

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 1695

7 H.P. 1278

House of Representatives, May 26, 1983

8 Reference to the Committee on Energy and Natural Resources is  
9 suggested. Ordered printed and sent up for concurrence.

10 Submitted by the Department of Environmental Protection pursuant to  
Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Representative Michael of Auburn.

Cosponsor: Senator Kany of Kennebec.  
11

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Establish the Maine  
18 Environmental Protection Fund.  
19

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

22 Sec. 1. 38 MRSA c. 2, sub-c. II is enacted to  
23 read:

24 SUBCHAPTER II

25 MAINE ENVIRONMENTAL PROTECTION FUND

26 §351. Maine Environmental Protection Fund

27 The Maine Environmental Protection Fund is estab-  
28 lished to be used by the Department of Environmental  
29 Protection as a nonlapsing revolving fund for supple-  
30 menting the licensing programs administered by the  
31 Board of Environmental Protection. To the Maine  
32 Environmental Protection Fund shall be credited all

1 filing, processing, licensing, and hearing fees  
2 related to any application for a license from the  
3 board. To the Maine Environmental Protection Fund  
4 shall be charged expenses, including administrative  
5 expenses, of the licensing programs administered by  
6 the board.

7 Money in the Maine Environmental Protection Fund  
8 not allocated by the Legislature or not currently  
9 needed to meet the obligations of the department in  
10 the exercise of its responsibilities under its  
11 licensing programs shall be deposited with the Treas-  
12 urer of State to the credit of the Maine Environ-  
13 mental Protection Fund and may be invested in such a  
14 manner as provided by statute. Interest on these  
15 investments shall be credited to the Maine Environ-  
16 mental Protection Fund.

17 §352. Definitions

18 As used in this subchapter, unless the context  
19 otherwise indicates, the following terms have the  
20 following meanings.

21 1. Filing fee. "Filing fee" means the fee  
22 assessed for all functions performed in determining  
23 the acceptability of an application for processing,  
24 including, but not limited to, clerical, administra-  
25 tive, computer, technical, copying and indirect costs  
26 performed in determining the acceptability of an  
27 application for processing.

28 2. Hearing fee. "Hearing fee" means the fee  
29 assessed for any public hearing held by the board  
30 with regard to an application.

31 3. License fee. "License fee" means the fee  
32 assessed for all activities, including, but not  
33 limited to, clerical, administrative, computer, tech-  
34 nical, analytical, copying, indirect costs, inspec-  
35 tions and sampling carried out in the licensing pro-  
36 grams in order to insure proper compliance by the  
37 licensee.

38 4. Licensing programs. "Licensing programs"  
39 means the programs found in section 362-A, Experi-  
40 ments; section 393, Great ponds; section 413, Waste

1 discharge licenses; section 418, Log storage; section  
2 421, Solid waste disposal areas; section 451, Mixing  
3 zones; section 451-A, Time schedule variances;  
4 section 451-B, Industrial variances; section 474,  
5 Coastal wetlands and sand dunes; section 482, Site  
6 location; section 543, Oily waste discharges; section  
7 560, Vessels at anchorage; section 587, Ambient air  
8 quality or emissions standards variances; section  
9 590, Air emissions licenses; section 599, Open burn-  
10 ing variances; section 603, Low sulfur fuel exemp-  
11 tions; section 623, Small hydroelectric generating  
12 facilities; section 1101, Sanitary districts; section  
13 1304, Waste facilities; and Title 12, section 4807-C,  
14 Minimum lot size; and any licenses, certificates and  
15 permits required under federal law and processed by  
16 the department.

17 5. Processing fee. "Processing fee" means the  
18 fee assessed for all activities, including, but not  
19 limited to, clerical, administrative, computer, tech-  
20 nical, copying, indirect costs and inspections, per-  
21 formed in processing an application to determine if  
22 the proposed projects meet the requirements estab-  
23 lished by the statutes and rules of the Board of  
24 Environmental Protection.

25 §353. Payment of fees

26 1. Filing fee. A filing fee shall be paid at  
27 the time of filing the application and is  
28 nonrefundable. Applications not accompanied by a  
29 filing fee shall not be processed.

30 2. Processing fee. A processing fee shall be  
31 paid within 10 days of the time the applicant is  
32 notified that the application has been accepted for  
33 processing by the commissioner and is not refundable,  
34 even if the applicant withdraws the application once  
35 processing has begun. The processing fee shall be  
36 refunded to the applicant if the application is  
37 denied by the board.

38 3. Hearing fee. A hearing fee shall be paid  
39 prior to the taking of any final action by the board  
40 for any application on which a public hearing has  
41 been held by the board.

1       4. License fee. A license fee shall be paid  
2 prior to the issuance of any license or permit. If a  
3 license fee is paid prior to board action on the  
4 application, it shall be refunded to the applicant if  
5 the application is denied.

6       5. Duplication. If a filing, processing or li-  
7 cence fee is required by any other section of law ad-  
8 ministered by the department, the filing, processing  
9 or license fees required by this subchapter shall not  
10 apply.

11       6. Filing fee; renewals or amendments. The  
12 filing fee for renewals or amendments shall be the  
13 same as the filing fee for an initial application.  
14 The processing fee for renewals or amendments shall  
15 be 1/2 the processing fee for initial applications.  
16 The license fee for renewals or amendments shall be  
17 identical to the initial license fee.

18       7. Applications deemed incomplete. An incom-  
19 plete application which has been returned to the  
20 applicant shall be subject to the following condi-  
21 tions.

22       A. If the completed application is resubmitted  
23 to the department within 30 days of the date the  
24 application was returned to the applicant, no ad-  
25 ditional fee is required.

26       B. If the completed application is resubmitted  
27 to the department within 60 days of the date the  
28 application was returned to the applicant, 1/2  
29 the amount of the filing fee is required. If the  
30 additional fee does not accompany the resubmitted  
31 application, the application shall be deemed  
32 incomplete.

33       C. If the completed application is resubmitted  
34 to the department after 60 days of the date the  
35 application was returned to the applicant, the  
36 original filing fee amount shall accompany the  
37 application. The resubmitted application shall  
38 be considered a new application, not a refiled  
39 application.

1           8. Processing fee and license fee; time of pay-  
2 ment. To simplify payment procedures, the board may  
3 require that the processing fee and the license fee  
4 be paid at the time the application is filed.

5           9. Time of payment. The applicant may choose to  
6 pay the total of the filing, processing and license  
7 fees at the time of filing the application.

8           §354. Legislative oversight

9           1. Expenditures from fund; legislative alloca-  
10 tion. Moneys in the Maine Environmental Protection  
11 Fund may not be expended by the department unless  
12 allocated by the Legislature.

13           2. Expenditures prohibited for 12 months. There  
14 shall be no moneys expended from the Maine Environ-  
15 mental Protection Fund for the first 12 months of the  
16 existence of the fund.

17           §355. Fee schedule

18           The Board of Environmental Protection may by rule  
19 establish a fee schedule for filing, processing and  
20 licensing, and may fix hearing fees with regard to  
21 any applications on which a hearing is held. The  
22 schedules adopted by the board for filing, processing  
23 and license fees shall not exceed the maximums listed  
24 in Table I, and, in establishing them, the board  
25 shall take into consideration the costs associated  
26 with clerical, administrative, copying, investiga-  
27 tion, inspection, technical analysis, sampling, lab-  
28 oratory analysis, indirect costs, computer services  
29 and legal advice. The department shall establish a  
30 system to account for the staff time and monetary  
31 resources expended for the filing, processing and li-  
32 cence issuance for each application submitted to the  
33 department. Based upon this accounting system, the  
34 department shall annually recommend to the board a  
35 fee schedule which accurately reflects the costs of  
36 administering the department's licensing programs as  
37 listed in Table I. All information generated through  
38 the accounting system shall be made available for  
39 public scrutiny.

1 Hearing fees shall not exceed \$7,500 per hearing  
 2 and, in establishing them with regard to any applica-  
 3 tion, the board shall consider in the surcharge the  
 4 expenses related to public notices, room or building  
 5 rental expense, board expenses, staff expenses,  
 6 expert witness expenses and recording expenses.

7 TABLE I

8 MAXIMUM FEES IN DOLLARS  
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10	<u>Title 38</u>	<u>FILING</u>	<u>PROCESSING</u>	<u>LICENSE</u>
11	<u>SECTION</u>	<u>FEE</u>	<u>FEE</u>	<u>FEE</u>
12				
13	<u>362-A, Experiments</u>	<u>\$ 10.00</u>	<u>\$ 30.00</u>	<u>\$ 160.00</u>
14	<u>393, Great ponds</u>	<u>2.50</u>	<u>65.00</u>	<u>50.00</u>
15	<u>413, Waste discharge</u>			
16	<u>license</u>			
17	<u>A. Residential</u>	<u>5.00</u>	<u>15.00</u>	<u>10.00</u>
18	<u>B. Commercial</u>	<u>10.00</u>	<u>30.00</u>	<u>160.00</u>
19	<u>C. Industrial,</u>	<u>25.00</u>	<u>450.00</u>	<u>1,985.00</u>
20	<u>minor</u>			
21	<u>(based upon</u>			
22	<u>EPA list of major</u>			
23	<u>and minor source</u>			
24	<u>dischargers)</u>			
25	<u>D. Industrial,</u>	<u>35.00</u>	<u>1,130.00</u>	<u>2,170.00</u>
26	<u>major</u>			
27	<u>(based upon</u>			
28	<u>EPA list of major</u>			
29	<u>and minor source</u>			
30	<u>dischargers)</u>			
31	<u>E. Publicly</u>	<u>17.00</u>	<u>80.00</u>	<u>1,785.00</u>
32	<u>owned treatment</u>			
33	<u>works</u>			
34	<u>418, Log storage</u>	<u>10.00</u>	<u>45.00</u>	<u>5.00</u>
35	<u>421, Solid waste dis-</u>	<u>12.00</u>	<u>1,375.00</u>	<u>100.00</u>
36	<u>posal areas</u>			
37	<u>451, Mixing zones</u>	<u>35.00</u>	<u>1,130.00</u>	<u>2,170.00</u>
38	<u>451-A, Time schedule</u>	<u>5.00</u>	<u>10.00</u>	<u>5.00</u>
39	<u>variances</u>			
40	<u>451-B, Industrial vari-</u>	<u>500.00</u>	<u>2,000.00</u>	<u>1,500.00</u>
41	<u>ances</u>			
42	<u>471, Coastal wetlands</u>	<u>3.50</u>	<u>115.00</u>	<u>100.00</u>
43	<u>and sand dunes</u>			
44	<u>482, Site location</u>			

1		<u>A. Subdivisons</u>	<u>25.00</u>	<u>50.00/lot</u>	<u>50.00/lot</u>
2		<u>B. Structures</u>	<u>25.00</u>	<u>500.00</u>	<u>500.00</u>
3		<u>C. Mining</u>	<u>25.00</u>	<u>750.00</u>	<u>500.00</u>
4		<u>D. Other</u>	<u>25.00</u>	<u>750.00</u>	<u>500.00</u>
5	<u>543,</u>	<u>Oily waste dis-</u>	<u>10.00</u>	<u>30.00</u>	<u>160.00</u>
6		<u>charge</u>			
7	<u>560,</u>	<u>Vessels at</u>	<u>10.00</u>	<u>115.00</u>	<u>100.00</u>
8		<u>anchorage</u>			
9	<u>587,</u>	<u>Ambient air qual-</u>	<u>50.00</u>	<u>5,000.00</u>	<u>50.00</u>
10		<u>ity or emissions</u>			
11		<u>standards vari-</u>			
12		<u>ances</u>			
13	<u>590,</u>	<u>Air emissions</u>			
14		<u>licenses</u>			
15		<u>A. greater than</u>	<u>50.00</u>	<u>10,000.00</u>	<u>1,200.00</u>
16		<u>or equal to 1,000</u>			
17		<u>tons/year of any</u>			
18		<u>criteria air</u>			
19		<u>pollutant</u>			
20		<u>B. greater than</u>	<u>50.00</u>	<u>5,000.00</u>	<u>400.00</u>
21		<u>or equal to 100</u>			
22		<u>tons/year but</u>			
23		<u>less than 1,000</u>			
24		<u>tons/year of any</u>			
25		<u>criteria air</u>			
26		<u>pollutant</u>			
27		<u>C. less than</u>	<u>50.00</u>	<u>1,000.00</u>	<u>100.00</u>
28		<u>100 tons/year of</u>			
29		<u>any criteria</u>			
30		<u>airpollutant</u>			
31	<u>599,</u>	<u>Open burning</u>	<u>50.00</u>	<u>2,000.00</u>	<u>100.00</u>
32		<u>variances</u>			
33	<u>603,</u>	<u>Low sulfur fuel</u>	<u>50.00</u>	<u>1,000.00</u>	<u>500.00</u>
34		<u>exemptions</u>			
35	<u>623,</u>	<u>Small hydroelec-</u>	<u>10.00</u>	<u>100.00</u>	<u>100.00</u>
36		<u>tric generating</u>			
37		<u>facilities</u>			
38	<u>1101,</u>	<u>Sanitary dis-</u>	<u>50.00</u>	<u>100.00</u>	<u>50.00</u>
39		<u>tricts</u>			
40	<u>1304,</u>	<u>Waste facilities</u>			
41		<u>A. Septage and</u>	<u>12.00</u>	<u>635.00</u>	<u>750.00</u>
42		<u>sludge</u>			
43		<u>B. Transfer</u>	<u>12.00</u>	<u>635.00</u>	<u>750.00</u>
44		<u>stations</u>			
45		<u>C. Landfills</u>	<u>750.00</u>	<u>2,850.00</u>	<u>2,500.00</u>
46		<u>D. Other</u>	<u>750.00</u>	<u>2,850.00</u>	<u>2,500.00</u>





1 for certain license fees.

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FISCAL NOTE

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Based upon fiscal years 1981 and 1982 data, it is estimated that \$600,000 would be deposited in the Maine Environmental Protection Fund on an annual basis and that the General Fund would be reduced by approximately \$90,000 each year.

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