 lature.

18 **Sec. 28. 38 MRSA c. 13, sub-c. V** is enacted to
19 read:

20 SUBCHAPTER V

21 HAZARDOUS WASTE AND WASTE OIL

22 §1319-O. Rule-making authority; hazardous waste and
23 waste oil

24 1. Hazardous waste. Rulemaking for hazardous
25 waste shall be as follows.

26 A. The board may adopt and amend rules identify-
27 ing hazardous waste. It is the intent of the
28 Legislature that the board shall identify as haz-
29 ardous waste those substances which are identi-
30 fied by the United States Environmental Protec-
31 tion Agency in proposed or final regulations.
32 The Legislature also intends that the board may
33 identify as hazardous waste, in accordance with
34 paragraph B, other substances in addition to
35 those identified by the United States Environmen-
36 tal Protection Agency. Further, the Legislature

1 intends that a substance which has been identi-
2 fied as a hazardous waste by the board shall be
3 removed from identification only by further
4 rulemaking by the board.

5 Hazardous waste may be identified as follows.

6 (1) The board may identify any substance as
7 a hazardous waste if that substance is iden-
8 tified as hazardous by particular substance,
9 by characteristic, by chemical class or as a
10 waste product of a specific industrial ac-
11 tivity in proposed or final rules of the
12 United States Environmental Protection Agen-
13 cy.

14 (2) The board may identify any substance as
15 a hazardous waste if the board, after evalu-
16 ation based on existing data or data reason-
17 ably extrapolated from previously conducted
18 studies using similar classes of substances
19 or compounds under similar circumstances,
20 has determined that the substance is an
21 acute or chronic toxin causing significant
22 potential adverse public health or environ-
23 mental effects. An acute or chronic toxin
24 may include the characteristics of:

25 (a) Carcinogenicity;

26 (b) Mutagenicity;

27 (c) Teratogenicity; or

28 (d) Infectiousness.

29 Rules adopted under this subparagraph shall
30 be submitted to the joint standing committee
31 of the Legislature having jurisdiction over
32 natural resources for review. These rules
33 shall remain in effect until 90 days after
34 adjournment of the next regular session of
35 the Legislature unless adopted by legisla-
36 tive enactment.

37 (3) Whenever the board proposes to adopt or
38 amend rules identifying hazardous waste or

1 removing hazardous waste from identifica-
2 tion, it shall hold a public hearing.

3 (4) In addition to hazardous waste identi-
4 fied under subparagraphs (1) and (2), the
5 Legislature identifies the following chemi-
6 cals, materials, substances or waste as be-
7 ing hazardous waste:

8 (a) Polychlorinated biphenyls and any
9 substance containing polychlorinated
10 biphenyls.

11 (b) Pathogenic and infectious waste,
12 as defined by the department, by rule.

13 B. The board may adopt rules relating to the
14 handling of hazardous waste, including, but not
15 limited to:

16 (1) Containerization and labeling of haz-
17 ardous waste, consistent with applicable
18 rules of other federal and state agencies;

19 (2) Reporting of handling of hazardous
20 waste; and

21 (3) Waste which is not compatible.

22 C. The board may adopt rules relating to trans-
23 portation of hazardous waste, including, but not
24 limited to:

25 (1) Licensing of transporters of hazardous
26 waste, conveyances used for the transporta-
27 tion of hazardous waste and the operators of
28 these conveyances; and licensing fees shall
29 be paid to the Maine Hazardous Waste Fund;
30 and

31 (2) A manifest system for hazardous waste
32 which takes into consideration the require-
33 ments of the United States Resources Conser-
34 vation and Recovery Act of 1976, Public Law
35 94-580, as amended, and this subchapter.

1 D. The board may adopt rules relating to the in-
2 terim and final licensing and operation of waste
3 facilities for hazardous waste, including, but
4 not limited to:

5 (1) Standards for the safe operation and
6 maintenance of the waste facilities, includ-
7 ing, but not limited to, record keeping,
8 monitoring before and during operation of
9 the facility and after its termination of
10 use or closure, inspections and contingency
11 plans to minimize potential damage from haz-
12 ardous waste;

13 (2) The training of personnel and the cer-
14 tification of supervisory personnel involved
15 in the operation of the waste facilities;

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

18 (4) Rules equivalent to rules of the United
19 States Environmental Protection Agency which
20 provide for licensing or permitting by rule.

21 E. The board may adopt rules relating to evi-
22 dence of financial capacity of hazardous waste
23 facilities' owners or operators, and of those who
24 transport hazardous waste, to protect public
25 health, safety and welfare and the environment,
26 including, but not limited to:

27 (1) Liability insurance;

28 (2) Bonding; and

29 (3) Financial ability to comply with statu-
30 tory and regulatory requirements or condi-
31 tions.

32 2. Waste oil. Rulemaking for waste oil shall be
33 as follows:

34 A. The board may adopt rules relating to the
35 transportation, collection and storage of waste oil
36 by waste oil dealers to protect public health, safety
37 and welfare and the environment. The rules may in-

1 clude, without limitation, rules requiring licenses
2 for waste oil dealers and the location of waste oil
3 storage sites which are operated by waste oil deal-
4 ers, evidence of financial capability and manifest
5 systems for waste oil. A person licensed by the
6 board to transport or handle hazardous waste shall
7 not be required to obtain a waste oil dealer's li-
8 cence, but his hazardous waste license must include
9 any terms or conditions deemed necessary by the board
10 relating to his transportation or handling of waste
11 oil.

12 §1319-R. Facility siting

13 1. Licenses for hazardous waste facilities. The
14 board shall issue a license for a hazardous waste fa-
15 ility whenever it finds it will not pollute any wa-
16 ter of the State, contaminate the ambient air, con-
17 stitute a hazard to health or welfare or create a
18 nuisance. Licenses shall be issued under the terms
19 and conditions as the board may prescribe and for a
20 term not to exceed 5 years. The board may establish
21 reasonable time schedules for compliance with this
22 subchapter and regulations promulgated by the board.

23 A. The board shall also find that:

24 (1) The applicant presents evidence of suf-
25 ficient financial capacity, including pro-
26 jections of utilization of the facility by
27 hazardous waste generators, to justify
28 granting the license;

29 (2) Issuing the license is consistent with
30 the applicable standards, requirements and
31 procedures of this chapter; and

32 (3) In the case of a disposal facility, the
33 volume of the waste and the risks related to
34 its handling have been reduced to the maxi-
35 mum practical extent by treatment and volume
36 reduction prior to disposal.

37 B. The board shall issue an interim license for
38 a waste facility for hazardous waste or shall
39 deem the facility to be so licensed if:

- 1 (1) The waste facility is in existence on
2 April 1, 1980;
- 3 (2) The owner or operator has:
- 4 (a) Notified the department of its lo-
5 cation;
- 6 (b) Provided a detailed description of
7 the operation of the facility;
- 8 (c) Identified the hazardous waste it
9 handles; and
- 10 (d) Applied for a license to handle
11 hazardous waste;
- 12 (3) The waste facility is not altered or
13 operated except in accordance with the
14 board's rules; and
- 15 (4) If the waste facility has a discharge
16 or emission license under sections 414 or
17 591, and the facility is operated in accord-
18 ance with that license.

19 C. Interim licenses shall expire on the earliest
20 of the following dates:

- 21 (1) The date of the final administrative
22 disposition of the application for a hazard-
23 ous waste facility license;
- 24 (2) The date of a finding of the board that
25 the disposition referred to in subsection 1
26 has not been made because of the applicant's
27 failure to furnish information reasonably
28 required or requested to process the appli-
29 cation;
- 30 (3) The date of expiration of the license
31 issued under section 414 or 591; or
- 32 (4) The date on which the application for a
33 hazardous waste facility license is due and
34 the person operating under the interim li-
35 cence has failed to apply for the hazardous
36 waste facility license.

1 2. Municipal ordinances. Municipalities may en-
2 act necessary police power ordinances dealing with
3 commercial hazardous waste facilities, provided that
4 they are not more stringent than or duplicative of
5 the hazardous waste provisions of this chapter or
6 rules and orders promulgated by the board. The board
7 shall incorporate all applicable local requirements
8 to the fullest extent practicable.

9 3. Site review. All persons who make application
10 for a license to construct, operate or substantially
11 expand a commercial hazardous waste facility, at the
12 same time, shall give written notice to the municipal
13 officers of the municipality in which the proposed
14 facility will be located. The municipality through
15 its municipal officers shall be granted intervenor
16 status in any proceeding for site review of a commer-
17 cial hazardous waste facility. The department shall
18 reimburse the municipalities' direct costs, not to
19 exceed \$5,000, for participation in the proceedings.

20 The Governor may appoint a person to facilitate com-
21 munications between the applicant and the municipali-
22 ty and between the department and the municipality.

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

26 The board shall hold at least one public hearing
27 within the municipality in which the facility will be
28 located.

29 During any proceeding for site review of a commercial
30 hazardous waste facility, the legislative body of the
31 municipality in which the facility is to be located
32 may appoint 4 representatives to the board. If the
33 facility is proposed to be located within an unorga-
34 nized township, the county commissioners of that
35 county may appoint 4 representatives. These repre-
36 sentatives may vote on board decisions related to the
37 proposed commercial hazardous waste facility. All
38 representatives appointed under this subsection shall
39 participate on the board only for that site review,
40 until final disposition of the application, including
41 any administrative or judicial appeals. The municipal
42 members shall receive the same pay for each day and

1 expenses as regular board members during the period
2 of their service, to be paid by the department.

3 4. Municipal fees authorized. A municipality, by
4 ordinance, may levy a fee on a commercial hazardous
5 waste facility located in the municipality. These
6 fees shall be applied as a percentage of the annual
7 billings of the facility to its customers. No fee so
8 levied may exceed 2% of the annual billings. The de-
9 partment may audit the accounts of a facility to de-
10 termine the amount of the fee owed to the municipali-
11 ty.

12 5. Application. Except for substantial expansion,
13 this section does not apply to any facility
14 which has been granted an interim or final license
15 prior to September 18, 1981.

16 §1319-T Criminal provisions

17 In addition to being subject to civil penalties
18 as provided by section 349, subsection 2 and to crim-
19 inal penalties as provided in section 349, subsection
20 3, conduct described in subsections 1 and 2 shall be
21 subject to criminal penalties as follows.

22 1. Penalty provisions. Any person is guilty of a
23 Class E crime and may be punished accordingly if that
24 person, with respect to any substance or material
25 which has been identified as hazardous waste by the
26 board and which such person believes may be harmful
27 to human health or knows or has reason to know has
28 been so identified, knowingly:

29 A. Transports any such substance or material
30 without, in fact, having a proper license or per-
31 mit as may be required under this subchapter;

32 B. Transports any such substance or material to
33 a waste facility knowing or consciously
34 desregarding a risk that such facility does not
35 have a proper license or permit as may be re-
36 quired under this subchapter;

37 C. Handles any such substance or material with-
38 out, in fact, having obtained a proper license or
39 permit to do so as may be required under this
40 subchapter; or

1 D. Handles any such substance or material at any
2 location knowing or consciously disregarding a
3 risk that such location does not have a proper
4 license or permit as may be required under this
5 subchapter for such treatment, storage or dispos-
6 al.

7 Notwithstanding Title 17-A, section 1301, subsection
8 1, paragraph A-1, or subsection 3, paragraph C, the
9 fine for such violation shall not exceed \$50,000 for
10 each day of such violation. In a prosecution under
11 paragraph B or paragraph D, the conscious disregard
12 of the risk, when viewed in light of the nature and
13 purpose of the person's conduct and the circumstances
14 known to him, must involve a gross deviation from the
15 standard of conduct that a reasonable and prudent
16 person would observe in the same situation.

17 2. Class D crimes. A person is guilty of a Class
18 D crime if, with respect to any substance or material
19 which, in fact, has been identified as hazardous
20 waste by the board and which such person knows or has
21 reason to believe has been so identified or may be
22 harmful to human health, that person knowingly:

23 A. Establishes, constructs, alters or operates
24 any waste facility for any such substance or ma-
25 terial without, in fact, having obtained a proper
26 license or permit as may be required under this
27 subchapter;

28 B. Handles or transports any such substance or
29 material in any manner which, in fact, violates
30 the terms of any condition, order, regulation,
31 license, permit, approval or decision of the
32 board or order of the commissioner with respect
33 to the handling or transporting of such substance
34 or material; or

35 C. Gives custody or possession of any such sub-
36 stance or material to any other person whom he
37 knows or has reason to believe:

38 (1) Does not have a license or permit to
39 transport or handle such substance or mate-
40 rial as may be required under this subchap-
41 ter; or

1 (2) Will transport or handle such substance
2 or material in violation of this subchapter
3 or rules adopted under it.

4 A person who violates the provisions of this subsec-
5 tion may be punished accordingly, except that, not-
6 withstanding Title 17-A, section 1301, subsection 1,
7 paragraph B, or Title 17-A, subsection 3, paragraph
8 E, the fine for such violation may not exceed \$25,000
9 for each day of the violation.

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

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

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

16 The following property shall be subject to for-
17 feiture to the State in accordance with the proce-
18 dures set forth in section ~~1306-E~~ 1319-U and all
19 property rights therein shall be in the State:

20 Sec. 31. Allocation. The following funds are
21 allocated from the Maine Environmental Protection
22 Fund to carry out the purposes of this Act.

	<u>1987-88</u>	<u>1988-89</u>
23		
24	<u>ENVIRONMENTAL PROTECTION, DE-</u>	
25	<u>PARTMENT OF</u>	
26	Maine Environmental Protec-	
27	tion Fund	
28	Positions (3)	(9)
29	Personal Services \$60,590	\$221,245
30	All Other 24,900	90,000
31	Capital Expenditures 9,400	5,400
32		
33	Total \$94,890	\$316,645

1	Provides funds for the		
2	enforcement, monitoring		
3	and licensing of the		
4	solid and special waste		
5	programs. Program ele-		
6	ments include waste		
7	transportation and spe-		
8	cial waste handling.		
9	Maine Environmental Protec-		
10	tion Fund		
11	Position	(2)	(2)
12	Personal Services	\$ 49,800	\$ 65,100
13	All Other	76,600	60,000
14	Capital Expenditures	1,150	
15			
16	Total	<u>\$127,550</u>	<u>\$125,100</u>
17	Provides funds for ad-		
18	ministering new ele-		
19	ments of the facility		
20	siting program; in-		
21	volves public benefit		
22	determinations and		
23	recycling plan consist-		
24	ency findings; includes		
25	mandatory public hear-		
26	ings and costs.		
27	Maine Environmental Protec-		
28	tion Fund		
29	All Other	\$75,000	
30	Provides funds for de-		
31	velopment of the ini-		
32	tial state capacity -		
33	needs analysis needed		
34	for licensing solid		
35	waste disposal facili-		
36	ties.		
37			
38	TOTAL	<u>\$297,440</u>	<u>\$441,745</u>

1 **Sec. 32. Allocation.** The following funds are
 2 allocated from the Maine Environmental Protection
 3 Fund to carry out the purposes of this Act.

4 1988-89

5 ENVIRONMENTAL PROTECTION, DE-
 6 PARTMENT OF

7 Maine Environmental Protec-
 8 tion Fund

9	Positions		(4)
10	Personal Services		\$ 96,000
11	All Other		40,000
12	Capital Expenditures		25,700
13			
14	Total		<u>\$161,700</u>

15 Provides funds for mon-
 16 itoring and compliance
 17 in the remediation and
 18 closure program upon
 19 approval by the voters
 20 of the related bond is-
 21 sue.

22 **Sec. 33. Appropriation.** The following funds are
 23 appropriated from the General Fund to carry out the
 24 purposes of this Act.

25 1987-88 1988-89

26 ENVIRONMENTAL PROTECTION, DE-
 27 PARTMENT OF

28 Bureau of Land Quality Con-
 29 trol

30	Positions		(6)	
31	Personal Services	\$143,500		\$183,604
32	All Other	49,800		60,000
33	Capital Expenditures	22,075		
34				
35	Total			<u>\$215,375</u> <u>\$243,604</u>

1 Provides funds to ad-
2 minister the early
3 phases of the
4 remediation and closure
5 program.

6 Bureau of Land Quality Con-
7 trol

8	Positions	(2)	(2)
9	Personal Services	53,950	70,525
10	All Other	16,600	20,000
11	Capital Expenditures	1,200	

12			
13	Total	<u>\$ 71,750</u>	<u>\$90,525</u>

14 Provides funds to de-
15 sign a technical and
16 financial assistance
17 program for municipali-
18 ties on such waste as
19 demolition debris,
20 white goods and tires.

21			
22	TOTAL	<u>\$287,125</u>	<u>\$334,129</u>

23 EXECUTIVE DEPARTMENT

24 State Development Office

25 Office of Waste Recycling
26 and Source Reduction

27	Positions	(4)	(4)
28	Personal Services	\$108,937	\$136,500
29	All Other	91,600	120,000
30	Capital Expenditures	7,150	

31			
32	Total	<u>\$207,687</u>	<u>\$256,500</u>

33 Provides funds to de-
34 velop the state
35 recycling and source

1 reduction program.

2
3 Total \$494,712 \$590,629

4 **Sec. 34. Appropriation.** The following funds are
5 appropriated from the General Fund to carry out the
6 purposes of this Act.

7 1988-89

8 ENVIRONMENTAL PROTECTION, DE-
9 PARTMENT OF

10 Bureau of Land Quality Con-
11 trol

12	Positions	(8)
13	Personal Services	\$221,061
14	All Other	80,000
15	Capital Expenditures	29,575

16
17 Total \$330,636

18 Provides funds neces-
19 sary to implement the
20 remediation and closure
21 program when the voters
22 approve the related
23 bond issue.

24 **Sec. 35. Effective date.** The allocations con-
25 tained in sections 32 and the appropriation contained
26 in section 34 of the new draft are effective when the
27 Governor certifies that the voters have approved the
28 bond issue needed to provide state grants for imple-
29 mentation of the remediation and closure program.
30 The remainder of the new draft is effective when ap-
31 proved.

32 **Emergency clause.** In view of the emergency cited
33 in the preamble, this Act shall take effect when ap-
34 proved.

1

FISCAL NOTE

2 This legislation provides the necessary alloca-
3 tions and appropriations to support the activities
4 authorized in the solid waste legislation. All funds
5 are either allocated from the Maine Environmental
6 Protection Fund or appropriated from the General
7 Fund.

8 The Maine Environmental Protection Fund is sup-
9 ported by processing, licensing and disposal fees
10 paid by the solid waste industry and by applicants
11 for the related solid waste licenses. The alloca-
12 tions outlined in section 31 and the appropriations
13 in section 34 are accompanied by the necessary au-
14 thority for the department to set fees needed to cov-
15 er the allocation.

16 The General Fund appropriation supports the ad-
17 ministration and implementation of the remediation
18 and closure program for municipal landfills. This
19 appropriation also provides funds to start up the Of-
20 fice of Recycling and Source Reduction.

21 The allocation in section 32 and the appropria-
22 tion in section 34 are made conditional on the suc-
23 cessful passage of the remediation and closure bond.
24 This action is taken to avoid overstaffing the pro-
25 gram if funds are not immediately available for im-
26 plementation of remediation and closure plans.

1 STATEMENT OF FACT

2 The overall intent of the new draft is virtually
3 identical to that of the original draft. The Joint
4 Standing Committee on Energy and Natural Resources
5 has issued a study report with its findings and rec-
6 ommendations. This report provides additional back-
7 ground material and description of the intent of the
8 legislation. Committee files provide substantial
9 documentation of the deliberations undertaken in the
10 development of this legislation. The purpose of this
11 new draft is primarily to correct a variety of draft-
12 ing and typographical errors in the original bill.

13 This legislation is recommended by the Joint
14 Standing Committee on Energy and Natural Resources
15 pursuant to Private and Special Law 1985, chapter
16 137. The legislation is the result of a one year
17 legislative study of solid waste management policy.

18 The purpose of the legislation is to establish a
19 comprehensive framework for the safe management and
20 disposal of Maine's solid waste. The legislation ad-
21 dresses 4 specific areas:

22 1. Establishment of a state-funded, rapid
23 clean-up and closure program for existing municipal
24 and abandoned landfills, particularly those poorly
25 sited facilities which threaten public health and
26 ground water quality;

27 2. Establishment of a lead role for the State in
28 developing and supporting effective recycling and
29 source reduction efforts throughout this State;

30 3. Revision of the disposal facility siting pro-
31 cess to link this process to recycling efforts and
32 the State's disposal capacity needs and to obtain
33 more effective public participation; and

34 4. Strengthening the Department of Environmental
35 Protection's statutory authority to effectively regu-
36 late solid waste management and disposal.

37 This legislation is accompanied by 2 companion
38 bills; Legislative Document 1191, AN ACT to Ensure

1 Timely Adoption of Revised Solid Waste Rules, already
2 enacted as Private and Special Law 1987, c. 28 and
3 Legislative Document 1356, AN ACT to Authorize a Gen-
4 eral Fund Bond Issue in the Amount of \$40,000,000 to
5 Protect Ground Water Quality and Public Health
6 through Cleanup and Closure of Municipal and Aban-
7 doned Landfills.

8 The legislation also clarifies the structure of
9 the solid and hazardous waste laws.

10 This new draft requires legislative review of
11 agency rulemaking in certain key areas, most notably
12 the establishment of waste transporter licenses and
13 disposal fees, see section 11.

14 The new draft provides requirements regarding new
15 waste handling contracts in order to encourage munic-
16 ipal recycling and to remove impediments to recycling
17 that are contained in existing contracts. It is the
18 intent of the committee that the requirements are
19 consistent with the comprehensive regulatory frame-
20 work that currently governs solid waste management,
21 see section 17.

22 The new draft provides definitions for certain
23 terms which are central to the remediation and clo-
24 sure program proposed by this new draft, see section
25 25, Title 38, section 1310-C, subsection 4.

26 The committee substantially revised the provi-
27 sions regarding the remediation and closure of closed
28 and abandoned landfills. The committee recognizes
29 that, while the general approach to these sites
30 should be consistent with that employed for open mu-
31 nicipal landfills, some differences may arise which
32 cannot be foreseen at this time. Thus, the new draft
33 requires the department to develop an initial priori-
34 ty list of closed and abandoned sites that need at-
35 tention and directs the department to report to the
36 Legislature on necessary future steps, see section
37 25, Title 38, section 1310-E, subsection 1.

38 Recognizing the clear public benefit of publicly
39 owned waste disposal facilities, the committee re-
40 vised the provision regarding the public needs test
41 to provide a presumption of public need for such fa-

1 cilities, see section 25, Title 38, section 1310-N,
2 subsection 4.

3 The committee revised provisions of the bill that
4 lay out the requirements of the capacity needs analy-
5 sis, see section 25, Title 38, section 1310-O, to in-
6 clude consideration of disposal and transportation
7 costs along with consideration of the level of competi-
8 tion in the solid waste industry when developing
9 the assessment of the State's need for disposal ca-
10 pacity. This assessment will be considered in li-
11 censing decisions.

12 The new draft establishes a clear source of fund-
13 ing for the technical assistance grants to municipal-
14 ities by assessing a special fee of \$50,000 to appli-
15 cants for solid waste disposal facilities, see sec-
16 tion 25, Title 38, section 1310-T. The fee is to be
17 used in support of a municipality's intervention in
18 the state licensing process. The unused portion of
19 the fee and any accrued interest is to be reimbursed
20 to the applicant.

21 The new draft also clarifies the Legislature's
22 intent that all waste disposal facility applications
23 acted on after the expiration of the landfill morato-
24 rium are subject to revised solid waste rules that
25 the Department of Environmental Protection adopts as
26 the result of Private and Special Law 1987, chapter
27 28. The department is directed to process applica-
28 tions after the expiration of the moratorium but not
29 to approve any waste disposal facility applications
30 until such rules become effective, see section 25,
31 Title 38, section 1310-V.

32 It is the intent of this legislation that the li-
33 censes of solid waste facilities licensed prior to
34 the effective date of this Act continue to be valid
35 for the term of the license.

36

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