



SPO
Maine State
Planning Office



Report: Proposal to Consolidate Maine's Solid Waste Management Program

Maine Department of Environmental Protection

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I. INTRODUCTION

This report is submitted to the Joint Standing Committee on Natural Resources pursuant to Public Law 2007 Chapter 583 (An Act to Improve Solid Waste Management). Among other provisions, the law required that the Department of Environmental Protection and the Executive Department, State Planning Office, “develop a system by which solid waste management activities are performed by them”. It was further required that the agencies submit a report on the system by January 5, 2009, and that the report “identify any legislative changes that are necessary for the implementation of the system”. Finally, Chapter 583 required an “analysis of the agencies’ respective ability to control the different and various waste streams flowing into state-owned landfills”. Public Law 2007 Chapter 583 is attached as **Appendix A**.

This report proposes a consolidation of state solid waste programs at the Maine Department of Environmental Protection. Under the plan, it is proposed that the state-owned solid waste disposal facility ownership and oversight function, as well as associated capacity planning, remain at the State Planning Office, and that other solid waste planning, policy, education/outreach, technical assistance, and data functions transfer to the Department of Environmental Protection.

II. BACKGROUND

Under the provisions of current statute, both the Department of Environmental Protection (DEP) and the State Planning Office (SPO) have responsibilities related to state solid waste management programs. Both agencies collect data, carry out research, provide technical assistance, education/outreach, and training, and conduct program planning and policy development on a range of solid waste management matters. Also, the Department of Environmental Protection regulates solid waste facilities and activities to protect environmental quality and public health/safety. The State Planning Office supports municipal and regional recycling programs to reduce reliance on land disposal, and owns and operates the state-owned Juniper Ridge Landfill.

In recent years, a number of groups have examined this structure for delivering state solid waste programs.

In the fall of 2005, thirty-five people representing the interests of state, regional, and local government, public entities, citizen groups, environmental organizations, and the private sector comprised the State Solid Waste Policy Review Task Force. The Task Force identified a need to revisit the roles of state agencies involved with solid waste planning, regulation, data collection and funding, but did not make any recommendations concerning the issue.

In 2006, the Legislature’s Blue Ribbon Commission on Solid Waste Management was established by the Maine Legislature through emergency Resolve 2006, Chapter 207. One of the Commission’s recommendations was to:

Request that DEP and SPO work cooperatively to identify solid waste data needs, and the most appropriate and effective means of gathering and managing current data for timely reporting.

Chapter 583 (LD 810) broadened the scope of review to be performed by SPO and DEP to include looking at a “system” for delivering state solid programs by the two agencies. In response, DEP and SPO initiated discussions during the summer of 2008 concerning those responsibilities and the development of a “system” for better managing them.

Also during 2008, the Governor’s Natural Resource Agency Consolidation Task Force was meeting regularly. Several members of that task force preliminarily recommended that certain solid waste management responsibilities be moved from the State Planning Office to the Department of Environmental Protection. In its final recommendations, the Task Force noted that Public Law 2007 Chapter 583 (LD 810) required the two agencies to develop a system for carrying out solid waste management program responsibilities and that it could serve as a vehicle to further explore the idea of consolidation as proposed by some members of the Task Force.

Consistent with the direction of Public Law 2007 Chapter 583 (LD 810), the agencies have evaluated programs and developed a proposal to shift certain responsibilities from the State Planning Office to the Department of Environmental Protection.

III. CURRENT AGENCY TASKS

At the outset, the two agencies catalogued their various program roles and responsibilities and identified areas of potential overlap.

Attached as **Appendix B** is a table that outlines the current tasks/responsibilities of both DEP and SPO in the area of solid waste management. The table presents these tasks within 10 functional areas:

- Technical and financial assistance;
- Education and outreach;
- Training;
- Data management and analysis;
- Data gathering, evaluation and research;
- Program planning, coordination, and development;
- Environmental remediation;
- Licensing and related determinations;
- Compliance and enforcement; and,
- Solid waste facility development.

During a detailed review of their respective activities under statute, SPO and DEP found that there is certainly room for improved coordination and communication. It was

apparent however, that while each agency has statutory duties for delivering state solid waste programs, much of what each does is distinct from the other.

For example, both SPO and DEP provide technical assistance to municipal solid waste operators. DEP looks at a facility's material handling with a primary focus and intent to minimize environmental impacts. SPO on the other hand assists with recyclables handling to increase quality and marketability of recycled materials, or to improve efficiencies and lower operational costs. Both agencies agree, however, there is a need to coordinate our respective efforts to assure consistency in message, avoid confusion, and improve service to the customer.

IV. BENEFITS OF SOLID WASTE PROGRAM CONSOLIDATION

A variety of potential benefits of consolidation of solid waste program responsibilities has been identified and evaluated:

- 1. Consolidating program areas and functions that the agencies administer would increase the efficiency and effectiveness of program services to customers.**

DEP and SPO both administer programs that promote waste reduction, reuse and recycling. Both agencies engage in work on various aspects of composting, recycling of universal waste (such as mercury added products and electronic waste), and beneficial use of solid waste. Both agencies offer technical assistance to municipalities and regions. The agencies provide training and education to a range of parties. Although the focus of these efforts is different currently, real and perceived divisions in program roles and responsibilities can lead to missed opportunities to take advantage of the knowledge, connections and expertise that exist in each agency. Merger of the programs would make it easier to develop and coordinate responses to changing priorities and emerging issues, and for customers to understand how program services are delivered, where to seek answers to questions, and where to access technical assistance and support.

- 2. Program consolidation would facilitate the development of a comprehensive State Solid Waste Management and Recycling Plan that takes full advantage of the strengths and expertise currently residing in two separate agencies.**

One of the current responsibilities of the State Planning Office is to periodically revise the State Waste Management and Recycling Plan "in consultation with" the Department. The Plan is an important document that is comprehensive and addresses all facets of waste management in Maine to provide appropriate guidance and direction to municipalities, businesses, and others concerning achievement of waste management

goals and objectives. Program consolidation would facilitate the focused development of the State Plan and would allow the state to put more resources towards the state planning process.

3. Program consolidation would facilitate the establishment of a single data collection point and provide an enhanced management system for that data.

Both DEP and SPO currently collect, manage, and use solid waste management data from a variety of sources. An effort has recently been initiated between the agencies to identify needs and overlaps and to make some adjustments in how the agencies collect and manage data. For example, both DEP and SPO require that municipalities submit annual reports on various aspects of their waste management programs and facilities. A single report approach has been developed for this purpose and will be implemented shortly.

The collection, management, and availability of data related to waste volumes handled in Maine and the sources of that waste has become increasingly important in legislative and policy discussions. Historically it has been the case that some types of data were collected by one of the agencies, some data was collected by both, and sometimes there were interagency discrepancies in data. Consolidation of the programs would allow for the establishment of a single data collection and management system that would make it easier for those who submit information and data (including municipalities, businesses, and industries) and for those who use it (including the Legislature, state agencies, and municipalities).

4. Program consolidation would facilitate more effective use of existing resources for technical assistance/outreach services to program managers.

Both DEP and SPO currently provide training, technical assistance, and outreach on a variety of topics to municipalities, businesses, industries, and others involved with solid waste facilities and activities. Waste facility operator training, composting pilot projects, and municipal waste stream management are examples of areas in which presently both agencies have a role. It is anticipated that program consolidation would result in improved use of existing resources and service to the public.

5. Program consolidation would unite public education/outreach activities.

Consolidation of the programs could increase the effectiveness of education and outreach activities to the public through better audience and message targeting. Both DEP and SPO have developed and implemented

a number of very successful public education/outreach programs. Some of DEP's efforts include the electronic waste and mercury containing waste programs, and work done in the area of pharmaceutical collections. SPO's new media campaign aimed at getting young people to recycle has had extensive exposure over the past year. The thought would be to build on these successful approaches to enhance public awareness of waste management issues.

6. Program consolidation would merge SPO municipal assistance programs for managing household hazardous waste with DEP's toxics reduction efforts.

Partnering with DEP, the State Planning Office has effectively coordinated efforts to build the public infrastructure for the collection and proper management of household hazardous waste, including the creation of the first two permanent, collection facilities; one in Lewiston and one in Portland. Shifting this work to DEP would complement their existing toxics reduction efforts which include training and technical assistance to municipalities and regions concerning household hazardous and universal waste collections

7. Allocation of resources at a single point of program planning and coordination would allow for increased flexibility in the application of resources to support existing and emerging, priority programs as needed.

Currently, the State Planning Office and the Department set priorities for the use of resources primarily within their own areas of responsibility. Consolidation of the programs would provide increased flexibility to place resources where they are most needed at any particular point in time.

Municipalities and regions in particular are in continuing need of state assistance and support. Consolidated management of waste programs could encourage and facilitate cross program approaches such as applying enforcement penalty monies ("supplemental environmental projects") to the establishment of single stream recycling centers or universal waste collection facilities.

There are a number of important waste management approaches, including product stewardship and environmentally preferable purchasing, that continue to emerge and evolve and that have real potential to positively affect waste management outcomes in Maine. DEP has successfully established and implemented a first-in-the-nation product stewardship program for electronic waste, as well as programs for mercury switches and thermostats. Household hazardous waste, universal waste, and pharmaceuticals management programs are in different stages of

development across the state. These are all programs of significant environmental importance that hold great potential for expansion and development and are important program areas that could benefit from additional resources through some realignment of the work of program positions.

Participation in national/regional waste management groups and conferences could be made more effective through central coordination. These groups are sometimes involved with issues that are of relevance to both agencies.

Consolidation of resources to address these issues, and others, would allow additional flexibility to place resources where they will achieve the best results.

8. Program consolidation would allow for functional separation between the state-owned landfill development, operation, and ownership functions, and other aspects of state solid waste policy development and implementation.

In 2003, the Legislature directed the State Planning Office to acquire the Juniper Ridge Landfill. In directing the State to purchase the landfill, the Legislature hoped to achieve two public policy goals: providing statewide land disposal capacity, and aiding a financially troubled paper company and the jobs it represented for the Penobscot region.

In its landfill oversight role, SPO is a licensee regulated by the Department of Environmental Protection. It is responsible for proper management of landfill operations in accordance with its license requirements.

Moving solid waste technical assistance, planning, and data functions to DEP would give the State Planning Office more and dedicated resources to accomplish its landfill oversight responsibilities.

V. STAFF CONSOLIDATION

Currently there are six State Planning Office staff positions working in the solid waste program: a Team Director (policy development, program coordination, planning, and oversight of the state-owned landfill); two Senior Planners (1-technical assistance, pilot projects, training programs, policy and planning; 2-solid waste data management, analysis, and reports); two Planner IIs (1-solid waste education coordinator; 2-recycling education and outreach); and an Office Associate (clerical support).

If the SPO program responsibilities were to be merged with DEP's solid waste program, DEP would perform SPO's current technical assistance, planning, and data management functions with the addition of four positions to its staff. SPO is proposing to transfer three planner positions to DEP if the programs are merged, leaving two professional staff and a clerical position to do the remaining work. Since four positions would be necessary at DEP, DEP will closely examine its existing resources and staffing to determine if there is any way to use or realign those existing resources to fill this need.

Under a program consolidation plan it is proposed that the state-owned solid waste disposal facility ownership and oversight function, as well as associated capacity planning, remain at SPO and that other solid waste planning, policy, education/outreach, assistance, and data functions (see Table: Maine Solid Waste Management Program Components) transfer to DEP.

Based on this proposal, no cost savings are being projected at this time as a result of this consolidation. The Maine Solid Waste Management Fund would continue to support existing positions.

VI. ANALYSIS: CONTROL OF WASTE STREAMS INTO STATE-OWNED LANDFILLS

Chapter 583 (LD 810) requires an "analysis of the agencies' respective ability to control the different and various waste streams flowing into state-owned landfills."

State law governs the waste streams that are allowed into a state-owned solid waste disposal facility (landfill) as follows:

38 MRSA §1310-N, sub-§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.

The State, through the State Planning Office, as an owner of a landfill, can control the source or type of waste allowed for disposal. This is accomplished through terms established in the operating services agreement with the contracted vendor who operates the landfill. The contract terms define 'acceptable' wastes that can be disposed in the facility.

The operating services agreement also establishes a ‘ceiling’ on how much the contracted operator can charge for a disposal fee on the different and various waste streams. This indirectly influences the waste streams being disposed at state-owned facilities. A cap on disposal fees may make disposal at a state-owned landfill less economical for the operator, where they could increase their revenues by directing the waste to another of their facilities for a higher return.

Lastly, the State, as owner, has enforcement power to enforce the terms of the operating services agreement and ensure that waste being disposed at the facility meets the terms of the agreement. Each truck entering the facility is required to have a manifest that identifies the transporter, the type and amount of waste, and its source. These manifests help assure that wastes being delivered to a state-owned facility meet the terms of the agreement. Additional resources directed towards the oversight of the state facility would permit more aggressive oversight.

The Department of Environmental Protection has certain abilities to control waste streams into any landfill, including state-owned landfills, through its specific statutory and regulatory authorities. Each landfill operating in Maine is licensed by DEP in accordance with statutory and regulatory standards. Some of these standards affect, in various ways, the types of waste streams allowed to be accepted by a facility. Generally, the standards are technically based and relate to such things as the chemical composition of the waste and the adequacy and compatibility of the landfill’s operating systems to safely and appropriately accommodate the waste. Waste streams are approved in landfill licenses. Any restrictions or special requirements related to waste stream acceptance are also noted there. New waste types, not previously approved, must be licensed by DEP prior to acceptance at a landfill.

VII. RECOMMENDATION CONCERNING CONSOLIDATION OF CERTAIN SOLID WASTE PROGRAM FUNCTIONS AT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

It is recommended that the State Planning Office maintain its responsibility for owning, developing, and overseeing state-owned disposal facilities; and for the associated disposal capacity planning necessary to recommend the development of new state-owned facilities. It is further recommended that other solid waste program responsibilities in the areas of technical and financial assistance, education and outreach, training, data management, and program planning, be transferred to the Department of Environmental Protection. Attached as **Appendix C** are draft revisions to Titles 5 and 38 that would accomplish the transfer.

Appendix A – PL 2007, Chapter 583

Public Laws 123rd Legislature Second Regular Session

CHAPTER 583 H.P. 610 - L.D. 810

An Act To Improve Solid Waste Management

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

Sec. 1. 38 MRSA §1303-C, sub-§32-A is enacted to read:

32-A. Solid waste processing facility. "Solid waste processing facility" means a land area, structure, equipment, machine, device, system or combination thereof, other than an incineration facility, that is operated to reduce the volume or change the chemical or physical characteristics of solid waste. "Solid waste processing facility" includes but is not limited to a facility that employs shredding, baling, mechanical and magnetic separation or composting or other stabilization technique to reduce or otherwise change the nature of solid waste.

Sec. 2. 38 MRSA §1310-N, sub-§1, ¶C, as repealed and replaced by PL 1997, c. 393, Pt. A, §47, is amended to read:

C. In the case of a disposal facility or a solid waste processing facility that generates residue requiring disposal, the volume of the waste and the risks related to its handling and disposal have been reduced to the maximum practical extent by recycling and source reduction prior to disposal. This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling or to any other facility exempt from the requirements of subsection 5-A. The department shall find that the provisions of this paragraph are satisfied when the applicant demonstrates that the applicable requirements of subsection 5-A have been satisfied.

Sec. 3. 38 MRSA §1310-N, sub-§5, as repealed and replaced by PL 1997, c. 393, Pt. A, §48, is repealed.

Sec. 4. 38 MRSA §1310-N, sub-§5-A is enacted to read:

5-A. Recycling and source reduction determination. The requirements of this subsection apply to solid waste disposal facilities and to solid waste processing facilities that generate residue requiring disposal.

A. An applicant for a new or expanded solid waste disposal facility shall demonstrate that:

(1) The proposed solid waste disposal facility will accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by this chapter and other provisions of state law. The department shall attach this requirement as a standard condition to the license of a solid waste disposal facility governing the future acceptance of solid waste at the proposed facility; and

(2) The applicant has shown consistency with the recycling provisions of the state plan.

This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling.

B. The provisions of this paragraph apply to solid waste processing facilities that generate residue requiring disposal.

(1) An applicant for a new or expanded solid waste processing facility that generates residue requiring disposal shall demonstrate that all requirements of this paragraph will be satisfied. On an annual basis, an owner or operator of a licensed solid waste processing facility that generates residue requiring disposal shall demonstrate compliance with all the requirements of this paragraph. The annual demonstration of compliance must be included as an element of the facility's annual report to the department submitted in conformance with the provisions of subsection 6-D, paragraph B and department rules.

(2) A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion all waste accepted at the facility to the maximum extent practicable, but in no case at a rate less than 50%. For purposes of this subsection, "recycle" includes, but is not limited to, reuse of waste as shaping, grading or alternative daily cover materials at landfills; aggregate material in construction; and boiler fuel substitutes.

(3) A solid waste processing facility subject to this paragraph shall demonstrate consistency with the recycling provisions of the state plan.

(4) The requirements of this paragraph do not apply to solid waste composting facilities; solid waste processing facilities whose primary purpose is volume reduction or other waste processing or treatment prior to disposal of the waste in a landfill or incineration facility; solid waste processing facilities that are licensed in accordance with permit-by-rule provisions of the department's rules; or solid waste processing facilities that are exempt from the requirements of the solid waste management rules related to processing facilities adopted by the board.

(5) If the department amends the rules relating to fuel quality for construction and demolition wood fuel and the amendment adversely affects the ability of a solid waste processing facility to meet the 50% standard in subparagraph (2), the department may not enforce the requirements of subparagraph (2) against that processing facility and the

department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report relating to the rule change. The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation related to the report.

The department shall adopt rules to implement the provisions of this paragraph. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The department may not enforce the recycling requirements of subparagraph (2) prior to the effective date of rules that define "to the maximum extent practicable."

Sec. 5. 38 MRSA §1310-R, sub-§2, ¶A, as amended by PL 1989, c. 585, Pt. E, §30 and affected by c. 890, Pt. A, §40 and amended by Pt. B, §246, is further amended to read:

A. The department shall apply the provisions of section 1310-N, subsection ~~5~~ 5-A, paragraph A, subparagraph (1) when relicensing any solid waste disposal facility, except that, to the extent that waste disposal contracts in effect on June 29, 1987, are inconsistent with section 1310-N, subsection ~~5~~ 5-A, paragraph A, ~~in which case subparagraph (1),~~ those provisions apply at the expiration of the term of those contracts without consideration of any renewals or extensions of those contracts.

Sec. 6. 38 MRSA §1310-R, sub-§2, ¶C, as amended by PL 1989, c. 585, Pt. E, §30, is further amended to read:

C. The provisions of section 1310-N, subsection ~~5~~ 5-A, paragraph ~~B~~ A, subparagraph (2) do not apply to the relicensing of any solid waste disposal facility licensed prior to June 29, 1987.

Sec. 7. 38 MRSA §2101, sub-§1, as enacted by PL 1989, c. 585, Pt. A, §7, is amended to read:

1. Priorities. It is the policy of the State to plan for and implement an integrated approach to solid waste management for solid waste generated in this State and solid waste imported into this State, which shall must 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~~ that reduces the volume of waste needing land disposal, including incineration; and
- F. Land disposal of waste.

It is the policy of the State to use the order of priority in this subsection as a guiding principle in making decisions related to solid waste management.

Sec. 8. 38 MRSA §2124-A, as amended by PL 2007, c. 192, §5, is further amended to read:

§ 2124-A. **Solid waste generation and disposal capacity report**

By January 1, 2008 and annually thereafter, the office shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters, the Governor and the department setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

The report submitted under this section must include an analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the office determines that a decline in available landfill capacity has generated or has the potential to generate supracompetitive prices, the office shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.

Beginning on January 1, 2009 and every odd-numbered year thereafter, the report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill. The January 2009 report must also include an analysis of the solid waste disposal needs of the State as of January 1, 2009 for the next 3, 5 and 10 years.

Beginning on January 1, 2010 and every even-numbered year thereafter, the report submitted under this section must include an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.

The joint standing committee of the Legislature having jurisdiction over solid waste matters may report out legislation related to the report submitted pursuant to this section.

Sec. 9. Solid waste odor management report. The Department of Environmental Protection shall prepare a report on solid waste odor management. The report must include an examination of solid waste odor regulation from the point of disposition of the waste through disposal of the waste at a solid waste disposal facility, including odor regulation related to transportation of the waste. The report must also include the status of federal weight restrictions on Interstate 95. The report must be submitted to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 5, 2009.

Sec. 10. Duties and responsibilities for managing solid waste. By July 31, 2008, the Department of Environmental Protection and the Executive Department, State Planning Office, referred to in this section as "the agencies," shall develop a system by which solid waste management activities are performed by them. By August 30, 2008, the agencies shall implement elements of the system that do not require statutory changes. By January 5, 2009, the agencies shall submit a report on the system to the joint standing committee of the Legislature having jurisdiction over natural resources matters.

The report must identify any legislative changes that are necessary for the implementation of the system and must report on the elements of the system that have been implemented by the agencies. The report must also include an analysis of the agencies' respective ability to control the different and various waste streams flowing into state-owned landfills. The committee may report out legislation relating to the report to the First Regular Session of the 124th Legislature.

Sec. 11. Solid waste disposal facility recycling standards; report. By January 15, 2009, the Department of Environmental Protection shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report detailing a method for setting mandatory recycling standards for all solid waste disposal facilities.

Appendix B – Agency Tasks and Responsibilities

Maine Solid Waste Management Program Components
Department of Environmental Protection and State Planning Office
January 2009

FUNCTIONS	CURRENT AGENCY TASKS	
	DEP	SPO
Technical and Financial Assistance	<ul style="list-style-type: none"> ▪ Provide technical assistance to waste facility operators and to municipalities and regions on a range of solid waste management issues ▪ Provide financial support to municipalities for the closure/remediation of municipal landfills ▪ Provide technical assistance to auto salvage operations to ensure proper waste handling and removal of mercury switches ▪ Provide technical assistance to wholesalers and retailers that collect mercury thermostats and cell phones for recycling ▪ Provide technical assistance to schools on chemical management issues ▪ Provide technical assistance to municipalities and regions concerning household hazardous waste and pharmaceutical collections 	<ul style="list-style-type: none"> ▪ Provide on-site technical assistance to municipal and regional recycling programs (reuse, recycling, composting, household hazardous waste, universal waste, “pay-as-you-throw”, information/education, quality control and related activities) ▪ Award cost-sharing to municipal programs for household hazardous waste events ▪ Work with groups of communities interested in establishing regional programs to better manage their wastes ▪ Attend local governance meetings to assist in design and implementation of various solid waste program actions ▪ Assist municipal and regional programs with infrastructure development of recycling, composting and universal waste management
Education and Outreach	<ul style="list-style-type: none"> ▪ Prepare and distribute written informational materials on a range of solid waste management topics including waste disposal and handling, beneficial use, residuals 	<ul style="list-style-type: none"> ▪ Administer the “Maine Recycles Week” campaign and poster contest, video contest, and other school education programs

<p>Education and Outreach (continued)</p>	<p>management, and composting</p> <ul style="list-style-type: none"> ▪ Design and deliver presentations to local and regional governments, schools, business and industry, associations, and others on a range of solid waste management topics ▪ Provide informational materials to municipalities, manufacturers, retailers, and consolidators concerning Maine’s electronic waste management program 	<ul style="list-style-type: none"> ▪ Promote the Maine Recycles website as an information tool for waste management programs ▪ Provide classroom presentations on solid waste issues and recycling programs ▪ Cooperate with other state agencies and regional councils of government in furnishing of information, presentations at workshops and other support ▪ Develop and conduct Maine Recycles statewide media campaign. ▪ Assist state’s reuse centers ▪ Provide information to citizens calling for help with recycling
<p>Training</p>	<ul style="list-style-type: none"> ▪ Design and deliver training to waste facility owners/operators and to municipalities/regions on a range of solid waste management topics ▪ Design and deliver trainings on Maine’s product management programs for national audiences ▪ Design and deliver the ongoing “Transfer Station Operator Training Program” for municipal operators ▪ Participate in design and delivery of training and education programs through the “Maine Compost School” ▪ Conduct training for PUC staff working with retailers on CFL and mercury thermostat collections ▪ Design and conduct training for municipalities and others on the handling of household hazardous waste and universal waste 	<ul style="list-style-type: none"> ▪ Participate in the design and delivery of training and education programs through the “Maine Compost School ▪ Participate in DEP’s “Transfer Station Operator Training Program” ▪ Participate in design and delivery of the annual, statewide Maine Recycles conference
<p>Data Management and Analysis</p>	<ul style="list-style-type: none"> ▪ Manage databases related to solid waste facility annual reports, including volumes, disposal capacity, and types of waste handled ▪ Manage the collection, tracking and reporting of 	<ul style="list-style-type: none"> ▪ Manage database of municipal annual solid waste report including tons of materials managed and recycled ▪ Review and conduct data analysis of annually submitted municipal solid waste programs (including waste

	<p>statutory “solid waste handling fees” and annual report and facility fees</p> <ul style="list-style-type: none"> ▪ Design and manage databases for product management programs (electronic waste, cell phones, and mercury thermostats) ▪ Manage the environmental monitoring database 	<p>generation, recycling and disposal data)</p> <ul style="list-style-type: none"> ▪ Analyze municipal recycling data, package into a user-friendly format and provide to municipalities for their use
Data Gathering, Evaluation, and Research	<ul style="list-style-type: none"> ▪ Evaluate monitoring data submitted by solid waste facilities ▪ Collect and evaluate data from annual solid waste facility reports including that related to waste volumes, capacity, and types handled and disposed ▪ Review corrective action plans for landfills ▪ Conduct research to identify entities subject to product management laws ▪ Conduct verification sampling events at residuals handling sites (water, soils and residuals analysis) ▪ Plan and conduct periodic sampling and analytical events at solid waste disposal, utilization and handling sites ▪ Participate in design and implementation of residuals use and composting research projects ▪ Conduct research of technical solid waste issues and evaluate alternative technologies 	<ul style="list-style-type: none"> ▪ Review solid waste facility reports ▪ Conduct the commercial recycling broker survey ▪ Complete annual reports on state’s waste generation and disposal capacity ▪ Design and manage pilot projects to stimulate innovation in recycling and composting
Program Planning, Coordination, and Development	<ul style="list-style-type: none"> ▪ Implement DEP’s partnership agreement with EPA’s Landfill Methane Outreach Program to promote the use of landfill gas to produce electricity ▪ Participate in development and implementation of regional initiatives such as the Interstate Mercury Education and Reduction Clearinghouse ▪ Participate in regional, interstate, and national group efforts addressing solid waste management issues (such as those of the Northeast Waste Management Officials 	<ul style="list-style-type: none"> ▪ Update the state waste management and recycling plan, which includes solid waste characterization analysis, assessment of waste reduction and recycling activities, determination of existing and potential disposal capacity, and projected demand for disposal capacity ▪ Support regional development of markets for recyclables, through memberships in such organizations as the Maine Resource Recovery Association and the Northeast Recycling Council

Program Planning, Coordination, and Development (cont)	Association, the Product Stewardship Institute, and the Association of State and Territorial Solid Waste Management Officials)	<ul style="list-style-type: none"> ▪ Serve as staff to the Solid Waste Management Advisory Council
Environmental Remediation	<ul style="list-style-type: none"> ▪ Plan and oversee tire stockpile abatement projects ▪ Plan and oversee closure and remedial activities at closed/abandoned municipal and industrial landfills 	
Licensing and Related Determinations	<ul style="list-style-type: none"> ▪ Review applications for new, expanded, and modified solid waste and product management facilities and activities * ▪ Prepare recommendations and draft orders concerning license applications ▪ Conduct technical (engineering, geology, chemistry) reviews including those for landfill liner designs, stability analyses, leachate and gas management systems, and hydrogeologic information ▪ Make public benefit determinations for proposed new or expanded disposal facilities, or proposed acceptance of out-of-state waste at publicly owned disposal facilities ▪ Make determinations of host community status for requesting contiguous municipalities; facilitate mediation of host community negotiation disputes 	

* These include landfills; waste to energy incinerators; transfer stations; storage sites; beneficial use of solid waste; waste transportation; utilization of sludge, ash, and other residuals; septage disposal; composting; and, household e-waste consolidators

<p>Compliance and Enforcement</p>	<ul style="list-style-type: none"> ▪ Conduct inspections of solid waste facilities and activities to determine compliance with rules and license terms ▪ Inspect waste facility construction projects for conformance with plans and sound technical practice ▪ Evaluate mercury-containing product notifications, labeling plans, and exemption requests for compliance with laws and regulations ▪ Perform compliance checks at retailers to ensure implementation of product sales bans and cell phone recycling laws ▪ Evaluate manufacturer plans and reports for the collection and recycling of computer monitors and televisions ▪ Respond to citizen complaints concerning waste facilities, activities, and handling ▪ Conduct enforcement actions 	
<p>Solid Waste Facility Development</p>		<ul style="list-style-type: none"> ▪ Recommend development of state-owned disposal facilities ▪ Monitor disposal capacity consumption and availability ▪ Provide disposal capacity through actions authorized by the legislature ▪ Oversee and manage state-owned disposal facilities ▪ Own and oversee the operation of 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 C – Draft Legislation to transfer recycling, technical assistance and solid waste policy responsibilities from SPO to DEP

Sec. 1. 5 MRSA §3305, sub-§1, ¶ N is amended to read:

~~N. Coordinate the development of solid waste management policy including:~~

- ~~(1) Collecting and analyzing solid waste management and recycling data from all available sources including commercial and municipal entities;~~
- ~~(2) Preparing a solid waste management and recycling plan to be submitted to the Governor and the Legislature by January 1, 1998 and every 5 years thereafter; and~~
- ~~(3) Providing technical and financial assistance to municipalities in waste reduction and recycling activities; and~~

N. Plan for sufficient, environmentally secure disposal capacity for Maine's municipal solid waste; and

Sec. 2. 38 MRSA §1303-C, sub-§35 is amended to read:

35. State waste management and recycling plan. "State waste management and recycling plan" means the plan adopted by the former Maine Waste Management Agency pursuant to chapter 24, subchapter II, ~~and~~ subsequent plans developed by the State Planning Office pursuant to Title 5, section 3305, subsection 1, paragraph N, and plans developed by the Department pursuant to Title 38, section 2122 and may also be referred to as "state plan."

Sec. 3. 38 MRSA § 1304, sub-§4 is amended to read:

4. Technical assistance. The commissioner is authorized to establish guidelines for effective waste management, to provide technical assistance to persons planning, constructing or operating waste facilities, and to conduct applied research activities in the field of waste management, disposal technology and environmental effects, including methods of recycling hazardous or solid waste, sludge or septage. ~~The commissioner shall cooperate with the office in the design and delivery of this assistance.~~

Sec. 4. 38 MRSA §1304, sub-§13 is amended to read:

13. Innovative disposal and utilization. Recognizing that environmentally suitable sites for waste disposal are in limited supply and represent a critical natural resource, the commissioner may investigate and implement with the approval of the board innovative programs for managing, utilizing and disposing of solid waste. Innovative programs may include agricultural and forest land spreading of wood-derived

ash, utilization of ash resulting from combustion of municipal solid waste, paper mill sludges, municipal waste water treatment plant sludges and the composting of yard wastes. The ~~office~~ department shall first determine that the proposed innovative disposal and waste management programs are consistent with the state plan. The commissioner shall review proposed innovative programs for each waste category and shall apply all controls necessary to ensure the protection of the environment and public health consistent with this chapter. The board may adopt application review procedures designed to review individual applications and their individual waste sources with prior approval of classes of disposal or utilization sites. The board shall adopt provisions for municipal notification prior to use of individual utilization sites.

Sec. 5. 38 MRSA §1309 is amended to read:

§ 1309. Interstate Cooperation

The Legislature encourages cooperative activities by the department ~~and the office~~ with other states for the improved management of hazardous and solid waste; for improved, and as far as is practicable, uniform state laws relating to the management of hazardous and solid waste; and compacts between this and other states for the improved management of hazardous and solid waste.

Sec. 6. 38 MRSA §1316-G is amended to read:

§ 1316-G. Tire stockpile abatement program

The State shall undertake a program to eliminate tire stockpiles. The program is under the direction of the department with assistance from other agencies including the ~~State Planning Office~~, the Department of the Attorney General, the Maine State Police, the Maine National Guard and the Department of Corrections.

1. Tire stockpile abatement. The department shall, as available resources allow:

- A. Estimate the number of tires that are stockpiled and that pose a significant risk to the environment or public health;
- B. Develop a tire stockpile reduction priority plan based on environmental and public health risks;
- C. Seek the cooperation and assistance of private and governmental landowners or tire stockpile operators to reduce the size and number of tire stockpiles;
- D. Assist tire stockpile owners and operators willing to cooperate within the law;
- E. Utilize enforcement powers unilaterally or in conjunction with the Department of the Attorney General or the Maine State Police or other parties to abate health, safety and environmental risks posed by tire stockpiles when voluntary cooperation is not provided by landowners or operators;
- F. Develop or cause to be developed site-specific tire stockpile abatement plans;

G. Give preference in implementing site-specific tire stockpile abatement activities to the processing of tires for removal and beneficial use while mitigating fire risk;

H. Educate the public and encourage use of tires based on consideration of environmental and public health impacts as well as market conditions; and

I. Contract for services to reduce tire stockpiles and abate significant risk to the environment and public health at tire stockpile sites.

2. Market development. ~~The State Planning Office shall, as available resources allow, assist the department generally in implementation of subsection 1. The assistance may include, but is not limited to, encouraging the beneficial reuse of whole tires and processed tires inside or outside the State.~~ The office department may also make recommendations to the Legislature regarding legislation that would enhance the beneficial reuse of waste tires or processed tires.

3. Business retention and new technology. The Department of Economic and Community Development, as available resources allow, shall lead a cooperative effort involving the department, ~~the State Planning Office~~ and the Finance Authority of Maine to identify measures the State can take to provide a favorable environment for the retention of businesses assisting in the processing of waste tires. This cooperative effort must also provide for the introduction of viable new technologies to cost-effectively convert waste tires to commodities that can be utilized for beneficial reuse and for energy production

Sec. 7. 38 MRSA §1652, sub§2 is amended to read

2. Schools. A school or school administrative district shall comply with the provisions of this section except that a food service providing such services to satellite facilities at the school or school administrative district serviced by central kitchen facilities not at the same location is exempt. A school or school administrative district may submit a request to the ~~Executive Department, State Planning Office~~ Department of Environmental Protection for a 3-year waiver from the provisions of this section. The ~~State Planning Office~~ department may grant the requested waiver as long as:

A. The request includes an explanation of the district's financial hardship and a waste reduction plan. The plan must be designed to achieve the goal of using durable containers in place of disposable containers, unless it is shown that the use of durable containers is not feasible and alternative goals are proposed. The plan must include a proposed capital plan for the acquisition of necessary equipment; and

B. The school or school administrative district has held a public hearing on the proposal to use polystyrene containers and the waste reduction plan.

The ~~State Planning Office~~ Department of Environmental Protection may renew the waiver for 2-year periods if it finds that the school or school administrative district has made reasonable progress toward implementing the waste reduction plan. The ~~State~~

~~Planning Office~~ department, within available resources, may provide technical and financial assistance to schools and school administrative districts to assist them with meeting the goal of using durable containers.

Sec. 8. 38 MRSA §1668 is amended to read:

§1668. Education program

The department ~~and the Executive Department, State Planning Office~~ shall implement an education program relating to mercury-added products ~~no later than January 1, 2001~~. The program must provide information to the public about labeled mercury-added products, the requirements of the law regarding the source separation of waste mercury-added products and collection programs that are available to the public.

Sec. 9. 38 MRSA §1669 is amended to read:

§1669. Technical assistance to municipalities

The department shall ~~coordinate with the Executive Department, State Planning Office~~ to assist interested municipalities and regional associations in developing collection programs for mercury-added products.

Sec. 10. 38 MRSA §2122 is amended to read:

§ 2122. State waste management and recycling plan

The ~~office~~ department 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 and in making public benefit determinations in accordance with sections 1310-N, subsection 5-A and 1310-AA, subsection 3, paragraph B.

1. Consultation. In developing the state plan, the ~~office~~ department shall consult with the ~~department~~ office on matters concerning waste disposal capacity and state-owned waste disposal facilities, and the Solid Waste Management Advisory Council. The ~~office~~ department shall solicit public input and may hold hearings in different regions of the State.

2. Revisions. The ~~office~~ department shall revise the ~~analysis plan~~ by January 1, ~~1998~~ 2012 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~~ department finds appropriate.

3. Submission. The department shall submit the plan and subsequent revisions to the Governor and the joint standing committee of the Legislature having jurisdiction over natural resource matters.

Sec. 11. 38 MRS §2123-A is amended to read:

§ 2123-A. State plan contents

~~The state plan includes the following elements.~~

~~1. Waste characterization.~~—The state plan must be based on a the comprehensive analysis of solid waste generated, recycled and disposed of in the State including consideration of the solid waste generation and disposal capacity report prepared in accordance with section 2124-A. ~~Data collected must include, but not be limited to, the source, type and amount of waste currently generated; and the costs and types of waste management employed including recycling, composting, landspreading, incineration or landfilling.~~

The state plan includes the following elements:

1. Trends. Statewide trends in solid waste management;

2. Policy assessment. An assessment of the effectiveness of state waste management policy;

3. Waste generation assessment. An assessment of waste generation trends in Maine;

~~2~~ **4. Waste reduction and recycling assessment.** The state plan must include an assessment of the extent to which waste generation could be reduced at the source and the extent to which recycling can be increased.; and

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

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

5. Other. Other factors affecting solid waste management as the department finds appropriate.

Sec. 12. 38 MRS §2123-C sub-§1 is amended to read:

1. Solid Waste Management Advisory Council. The Solid Waste Management Advisory Council, referred to in this section as "the council," is established to advise and assist the office and department in reviewing, as may be appropriate:

- A. State solid waste management policy, including the timeline and establishment process for the development of a state-owned solid waste disposal facility;
- B. Host community benefits;
- C. The development of commercial solid waste facilities and the economic competitiveness of commercial facilities;
- D. The appropriateness of developing regional disposal facilities to better serve municipalities and businesses;
- E. The continued development and expansion of beneficial reuse and recycling;
- F. The proper role of municipal zoning and other local control in regard to siting, expansion and operation of solid waste disposal facilities; ~~and~~
- G. The state waste management and recycling plan in accordance with section 2123-A;
- H. The solid waste generation and disposal capacity report developed in accordance with section 2124-A; and
- G I. Other related matters as considered appropriate and necessary.

Sec. 13. 38 MRSA 2123-C, sub-§7 is amended to read:

- 7. **Staff.** The ~~office~~ department shall provide the council with all necessary staff.

Sec. 14. 38 MRSA §2124 is repealed:

~~§2124. Reports~~

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

Sec. 15. 38 MRSA §2124 is amended to read:

§ 2124-A. Solid waste generation and disposal capacity report

By January 1, 2008 and ~~a~~ Annually thereafter, the office shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters, the Governor and the department setting forth information on statewide generation of solid waste, statewide recycling rates and available disposal capacity for solid waste.

Data collected must include, but not be limited to, the source, type and amount of waste currently generated; and the costs and types of waste management employed including recycling, composting, landspreading, incineration or landfilling. The

department shall provide the solid waste management and recycling data to the office for purposes of developing the solid waste generation and disposal capacity report.

The capacity report includes the following elements:

1. **Waste Generation.** A computation of waste generation in Maine;
2. **Recycling.** A calculation of the statewide recycling rate;
3. **Determination of existing and potential disposal capacity.** An analysis of existing solid waste disposal and management capacity within the State and the potential for expansion of that capacity;
4. **Projected demand for capacity.** An analysis of the need in the State for current and future solid waste disposal capacity by type of solid waste, including identification of need over the next 3-year, 5-year, 10-year and 20-year periods;
5. **Fill Rates.** Every odd-numbered year, the report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill.
6. **Recommendation for development.** In accordance with §2156-A, recommendations for the construction and operation of state-owned solid waste disposal facilities, when appropriate; and
7. **Supracompetitive prices:** An analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the office determines that a decline in available landfill capacity has generated or has the potential to generate supracompetitive prices, the office shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.
8. **Consolidation of ownership.** Every even-numbered year, the report submitted under this section must include an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.

~~The report submitted under this section must include an analysis of how changes in available disposal capacity have affected or are likely to affect disposal prices. When the office determines that a decline in available landfill capacity has generated or has the potential to generate supracompetitive prices, the office shall include this finding in its report and shall include recommendations for legislative or regulatory changes as necessary.~~

~~Beginning on January 1, 2009 and every odd-numbered year thereafter, the report submitted under this section must include an analysis of how the rate of fill at each solid waste landfill has affected the expected lifespan of that solid waste landfill. The January 2009 report must also include an analysis of the solid waste disposal needs of the State as of January 1, 2009 for the next 3, 5 and 10 years.~~

~~Beginning on January 1, 2010 and every even numbered year thereafter, the report submitted under this section must include an analysis of consolidation of ownership in the disposal, collection, recycling and hauling of solid waste.~~

The joint standing committee of the Legislature having jurisdiction over solid waste matters may report out legislation related to the report submitted pursuant to this section.

Sec. 16. 38 MRSA §2132, sub-§2 is amended to read

§ 2132. State goals

2. Goal revision. The ~~office~~ department shall recommend revisions, if appropriate, to the state recycling goal and waste reduction goal established in this section. The ~~office~~ department shall submit its recommendations and any implementing legislation to the joint standing committee of the Legislature having jurisdiction over natural resource matters.

Sec. 17. 38 MRSA §2132, sub-§3 is amended to read

3. Beneficial use of waste. The use of waste paper, waste plastics, waste wood, including wood from demolition debris, used motor vehicle tires or corrugated cardboard as a fuel in industrial boilers or waste-to-energy facilities for the generation of heat, steam or electricity constitutes recycling only for the purposes of determining whether the goals in subsection 1 are met and for determining municipal progress as provided in section 2133. In order for the use of waste under this subsection to constitute recycling, the ~~office~~ department must determine that there is no reasonably available market in the State for recycling that waste and the wastes must be incinerated as a substitute for, or supplement to, fossil or biomass fuels incinerated in the industrial boiler or waste-to-energy facility.

Sec. 18. 38 MRSA §2133 is amended to read:

§ 2133. Municipal recycling

1. Technical and financial assistance program.

1-A. Recycling progress. Municipalities are not required to meet the state recycling goal in section 2132, but they must demonstrate reasonable progress toward that goal. The ~~office~~ department shall determine reasonable progress.

2-A. Technical and financial assistance program. A program of technical and financial assistance for waste reduction and recycling is established in the ~~office~~ department to assist municipalities with managing solid waste. The ~~office~~ department

may also provide planning assistance to municipalities and regional organizations for managing municipal solid waste. Planning assistance may include cost and capacity analysis and education and outreach activities. The ~~director~~ commissioner shall administer the program in accordance with the waste management hierarchy in section 2101. Preference in allocating resources under this section must be given to municipalities that take advantage of regional economies of scale.

2-B. Household hazardous waste collection. The ~~office~~ department may, within available resources, award grants to eligible municipalities, regional associations, sanitary districts and sewer districts for household hazardous waste collection and disposal programs. In implementing this program, the ~~office~~ department shall attempt to:

- A. Coordinate the household hazardous waste collection programs with overall recycling and waste management;
- B. Encourage regional economies of scale;
- C. Coordinate programs between private and public institutions;
- D. Maximize opportunities for federal grants and pilot programs; and
- E. ~~By January 1, 2002 and as necessary thereafter, fund~~ capital improvements and operating expenses to facilitate the development of collection programs throughout the State for hazardous waste that is universal waste, as identified in board rules, generated by households, small-quantity generators, public schools and municipalities.

Preference in allocating resources under this subsection must be given to municipalities that participate in a household hazardous waste collection region as defined in subsection 2-D.

At a minimum, the ~~office~~ department shall award grants to public schools and municipalities for reasonable costs incurred as a result of managing waste mercury-added products generated by those public schools and municipalities, in compliance with the requirements in sections 1663 and 1664, that would not otherwise be incurred by complying with existing laws, rules or regulations as of July 15, 2002.

2-C. Business technical assistance program. The ~~office~~ department may, as resources allow, assist the business community to develop state programs and services that are designed to promote the solid waste hierarchy and that are desired by and financially supported by the business community. ~~The office shall coordinate these efforts in conjunction with the department.~~

2-D. Preference for other state grants and investments. When awarding grants or making a discretionary investment under any of the programs under paragraphs A and B, a state agency shall give preference to a municipality that is part of a household hazardous waste collection region. For purposes of this subsection, "household hazardous waste collection region" means a region made up of 2 or more municipalities that work together to establish a collection center to accept the household hazardous waste of residents of each municipality for disposal on a year-round basis. This subsection applies to:

- A. Programs that assist in the acquisition of land for conservation, natural resource protection, open space or recreational facilities under Title 5, chapter 353; and

B. Programs intended to:

- (1) Accommodate or encourage additional growth and development;
- (2) Improve, expand or construct public facilities; or
- (3) Acquire land for conservation or management of specific economic and natural resource concerns.

This subsection does not apply to state grants or other assistance for sewage treatment facilities, public health programs or education.

The ~~office~~ department shall work with state agencies to prepare mechanisms for establishing preferences in specific investment and grant programs as described in paragraphs A and B.

3. Recycling capital investment grants. The ~~office~~ department may make grants to eligible municipalities, regional associations, sanitary districts and sewer districts for the construction of public recycling and composting facilities and the purchase of recycling and composting equipment. The ~~office~~ department may establish requirements for local cost sharing of up to 50% of the total grant amount.

4. Recycling incentives. The ~~office~~ department shall develop and implement a program of incentives to encourage public recycling programs to reach maximum feasible levels of recycling and to meet the recycling goal of section 2132.

5. Repealed.

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

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

Sec. 19. 38 MRS §2134, 1st sentence is amended to read:

The ~~office~~ department shall provide marketing assistance, which may include the following elements:

Sec. 20. 38 MRS §2134, sub-§3 is amended to read

3. Information clearinghouse. An information clearinghouse on recycling markets to improve the marketing of materials to be recycled. The ~~office~~ department shall

maintain a current list of municipal recycling programs, together with a description of the recyclable materials available through the programs. The office department shall also maintain listings of brokers, handlers, processors, transporters and other persons providing services and potential markets for recyclable materials. The office department shall actively promote the services of the clearinghouse and shall seek to match programs with appropriate recycling businesses. The office department shall make its information on recycling services available to public and private solid waste generators seeking markets or services for recyclable materials. The office department shall make its technical reports and planning documents available to municipalities and regional associations on a timely basis; and

Sec. 21. 38 MRSA §2138 is amended to read:

§ 2138. Office paper recycling program

1. Office paper recycling mandated. Any person employing 15 or more people at a site within the State shall implement an office paper and corrugated cardboard recycling program.

The office department may provide technical and marketing assistance and direction to entities within the State to assist with meeting this requirement. Municipalities and regional associations may assist employers in attaining the objectives of this section.

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

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

Sec. 22. 38 MRSA §2140 is amended to read:

§ 2140. Interstate and national initiatives

The office department may participate in interstate and national initiatives to adopt uniform state laws when practicable, and to enter compacts between the State and other states for the improved management, recycling and reduction of solid waste.

Sec. 23. 38 MRSA §2156-A, sub-§1 is amended to read:

1. Planning for development. The office shall plan for the development of facilities sufficient to meet needs for municipal solid waste identified in the state plan waste generation and disposal capacity report and any revisions to the plan and to serve all geographic areas of the State. The office may plan for the development of facilities

sufficient to meet needs for special waste identified in the ~~state plan~~ waste generation and disposal capacity report ~~and any revisions to the plan~~ and to serve all geographic areas of the State.

Sec. 24. 38 MRSA §2162 is amended to read:

§2162. Office assistance in regional association siting ~~Submission of report recommending construction and operation of state-owned facility~~

~~**1. Technical assistance.** Upon request by a regional association, the office may provide technical assistance to that regional association in the establishment of approved waste facilities, including assistance in planning, location, acquisition, development and operation of the site. The regional association shall describe fully the need and justification for the request. The office may request information from the regional association necessary to provide assistance.~~

~~**2. Submission of report recommending construction of state-owned facility.** When the office, in consultation with a regional association, finds that disposal capacity is projected to be needed for bulky wastes, construction or demolition waste or land-clearing debris and that the regional association is not able to pursue the siting, establishment and operation of a waste facility, the office may submit a report recommending the construction and operation of a state-owned solid waste disposal facility that will fulfill the disposal need to the joint standing committee of the Legislature having jurisdiction over natural resources matters. The report must include a review of disposal options outside of the State; a review of existing efforts to reduce, reuse, recycle, compost and incinerate the affected waste streams and the impact of these efforts on capacity requirements; a thorough economic analysis of the facility's expected costs; and commitments from entities to utilize the facility and projected revenues. The joint standing committee of the Legislature having jurisdiction over natural resources matters may report out legislation authorizing the construction and operation of a state-owned solid waste disposal facility in response to a report submitted pursuant to this subsection.~~

Sec. 25. 38 MRSA §2232, 1st ¶ is amended to read:

An incineration facility shall submit an annual report to the ~~office~~ department no later than 90 days after the end of the ~~incineration facility's fiscal~~ calendar year. For reasonable cause shown and upon written application by an incineration facility, the ~~office~~ department may grant an extension of the 90-day period. The report must be certified by an appropriate executive officer of the incineration facility as being complete and accurate. The ~~office~~ department may prescribe the form of the annual report and the number of copies that must be submitted. The department shall provide the solid waste management and recycling data to the office for purposes of developing the solid waste generation and disposal capacity report. The report must include the following information:

Sec. 26. 38 MRSA §2235, is amended to read:

§2235. Use of files

The ~~office~~ department shall keep on file for public inspection and use all reports submitted under this subchapter.

Sec. 27. 38 MRSA §2236, is amended to read:

§2236. Limitation

Nothing in this subchapter may be construed to create or expand any ~~office~~ department authority over financial, organizational or rate regulation of incineration facilities.

Sec. 28. Appropriations and allocations. The following allocations are made.

**EXECUTIVE, DEPARTMENT OF
PLANNING OFFICE**

Initiative: Transfers one Senior Planner, #095101096 and two Planner II positions, #095101100 and #095101097 from the State Planning Office, Waste Management to the Department of Environmental Protection Remediation & Waste Management and related All Other to carry out the purposes of this act.

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12
Positions – LEGISTATIVE COUNT	(-3)	(-3)
Personal Services	(\$215,150)	(\$221,569)
All Other	<u>(\$355,165)</u>	<u>(\$358,115)</u>
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$570,315)	(\$579,684)

**ENVIRONMENTAL PROTECTION, DEPARTMENT OF
Remediation & Waste Management**

OTHER SPECIAL REVENUE FUNDS	2010-11	2011-12
Positions – LEGISTATIVE COUNT	(3)	(3)
Personal Services	\$215,150	\$221,569
All Other	<u>\$355,165</u>	<u>\$358,115</u>
OTHER SPECIAL REVENUE FUNDS TOTAL	\$570,315	\$579,684

SUMMARY

This bill gives these responsibilities, which currently reside with the Maine State Planning Office, to the Department of Environmental Protection:

- Determine municipal reasonable recycling progress
- Provide municipal technical and financial assistance
- Provide business technical assistance
- Collect municipal solid waste management and recycling reports and data
- Provide recycling marketing assistance
- Assist entities with meeting office paper recycling requirements
- Participate in national and interstate initiatives for uniform state laws
- Collect incinerator reports and data
- Prepare the state solid waste management plan
- Staff the Solid Waste Management Advisory Council

The Maine State Planning Office keeps these responsibilities under this bill:

- Prepare the waste generation and disposal capacity report
- Plan for development of state-owned solid waste disposal facilities
- Recommend development of state-owned solid waste disposal facilities
- Own state-owned disposal facilities and all that is associated with that (site selection, facility development, eminent domain, host community benefits, citizen advisory committee, dispute resolution, property value offset, payment in lieu of taxes, impact payments, fees and contracts)