

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1846

H.P. 1275

House of Representatives, May 13, 1991

Submitted by the Department of Environmental Protection pursuant to Joint Rule 24.  
Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MARSH of West Gardiner.  
Cosponsored by Representative ADAMS of Portland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

---

An Act to Amend the Maine Environmental Protection Fund Fee  
Schedule.

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(EMERGENCY)

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the fees received for waste discharge licenses issued by the Department of Environmental Protection do not sufficiently support processing and compliance measures; and

Whereas, the Legislature finds that such a fee structure will create a positive effect by encouraging licensees and permittees to reduce levels of water pollution, thereby achieving a vital public interest; and

Whereas, the Legislature further finds it imperative that persons who cause or contribute to unduly high levels of water pollution must be subject to license and permit fees commensurate with their level of pollution as compared to the costs incurred by the Department of Environmental Protection in processing and administering licenses and permits; and

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

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

Sec. 1. 38 MRSA §352, sub-§2, ¶A, as amended by PL 1987, c. 787, §7, is further amended to read:

A. Processing Except for those fees assessed under section 353-A, processing fees shall must be assessed for costs incurred in determining the acceptability of an application for processing and in processing an application to determine whether it meets statutory and regulatory criteria.

Sec. 2. 38 MRSA §352, sub-§2, ¶C, as enacted by PL 1983, c. 574, §1, is amended to read:

C. Licensing Except for those fees assessed under section 353-A, licensing fees shall must be assessed for direct costs incurred in monitoring, inspecting and sampling to assure ensure proper compliance by a licensee.

Sec. 3. 38 MRSA §352, sub-§2, ¶E is enacted to read:

E. Waste discharge license fees assessed under section 353-A for those facilities licensed under section 413 must be assessed to support water quality activities, including, but not limited to, licensing, compliance evaluation,

2 monitoring, data acquisition, data management and  
3 administration.

4 Sec. 4. 38 MRSA §352, sub-§4, as amended by PL 1989, c. 405,  
5 §1, is further amended to read:

6  
7 4. Accounting system. In order to determine the extent to  
8 which the functions set out in this section are necessary for the  
9 licensing process or are being performed in an efficient and  
10 expeditious manner, the commissioner shall require that all  
11 employees of the department involved in any aspect of these  
12 functions shall keep accurate and regular daily time records.  
13 These records shall must describe the matters worked on, services  
14 performed and amount of time devoted to those matters and  
15 services, as well as amounts of money expended in performing  
16 these functions. Records shall must be kept for a sufficient  
17 duration as determined by the commissioner to establish to his  
18 the commissioner's satisfaction that the fees are appropriate.  
19 ~~The following table is repealed on May 1, 1991.~~

20  
21 TABLE I

22 MAXIMUM FEES IN DOLLARS

24 TITLE 36	PROCESSING	CERTIFICATION
26 SECTION	FEE	FEE
28 656, sub-§1, ¶E, Pollution Control Facilities		
30 A. Water pollution control facilities with capacities at least 4,000 gallons of waste per day and	\$250	\$20
32 §1760, sub-§29, water pollution control facilities		
34 B. Air pollution control and §1760, sub-§30, air pollution control facilities	250	20
42 TITLE 38	PROCESSING	LICENSE
44 SECTION	FEE	FEE
46 362-A, Experiments	\$40	\$160
48 393, Great Ponds	75	50
410-E, Freshwater wetlands	100	50
413, Waste discharge license	<u>Designated in section 353-B</u>	<u>Designated in section 353-B</u>
50 A.--Residential	225	75
52 B.--Commercial		

2	1.--Flow-of-less-than 2,000-gallons-per-day	2,400	640
4	2.--Flow-of-2,000-to 20,000-gallons-per day-inclusive	2,400	2,000
6	3.--Flow-of-greater than-20,000-gallons per-day	2,400	4,800
8			
10	G.--Industrial-minor (based-upon-EPA-list of-major-and-minor source-discharges)		
12	1.--Discharges-of cooling-water, sanitary-waste-water or-treated-storm-water only	1,500	480
14			
16	2.--All-others	1,500	6,000
18	D.--Industrial-major (based-upon-EPA-list-of major-source-discharges)		
20	1.--Discharge-of cooling-water-or sanitary-waste-water only	4,800	3,000
22			
24	2.--All-others	4,800	8,800
26	E.--Publicly-owned- treatment-works		
28	1.--Flow-of-less than-or-equal-to 50,000-gallons-per day-and-no-significant industrial-component	100	400
30			
32	2.--Flow-of-greater than-50,000-gallons per-day,-but-less than-0.5-million gallons-per-day-and no-significant- industrial-component	100	1,400
34			
36	3.--Flow-of-at-least 0.5-million-gallons per-day,-but-less than-5-million- gallons-per-day-and no-significant industrial-component	100	3,600
38			
40	4.--Flow-of-at-least- 5-million-gallons-per day-or-a-significant industrial-component	300	5,400
42			
44			
46			
48			
50	F.--Special-discharges		
52			

	1.---Aquatic-pesticides	130	75
2	2.---Dredge-speils	130	75
	418, Log storage	55	25
4	421, Solid waste disposal areas	1,400	100
	427, Alteration of rivers, streams and brooks	150	50
6	451, Mixing zones	1,200	2,200
8	451-A, Time schedule variances	25	25
10	471, Coastal wetlands and sand dunes	3,500	1,500
12	483, Site location		
	A. Affordable housing subdivisions	50/lot	50/lot
14	A-1. Other subdivisions with public water and sewers	175/lot	175/lot
16	A-2. Other subdivisions	250/lot	250/lot
18	B. Structures	4,000	2,000
20	C. Mining	1,500	1,000
	D. Other	1,000	1,000
22	543, Oily waste discharge	40	160
	560, Vessels at anchorage	125	100
24	587, Ambient air quality or emissions standards variances	5,050	50
26	590, Air emissions		
28	licenses	<u>Designated in section 353-A</u>	<u>Designated in section 353-A</u>
	A. Greater than or equal to 1,000 tons per year of any criteria air pollutant	10,050	1,200
30			
32			
34	B. Greater than or equal to 100 tons per year, but less than 1,000 tons per year of any criteria air pollutant	5,050	400
36			
38			
40	C. Greater than or equal to 50 tons per year, but less than 100 tons per year of any criteria air pollutant	1,050	100
42			
44			
46	D. Less than 50 tons per year of any criteria air pollutant	525	50
48			
50	633, Hydropower projects		
52	A. New or expanded generating capacity	450/MW	50/MW

2	B. Maintenance and	150	50
	repair or other		
4	structural alterations		
	not involving an		
6	increase in generating		
	capacity		
	1101, Sanitary districts	150	50
8	1304, Nonhazardous waste		
	facilities		
10	A. Septage facilities,	300	250
	other than landfill or		
12	landspreading sites		
	B. Sludge facilities,	550	500
14	other than landfill or		
	landspreading sites		
16	C. Landspreading sites	300	100
	D. Transfer stations	550	500
18	E. Landfills	4,725	4,500
	F. Resource recovery and	1,575	1,500
20	volume reduction facilities		
	G. Other, including	550	250
22	land-applied utiliza-		
	tion programs		
24	H. Septage disposal site	50	25
	designation		

26  
 28 United States Code, Title 33,  
 Chapter 26, Water Quality  
 30 Certifications, in conjunction  
 with applications for hydro-  
 32 power project licensing or re-  
 licensing

34	A. Initial consultation	1,000	0
	B. Second consultation	1,000	0
	C. Application		
36	1. Storage	1,000	0
	2. Generating	300/MW	50/MW

38  
 40 **Sec. 5. 38 MRSA §352, sub-§5,** as amended by PL 1989, c. 502,  
 Pt. A, §167, is repealed.

42  
 44 **Sec. 6. 38 MRSA §353, sub-§2,** as amended by PL 1989, c. 874,  
 §4 and c. 890, Pt. B, §13, is repealed and the following enacted  
 in its place:

46 **2. Processing fee.** Except for annual waste discharge  
 48 fees pursuant to section 353-A, a processing fee must be paid at  
the time of filing the application. Failure to pay the  
 50 processing fee at the time of filing the application results in  
the application being returned to the applicant. The commissioner  
 52 may not refund the processing fee if the application is denied by  
the board or the commissioner. If the application is withdrawn by

2 the applicant within 30 days of the start of processing, the  
4 processing fee must be refunded, except in the case of nonferrous  
6 metal mining applications. If an application for nonferrous  
8 metal mining is withdrawn by the applicant within 30 days of the  
10 date of filing, 1/2 of the application fee must be refunded.

12 **Sec. 7. 38 MRSA §353-A is enacted to read:**

14 **§353-A. Annual waste discharge license fees**

16 1. Fees assessed. After the effective date of this  
18 section, a licensee must pay an annual fee assessed on the sum of  
20 licensed allowable water pollutants. The annual waste discharge  
22 license fee equals the fee for the discharge of significant  
24 levels of toxic pollutants plus the product of the licensee  
26 factor multiplied by the sum of the maximum quantity of  
28 conventional pollutants allowed and the maximum quantity of  
30 thermal pollutants.

32 A. The maximum quantity of conventional pollutants allowed  
34 is the sum of the maximum daily allowable quantities, in  
36 pounds per day, of 5-day biochemical oxygen demand, or  
38 "BOD<sub>5</sub>," and total suspended solids, or "TSS," specified in  
40 the waste discharge license.

42 B. The maximum quantity of thermal pollutants allowed is  
44 the maximum daily allowable tens of millions of British  
46 Thermal Units, or "BTUs," of the effluent.

48 C. The licensee factor for municipal facilities receiving  
50 no more than 10% of total influent load from any one  
52 industrial source is 20%. The licensee factor for all other  
municipal and industrial licensees is 40%.

D. The annual fee for the discharge of toxic pollutants,  
including, but not limited to, toxic substances regulated  
under section 420, subsection 2, paragraph A, is \$10,000 and  
is assessed for facilities that have effluent that was  
determined by any one test during the previous annual  
license fee period to have been acutely toxic at 100%  
effluent concentration. Acute toxicity is determined  
according to department-approved Whole Effluent Toxicity, or  
"WET," protocol at intervals specified in the discharge  
license.

E. The department may by rule provide for reductions in  
annual waste discharge license fees for licensees in  
proportion to the licensee's reduction of pollutants  
discharged to the environment.

2. Schedule. The fee for existing licenses is paid on the  
anniversary date of the license. The annual fee for new



2 applications is estimated and paid at the time of filing the  
3 application. When the processing of the application is complete,  
4 the final annual fee is determined. Any additional amount is due  
5 prior to the issuance of the license. Any overpayment must be  
6 refunded. The effective date of the license becomes the  
7 anniversary date.

8 3. Minimum fee. The minimum annual fee is \$350 per year.

10 4. Transition for existing licenses. A licensee of any  
11 discharge in existence on the effective date of this section may  
12 request a revision to that license to reduce the sum of the  
13 licensed allowable water pollutants.

14 5. Renewals and amendments. There are no additional fees  
15 for license renewals or amendments for the same or smaller  
16 quantities of pollutants. Amendments to increase the quantity of  
17 any pollutant are processed as new applications under this  
18 section.

20 6. Nonpayment of fee. Failure to pay the annual fee within  
21 60 days of the anniversary date of a license is sufficient  
22 grounds for revocation of the license.

24 7. Fee adjustments. Fees may be adjusted annually based on  
25 the previous calendar year's Consumer Price Index. Each July the  
26 commissioner shall publish revised fee tables.

28 Emergency clause. In view of the emergency cited in the  
29 preamble, this Act takes effect July 1, 1991.

32 **STATEMENT OF FACT**

34 This bill amends the Maine Environmental Protection Fund, or  
35 "MEPF," in order to provide the revenues needed to support water  
36 quality activities and programs administered by the Department of  
37 Environmental Protection. As a result of shortfalls in the MEPF,  
38 General Fund and federal funds, existing revenues are  
39 insufficient to meet the department's program needs.

42 Waste discharge license fees will be used to staff and  
43 operate the Department of Environmental Protection's water  
44 quality licensing program.

46 Under this bill, effective July 1, 1991, the minimum annual  
fee is \$350.