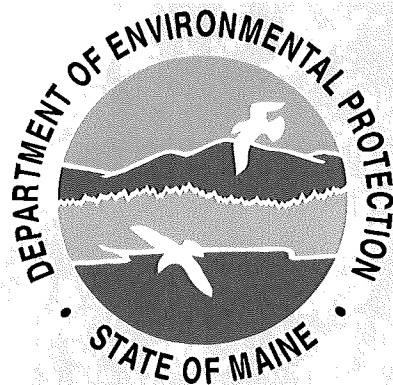


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Report on Potential Sources of Revenue from Fees on Construction and Demolition Debris Handling

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

February 2008

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

Review of Potential Sources of Revenue from Fees on Construction and Demolition Debris Handling

I. INTRODUCTION

This report is submitted to the Joint Standing Committee on Natural Resources pursuant to Public Law 2007, chapter 414 (“An Act to Implement Recommendations of the Blue Ribbon Commission on Solid Waste Management”). Chapter 414 required the Department of Environmental Protection (DEP) to submit a report on funding options for the State’s solid waste management program based on the report dated March 2007 and titled “Report on Solid Waste Management Program Funding.” Chapter 414 further required that “the report must also include recommendations concerning potential sources of revenue from fees on the handling of construction and demolition debris, the production of construction and demolition debris wood fuel and the use of that wood fuel in the State sufficient to fund monitoring and compliance activities at facilities producing, disposing of, beneficially using or otherwise handling construction and demolition debris.” PL 2007 chapter 414 is attached as Appendix A.

II. MARCH 2007 “REPORT ON SOLID WASTE MANAGEMENT PROGRAM FUNDING

Resolves 2005 chapter 35 (“Resolve, Regarding the Recycling Assistance Fee”) required the DEP to submit a report concerning solid waste management program funding that included “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, 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.” The March 2007 “Report on Solid Waste Management Program Funding” is attached as Appendix B (without its appendices).

The 2007 report describes the present sources and levels of funding for state solid waste management programs, provides information on programs and revenue needs, and evaluates a number of possible funding options. The 2007 funding report also described the work of the “Blue Ribbon Commission on Solid Waste Management” which in 2006 made a recommendation endorsing a fee structure for solid waste management programs 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; and, is designed to support and further the goals of the statutory waste hierarchy.”

III. REVENUE SOURCES AND NEEDS

As described in detail in the attached March 2007 "Report on Solid Waste Management Program Funding" (Appendix B), there are currently two funding sources for state solid waste programs: the Maine Solid Waste Management Fund (MSWMF) and the Maine Environmental Protection Fund (MEPF).

The MSWMF is the primary funding source for both DEP and SPO programs. It receives revenues from "special waste handling fees" (charged for certain wastes on a volume basis at landfills in accordance with a statutory fee schedule) and from the \$1 fee charged on tires and batteries at the point of retail sale. In FY 06, the MSWMF took in approximately \$3.2 million in total revenues.

The MEPF was established as a nonlapsing fund to supplement licensing programs administered by DEP. Revenues into the fund are derived from fees associated with license application reviews and annual license and report fees. In FY 06, total revenues from solid waste MEPF fees were approximately \$800,000.

The March 2007 funding report includes discussion about current state solid waste management programs, and existing and anticipated resource needs. Section III of that report, titled *Solid Waste Management Programs and Staffing*, includes a discussion of the funding required to support all solid waste programs, including the monitoring and compliance activities at facilities producing, disposing of, beneficially using, or otherwise handling CDD.

IV. CONSTRUCTION AND DEMOLITION DEBRIS FACILITIES AND VOLUME OF MATERIAL HANDLED

Construction and demolition debris (CDD) is handled at a number of different types of solid waste facilities in Maine. These include landfills, transfer stations, waste processing facilities and biomass plants. CDD is managed in a variety of ways in the state, the method(s) chosen being, in part, dependent upon the options available in the region where the waste is generated.

Attached as Appendix C are lists of waste facilities routinely handling CDD in the state and the approximate volumes handled at each on an annual basis. These lists were developed using the most recent volume data available, but include estimations or projections for certain facilities. The data is intended to provide information on the numbers and types of facilities that handle CDD in Maine, and from that, a general sense of the level of revenue that might be anticipated if fees on CDD were put in place at specific facility types. For example, a \$0.50 fee on each ton of CDD wood fuel received at biomass boilers would generate approximately \$161,750 annually; a \$1 per ton fee on all CDD landfilled in Maine would yield \$567,150. More precise volume projections would, however, need to be made before calculating accurate revenue projections for a particular time period. Volumes may vary from year to year at certain facilities, and other circumstances such as the scheduled closure of the Pine Tree Landfill would need to be accounted for.

V. REVENUE OPTIONS

General – As discussed in the 2007 “Report on Solid Waste Management Program Funding,” Maine (as well as at least 18 other states) currently imposes fees on various types of waste disposed at commercial, municipal and regional association landfills. Presently, revenues are derived primarily from fees on “special wastes” most of which are assessed at \$5 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 solid waste programs.

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. Extending the fee system to include additional waste types (such as CDD) and facility types (such as processing facilities) could substantially increase revenues. A variable fee schedule could be established that provides both incentives and disincentives for the management of different waste types that are consistent with the goals of the statutory waste management hierarchy. With increased revenues come potential opportunities for the state to provide additional support and services to municipalities and regions for their waste management programs.

Construction and Demolition Debris – In evaluating revenue options related to CDD handling and disposal, an important element of any potential option is the relationship or connection of the fee system to the goals of the statutory waste management hierarchy.

In a fee system that includes fees on CDD handling (or, for that matter, many other waste types) the opportunity arises to foster the implementation of the statutory solid waste management hierarchy through charging differential fees based on the fate of the waste being handled. In Maine, CDD is processed, beneficially used as fuel, or disposed in a landfill. Fees could potentially be charged on wastes handled through any or all of these methods. A differential fee system could be established which charges fees on all CDD waste handled, but which sets fees commensurate with the handling method’s placement within the hierarchy, thus providing some incentive to choose methods consistent with the goals of the hierarchy.

At processing facilities, a choice would need to be made to charge fees on wastes received **or** on waste products and residues as they leave the facility. The latter option has the advantage of allowing for a fee system that provides an incentive for recycling and discourages the production of waste for disposal. Fees on CDD-derived fuel delivered to biomass boilers and CDD delivered to landfills for disposal would most likely be charged on CDD material as it is received by the facility.

LIST OF APPENDICES

- **Appendix A** – Public Law 2007, Chapter 414 (“An Act to Implement Recommendations of the Blue Ribbon Commission on Solid Waste Management”)

- **Appendix B** – Report on Solid Waste Management Program Funding, March 2007

- **Appendix C** – Table: Maine Solid Waste Facilities Handling Construction and Demolition Debris and Approximate Volumes Handled Annually

APPENDIX A

**Public Law 2007, Chapter 414 (“An Act to Implement
Recommendations of the Blue Ribbon Commission on Solid
Waste Management”)**

APPROVED

CHAPTER

STATE OF MAINE

JUN 25 '07

414

BY GOVERNOR

PUBLIC LAW

IN THE YEAR OF OUR LORD

TWO THOUSAND AND SEVEN

S.P. 708 - L.D. 1908

**An Act To Implement Recommendations of the Blue Ribbon Commission on
Solid Waste Management**

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

Sec. 1. 38 MRSA §1303-C, sub-§1-C is enacted to read:

1-C. Bypass. "Bypass" means any solid waste that is destined for disposal, processing or beneficial use at a solid waste facility but that cannot be disposed of, processed or beneficially used at that facility because of the facility's malfunction, insufficient capacity, inability to process or burn, downtime or any other comparable reason.

Sec. 2. 38 MRSA §1310-N, sub-§1, ¶B, as amended by PL 1995, c. 465, Pt. A, §13 and affected by Pt. C, §2, is further amended to read:

B. In the case of a disposal facility other than a facility owned by the State, the facility provides a substantial public benefit, determined in accordance with subsection 3-A, except that this paragraph does not apply to a facility owned by the State and in operation prior to June 1, 2007 or to an expansion of that facility; and

Sec. 3. 38 MRSA §1310-N, sub-§11 is enacted to read:

11. Waste generated within the State. Consistent with the Legislature's findings in section 1302, a solid waste disposal facility owned by the State may not be licensed to accept waste that is not waste generated within the State. For purposes of this subsection, "waste generated within the State" includes residue and bypass generated by incineration, processing and recycling facilities within the State or waste, whether generated within the State or outside of the State, if it is used for daily cover, frost protection or stability or is generated within 30 miles of the solid waste disposal facility.

Sec. 4. 38 MRSA §1310-AA, sub-§4, as enacted by PL 1995, c. 465, Pt. A, §22 and affected by Pt. C, §2, is amended to read:

4. Application. This section does not apply to facilities described in section 1310-N, subsection 3-A, paragraph A or to facilities a facility owned by the State and in operation prior to June 1, 2007 or to an expansion of that facility.

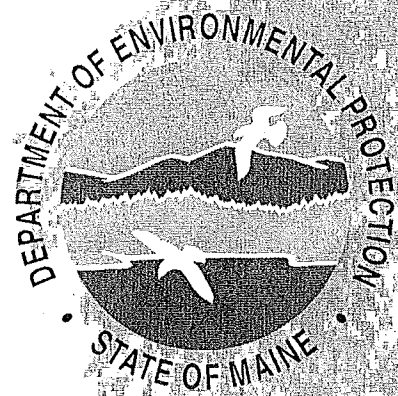
Sec. 5. 38 MRSA §1310-AA, sub-§5 is enacted to read:

5. Modifications. Public benefit determinations may be revised by the department if the department finds that a material change in the underlying facts or circumstances upon which a public benefit determination was based has occurred or is proposed, including, but not limited to, a change related to disposal capacity. The department may require the holder of a public benefit determination to submit an application for modification of that determination if the department finds that a change in the underlying facts or circumstances has occurred or is proposed.

Sec. 6. Report. By January 15, 2008, the Department of Environmental Protection shall submit to the Joint Standing Committee on Natural Resources a report on funding options for the State's solid waste management program based on the report dated March 2007 and titled "Report on Solid Waste Management Program Funding" that was submitted to the Joint Standing Committee on Natural Resources by the Department of Environmental Protection. The report must also include recommendations concerning potential sources of revenue from fees on the handling of construction and demolition debris, the production of construction and demolition debris wood fuel and the use of that wood fuel in the State sufficient to fund monitoring and compliance activities at facilities producing, disposing of, beneficially using or otherwise handling construction and demolition debris.

APPENDIX B

**Report on Solid Waste Management Program Funding
March 2007
(without appendices)**



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
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207-287-7718

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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 MEPP, 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 MSWMP to fund immediate remedial and corrective action needs at several abandoned sites. As discussed earlier, the MSWMP 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 MRSA §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 C

**Table: Maine Solid Waste Facilities Handling Construction
and Demolition Debris and Approximate Volumes Handled
Annually**

APPENDIX C

**Maine Solid Waste Facilities Handling
Construction and Demolition Debris and
Approximate Volumes Handled Annually*
(Compiled by Department of Environmental Protection
February 2008)**

Biomass Boilers	CDD Wood Fuel Received (tons/year)**
Boralex -- Livermore Falls	128,500
Red Shield -- Old Town	75,000
SAPPI - Westbrook	120,000
Total	323,500

Landfills -- Mixed Waste	CDD Received
Augusta	4,200
Bath	2,100
Greenville	120
Lewiston	1,400
Pine Tree - Hampden	268,200
Presque Isle	2,000
Juniper Ridge -- West Old Town	163,600
Tri-Community -- Fort Fairfield	2,000
Waste Management -- Norridgewock	102,300
West Forks	50
Total	545,970

CDD Landfills	CDD Received
Baileyville	290
Blue Hill	400
Brewer	810
Central Penobscot Solid Waste - Corinth	90
Dover-Foxcroft	690
Glenburn	360
Greenbush	30
Marion Transfer Station	8,000
Mechanic Falls	550
Mid-Coast Solid Waste Corp. - Rockport	2,350
Mid-Maine Solid Waste Assoc. - Corinna	850
Norway-Paris	400
Oakland	1,800
Old Town	100
Orono	320
Penquis Solid Waste Corp. - Milo	730
Rangeley	10
Rockland	3400
Total	21,180

APPENDIX C (Cont.)

Processing Facilities	CDD Received
Aggregate Recycling - Eliot	21,000
Commercial Recycling Systems - Scarborough	35,500
KTI Bio Fuel - Lewiston	106,500
Pine Tree Waste – Westbrook (proposed)	143,000 (proposed)
Simpson - Sanford	11,100
Plan-It - Gorham	31,300
Waste Processed at Municipal Facilities	9,300
Total	357,700

* Approximate CDD tonnages handled were derived from the most recent actual volume data available, or in some cases from estimations or projections.

** Tonnages of CDD wood fuel received at biomass facilities are projections based on capacity and other factors.