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Report on Solid Waste Management Program Funding

**Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017**

March 2007

**Contact: Paula Clark, Director
Division of Solid Waste Management
207-287-7718**



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

March 30, 2007

Senator John L. Martin, Chair
Representative Theodore S. Koffman, Chair
Joint Standing Committee on Natural Resources
Maine State Legislature
State House Station
Augusta, Maine 04333

Dear Senator Martin, Representative Koffman and Members of the Natural Resources Committee,

Attached for your information and review is a copy of the "Report on Solid Waste Management Program Funding" submitted by the Department of Environmental Protection pursuant to Resolves 2005 Chapter 35 ("Resolve, Regarding the Recycling Assistance Fee"). The resolve required the Department to submit a report "concerning solid waste management program funding alternatives to the continued use of revenues derived from the \$1 fee on the retail sale of new tires pursuant to the Maine Revised Statutes, Title 36, section 4832." The report includes "an evaluation of possible alternative funding mechanisms" for state solid waste management programs.

I look forward to discussing the report with the Committee.

Sincerely,

Paula M. Clark, Director
Division of Solid Waste Management
Bureau of Remediation & Waste Management

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX: (207) 760-3143

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I. INTRODUCTION

This report is submitted to the Joint Standing Committee on Natural Resources pursuant to Resolves 2005 Chapter 35 (“Resolve, Regarding the Recycling Assistance Fee”) which required the Department of Environmental Protection (“DEP” or “Department”) to submit a report “concerning solid waste management program funding alternatives to the continued use of revenues derived from the \$1 fee on the retail sale of new tires pursuant to the Maine Revised Statutes, Title 36, section 4832.” The resolve directed that: “The report must include, but is not limited to:

- a. An evaluation of possible alternative funding mechanisms that may include new or revised fees on solid wastes, including special wastes, that are generated, disposed of or otherwise handled in the State; consumer products sold in this State; and solid waste facilities and licenses; and,
- b. Recommendations concerning alternative funding mechanisms, with preference given to those revenue source alternatives that are broad-based and are most likely to produce relatively stable, long-term program funding.”

Resolve 2005 Chapter 35 is attached to this report as **Appendix A**.

Resolve 2006 Chapter 207 established a “Blue Ribbon Commission on Solid Waste Management” which was charged with review of a range of subjects related to solid waste management. The work of the Commission was concluded in December 2006 and a final report has been submitted to the Natural Resources Committee. Among the recommendations of the Commission is one pertaining to solid waste management fee structures. The recommendation endorses “the development of a revised solid waste management fee structure that:

- ✓ Is broad-based and provides long-term, stable funding for State solid waste programs;
- ✓ Provides for additional technical and/or financial support to municipalities and regions for solid waste management;
- ✓ Provides for adequate State solid waste program staffing and other resources to appropriately administer State solid waste programs;
- ✓ Extends to a broader spectrum of waste types and facilities; and,
- ✓ Is designed to support and further the goals of the statutory waste hierarchy.”

Additionally, the Blue Ribbon report includes the following specific funding recommendation: “Investigate/evaluate the use of some portion of the bottle bill ‘float’ revenue to support state solid waste management programs.”

II. BACKGROUND/HISTORY

A. **Current Solid Waste Program Funding Sources**

State solid waste management programs administered by the Department of Environmental Protection (“Department” or “DEP”) and the State Planning Office (“SPO”) are currently funded by the Maine Solid Waste Management Fund (DEP and SPO) and the Maine Environmental Protection Fund (DEP).

1. **Maine Solid Waste Management Fund**

The Maine Solid Waste Management Fund (“MSWMF”) was established at 38 MRSA §2201 as a “nonlapsing fund to support programs administered by the State Planning Office and the Department of Environmental Protection”. The fund is administered centrally by the Department of Administrative and Financial Services (“DAFS”). Funds are allocated and transferred to the DEP and SPO. The statute further provides that funds may be expended “for administrative expenses directly related to the office’s and the department’s programs, including actions by the department necessary to abate threats to public health, safety and welfare posed by the disposal of solid waste.” The fund currently supports 23 positions at DEP and 6 positions at SPO. A copy of 38 MRSA §2201-2206 is attached for reference as **Appendix B**.

In addition to providing funding for ongoing staffing needs, and consistent with the purposes for which the fund was established, the MSWMF has also provided financial support for other aspects of a wide variety of important waste management programs and activities. These include: scrap tire abatement; household hazardous waste collection; mercury containing products management; battery management; maintenance and site investigations at “orphan” landfills; site clean ups and waste removal; air, gas and water quality sampling and analysis at various solid waste sites; sludge and residuals verification sampling; school chemical cleanouts; residuals stockpiling and composting research; discarded pharmaceutical collection; and, wide ranging training and education/outreach activities.

Revenues into the fund are derived from the \$1 fee collected on new tires and new lead acid batteries at the point of retail sale, and from “waste handling fees” established statutorily at 38 MRSA §2203-A. These fees are assessed on certain wastes (primarily “special waste”) disposed at commercial, municipal or

regional association landfills on a per ton or cubic yard basis. Although the statute established a \$2 per ton fee on the disposal of municipal solid waste (“MSW”), MSW that is generated by the municipality that owns the landfill accepting it or by a municipality that has entered into a contract for MSW disposal with a landfill for a term longer than 9 months is not subject to the fee.

In FY06, revenue from the tire and battery fee was approximately \$1.5 million. Although the Department of Administrative and Financial Services does not track revenues from tires and batteries separately, historically it has been assumed, based on past calculations and estimates, that tire revenues make up 75% of the total. Revenue from the tire fee alone was therefore approximately \$1.125 million.

Approximately \$1.69 million was derived from waste handling fees in FY06. Revenues into the fund are variable from year to year and may be affected by a number of different factors. The waste handling fee revenues are vulnerable to shifts in disposal patterns, volumes of waste requiring disposal and the state of the economy in general, to name a few.

Appendix C represents graphically, the contributions of the tire, battery and waste handling fees to the overall revenues of the MSWMF.

Interest is also accrued on the carry forward balance in the fund, and totaled \$67,806 in FY06.

A summary table of actual revenues and transfers from the MSWMF from FY98 to FY06, as tracked and reported by DAFS, is attached as **Appendix D**.

2. Maine Environmental Protection Fund

The Maine Environmental Protection Fund (“MEPF”) was established at 38 MRSA §351 “as a nonlapsing fund to supplement licensing programs administered by the Department of Environmental Protection”. Revenues into the MEPF are derived from fees associated with license and permit application reviews and annual license and report fees. Maximum fees for each facility and activity type are set in statute. Annually, the DEP publishes a schedule of these fees and may make adjustments in accordance with the Consumer Price Index.

In FY06, revenues from solid waste MEPF fees totaled \$800,729. Ten (10) solid waste program positions at DEP are funded through the MEPF.

A summary table of revenues and expenses from the solid waste MEPF is attached as **Appendix E**.

B. Historical Solid Waste Program Funding Sources

Although dedicated funds (MSWMF and MEPF) have been the primary funding source for solid waste programs since the late 1980s, general fund support played a significant role until 1997. In 1992, 12 solid waste positions at DEP were supported by the general fund. There were 9 in 1995. General fund support was completely eliminated in 1997.

When the MSWMF was originally established in the late 1980s, the revenue base was broader, including a portion of the bottle bill's unclaimed container deposits ("float"). Also credited to the MSWMF at that time were revenues from a \$5 fee imposed on the retail sale of new major appliances, major furniture items, bathtubs and mattresses. These fees were eliminated by the legislature in 1996 and 1997. **Appendix F** is a copy of 36 MRSA §4831-4834 (now revised) that had previously provided for the imposition and repeal of these fees.

C. Previous Legislation and Reports

There have been several legislative efforts to eliminate the \$1 fee on new tires as a source of revenue into the MSWMF. In 2001, a resolve (Chapter 21) was passed to "Provide for the Transfer of Funds to the Tire Management Fund and Require a Plan to Permanently Dedicate Fees Paid When Purchasing a New Tire or Battery to Tire Stockpile Abatement, Remediation and Cleanup". Resolve 2001 Chapter 21 is attached as **Appendix G**. This legislation directed the Department of Environmental Protection and the State Planning Office to prepare an implementation plan to accomplish the legislative goal of permanently dedicating, prior to the end of fiscal year 2004-05, all revenues collected from the fee imposed on the retail sale of tires and batteries to the Tire Management Fund established in the Maine Revised Statutes, Title 38, section 1316-F for tire stockpile abatement, remediation and cleanup. A report was prepared and submitted to the Natural Resources Committee that recommended that: "tire and battery fee revenue continue to be credited to the Maine Solid Waste Management Fund for the purposes stated in 38 MRSA Section 2201, and not be transferred to the Tire Management Fund to be dedicated to tire stockpile abatement activities. . .". This report ("Report to the Joint Standing Committee on Natural Resources Concerning the Provisions of Resolve 2001, Chapter 21") is attached a **Appendix H**.

The original bill that ultimately resulted in the resolve directing the preparation of this current report was initially presented as a bill to phase out the \$1 tire fee. One of the arguments then raised in support of a phase out or elimination of the fee was that the revenue from the tire fee should have been applied exclusively to tire stockpile abatement, and with the abatement program nearing completion the revenue source should be discontinued. As discussed earlier, revenues (including that from tires) into the MSWMF are allocated for the broader purposes established legislatively at 38 MRSA §2201.

It should also be noted that the Department submitted "A Proposal for Providing State Cost Share Support for the Operation of Municipal and Regional Household Hazardous Waste and Universal Waste Collection Programs" to the Joint Standing Committee on Natural Resources in January 2003. This report put forward a proposal to place fees on paints and pesticides, and was developed pursuant to a "Resolve, to Study the Design and Funding of a Household Hazardous Waste and Universal Waste Collection Program".

III. SOLID WASTE MANAGEMENT PROGRAMS AND STAFFING

A. Current Programs

Appendix I ("Maine Solid Waste Management Program Components") presents a summary of the major state solid waste management programs and their elements that are administered by DEP and SPO. As discussed above, 10 staff are supported by the MEPF, the remainder (and majority) by the MSWMF.

In addition to providing ongoing staff support for solid waste programs, the MSWMF is the primary source of funding for other expenses related to administration of these programs. These expenses have been significant in recent years as solid waste programs and issues have grown in numbers and complexity. Following is a list and description of some of the important program elements that have been supported through the MSWMF:

- Abandoned landfill remediation and site cleanups - In the absence of bond funding for closed municipal and abandoned landfill remediation, the Department has drawn extensively on the MSWMF to finance immediately necessary evaluations, maintenance, and corrective actions at 2 "orphan" landfills in central Maine. At both of these sites, it has been necessary at various times to pump, haul, and dispose of leachate in order to

mitigate discharges and impacts to the environment. Funds have also been expended for monitoring; road and pump maintenance and repairs; and consulting services for remedial evaluation and planning. In total, approximately \$750,000 has been spent at these 2 sites over the past several years. Unfortunately, the MSWMF is not sufficient to support complete remediation and final closure of these sites. Financial obligations and necessary remedial actions at closed municipal landfill sites have likewise not been completed, due to the lack of funding. The Department has also conducted other smaller site cleanups. An example is a recent cleanup of wastes at a residential property in the town of Meddybemps, costing around \$20,000.

- Scrap Tire Abatement Program – Although the tire abatement program is now nearing completion, the MSWMF contributed \$2.9 million (of a total of \$12.4 million) to the Department's successful effort to clean up numerous large tire stockpiles across the state. These stockpiles posed serious risks of fire which could result in public health and environmental impacts from air emissions and ground and surface water contamination. To date, a total of 14.5 million tires at 32 sites have been removed and beneficially used under this program.
- Environmental Monitoring – When a solid waste facility or site poses or may pose an environmental or public health threat, the department, in many cases, has acted independently to sample and analyze surface and ground water, air, gas, and soils.
- Verification Sampling – Over the past several years the Department has conducted a program to sample and analyze representative wastes, water and soils in order to independently verify testing that is required to be conducted by licensees in the agronomic utilization program. Under the verification sampling program, sludge, ash, compost and other residuals are tested by the Department, as well as water and soils from selected sites where utilization activities occur. The program was developed and implemented in order to confirm and to provide additional assurance to the public that the wastes and methods being utilized for agronomic purposes meet regulatory standards.
- Research/Pilot Efforts – Financial and technical support have been provided by DEP and SPO for various research and pilot project efforts including projects related to composting (such as the food waste composting facility in Farmington which accepts waste from UMF, Franklin Memorial Hospital and surrounding communities), sludge storage/stockpiling, and button cell batteries.
- School Chemical Cleanout – The Department provided technical and financial assistance to schools for chemical removal and disposal over the course of several years.

- Transfer Station Operators' Training – The Department designed and now delivers an ongoing training program for transfer station operators. Base training courses are offered as well as a variety of elective modules on various topics. This program was developed primarily to provide support and assistance to municipalities seeking to improve transfer station operations and management. To date, the department has trained more than 1100 waste facility operators and municipal officials.
- Other Training and Education Programs – The Department has also provided extensive training opportunities in other topic areas including household hazardous and universal waste handling and management, electronic waste, and chemical management in schools. Written information/educational material on a variety of waste management topics have been prepared and distributed including materials on management of mercury containing waste, universal waste, electronic waste and open burning of waste. SPO administers the annual “Maine Recycles Week” outreach program which connects with schools (45 participating in 2006) and municipalities, and encourages recycling and buying recycled-content products.
- Household Hazardous Waste – DEP and SPO have provided technical and/or financial assistance to many Maine communities for household hazardous waste collections. SPO has contributed funding and assistance to two permanent household hazardous waste facilities, one in Lewiston through the Androscoggin Valley Council of Governments, and another that is now being built in Portland.

B. Resource Needs

In FY06, \$2,533,151 was transferred from the MSWMF to cover DEP's costs associated with 23 positions and all other expenses, and \$865,624 was expended from the MEPF for 10 positions and all other costs; \$703,347 was transferred from the MSWMF to cover SPO's costs for 6 positions and all other expenses. (See **Appendix J**; Solid Waste Management Program, Fiscal Year 2006, Distribution of Dollars for Staff Resources and Program Costs).

Elimination of the tire fee would represent a revenue gap in excess of \$1 million annually for which an alternative revenue source would be needed. In addition, and as discussed above, reliance upon the fund to cover the costs of a variety of important program elements is increasing. New programs and responsibilities have increased, as has the complexity of solid waste management issues, without corresponding increases in resources.

At present, in fact, there are two critical staffing needs within Maine's solid waste program that cannot be addressed. The first lies in the area of solid waste compliance and enforcement. Field staff inspect landfills and other solid waste facilities to ensure that standards are being met and that facilities are not posing risks to public health and safety and the environment. Given the current number and the nature of the solid waste facilities and activities in the eastern region of the state, the addition of a field staff person in the Bangor regional office would ensure that compliance issues receive an appropriate level of effort. Also, the addition of an enforcement coordinator to support all program areas would greatly enhance overall compliance/enforcement capability and would free up existing staff time for more field compliance work.

The second critical staffing need lies in geology and engineering support. There has been a sharp increase in the need for technical support for the solid waste program. Technically complex landfill design proposals, numerous landfill gas management projects, ongoing water quality assessment work, etc. contribute to this need. It is important that qualified staff are available to conduct this type of work which is directly linked to the department's ability to ensure protection of public health, safety and the environment.

These needs cannot now be met, and reduced revenues would only compound the situation further. Furthermore, in the absence of bond funding needed to address closed municipal and abandoned solid waste sites, it has been necessary to draw on the MSWMF to fund immediate remedial and corrective action needs at several abandoned sites. As discussed earlier, the MSWMF is not sufficient to complete work at these sites or even to initiate work at the vast majority of others. It is estimated the cost of funding all necessary, currently identified remedial needs at closed municipal and abandoned landfills could be as much as \$16 million.

SPO has identified two priority needs. The first is to increase funding for reuse, recycling and composting programs in order to move more quickly to the 50% recycling goal. Additional resources would be used to provide infrastructure for separation, collection and processing of recyclables, for development of regional cooperative recycling programs, and for public education. The second identified need is funding for research and analysis. Areas that need study are: how well the state waste management hierarchy is being followed, and analysis of the capacity, cost effectiveness and competitiveness of the disposal system in the light of proposed closure of several facilities and continuing increases in waste generation.

IV. OVERVIEW – STATES’ SOLID WASTE PROGRAM FUNDING MECHANISMS

The Department researched funding mechanisms used in other states, using information from environmental agency, legislative and state sources. Like Maine, most states rely upon a number of different revenue sources to fund their solid waste management programs. Most states employ various combinations of some of the following: general funds, facility license fees, disposal fees, tire fees, bottle bill escheat (“float”) money, vehicle registration fees, and various taxes (sales, service, business, property). **Appendix K** presents additional general information on funding mechanisms used in state programs. **Appendix L** is a Summary of NEWMOA (Northeast Waste Management Officials Association) State Solid Waste Programs Funding and Staffing Levels dated September 13, 2005.

General Funds

Few states are currently heavily reliant upon general fund monies for their solid waste programs and activities. The exceptions to this are Idaho, New Hampshire, and Rhode Island.

License Fees

Many states (including Maine) rely upon facility licensing and annual fees to provide a portion of the necessary funding for state programs. New Mexico, Utah, Virginia, Massachusetts, and New Jersey appear to rely heavily on these fees to support their regulatory programs.

Tire Fees

Thirty four (34) of the fifty states have some form of tire fee: 26 (including Maine) collect a fee at the retail point of purchase, 3 collect fees at the point of wholesale purchase, and 5 collect tire fees through the vehicle registration process. Tire fees range from \$0.25 per tire to \$3.50 per tire. In most cases (27 states) the fee is \$1 per tire or greater. Many states direct at least a portion of the revenue to tire cleanup or recycling, others use the funds for broader purposes (including Maine).

Solid Waste Disposal Fees

At least 18 states (including Maine) employ some type of disposal fee system based upon the volume or weight of waste disposed. These fees range from \$0.20 to \$6 per ton. Most states extend the fee to all waste types disposed, although some do not include construction/demolition debris (“CDD”). Some states charge higher fees at larger disposal facilities.

Unclaimed Bottle Bill Deposits

Massachusetts and Michigan both have beverage container laws (aka “bottle bills”) that require that some portion of the money from unclaimed deposits resulting from unreturned containers be paid to the state for specified purposes.

In Michigan, 75% of the unclaimed deposits are paid to the state (\$23.5 million in 2000). Of this amount 80% is placed in the “Cleanup and Redevelopment Trust Fund”, 10% into the “Community Pollution Prevention Fund” and the remaining 10% into an environmental reserve account.

In Massachusetts, 100% of the unclaimed deposits are returned to the “Clean Environment Fund” (\$35 million in 2002).

Other bottle bill states continue to evaluate recovery of funds from unredeemed deposit containers. In the northeast, both Vermont and Connecticut have recently discussed use of these funds. In Vermont’s 2005-06 legislative session, a bill before the General Assembly was approved which directed the secretary of natural resources, with the cooperation of interested parties, to evaluate and recommend to the legislature “the disposition of unredeemed deposits collected on beverage containers.”

Other taxes and fees

A number of states use portions of various taxes and fees to partially fund their solid waste programs. Examples include: Florida’s use of 0.2% of its sales tax; New York’s use of a portion of property tax and vehicle license plate sales; and, South Dakota and Minnesota’s sales taxes on solid waste management services.

V. SOLID WASTE PROGRAM FUNDING OPTIONS

The following solid waste program funding mechanisms are offered for discussion as potentially viable approaches to providing ongoing program funding:

- **Broaden disposal fees (expansion of the current statutory “waste handling” fees on landfilled wastes)**

38 M.R.S.A. §2203-A establishes a schedule of fees (refer to **Appendix B**) for various types of solid waste, imposed on wastes disposed at commercial, municipal and regional association landfills. Revenues are derived primarily from fees on “special wastes”, most of which are assessed at \$5 per ton. (Municipal solid waste ash and front end process residue are charged \$1 per ton, oil contaminated soil, gravel, etc. is \$25 per ton.) Although the statute imposes a \$2 per ton fee on the landfilling of municipal solid waste (“MSW”), exemptions exclude the majority of the MSW received at Maine landfills from the fee requirement. Extending

the fee structure to additional waste types and facilities presents the possibility of an option that could increase revenues and broaden the base of financial support for programs.

The purpose of generating revenues to fund the State's solid waste management programs is to ensure that sufficient resources are in place on an ongoing basis to consistently provide regulatory, technical assistance, training, and education services to a broad range of parties. Expanding the scope of the fee structure would result in facilities in addition to landfills paying fees on a variety of waste types on a volume basis. Currently, a relatively small number of solid waste facilities (11) pay fees on a limited number of waste types. (See **Appendix M** for a breakdown of waste handling fee payments for the past 4 fiscal years.) In addition to a more equitable distribution of fee payment responsibility, the establishment of differential fees that acknowledge and further the goals of the statutory solid waste management hierarchy (See **Appendix N**) would be possible.

There are a number of approaches to broadening the scope of the current "waste handling fee" structure, all based upon which facilities would pay, which wastes would be charged, and what the specific fee amounts would be. Many states charge "disposal fees" on all or most waste types disposed at incinerators and landfills. In Maine, extending the fee system to incinerators and all landfills (in addition to the 11 that currently pay fees) and expanding the waste categories that are charged fees to include such wastes as MSW and CDD, could significantly increase revenues. By way of example, if a \$2 per ton fee was paid on all MSW that was disposed in the 11 landfills that currently are paying waste handling fees, additional revenue would total approximately \$320,000. Inclusion of additional facilities and waste types in the system likely lowers individual fee amounts.

As discussed earlier, the current fee on most special wastes is \$5 per ton. An exception is the \$25 per ton fee on oil contaminated materials. This \$25 fee was established for the specific purpose of discouraging landfill disposal of this type of waste since adequate facilities exist in the state to treat and recycle it successfully. In similar fashion, a variable fee schedule could be established that provides both incentives and disincentives for the management of different waste types, and that is consistent with the goals of the statutory waste management hierarchy. To this end, it may also be appropriate to consider not only the waste type but also its origin or the circumstances of its generation.

Such a fee structure could potentially be further extended to all facilities, sites, or activities that accommodate the final disposition of solid wastes. These could include not only landfills and incinerators, but land application sites, beneficial uses, and compost facilities. Fees would be

established in view of the statutory hierarchy, with highest fees paid on landfilled wastes and lowest fees on reuse/recycling.

➤ **General increase in MEPF license application and annual fees**

As mentioned above, the Maine Environmental Protection Fund (solid waste portion) receives solid waste license application and annual fees as revenue and supports 10 staff positions at DEP. Maximum fees are established in statute.

An increase in these fees is a potential option for the generation of additional revenues, although this option alone could not reasonably be expected to completely address the revenue gap that would be created if the tire fee was eliminated.

➤ **State retention of a portion of the bottle bill “float”**

Those states with beverage container return laws (“bottle bills”) generally require a deposit of \$0.05 or more on each designated type of beverage container sold to retail customers in the state. The deposits are returned to customers when the empty containers are returned to a retailer or other approved location. In all states with bottle bills, some percentage of the containers that customers have paid deposits on are never returned for deposit refunds. The deposit money collected from these containers but never refunded is commonly known as the “float”, and in many states is retained by the beverage distributor or bottler. In some states, the law requires that all or a portion of that money be escheated to the state.

From about 1990 to 1996, Maine law required that 50% of the bottle bill float be returned to the state for deposit into the Maine Solid Waste Management Fund. In FY96, bottle bill float revenue into the MSWMF totaled \$631,460. A return to this practice is a potential revenue option for consideration.

➤ **Retention of the “tire fee”**

The \$1 fee on new tires at the point of retail purchase has been in place since 1989. Originally, tires were one of several consumer items that were charged fees. Fees on most of the others (appliances, furniture, bathtubs and mattresses) were eliminated in 1996 and 1997. These items were selected, in part, because they are all relatively difficult to manage wastes and place demands on the state’s solid waste resources. The individual fees were never dedicated to a single specific purpose however, and were established to be used more generally in support of the state’s overall solid waste management program efforts. Tire fee revenue was not dedicated

for exclusive use in cleanup of tire piles, although a substantial amount of MSWMF money has, in fact, been used for that purpose.

Tires and batteries are the remaining consumer items that are charged a fee at the point of purchase. The management and disposal of tires and batteries, as well as special wastes and other waste categories, still place significant demands on state program resources. Revenues from these items remain part of a mix of revenue sources to the MSWMF. In broader consideration of achieving an appropriate mix of revenue sources as the overall fee system is evaluated, it may be appropriate to consider retaining the tire fee as part of that system.

LIST OF APPENDICES

- **Appendix A** – Resolve, 2005, Chapter 35 (Resolve, Regarding the Recycling Assistance Fee)
- **Appendix B** – 38 MRSA §2201-2206
- **Appendix C** – Solid Waste Management Fund – FY06, Revenue Sources
- **Appendix D** – Maine Solid Waste Management Fund, Actual and Projected Revenues and Transfers (FY98-FY06)
- **Appendix E** – Maine Environmental Protection Fund – Solid Waste Actual Revenues, Expenditures and Transfers, FY97-FY06
- **Appendix F** – 36 MRSA §4831-4834 (Solid Waste Recycling Assistance Fee)
- **Appendix G** – Resolve 2001 Chapter 21 (Resolve, to Provide for the Transfer of Funds to the Tire Management Fund and Require a Plan to Permanently Dedicate Fees Paid When Purchasing a New Tire or Battery to Tire Stockpile Abatement, Remediation and Cleanup)
- **Appendix H** – Report to the Joint Standing Committee on Natural Resources Concerning the Provisions of Resolve 2001, Chapter 21
- **Appendix I** – Maine Solid Waste Management Program Components (July 2006)
- **Appendix J** – Solid Waste Management Program, Fiscal Year 2006, Distribution of Dollars for Staff Resources and Program Costs
- **Appendix K** – States' Solid Waste Program Funding Methods
- **Appendix L**- Summary of NEWMOA State Solid Waste Programs Funding and Staffing Levels (September 13, 2005)
- **Appendix M** – Summary: Waste Handling Fees Paid FY03-FY06
- **Appendix N** – 38 MRSA §2101, Solid Waste Management Hierarchy

APPENDIX A

**Resolves 2005 Chapter 35
(Resolve, Regarding the Recycling Assistance Fee)**

APPROVED

CHAPTER

MAY 20 05

35

BY GOVERNOR

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIVE

H.P. 402 - L.D. 526

Resolve, Regarding the Recycling Assistance Fee

Sec. 1. Report. Resolved: That by January 30, 2007 the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report concerning solid waste management program funding alternatives to the continued use of revenues derived from the \$1 fee on the retail sale of new tires pursuant to the Maine Revised Statutes, Title 36, section 4832. The report must be developed in consultation with the Executive Department, State Planning Office and with interested parties. The report must include, but is not limited to:

1. An evaluation of possible alternative funding mechanisms that may include new or revised fees on solid wastes, including special wastes, that are generated, disposed of or otherwise handled in this State; consumer products sold in this State; and solid waste facilities and licenses; and

2. Recommendations concerning alternative funding mechanisms, with preference given to those revenue source alternatives that are broad-based and are most likely to produce relatively stable, long-term program funding.

In evaluating alternative funding mechanisms, the Department of Environmental Protection shall consider potential effects on industries, businesses, municipalities, individuals and others and shall strive to propose funding sources and fee levels that are related and generally proportional in amount to program efforts expended by the department.

APPENDIX B

**38 MRSA §2201-2206
(Maine Solid Waste Management Fund)**

CHAPTER 24
SUBCHAPTER VII
FINANCE, FEES AND CONTRACTS

38 MRSA § 2201. Maine Solid Waste Management Fund established

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

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

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

38 MRSA § 2202. Fees

1. **Fees established.** The department shall establish procedures to charge fees specified in this article and pursuant to the requirements of this article. All fees collected by the department under this article must be deposited into the Maine Solid Waste Management Fund.
2. **Application.** Fees established under this article become effective upon the effective date of this chapter, with the first payment due on January 20, 1990.
3. **Payment.** A person who delivers solid waste to a solid waste disposal facility shall pay all fees established under this article to the operator of the solid waste disposal facility.

38 MRSA § 2203. Repealed. Laws 1999, c. 385, § 6, eff. September 18, 1999.

38 MRSA § 2203-A. Waste handling fees

1. **Fees.** Fees are imposed in the following amounts to be levied for solid waste that is disposed of at commercial, municipal and regional association landfills.

Asbestos	\$5 per cubic yard
Oil-contaminated soil, gravel, brick, concrete and other aggregate	\$25 per ton
Waste water facility sludge	\$5 per ton
Ash, coal and oil	\$5 per ton

Paper mill sludge	\$5 per ton
Industrial waste	\$5 per ton
Sandblast grit	\$5 per ton
All other special waste	\$5 per ton
Municipal solid waste ash	\$1 per ton
Front end process residue (FEPR)	\$1 per ton

2. Exceptions. Notwithstanding subsection 1:

- A. A municipal or regional association landfill that has accepted 12,000 tons or more of special waste, other than municipal solid waste ash, asbestos and oil-contaminated soil, gravel, brick, concrete and other aggregate, in calendar year 1998 shall continue to pay \$2 per ton to the department for those categories of waste accepted in that calendar year;
- B. A municipal or regional association landfill shall continue to pay \$2 per ton to the department on all categories of special waste other than municipal solid waste ash, asbestos and oil-contaminated soil gravel, brick, concrete and other aggregate that was generated by the municipality or regional association and accepted for disposal in its landfill in calendar year 1998; and
- C. A municipal or regional association landfill that has accepted 550 tons or more of oil-contaminated soil, gravel, brick, concrete and other aggregate in calendar year 1998 shall pay \$5 per ton for that category of waste.

38 MRSA § 2204. Municipal disposal surcharge; recycling and import fees

The department shall impose a fee of \$2 per ton on any municipal solid waste disposed of at a commercial, municipal or regional association landfill, except that there is no fee on municipal solid waste generated by a municipality that owns the landfill accepting it or that has entered into a contract with a term longer than 9 months for disposal of municipal solid waste in that landfill facility..

38 MRSA § 2205. Fee payments

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee must be paid to the department on or before the 20th day of April, July, October and January for the 3 months ending the last day of March, June, September and December.

1. **Quarterly reports.** Each fee payment must be accompanied by a form prepared and furnished by the department and completed by the operator. The form must state the total weight or volume of solid waste disposed of at the facility during the payment period and provide any other aggregate information determined necessary by the department to carry out the purposes of this chapter. The form must be signed by the operator.
2. **Timeliness of payment.** The operator is deemed to have made a timely payment of the fee if the operator complies with all of the following:
 - A. The enclosed payment is for the full amount owed pursuant to this section and no further department action is required for collection;
 - B. The payment is accompanied by the required form and the form is complete and accurate; and
 - C. The letter transmitting the payment that is received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received, unless an alternative date is agreed upon in writing by the operator and the department.
3. **Discount.** Any operator that makes a timely payment of the fee as provided in this section is entitled to apply against the fee payable a discount of 1% of the amount of the fee collected.

4. **Refunds.** Any operator who believes the fee was overpaid by the operator may file a petition for refund to the department. If the department determines that the operator has overpaid the fee, the department shall refund to the operator the amount due the operator, together with interest at a rate established by the department.
5. **Alternative proof of payment.** For purposes of this section, presentation of a receipt indicating that the payment was mailed by registered or certified mail on or before the due date is evidence of timely payment.
6. **Interest.** If an operator fails to make a timely payment of the fee, the operator shall pay interest on the unpaid amount due at the rate established by the department from the last day for timely payment to the date paid.
7. **Additional penalty.** In addition to the interest provided in subsection 6, if an operator fails to make timely payment of the fee, 5% of the amount of the fee must be added to the amount actually due if the failure to file a timely payment is for not more than one month, with an additional 5% for each additional month, or fraction of a month, during which the failure continues, not exceeding 25% in the aggregate.
8. **Assessment notice.** If the department determines that any operator has not made a timely payment of the fee, the department shall send the operator a written notice of the amount of the deficiency, within 30 days of determining the deficiency. When the operator has not provided a complete and accurate statement of the weight or volume of waste received at the facility for the payment period, the department may estimate the weight or volume in the notice.

The operator charged with the deficiency has 30 days to pay the deficiency in full or, if the operator wishes to contest the deficiency, forward the amount of the deficiency to the department for placement in an escrow account with the Treasurer of State or any bank in the State, or post an appeal bond in the amount of the deficiency. The bond must be executed by a surety licensed to do business in the State and be satisfactory to the department. Failure to forward the money or appeal bond to the department within 30 days results in a waiver of all legal rights to contest the deficiency.

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

The amount determined after administrative hearing or after waiver of administrative hearing is payable to the department and is collectible.

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

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

38 MRSA § 2206. Hearings and appeals

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

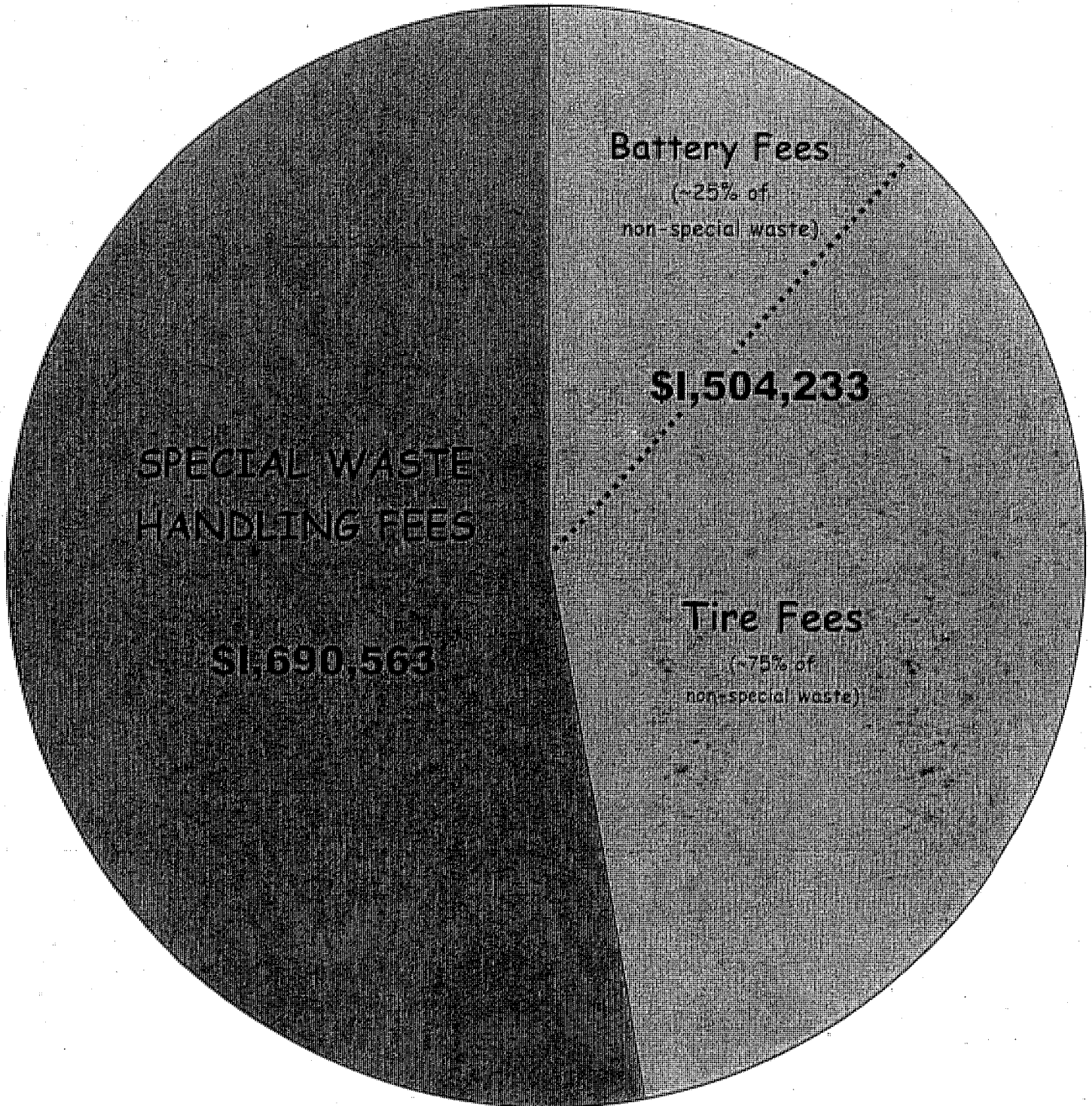
APPENDIX C

Solid Waste Management Fund - FY06 Revenue Sources

SOLID WASTE MANAGEMENT FUND

FISCAL YEAR 2006

REVENUE SOURCES



APPENDIX D

Maine Solid Waste Management Fund Actual and Projected Revenues and Transfers (FY98 – FY06)

**Maine Solid Waste Management Fund
Actual Revenues and Transfers
FY97 - FY06**

	FY1998	FY1999	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Adj Beginning Balance	1,297,308.77	1,691,092.24	2,725,234.07	3,797,501.20	2,271,732.24	2,727,072.51	2,226,235.14	2,024,949.75	1,807,734.72
Revenues									
Interest	89,284.38	126,124.89	196,566.95	178,032.79	70,653.29	45,646.21	23,737.78	40,370.52	67,806.40
Tires/batteries fees	1,129,261.22	1,331,814.31	1,199,837.81	1,289,358.44	1,340,546.41	1,340,421.88	1,469,311.37	1,704,944.29	1,504,232.95
Transfer from FAME							466,721.40	18,786.65	
Unclaimed container	5,558.99								
Special Waste Fees	<u>893,450.30</u>	<u>1,332,331.90</u>	<u>1,646,708.98</u>	<u>1,240,453.81</u>	<u>1,887,890.57</u>	<u>1,385,123.66</u>	<u>1,346,704.40</u>	<u>1,434,837.51</u>	<u>1,690,562.98</u>
Total FY Revenues	<u>2,117,554.89</u>	<u>2,790,271.10</u>	<u>3,043,113.74</u>	<u>2,707,845.04</u>	<u>3,299,090.27</u>	<u>2,771,191.75</u>	<u>3,306,474.95</u>	<u>3,198,938.97</u>	<u>3,262,602.33</u>
Total Cash Available	<u>3,414,863.66</u>	<u>4,481,363.34</u>	<u>5,768,347.81</u>	<u>6,505,346.24</u>	<u>5,570,822.51</u>	<u>5,498,264.26</u>	<u>5,532,710.09</u>	<u>5,223,888.72</u>	<u>5,070,337.05</u>
Transfers									
Tire Abatement one time				1,511,500.00					
Household Hazardous Waste				438,000.00					
DEP	1,379,162.00	1,368,870.00	1,480,520.61	1,761,833.00	2,473,668.00	2,696,671.12	2,410,501.94	2,691,811.00	2,533,151.00
State Planning	309,609.42	342,259.27	450,326.00	482,281.00	330,082.00	535,358.00	1,032,993.40	682,019.00	703,347.00
Agriculture							24,265.00	2,324.00	
General Fund	25,000.00	35,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00	30,000.00
DAFS Div of Fin & Pers Svcs	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Total Transfers	<u>1,723,771.42</u>	<u>1,756,129.27</u>	<u>1,970,846.61</u>	<u>4,233,614.00</u>	<u>2,843,750.00</u>	<u>3,272,029.12</u>	<u>3,507,760.34</u>	<u>3,416,154.00</u>	<u>3,276,498.00</u>
Cash Available less Transfers	<u>1,691,092.24</u>	<u>2,725,234.07</u>	<u>3,797,501.20</u>	<u>2,271,732.24</u>	<u>2,727,072.51</u>	<u>2,226,235.14</u>	<u>2,024,949.75</u>	<u>1,807,734.72</u>	<u>1,793,839.05</u>

APPENDIX E

Maine Environmental Protection Fund – Solid Waste Actual Revenues, Expenditures and Transfers FY97 – FY06

Maine Environmental Protection Fund - Solid Waste
Actual Revenues, Expenditures and Transfers
FY97 - FY06

	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
Revenue	547,935.06	466,979.91	570,141.65	524,917.48	659,188.32	666,780.64	786,299.31	829,796.40	664,892.32	800,729.96
Object	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>	<u>Expended</u>
Salary	344,413.29	282,034.20	323,612.51	316,123.98	363,474.57	470,736.34	476,227.58	492,174.23	471,440.48	480,389.26
Fringe	<u>126,900.78</u>	<u>108,715.36</u>	<u>123,090.17</u>	<u>115,154.23</u>	<u>137,038.05</u>	<u>178,323.33</u>	<u>193,936.33</u>	<u>188,245.65</u>	<u>223,326.21</u>	<u>242,265.70</u>
	471,314.07	390,749.56	446,702.68	431,278.21	500,512.62	649,059.67	670,163.91	680,419.88	694,766.69	722,654.96
AO	8,993.00	9,425.04	22,526.49	24,119.29	16,536.06	12,561.37	22,814.72	15,362.19	16,136.68	18,841.80
Capital	0.00	0.00	0.00	0.00	0.00	5,851.27	0.00	14,143.39	24,449.00	0.00
Total Exp	480,307.07	400,174.60	469,229.17	455,397.50	517,048.68	667,472.31	692,978.63	709,925.46	735,352.37	741,496.76
Transfers	73,563.11	55,574.40	59,733.76	59,111.59	66,988.00	73,729.65	90,971.08	127,799.41	152,070.27	124,126.78
Rev less Exp/Transfers	-5,935.12	11,230.91	41,178.72	10,408.39	75,151.64	-74,421.32	2,349.60	-7,928.47	-222,530.32	-64,893.58

APPENDIX F

**36 MRSA §4831-4834
(Solid Waste Recycling Assistance Fee)**

TITLE 36
CHAPTER 719
SOLID WASTE RECYCLING ASSISTANCE FEE

36 MRSA § 4831. Definitions

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

1. Repealed. Laws 1989, c. 927, § 2, eff. July 1, 1990.
2. **Lead-acid battery.** "Lead-acid battery" means a device designed and used for the storage of electrical energy through chemical reactions involving lead and acids.
 - 2-A. **Major appliance.** "Major appliance" means any of the following:
 - A. Clothes dryers;
 - B. Clothes washers;
 - C. Dishwashers;
 - D. Freezers;
 - E. Microwave ovens;
 - F. Ovens;
 - G. Refrigerators;
 - H. Stoves; and
 - I. Window air conditioners.
 - 2-B. **Major furniture.** "Major furniture" means any unit of furniture with a value of \$250 or more. For purposes of this section, any matched set of table and chairs, such as kitchen dinette sets, dining room sets, patio or outdoor furniture sets, are considered to be one unit.
3. **Motorized vehicle.** "Motorized vehicle" means any self-propelled vehicle, including motorcycles, construction and farm vehicles and other off-road vehicles, not operating exclusively on tracks.
4. **Tire.** "Tire" means the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the motorized vehicle or trailer.
5. **Trailer.** "Trailer" means any vehicle without motive power that is designed to be drawn by a motorized vehicle.
6. Repealed. Laws 1989, c. 927, § 4, eff. July 1, 1990.

36 MRSA § 4832. Fee imposed

1. **Imposition.** A fee is imposed on the retail sale in this State of new tires, new lead-acid batteries, new major appliances, new major furniture items, new bathtubs and new mattresses. The fee is in the amount of \$1 per tire or lead-acid battery and \$5 for major appliances, major furniture items, bathtubs and mattresses. Additionally, fees in the same amounts are imposed on the storage, use or other consumption in this State of tires, lead-acid batteries, major appliances,

major furniture items, bathtubs and mattresses purchased new in this State by the user or purchased out of State by the user unless either of the fees imposed by this section has been paid.

1-A. Repeal. The fee imposed on the retail sale of new major appliances and new bathtubs is repealed January 1, 1996. The fee imposed on new major furniture items and new mattresses is repealed January 1, 1997.

2. Exemption. Transactions that, under the laws of this State, are not subject to taxation in accordance with Part 3 (36 MRSA, section 1751, et seq.) are exempt from the fee imposed by subsection 1. Sales of any items that occur as part of a sale of a trailer, a mobile home or any motorized vehicle are exempt from the fee imposed by subsection 1.

36 MRSA § 4833. Administration

The fee imposed by this chapter is administered as provided in chapter 7 (36 MRSA, sections 111, et seq.) and Part 3 (36 MRSA, sections 1751, et seq.), with the fee imposed pursuant to this chapter to be considered as imposed under Part 3.

The State Tax Assessor shall by rule identify in specific detail those items subject to fee under this chapter. The purpose of the rule is to assist retail sellers, consumers and fee administrators in understanding the application of the fee to specific purchases.

The revenue derived from the fee imposed by this chapter must be deposited in the Maine Solid Waste Management Fund established under Title 38, chapter 24 (38 MRSA, sections 2101, et seq.) which must reimburse the General Fund for the administrative costs of the fee as certified by the Bureau of Taxation.

36 MRSA § 4834. Effective date

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

APPENDIX G

**Resolve 2001 Chapter 21
(Resolve, to Provide for the Transfer of Funds to the
Tire Management Fund and Require a Plan to
Permanently Dedicate Fees Paid When Purchasing a
New Tire or Battery to Tire Stockpile Abatement,
Remediation and Cleanup)**

Whereas, it is imperative that this legislation take effect in time to allow members of the Maine National Guard to attend classes in the next school year; and

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

Sec. 1. Resolve 1999, c. 121, §1, sub-§2, amended. Resolved: That Resolve 1999, c. 121, §1, sub-§2 is amended to read:

2. Tuition grant for Maine National Guard member. A Maine National Guard member who meets the prerequisites of subsection 3 is entitled to a 100% tuition grant at any state postsecondary education institution. A member who attends a state regionally accredited private college or university is entitled to a grant of 100% of the tuition at that private college or university or of the tuition at the University of Maine, whichever is less. The Maine National Guard shall provide the cost of tuition to a member who meets the requirements of subsection 3.

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

Effective May 15, 2001.

CHAPTER 21

H.P. 200 - L.D. 230

Resolve, to Provide for the Transfer of Funds to the Tire Management Fund and Require a Plan to Permanently Dedicate Fees Paid When Purchasing a New Tire or Battery to Tire Stockpile Abatement, Remediation and Cleanup.

Sec. 1. Transfer of Maine Solid Waste Management Fund money to Tire Management Fund. Resolved: That, in fiscal year 2001-02, the State Controller shall transfer \$570,000 from the Maine Solid Waste Management Fund, established in the Maine Revised Statutes, Title 38, section 2201, to the Tire Management Fund, established in Title 38, section 1316-F. Following the end of fiscal year 2001-02, the State Controller shall transfer 50% of the surplus in the Maine Solid Waste Management Fund to the Tire Management Fund. For the purposes of this section, the term "surplus" means any positive difference between the net revenues deposited into the Maine Solid Waste Management

Fund and the net transfers out of that fund in the same fiscal year; and be it further

Sec. 2. Implementation plan. Resolved: That the Commissioner of Environmental Protection and the Director of the State Planning Office within the Executive Department jointly shall prepare an implementation plan to accomplish the legislative goal of permanently dedicating, prior to the end of fiscal year 2004-05, all revenues collected from the fee imposed on the retail sale of tires and batteries to the Tire Management Fund established in the Maine Revised Statutes, Title 38, section 1316-F for tire stockpile abatement, remediation and cleanup. Accordingly, that plan must recommend a process, a timetable and a budget that includes moving all positions in those agencies that are currently funded by those fees to the General Fund, or another recommended funding source, and for concurrently directing those fees to the Tire Management Fund. That implementation plan, timetable and budget must be developed and submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters not later than January 1, 2003; and be it further

Sec. 3. Authority to report out bill. Resolved: That the joint standing committee having jurisdiction over natural resources matters may report out a bill to the First Regular Session of the 121st Legislature pertaining to the use of revenues collected from the fee imposed on the retail sale of tires and batteries; and be it further

Sec. 4. Allocation. Resolved: That the following funds are allocated from Other Special Revenue funds to carry out the purposes of this resolve.

2001-02

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management

All Other	\$570,000
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Allocates additional funds to the Tire Management Fund.

See title page for effective date.

APPENDIX H

**Report to the Joint Standing Committee on Natural Resources
Concerning the Provisions of Resolve 2001, Chapter 21**

Report to the Joint Standing Committee on Natural Resources

Concerning the Provisions of Resolve 2001, Chapter 21

Submitted by:

**The Maine Department of Environmental Protection and
The Maine State Planning Office**

January 2003

Introduction

This report is submitted to the Joint Standing Committee on Natural Resources pursuant to Resolve 2001, c. 21, section 2 (“Resolve, to Provide for the Transfer of Funds to the Tire Management Fund and Require a Plan to Permanently Dedicate Fees Paid When Purchasing a New Tire or Battery to Tire Stockpile Abatement, Remediation and Cleanup”). The resolve is attached to this report as **Appendix A**. The resolve required that:

1. in fiscal year 2001-02, \$570,000 be transferred from the Maine Solid Waste Management Fund (“MSWMF”) to the Tire Management Fund; and, following the end of fiscal year 2001-02, 50% of the “surplus” in the MSWMF (defined as any positive difference between the net revenues deposited into the MSWMF and the net transfers out of that fund in the same fiscal year) be transferred to the Tire Management Fund; and,
2. the Commissioner of the Department of Environmental Protection and the Director of State Planning Office prepare an implementation plan to accomplish the legislative goal of permanently dedicating, prior to the end of fiscal year 2004-05, all revenues collected from the fee imposed on the retail sale of tires and batteries to the Tire Management Fund for tire stockpile abatement, remediation and cleanup; the plan recommend a process, timetable and a budget that includes moving all positions in the Department of Environmental Protection and the State Planning Office that are currently funded by those fees to the General Fund, or another recommended funding source; and, the report be submitted to the Natural Resources Committee of the Legislature by January 1, 2003.

To prepare this report, the Department of Environmental Protection and the State Planning Office sought comment and recommendations from a representative advisory group of interested stakeholders as various funding options and their potential implications were being evaluated. This group was comprised of representatives of municipal government, public and private waste management facilities, and business/industry. These sectors were identified as being most likely to be impacted financially if changes were made to the existing solid waste management fee structure. The group met 3 times between October and December of 2002. A list of the parties invited to participate on the advisory group is attached as **Appendix B**.

Status of the Scrap Tire Abatement Program

Since 1995, the Department of Environmental Protection has administered a scrap tire abatement program, the primary goals of which were to abate the threats posed by scrap tire stockpiles in the state, and to prevent the establishment of new unlicensed stockpiles and the addition of tires to existing piles. A summary of revenues, expenditures and program progress is attached as **Appendix C**.

Since the inception of the program in 1995, a total of \$12.4 million has been made available for tire stockpile abatement. The majority of revenue was from bonds (\$9.5M), although \$2.9M has been allocated over that time from the Maine Solid Waste Management Fund.

As detailed in a 1999 tire abatement program report to the Legislature (the Executive Summary of which is attached as **Appendix D**), Maine scrap tire stockpile sites were initially surveyed and prioritized prior to the commencement of abatement work. Sites were categorized according to size as "Class A" (containing greater than 1 million tires), "Class B" (containing between 10,000 and 1 million tires), and "Class C" (containing fewer than 10,000 tires). To date, three Class A site cleanups have been completed; a fourth has been partially completed, with final cleanup scheduled for the spring of 2003. Cleanup is still ongoing under a current contract at the fifth and largest site. Cleanups at eight Class B sites have been completed, and bids were recently received on a project that will abate two more.

To date, a total of approximately 12 million tires have been removed from Maine tire stockpiles and beneficially reused. About 5 million tires were removed since the 1999 report to the Legislature. Several of the abatement projects conducted by DEP were done in cooperation with the Maine Department of Transportation and the Maine Turnpike Authority, resulting in lower costs for all agencies involved. MDOT and MTA have both successfully used scrap tires for fill and light-weight fill in several construction projects.

The Department has determined that there are approximately 19 additional Class B sites that require cleanup. These sites were recently surveyed and reevaluated. The Department now estimates that there is a total of approximately 1 million tires at these sites, and that the total cost to remediate all the remaining Class B sites will be approximately \$1 million. Additional expenditures at the largest Class A site (located in Bowdoin) are likely to be necessary beyond the existing cleanup contract. Based upon current information however, the existing contract is expected to address the majority of the cleanup need and additional expenditures to complete the abatement project are expected to total less than \$1 million. It has been difficult to accurately estimate the total number of tires at the Bowdoin site because of variability in the topography – some tires were found in thin layers on the ground surface, others were piled deeply in previously excavated areas. Although some uncertainty remains concerning additional costs at Bowdoin, the Department is optimistic that all remaining Class B sites and the Bowdoin site can be completed with existing funds, perhaps making it unnecessary to seek any additional bond funding.

The question of how, and if, the state should address cleanup of the Class C sites still remains. These sites are much smaller and pose lesser risks than the Class A and B sites. The Department intends to proceed further toward completion of the Class A and B site abatements, and then conduct further evaluation of the Class C site issue. At that time, the Department can consider whether or not any existing bond or Maine Solid Waste Management funds remain available for this purpose.

Status of the Maine Solid Waste Management Fund

The Maine Solid Waste Management Fund (“MSWMF”) was established at 38 MRSA Section 2201 as “a nonlapsing fund to support programs administered by the State Planning Office and the Department of Environmental Protection”. A copy of 38 MRSA Sections 2201-2206 is attached for reference as **Appendix E**. This fund currently supports 24 positions at DEP (10 additional DEP solid waste program positions are funded through the Maine Environmental Protection Fund – revenues from which are derived from license application fees and annual fees) and 6 positions at SPO. Funds from the MSWMF have also recently been used to support the scrap tire abatement program, household hazardous waste & mercury containing product initiatives, maintenance and site investigation of an “orphan” landfill, and sampling and analytical costs at several different waste sites.

Revenues into the fund are derived from the \$1 fee collected on new tires and batteries at the point of retail sale, and from “waste handling fees” established statutorily at 38 MRSA Section 2203-A. These fees are assessed on certain wastes (primarily “special wastes”) disposed at landfills on a per ton or cubic yard basis. When the fund was originally established in the late 1980s, the revenue base was broader and also included revenues from a \$1 fee imposed on the retail sale of new major appliances, new major furniture items, new bathtubs and new mattresses. These fees were eliminated by the Legislature in 1996 and 1997. Attached as **Appendix F** is a copy of 36 MRSA Section 4832 that provided for the imposition and repeal of these fees.

In FY 02, revenue from the tire and battery fee was approximately \$1.3 million, and approximately \$1.8 million was derived from waste handling fees. Interest is also accrued on the carry forward balance in the fund, and was around \$70,000 in FY 02. Attached as **Appendix G** is a summary table of actual revenues and transfers from the MSWMF from FY 98 to FY 02.

Revenues into the fund are variable from year to year and may be affected by a number of different factors. The waste handling fee revenues are vulnerable to shifts in disposal patterns, volumes of waste requiring disposal and the state of the economy in general, to name a few. Fee amounts are expected to decline substantially from FY 02 levels in fiscal years 03 through 06 due to a temporary decrease in available capacity as a consequence of construction activity associated with the recently licensed expansion of the Waste Management Crossroads Landfill in Norridgewock. This revenue decrease is projected by the company to be as much as \$3.87 million over the 4 fiscal years.

Evaluation of Funding Options

In assessing various funding options in accordance with the provisions of the Resolve, the Department, the State Planning Office and the stakeholder group identified and evaluated a number of possible approaches to the potential funding gap if the approximately \$1.3

million in annual revenue from tires and batteries was dedicated to scrap tire stockpile abatement. Options considered included:

➤ *Moving 17 positions to the General Fund*

This option was not accepted as reasonable or feasible given the current serious shortfall in the general fund and recent revenue forecasts. The option of some level of general fund support for solid waste positions was, however, endorsed by a stakeholder group that was convened in 1998 to consider funding alternatives for the state's solid waste management program.

➤ *Moving 17 positions to the Maine Environmental Protection Fund*

It was determined that MEPPF fees would have to be increased approximately 250% in order to support these additional positions. This represents a sharp fee increase that would substantially raise the costs of operating municipal, business and industry waste facilities.

➤ *Increasing revenues into the Solid Waste Management Fund through an increase in waste handling fees*

Existing waste handling fees were revised several years ago. Most fees were increased at that time, with decreases in certain fees designed to lower disposal costs for municipalities. Additional increases, or broadening the categories of wastes upon which fees are assessed, were not supported by municipalities, businesses or industry because of the projected increased costs of waste disposal for those entities.

➤ *Increasing revenues into the Solid Waste Management Fund through an increase in the tire and battery fee*

In order to make up the \$1.3 million revenue gap anticipated if existing tire and battery fee revenue was dedicated to the scrap tire abatement program, the fee would have to be increased by 100 % (to \$2) and only 50% of the total tire/battery revenue could be dedicated to tire abatement. Given the stated goal of the Resolve, to permanently dedicate all revenues collected from the fee imposed on the retail sale of tires and batteries to the Tire management Fund for tire stockpile abatement, remediation and cleanup, this option was not considered appropriate.

➤ *Increasing revenues to the Solid Waste Management Fund through transfer of non-refunded bottle deposits to the MSWMF*

Non-refunded bottle deposits were credited to the MSWMF until FY 98. This option was not considered practical or feasible due to the strong support shown for removing this revenue stream from the Fund in 1997.

➤ *Elimination of staff*

Staffing resources are already stretched. Position elimination could only be done through a very substantial reduction in solid waste management program activities and responsibilities. Solid waste program staff at DEP is responsible for licensing compliance, enforcement, technical assistance and education/outreach related to all types of waste facilities and activities including: landfills, incinerators, processing/transfer/storage facilities, beneficial use, sludge and residuals utilization, septage management, composting, and waste transportation. The staff also administers the tire stockpile abatement program and the municipal landfill closure and remediation program. State Planning Office staff is responsible for recycling planning and assistance, waste disposal capacity analysis, potential development of a state owned disposal facility, and technical and financial assistance to municipalities for waste management programs.

➤ *Maintain the status quo and do not dedicate tire and battery revenue to the tire abatement program at this time*

The tire abatement program has made significant progress in achieving its goals of cleaning up existing stockpiles, preventing existing stockpiles from growing larger, and preventing new stockpiles from becoming established. Given it is likely that all Class A and Class B sites will be cleaned up using existing funding, this option appears to be the most reasonable, and will result in the continued achievement of tire abatement goals as well as other solid waste management program goals.

Recommendations

Two significant changes have occurred since the Resolve requesting this report was passed in 2001. First, the financial status of the state's General Fund has dramatically changed, and is now not a realistic source of alternative revenues to support the DEP/SPO solid waste programs. Second, and equally important, DEP now believes it likely can remediate the remaining Class A and Class B tires piles without any additional bond requests. Therefore, to the extent the Legislature sought reallocation of the tire/battery fee toward tire abatement to reduce the need for new tire abatement bonds, this objective will likely be realized under the status quo due to the very limited potential for additional bond requests in the future.

Accordingly, the Department of Environmental Protection and State Planning Office make the following recommendations with regard to Resolve 2001 c. 21:

1. That tire and battery fee revenue continue to be credited to the Maine Solid Waste Management Fund for the purposes stated in 38 MRSA Section 2201, and not be transferred to the Tire Management Fund to be dedicated to tire stockpile abatement activities; and,

2. That the Department of Environmental Protection complete cleanup of all Class A and B sites, and then assess whether or not to address Class C sites through the Department's abatement program. The Department will report to the Legislature the results of this assessment by January 1, 2005.

APPENDICES

➤ Appendix A

Resolve 2001, Chapter 21, section 2: “Resolve, to Provide for the Transfer of funds to the Tire Management Fund and Require a Plan to Permanently Dedicate Fees Paid When Purchasing a New Tire or Battery to Tire Stockpile Abatement, Remediation and Cleanup”

➤ Appendix B

List of Invited Participants – Solid Waste Funding Advisory Group

➤ Appendix C

Scrap Tire Abatement Program Status Summary, December 2002

➤ Appendix D

Executive Summary of January 2000 Report to the Joint Standing Committee on Natural Resources Concerning Funding Alternatives and Status of the Scrap Tire Abatement Program

➤ Appendix E

38 MRSA Sections 2201-2206

➤ Appendix F

36 MRSA Section 4832

➤ Appendix G

Summary Table – Actual Revenues and Transfers, Maine Solid Waste Management Fund, Fiscal Years 1998-2002

APPENDIX A

Whereas, it is imperative that this legislation take effect in time to allow members of the Maine National Guard to attend classes in the next school year; and

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

Sec. 1. Resolve 1999, c. 121, §1, sub-§2, amended. Resolved: That Resolve 1999, c. 121, §1, sub-§2 is amended to read:

2. Tuition grant for Maine National Guard member. A Maine National Guard member who meets the prerequisites of subsection 3 is entitled to a 100% tuition grant at any state postsecondary education institution. A member who attends a state regionally accredited private college or university is entitled to a grant of 100% of the tuition at that private college or university or of the tuition at the University of Maine, whichever is less. The Maine National Guard shall provide the cost of tuition to a member who meets the requirements of subsection 3.

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

Effective May 15, 2001.

CHAPTER 21

H.P. 200 - L.D. 230

Resolve, to Provide for the Transfer of Funds to the Tire Management Fund and Require a Plan to Permanently Dedicate Fees Paid When Purchasing a New Tire or Battery to Tire Stockpile Abatement, Remediation and Cleanup.

Sec. 1. Transfer of Maine Solid Waste Management Fund money to Tire Management Fund. Resolved: That, in fiscal year 2001-02, the State Controller shall transfer \$570,000 from the Maine Solid Waste Management Fund, established in the Maine Revised Statutes, Title 38, section 2201, to the Tire Management Fund, established in Title 38, section 1316-F. Following the end of fiscal year 2001-02, the State Controller shall transfer 50% of the surplus in the Maine Solid Waste Management Fund to the Tire Management Fund. For the purposes of this section, the term "surplus" means any positive difference between the net revenues deposited into the Maine Solid Waste Management

Fund and the net transfers out of that fund in the same fiscal year; and be it further

Sec. 2. Implementation plan. Resolved: That the Commissioner of Environmental Protection and the Director of the State Planning Office within the Executive Department jointly shall prepare an implementation plan to accomplish the legislative goal of permanently dedicating, prior to the end of fiscal year 2004-05, all revenues collected from the fee imposed on the retail sale of tires and batteries to the Tire Management Fund established in the Maine Revised Statutes, Title 38, section 1316-F for tire stockpile abatement, remediation and cleanup. Accordingly, that plan must recommend a process, a timetable and a budget that includes moving all positions in those agencies that are currently funded by those fees to the General Fund, or another recommended funding source, and for concurrently directing those fees to the Tire Management Fund. That implementation plan, timetable and budget must be developed and submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters not later than January 1, 2003; and be it further

Sec. 3. Authority to report out bill. Resolved: That the joint standing committee having jurisdiction over natural resources matters may report out a bill to the First Regular Session of the 121st Legislature pertaining to the use of revenues collected from the fee imposed on the retail sale of tires and batteries; and be it further

Sec. 4. Allocation. Resolved: That the following funds are allocated from Other Special Revenue funds to carry out the purposes of this resolve.

2001-02

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management

All Other \$570,000

Allocates additional funds to the Tire Management Fund.

See title page for effective date.

APPENDIX B

**Invited Participants
Solid Waste Funding Advisory Group
(October – December 2002)**

Leann Diehl
Public Affairs Group
Augusta

Thomas Doyle
Pierce Atwood
Portland

James Ecker
New England Organics
Falmouth

Douglas Gleason
Commercial Recycling Systems
Scarborough

Christopher Hall
Maine Chamber & Business Alliance
Augusta

Kenneth Hensler
Tri-Community Landfill
Caribou

Geoffrey Herman
Maine Municipal Association
Augusta

James Hiltner
Casella Waste Systems
Saco

Joseph Kazar
Mid-Maine Waste Action Corp.
Auburn

Charles Kraske
International Paper
Jay

Jeffrey McGowan
Waste Management
Norridgewock

APPENDIX C

**Scrap Tire Abatement Program Status
Summary
December 2002**

Revenues to Date

1995 - \$0.6M (SWMF*)
1996 - \$5.0 (Bond)
1998 - \$2.0M (Bond)
1998 - \$1.0 (Bond)
1999 - \$0.5M (Bond)
2000 - \$1.5M (SWMF)
2001 - \$0.5M (Bond)
2002 - \$0.5M (SWMF)
2002 - \$0.5M (Bond)
2003 - \$0.3M (SWMF)

Total: \$12.4M

(*Maine Solid Waste Management Fund)

Expenditures/Commitments

- ✓ \$8.3M – actually paid out to date
- ✓ \$1.1M – remaining on current Bowdoin contract
- ✓ \$0.6M – RFP out to complete Durham site and one "Class B" site in Augusta

- ✓ **\$2.4M** – remains to be committed.

Site Cleanup Status

- ✓ 3 "Class A" Site Projects Completed:
 - Greenwood (1.8M tires)
 - Meddybemps (1.7M tires)
 - Nobleboro (1.4M tires)

- ✓ 8 "Class B" Site Projects Completed (approx. 1M tires removed)
 - Auburn
 - Augusta
 - Baldwin
 - Dexter
 - Gorham
 - Lewiston
 - N. Yarmouth
 - Porter

- ✓ 2 "Class A" Site Projects Partially Completed:
 - Durham (1.8M tires removed, 0.4M remain, to be complete in 2003)
 - Bowdoin (4.3M tires removed to date, work ongoing)

- ✓ Site Cleanups to be Initiated: approx. 19 "Class B" sites with 0.9M – 1M tires in total.

APPENDIX D

B. EXECUTIVE SUMMARY

The Department of Environmental Protection undertook a number of initiatives in establishing the tire stockpile abatement program in 1996. Among these was an initial survey of all known tire piles in the state and a risk ranking of those piles. The survey resulted in the identification of:

- 5 "Class A" sites (greater than 1 million tires)
- 29 "Class B" sites (between 10,000 and 1 million tires)
- 284 "Class C" sites (less than 10,000 tires)

The estimated total number of tires in these 318 sites combined is approximately 22.3 million.

Significant progress has been made to date on site cleanups and tire removals. Thus far, a total of 7,082,500 tires have been removed from stockpiles under the program. These tires have been directed to beneficial uses. As of 12/31/99, abatement work was complete at 2 of the 5 Class A sites, was partially completed at a third site, and was ongoing at a fourth. By mid-2001, cleanups will be complete at 4 of the 5 Class A sites and work will still be ongoing at the fifth (and largest). In addition, at least 6 Class B sites will have been completely remediated by that time. See Table 1 of the report for site specific abatement status summary.

Total cost to date for the removal of 7,082,500 tires is \$4,833,786. Cost projection estimates for the remediation of all known stockpiles according to risk category are as follows:

• Class A	9.8 million tires remaining	\$ 9,800,000
• Class B	1.7 million tires remaining	\$ 1,700,000
• Class C	710,000 tires remaining	\$ 710,000
	TOTAL	\$12,210,000

Cost estimates are based upon an assumed \$1 per tire abatement cost.

The department recommends funding the tire stockpile abatement program through the use of the following funding mechanisms:

- ✓ \$511,500 from the current surplus of approximately \$850,000 in the Solid Management Waste Fund.
- ✓ Beginning in FY 2002, direct \$1.00 per tire fee to tire abatement (\$850,000 annually) with a corresponding appropriation from the General Fund to support on-going solid waste management program activities.

- ✓ Remainder of tire abatement funding from bonds and/or direct General Fund appropriations.

APPENDIX E

**SUBCHAPTER VII
FINANCE, FEES AND CONTRACTS
ARTICLE 2: MAINE SOLID WASTE MANAGEMENT FUND**

38 MRSA § 2201. Maine Solid Waste Management Fund established

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

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

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

38 MRSA § 2201-A. Repealed. Laws 1993, c. 410, § EE-1, eff. June 30, 1993.

38 MRSA § 2202. Fees

1. **Fees established.** The department shall establish procedures to charge fees specified in this article and pursuant to the requirements of this article. All fees collected by the department under this article must be deposited into the Maine Solid Waste Management Fund.
2. **Application.** Fees established under this article become effective upon the effective date of this chapter, with the first payment due on January 20, 1990.
3. **Payment.** A person who delivers solid waste to a solid waste disposal facility shall pay all fees established under this article to the operator of the solid waste disposal facility.

38 MRSA § 2203. Repealed. Laws 1999, c. 385, § 6, eff. September 18, 1999.

38 MRSA § 2203-A. Waste handling fees

1. **Fees.** Fees are imposed in the following amounts to be levied for solid waste that is disposed of at commercial, municipal and regional association landfills.

Asbestos	\$5 per cubic yard
Oil-contaminated soil, gravel, brick, concrete and other aggregate	\$25 per ton
Waste water facility sludge	\$5 per ton
Ash, coal and oil	\$5 per ton
Paper mill sludge	\$5 per ton
Industrial waste	\$5 per ton
Sandblast grit	\$5 per ton
All other special waste	\$5 per ton
Municipal solid waste ash	\$1 per ton
Front end process residue (FEPR)	\$1 per ton

2. Exceptions. Notwithstanding subsection 1:

- A. A municipal or regional association landfill that has accepted 12,000 tons or more of special waste, other than municipal solid waste ash, asbestos and oil-contaminated soil, gravel, brick, concrete and other aggregate, in calendar year 1998 shall continue to pay \$2 per ton to the department for those categories of waste accepted in that calendar year;
- B. A municipal or regional association landfill shall continue to pay \$2 per ton to the department on all categories of special waste other than municipal solid waste ash, asbestos and oil-contaminated soil gravel, brick, concrete and other aggregate that was generated by the municipality or regional association and accepted for disposal in its landfill in calendar year 1998; and
- C. A municipal or regional association landfill that has accepted 550 tons or more of oil-contaminated soil, gravel, brick, concrete and other aggregate in calendar year 1998 shall pay \$5 per ton for that category of waste.

38 MRSA § 2204. Municipal disposal surcharge; recycling and import fees

The department shall impose a fee of \$2 per ton on any municipal solid waste disposed of at a commercial, municipal or regional association landfill, except that there is no fee on municipal solid waste generated by a municipality that owns the landfill accepting it or that has entered into a contract with a term longer than 9 months for disposal of municipal solid waste in that landfill facility..

38 MRSA § 2205. Fee payments

Each operator of a solid waste disposal facility shall make the fee payment quarterly. The fee must be paid to the department on or before the 20th day of April, July, October and January for the 3 months ending the last day of March, June, September and December.

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

2. **Timeliness of payment.** The operator is deemed to have made a timely payment of the fee if the operator complies with all of the following:
 - A. The enclosed payment is for the full amount owed pursuant to this section and no further department action is required for collection;
 - B. The payment is accompanied by the required form and the form is complete and accurate; and
 - C. The letter transmitting the payment that is received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received, unless an alternative date is agreed upon in writing by the operator and the department.
3. **Discount.** Any operator that makes a timely payment of the fee as provided in this section is entitled to apply against the fee payable a discount of 1% of the amount of the fee collected.
4. **Refunds.** Any operator who believes the fee was overpaid by the operator may file a petition for refund to the department. If the department determines that the operator has overpaid the fee, the department shall refund to the operator the amount due the operator, together with interest at a rate established by the department.
5. **Alternative proof of payment.** For purposes of this section, presentation of a receipt indicating that the payment was mailed by registered or certified mail on or before the due date is evidence of timely payment.
6. **Interest.** If an operator fails to make a timely payment of the fee, the operator shall pay interest on the unpaid amount due at the rate established by the department from the last day for timely payment to the date paid.
7. **Additional penalty.** In addition to the interest provided in subsection 6, if an operator fails to make timely payment of the fee, 5% of the amount of the fee must be added to the amount actually due if the failure to file a timely payment is for not more than one month, with an additional 5% for each additional month, or fraction of a month, during which the failure continues, not exceeding 25% in the aggregate.
8. **Assessment notice.** If the department determines that any operator has not made a timely payment of the fee, the department shall send the operator a written notice of the amount of the deficiency, within 30 days of determining the deficiency. When the operator has not provided a complete and accurate statement of the weight or volume of waste received at the facility for the payment period, the department may estimate the weight or volume in the notice.

The operator charged with the deficiency has 30 days to pay the deficiency in full or, if the operator wishes to contest the deficiency, forward the amount of the deficiency to the department for placement in an escrow account with the Treasurer of State or any bank in the State, or post an appeal bond in the amount of the deficiency. The bond must be executed by a surety licensed to do business in the State and be satisfactory to the department. Failure to forward the money or appeal bond to the department within 30 days results in a waiver of all legal rights to contest the deficiency.

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

The amount determined after administrative hearing or after waiver of administrative hearing is payable to the department and is collectible.

38 MRSA § 2206.

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

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

38 MRSA § 2206. Hearings and appeals

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

APPENDIX F

TITLE 36
CHAPTER 719
SOLID WASTE RECYCLING ASSISTANCE FEE

36 MRSA § 4831. Definitions

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

1. Repealed. Laws 1989, c. 927, § 2, eff. July 1, 1990.
2. **Lead-acid battery.** "Lead-acid battery" means a device designed and used for the storage of electrical energy through chemical reactions involving lead and acids.
- 2-A. **Major appliance.** "Major appliance" means any of the following:
 - A. Clothes dryers;
 - B. Clothes washers;
 - C. Dishwashers;
 - D. Freezers;
 - E. Microwave ovens;
 - F. Ovens;
 - G. Refrigerators;
 - H. Stoves; and
 - I. Window air conditioners.
- 2-B. **Major furniture.** "Major furniture" means any unit of furniture with a value of \$250 or more. For purposes of this section, any matched set of table and chairs, such as kitchen dinette sets, dining room sets, patio or outdoor furniture sets, are considered to be one unit.
3. **Motorized vehicle.** "Motorized vehicle" means any self-propelled vehicle, including motorcycles, construction and farm vehicles and other off-road vehicles, not operating exclusively on tracks.
4. **Tire.** "Tire" means the device made of rubber or any similar substance which is intended to be attached to a motorized vehicle or trailer and is designed to support the load of the motorized vehicle or trailer.
5. **Trailer.** "Trailer" means any vehicle without motive power that is designed to be drawn by a motorized vehicle.
6. Repealed. Laws 1989, c. 927, § 4, eff. July 1, 1990.

36 MRSA § 4832. Fee imposed

1. **Imposition.** A fee is imposed on the retail sale in this State of new tires, new lead-acid batteries, new major appliances, new major furniture items, new bathtubs and new mattresses. The fee is in the amount of \$1 per tire or lead-acid battery and \$5 for major appliances, major furniture items, bathtubs and mattresses. Additionally, fees in the same amounts are imposed on the storage, use or other consumption in this State of tires, lead-acid batteries, major appliances,

major furniture items, bathtubs and mattresses purchased new in this State by the user or purchased out of State by the user unless either of the fees imposed by this section has been paid.

1-A. Repeal. The fee imposed on the retail sale of new major appliances and new bathtubs is repealed January 1, 1996. The fee imposed on new major furniture items and new mattresses is repealed January 1, 1997.

2. Exemption. Transactions that, under the laws of this State, are not subject to taxation in accordance with Part 3 (36 MRSA, section 1751, et seq.) are exempt from the fee imposed by subsection 1. Sales of any items that occur as part of a sale of a trailer, a mobile home or any motorized vehicle are exempt from the fee imposed by subsection 1.

36 MRSA § 4833. Administration

The fee imposed by this chapter is administered as provided in chapter 7 (36 MRSA, sections 111, et seq.) and Part 3 (36 MRSA, sections 1751, et seq.), with the fee imposed pursuant to this chapter to be considered as imposed under Part 3.

The State Tax Assessor shall by rule identify in specific detail those items subject to fee under this chapter. The purpose of the rule is to assist retail sellers, consumers and fee administrators in understanding the application of the fee to specific purchases.

The revenue derived from the fee imposed by this chapter must be deposited in the Maine Solid Waste Management Fund established under Title 38, chapter 24 (38 MRSA, sections 2101, et seq.) which must reimburse the General Fund for the administrative costs of the fee as certified by the Bureau of Taxation.

36 MRSA § 4834. Effective date

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

APPENDIX G

Maine Solid Waste Management Fund					
Actual and Projected Revenues and Transfers					
	<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>
Adj Beginning Balance	1,297,308.77	1,683,243.02	2,700,482.30	3,797,501.20	2,271,732.24
Revenues					
Interest	81,435.16	109,222.34	175,189.56	178,032.79	70,653.29
Tires/Batteries fees	1,129,261.22	1,331,814.31	1,199,837.81	1,289,358.44	1,340,546.41
Unclaimed container	5,558.99				
Special Waste Fees	<u>893,450.30</u>	<u>1,332,331.90</u>	<u>1,646,708.98</u>	<u>1,240,453.81</u>	<u>1,887,890.57</u>
Total FY Revenues	2,109,705.67	2,773,368.55	3,021,736.35	2,707,845.04	3,299,090.27
Total Cash Available	3,407,014.44	4,456,611.57	5,722,218.65	6,505,346.24	5,570,822.51
Transfers					
DEP	1,379,162.00	1,368,870.00	1,480,520.61	1,640,340.00	1,969,868.00
Tires				1,511,500.00	503,800.00
State Planning	309,609.42	342,259.27	450,326.00	920,281.00	330,082.00
General Fund	25,000.00	35,000.00	30,000.00	30,000.00	30,000.00
DAFS (Div of Fin & Pers Svcs)	10,000.00	10,000.00	10,000.00	10,000.00	10,000.00
Supplemental DEP Requests	0.00	0.00	0.00	<u>121,493.00</u>	0.00
Total Transfers	1,723,771.42	1,756,129.27	1,970,846.61	4,233,614.00	2,843,750.00
Cash Available less Transfers	1,683,243.02	2,700,482.30	3,751,372.04	2,271,732.24	2,727,072.51
FY 2001 Transfers to State Planning include \$438,000 for Household Hazardous Waste.					
Supplemental DEP Requests are for Solid Waste Landfills					

APPENDIX I

Maine Solid Waste Management Program Components (July 2006)

MAINE SOLID WASTE MANAGEMENT PROGRAM COMPONENTS

Department of Environmental Protection
State Planning Office
July 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Solid Waste Facilities

- Licensing, compliance, enforcement, technical assistance, education/outreach, site inspection, and complaint response related to: *landfills, waste incinerators, transfer stations and storage sites, processing facilities (including junkyards/auto crushers), beneficial use of solid waste, waste transportation, and tire stockpile abatement.*
 - ✓ Review applications for new facilities and activities and modifications to existing ones.
 - ✓ Prepare recommendations and draft Department and Board Orders concerning license applications.
 - ✓ Conduct compliance inspections.
 - ✓ Review monitoring data and annual reports submitted by facilities.
 - ✓ Conduct enforcement actions.
 - ✓ Prepare written informational materials on solid waste issues.
 - ✓ Provide training and technical assistance to facility operators and municipalities on a variety of solid waste management topics.
 - ✓ Design and deliver the ongoing "Transfer Station Operator Training Program" for municipal operators.
 - ✓ Respond to citizen complaints concerning solid waste handling.
 - ✓ Oversee tire stockpile abatement projects including site management, contract management and public relations.
 - ✓ Administer the municipal and abandoned landfill closure program including inspection and assessment of closed landfills and recommending/coordinating necessary remedial actions.
 - ✓ Participate in the efforts of regional and interstate groups addressing solid waste management issues.
 - ✓ Collect, track and report on "waste handling fees" received from landfill facilities.

Residuals Management

- Licensing, compliance, enforcement, technical assistance, education/outreach, site inspection, and complaint response related to: *land application of sludge, ash and other residuals, septage disposal, and composting operations*
 - ✓ Review applications for new facilities and residuals management programs, and modifications to existing ones.
 - ✓ Prepare recommendations and draft Department and Board Orders concerning license applications.
 - ✓ Conduct compliance inspections.
 - ✓ Conduct “verification sampling” events at residuals handling sites to verify results of water, soils and residuals monitoring.
 - ✓ Review monitoring data and annual reports submitted by facilities and residual users.
 - ✓ Conduct enforcement actions.
 - ✓ Prepare written informational materials on residuals use and management.
 - ✓ Respond to citizen complaints concerning the utilization and storage of sludge and other residuals.
 - ✓ Participate in designing and providing education and training programs with the “Maine Compost School”
 - ✓ Participate in research projects related to residuals use.
 - ✓ Participate in the efforts of industry, regional and interstate planning groups addressing residuals management issues.

Technical Services

- *Engineering and geology reviews of license applications, corrective actions, and monitoring programs and data* related to the above facilities and activities.
 - ✓ Review various technical aspects of landfill license applications including: proposed liner designs, landfill stability issues, leachate and gas management system designs, and hydrogeologic information.
 - ✓ Manage the environmental monitoring database.
 - ✓ Inspect solid waste facilities and related construction projects for conformance with approved plans and sound technical practice.
 - ✓ Implement the Department’s partnership agreement with EPA’s Landfill Methane Outreach Program to promote the use of landfill gas to produce electricity.
 - ✓ Review proposed corrective action plans for landfills.
 - ✓ Conduct research of technical solid waste issues and evaluate alternative technologies such as bioreactor landfill design.
 - ✓ Provide technical assistance to facility operators and others.

Mercury Reduction and Product Stewardship

- Implementation of Maine's mercury reduction and product stewardship initiatives including those related to: *auto switches, thermostats, electronic waste, household hazardous and universal wastes, arsenic-treated wood waste, and school chemical cleanouts.*
 - ✓ Design and conduct training for municipalities and others on the handling of household hazardous waste and universal waste.
 - ✓ Implement the provisions of the new electronic waste management law through rulemaking, guidance development and education of manufacturers, consolidators, retailers and municipalities.
 - ✓ Provide technical and financial support to schools for waste chemical cleanout events.
 - ✓ Provide technical assistance and conduct inspections at auto salvage yards to ensure the removal of mercury containing switches.
 - ✓ Serve as staff to the Mercury Products Advisory Committee.
 - ✓ Conduct compliance and enforcement activities related to mercury product labeling and notification, arsenic-treated wood waste, and electronic waste.
 - ✓ Assist in development and implementation of regional initiatives such as the Interstate Mercury Education and Reduction Clearinghouse ("IMERC").

STATE PLANNING OFFICE

Planning

- Monitor solid waste generation, management and disposal data to establish level of recycling efforts and disposal capacity needs.
 - ✓ Review and conduct data analysis of annually submitted municipal solid waste programs.
 - ✓ Develop and furnish data and trend analyses to reporting entities.
 - ✓ Review solid waste facility reports.
 - ✓ Conduct the commercial recycling broker survey.
 - ✓ Complete biennial reports on state's waste generation and disposal capacity.
 - ✓ Update the State Waste Management and Recycling Plan, which includes a solid waste characterization analysis; an assessment of waste reduction and recycling activities; the determination of existing and potential disposal capacity; and the projected demand for disposal capacity.

Technical and Financial Assistance to Municipalities

- Assist municipalities and regional programs with establishing and/or expanding various waste management programs, including: *reuse, recycling, composting, household hazardous waste, universal waste, 'pay-as-you-throw', information/education efforts, and related activities.*
 - ✓ Provide on-site technical assistance to municipal and regional programs.
 - ✓ Award cost-sharing to municipal programs for HHW events.
 - ✓ Administer the 'Maine Recycles Week' campaign.
 - ✓ Assist municipal and regional programs with infrastructure development of recycling, composting and universal waste management.
 - ✓ Work with groups of communities interested in establishing regional programs to better manage their wastes.
 - ✓ Provide classroom presentations on solid waste issues and recycling programs.
 - ✓ Promote the program's website as an information tool for waste management programs.
 - ✓ Attend local governance meetings to assist in design and implementation of various solid waste program actions.
 - ✓ Cooperate with other state agencies and regional councils of government in furnishing of information, presentations at workshops and other support.
 - ✓ Support regional development of markets for recyclables, through memberships in such organizations as the Maine Resource Recovery Association and the Northeast Recycling Council.

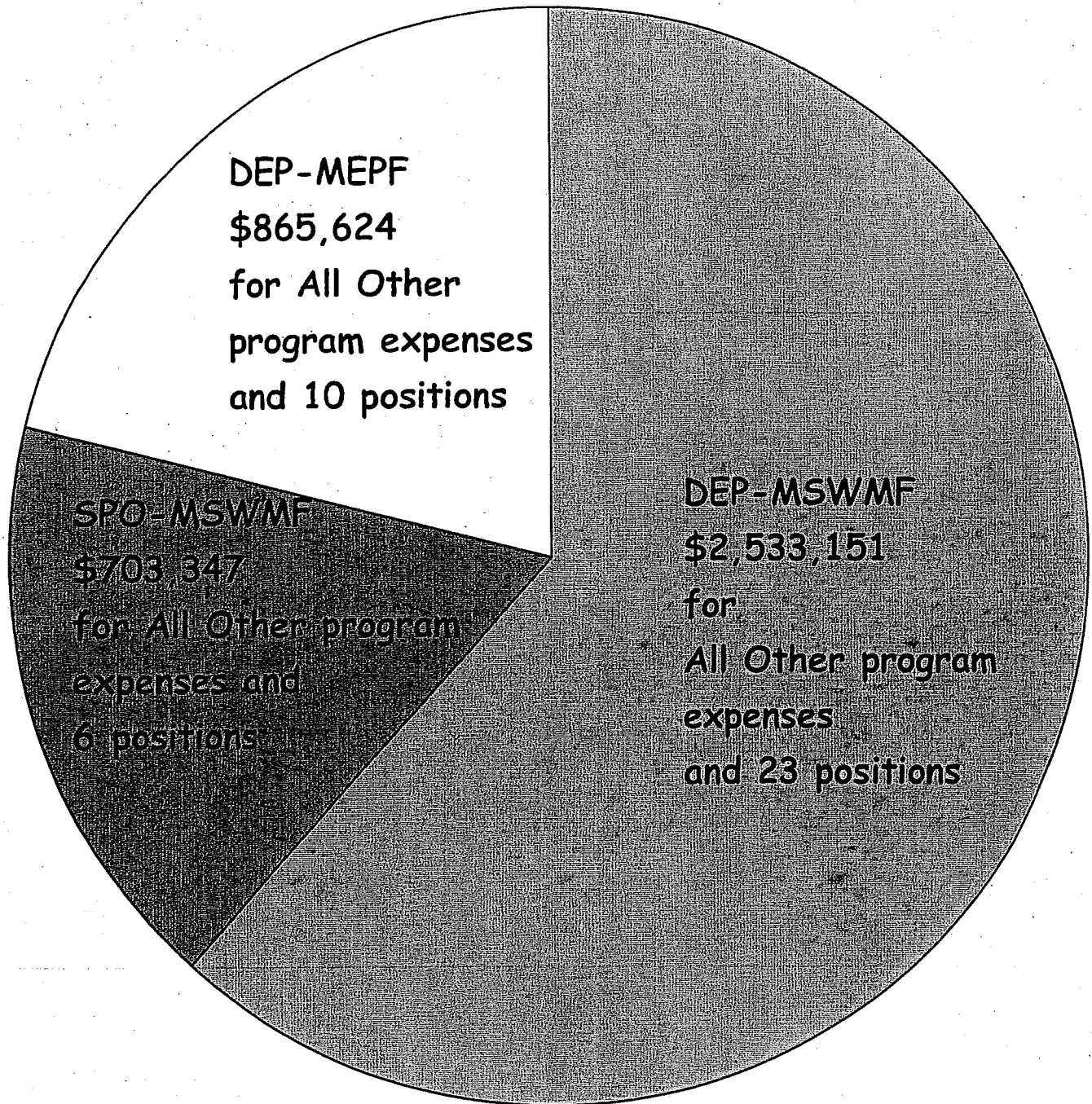
Solid Waste Facility Development

- Plan for the development of facilities sufficient to meet disposal needs for municipal solid waste and special waste generated within Maine.
 - ✓ Monitor disposal capacity consumption and availability.
 - ✓ Recommend development of disposal facilities.
 - ✓ Provide disposal capacity through actions authorized by the legislature
 - ✓ Oversee and manage state-owned disposal facilities.
 - ✓ Own and oversee the operation Juniper Ridge, the state's landfill in Old Town.
 - ✓ Own and maintain the Carpenter Ridge site and permit, for potential development as a state-owned landfill.

APPENDIX J

Solid Waste Management Program Fiscal Year 2006 Distribution of Dollars for Staff Resources and Program Costs

SOLID WASTE MANAGEMENT PROGRAM
FISCAL YEAR 2006 DISTRIBUTION OF DOLLARS
FOR STAFF RESOURCES AND PROGRAM COSTS



APPENDIX K

States' Solid Waste Program Funding Methods

STATE SOLID WASTE PROGRAM FUNDING METHODS*

(Compiled by DEP staff: January 2007)

GENERAL FUND

Idaho, New Hampshire, and Rhode Island appear to rely primarily upon General Fund monies for funding solid waste programs and agencies.

FACILITY LICENSE FEES (*license fees & annual fees*)

Like Maine, most states have solid waste facilities licensing fees that at least partially fund their solid waste regulatory programs. **New Jersey** appears to rely upon these fees almost exclusively to fund its solid waste regulatory program.

DISPOSAL FEES

The following states charge a fee on each ton or cubic yard of solid waste delivered to disposal facilities. Unless clearly indicated differently below, a "disposal facility" means landfills, incinerators and waste to energy facilities. The specific language in most states laws and rules indicates that the fee(s) applies to municipal solid waste, commercial waste and wastes that Maine defines as "special wastes". In many cases, it appears that the fee(s) does not apply to construction and demolition debris (CDD). **Missouri** is an example of a state that established a separate disposal fee for construction and demolition debris.

A number of states charge a fee for all wastes destined for disposal whether that disposal occurs in or outside of the state. **Massachusetts'** \$1/ton disposal fee (for privately owned disposal facilities only) goes to the host municipality in which a disposal facility is located.

Arkansas	\$2.50/ton of waste to disposal facilities and sent to out-of-state disposal facilities
California.	\$1.40/ton of waste to disposal facilities
Colorado	\$0.17/cu.yd. to disposal facilities
Connecticut	\$1.50/ton to disposal facilities
Illinois	\$0.95/ton average to disposal facilities (fee varies with landfill size)
Iowa	\$4.25/ton to disposal facilities, reduction in fee for meeting certain criteria
Kansas	\$1.00/ton to disposal facilities (also a separate annual landfill fee)

*The information presented here describes the principal funding mechanisms for state solid waste programs that were identified as the department surveyed state programs. States mentioned as examples in discussion of each of the particular mechanisms, may use a combination of different funding mechanisms that is not described here. Information is provided concerning many, but not all, of the 50 states.

Massachusetts	\$1/ton to private disposal facilities to the municipality in which the facility is located
Michigan	\$0.07/cu.yd. to disposal facilities
Missouri	\$2.00/ton for MSW to disposal facilities \$1.33/ton of construction/demolition debris (CDD) to disposal facilities
Montana	\$0.40/ton to disposal facilities
Nebraska	\$1.25/ton to disposal facilities
Ohio	\$3.50/ton of waste to solid waste disposal facilities. Prior to July 1, 2005 the solid waste disposal fee was \$2/ton. The fee is often collected at Ohio transfer stations but is just for solid waste destined for disposal facilities.
Pennsylvania	\$2.00/ton of solid waste to disposal facilities also, \$1/ton host community benefit fee of solid waste to the same disposal facilities.
S. Dakota	\$3.00/ton for disposal facilities over 250,000 tons per year; and \$1.00/ton for disposal facilities that are less than 250,000 tpy. As of July 2004, South Dakota modified its law to require a 4% state sales tax on gross receipts from all garbage and solid waste services.
Tennessee	\$0.20/ton "facility inspection fee" applies to MSW landfills and incinerators.
Texas	\$1.25/ton for disposal facilities
Vermont	\$6.00/ton "franchise tax" levied on each ton of solid waste delivered for disposal or incineration at either in-state or out-of-state facilities.

BOTTLE BILL "FLOAT"

Those states with beverage container return laws ("bottle bills") generally place deposit requirements of \$0.05 or more on each designated beverage container sold to retail customers in the state. The deposits are returned to customers when the empty containers are returned to a retailer or other approved location. In all states with bottle bills, some percentage of the containers that customers have paid deposits on are never returned for deposit refunds. The deposit money collected from these containers but never refunded is commonly known as the "float", and in many states is retained by the beverage distributor or bottler. In some states, the law requires that all or a portion of that money be escheated to the state. (Including **California, Massachusetts** and **Michigan**) A number of other state are considering similar legislation (**Connecticut, New York** and **Vermont**).

California - California's beverage container law is administered in a significantly different way than most other states' container laws. The law provides, in part, that beverage distributors pay fees initially (based on size of containers) directly to the State of California. Consumers redeem containers at authorized redemption centers. The system is complex and involves other fee transactions among distributors, retailers, redemption centers and recyclers. After meeting financial obligations under the law, the State of California retains remaining funds. The California Beverage Container Recycling Fund is used for:

- paying handling fees for container processors,
- curbside and neighborhood recycling programs,

- litter reduction and other recycling related programs, and
- public education and information campaigns.

Massachusetts - Distributors in Massachusetts are required to return all unclaimed deposits on a periodic basis. Massachusetts, like California, receives 100% of the unclaimed deposit money. 100% of these funds are credited to the Clean Environment Fund and are used to fund much, if not all, of the state's solid waste programs and initiatives. From FY 1990 to FY 2002, approximately 27% of this money was used to support recycling and other solid waste programs and 73% provided funding for Massachusetts DEP administrative costs.

Michigan - A portion of Michigan's unclaimed deposits are transferred to the State. In Michigan, 75% of unclaimed deposit money is transferred to the Cleanup and Redevelopment Trust Fund, overseen by the Michigan Department of Treasury. The other 25% is distributed by the Treasury to retailers. At least 80% of the money in the Trust Fund is designated for municipal landfill cost-share grants, state match to federal superfund dollars, solid waste and hazardous waste response activity, and other similar environmental programs. The remaining 20% goes into two other environmental community and cleanup trust accounts.

STATE TIRE FEES

Thirty four (34) states require the payment of a fee on the sale of new tires:

- 26 states** collect fees at the **retail** level
- 3 states** collect fees at the **wholesale** level
- 5 states** collect tire fees on **vehicle registrations**

Although a number of states dedicate some or all of the tire fee revenue to tire cleanup programs, there are at least 8 (including **Maine**) that use all or a portion of the funds for broader solid waste program purposes (**Rhode Island, New Jersey, Maryland, Florida, Mississippi, California, and Nevada**).

OTHER FINANCIAL MECHANISMS

Florida	0.2% of sales tax , also portion of vehicle registration fee
Minnesota	variable sales tax on solid waste management services provided by a waste hauler to a customer. The rate for residential customers is 9.75% of the service cost and for commercial and industrial customers is 17%. Each hauler remits the amounts collected to the state.
New York	Portion of property tax , also portion of license plate sales
S. Dakota	Gross receipts for all garbage and solid waste services are subject to the 4% sales tax.
Washington	3.6% " collection tax " imposed on charges for solid waste collection services. Tax is collected and remitted to the state by the service providers.
Rhode Island	" Hard to dispose " materials fees on lubricating oils, antifreeze, organic solvents and tires, paid by wholesalers.

APPENDIX L

**Summary of NEWMOA State Solid Waste Programs
Funding and Staffing Levels
(September 13, 2005)**

Summary of NEWMOA State Solid Waste Programs Funding and Staffing Levels
Final Draft: September 13, 2005

State	Staff Levels (professionals)	Funding Source
Connecticut	Permitting: Compliance/Enforcement: Technical Assistance/Recycling: Other: Total: 30 FTEs at DEP	\$1.50 per ton tipping fee funds the Solid Waste Account (SWA) – Funds 25 FTEs in Waste Engineering and Enforcement, recycling, and air (3 FTEs working on air issues related to SW) – includes 7 positions recently transferred from the MSW Recycling Account (note that air program staff funded from the SWA were reduced from 10 to 3). The other 5 positions funded from state's General Fund. The fee was recently increased from \$1.00 per ton
Maine	Permitting: Compliance/Enforcement: Technical Assistance/Recycling: 6 (at State Planning Office) Other: Total: 31 FTEs at DEP plus 6 at State Planning Office	\$5.00 per ton disposal fee on most wastes classified as Special Wastes that are disposed at commercial and regional landfills (MSW incinerator ash is \$2.00 per ton), as well as fees on purchase of new automobile tires and batteries goes into the Maine Solid Waste Management Fund (ME SWMF) that supports the State's recycling and solid waste management programs. 6 FTEs at the State Planning Office and 24 FTEs at DEP are funded from the ME SWMF. Another 7 FTEs at DEP that work on MSW issues are funded from the Maine Environmental Protection Fund (ME EPF). The ME EPF is funded by application fees and annual reporting fees assessed on a variety of solid waste facilities and activities.
Massachusetts	Permitting: Compliance/Enforcement: Technical Assistance/Recycling: Other: Total: 42 FTEs at DEP in FY05 (was 56 FTEs in FY02)	Annual Compliance Fee levied on disposal and transfer facilities – raises approx. \$800,000 per year – used to fund much of inspection/compliance related activities – was a dedicated fund - fee now deposited in state's General Fund. Permit Fees – used to fund most of permit-related activities – was a dedicated fund - fees now deposited in state's General Fund. Unclaimed Bottle Deposits –were dedicated to the Clean Environment Fund (CEF) and used for recycling, composting and solid waste reduction staff at DEP and grants for community projects. The CEF was abolished in 2003 – unclaimed bottle deposits now go into state's General Fund and the recycling program were significantly cut. All DEP staff and programs are now funded from annual appropriation from the General Fund.

State	Staff Levels (professionals)	Funding Source
New Hampshire	Permitting: 5 Compliance/Enforcement: 2 Technical Assistance/Recycling: 2 Other (Grants Mgmt): 2 Total: 11 FTEs at DES	Modest revenue from permit fees is deposited into the General Fund – there is no other revenue generation – all DES positions in MSW are funded from state’s General Fund
New Jersey	Permitting/Advisement/Transporter: 60 Compliance/Enforcement: 27 Recycling: 10 Other (economic, A-901, medical waste NJPDES (closed landfills only): 20 Total: 117 FTEs at DEP	DEP regulatory and oversight program funded by two separate appropriations from the legislature – one to the Division of Solid and Hazardous Waste and one to the Enforcement Division. The appropriations fund more than just MSW-related activities. Note that DEP no longer collects the \$1.50 per ton tipping fee surcharge that funded recycling grants – DEP provides \$3-3.5 million in recycling grants to municipalities each year through funding from the Clean Communities Program Fund (funded by a tax on litter producing products). DEP assesses fees on solid waste facilities – all fees go to the state’s General Fund: annual registration fee (\$6,006); and fees that vary with facility type (mainly sanitary landfill, transfer stations and materials recovery facilities, and thermal destruction facilities) and size: annual compliance monitoring services fee (\$1,806-\$8,286); initial permits (\$78,566-\$271,452); permit renewals – every 5 years (\$31,141-\$140,661); major permit modification (\$17,808-\$77,906); minor permit modification (\$6,984-\$18,508; transfer of permit ownership (\$10,825-\$31,141); minor technical review (\$698-\$6,169). There is a similar set of activities with various fees for closure plans. DEP also assesses fees on solid waste transporters.

State	Staff Levels (professionals)	Funding Source
New York	Permitting: Compliance/Enforcement: Technical Assistance/Recycling: Other: Total: 67 FTEs at DEC – also approximately 5 others at Empire State Development	<p>There are two main funding sources in New York for recycling efforts. The state's General Fund is used to allocate funds for staff and state government operation costs. Two state agencies are involved with recycling: DEC Bureau of Solid Waste, Reduction and Recycling is charged with enhancing recycling supply development and Empire State Development's Environmental Services Unit is charged with recycling market development. The second funding source is the Environmental Protection Fund (EPF) which is mainly funded through New York's Real Estate Transfer Tax (RETT) - EPF funds are used for state grants to municipalities and other organizations for recycling equipment and coordinator salaries, HHW collection programs, and market development.</p> <p>There are no permit fees or other revenue generation – all DEC and ESD staff positions for MSW are funded from state's General Fund.</p>
Rhode Island	Permitting: Compliance/Enforcement: Technical Assistance/Recycling: Other: Total: 5 FTEs in Office of Waste Management and 3 in Office of Compliance and Inspection	<p>RIRRC, a quasi-state agency, is charged with the development of "an integrated statewide system of solid waste management facilities" including recycling facilities. RIRRC owns and operates solid waste management facilities, and plans and implements commercial and municipal recycling and source reduction programs. RRIC is funded through the tipping fee at its landfill.</p> <p>DEM assesses license fees: Transfer stations and C&D facilities - \$10,000 (new) and \$3,000 (renewal every 3 years); Landfills - \$100,000 (new) and \$15,000 (renewal every 3 years)</p> <p>All DEM staff are funded by state's General Fund</p>
Vermont	Permitting: 6 Compliance/Enforcement: 2 Policy/Planning/Technical Assistance/Recycling: 5.5 Other: Total: 13.5 FTEs at DEC	<p>\$6 per ton tax on waste that is disposed (including that sent out-of-state) – funds all DEC staff and activities, including education, recycling, and grant programs. Also a \$0.75 per ton annual permit fee on transfer stations, disposal facilities, and other SW management facilities (except recycling and composting facilities) – used to support permitting activities.</p>

APPENDIX M

**Summary: Waste Handling Fees paid
FY03 – FY06**

Special Waste Fee Summary - 7/2002 through 6/2006

1/25/2007

7/2002 - 6/2003

City of Augusta	309.13
City of Bath	65.00
City of Lewiston	18,445.50
City of Presque Isle	9,369.06
City of Rockland	53,052.47
ECOMAINE	43,569.89
Pine Tree Landfill	354,859.32
Town of Hartland	1,561.20
Tri-Community Landfill	29,247.40
Waste Management Disposal Services of M	787,677.26
	<u>\$1,298,156.23</u>

7/2003 - 6/2004

City of Augusta	723.24
City of Bath	100.00
City of Lewiston	18,894.09
City of Presque Isle	9,497.42
City of Rockland	41,623.43
ECOMAINE	47,252.68
News of ME LLC	57,866.69
Pine Tree Landfill	555,914.30
Town of Hartland	1,644.20
Tri-Community Landfill	15,461.93
Waste Management Disposal Services of M	675,788.95
	<u>\$1,424,766.93</u>

7/2004 - 6/2005

City of Augusta	2,921.49
City of Bath	55.00
City of Lewiston	20,263.10
City of Presque Isle	12,337.16
City of Rockland	36,023.37
ECOMAINE	29,136.58
News of ME LLC	131,986.12
Pine Tree Landfill	586,572.22
Town of Hartland	1,564.40
Tri-Community Landfill	6,626.27
Waste Management Disposal Services of M	618,680.08
	<u>\$1,446,165.79</u>

7/2005 - 6/2006

City of Augusta	407.93
City of Bath	105.00
City of Lewiston	20,249.14
City of Presque Isle	6,056.44
City of Rockland	19,006.52
ECOMAINE	13,125.74
News of ME LLC	422,324.79
Pine Tree Landfill	527,680.78
Town of Hartland	1,293.60
Tri-Community Landfill	27,724.01
Waste Management Disposal Services of M	696,771.88
	<u>\$1,734,745.83</u>

Grand Total:

\$5,903,834.78

APPENDIX N

38 MRSA §2101 (Solid Waste Management Hierarchy)

**CHAPTER 24
SOLID WASTE MANAGEMENT AND RECYCLING
SUBCHAPTER I
GENERAL PROVISIONS**

38 MRSA § 2101. Solid waste management hierarchy

1. **Priorities.** It is the policy of the State to plan for and implement an integrated approach to solid waste management, which shall be based on the following order of priority:
 - A. Reduction of waste generated at the source, including both amount and toxicity of the waste;
 - B. Reuse of waste;
 - C. Recycling of waste;
 - D. Composting of biodegradable waste;
 - E. Waste processing which reduces the volume of waste needing land disposal, including incineration; and
 - F. Land disposal of waste.

38 MRSA § 2101-A. Definitions

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

1. **Repealed.** Laws 1995, c. 465, § 28, eff. July 3, 1995.
2. **Office.** "Office" means the State Planning Office.

**SUBCHAPTER II
SOLID WASTE PLANNING**

38 MRSA § 2121. Repealed. Laws 1995, c. 465, § A-33, eff. July 3, 1995.

38 MRSA § 2122. State waste management and recycling plan

The office shall prepare an analysis of, and a plan for, the management, reduction and recycling of solid waste for the State. The plan must be based on the priorities and recycling goals established in sections 2101 and 2132. The plan must provide guidance and direction to municipalities in planning and implementing waste management and recycling programs at the state, regional and local levels.

1. **Consultation.** In developing the state plan, the office shall consult with the department. The office shall solicit public input and may hold hearings in different regions of the State.
2. **Revisions.** The office shall revise the analysis by January 1, 1998 and every 5 years after that time to incorporate changes in waste generation trends, changes in waste recycling and disposal technologies, development of new waste generating activities and other factors affecting solid waste management as the office finds appropriate.

38 MRSA § 2123. Repealed. Laws 1995, c. 465, § A-35, eff. July 3, 1995.

38 MRSA § 2123-A. State plan contents

The state plan includes the following elements.