

# MAINE STATE LEGISLATURE

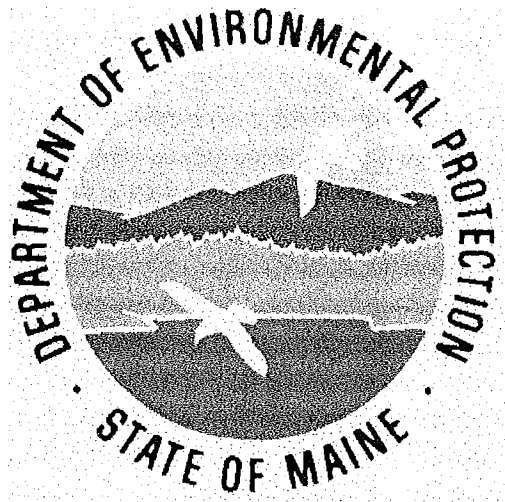
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**REPORT TO THE  
NATURAL RESOURCES COMMITTEE  
SUMMARIZING THE REVENUES  
AND EXPENSES BY PROGRAM  
WITHIN THE MAINE ENVIRONMENTAL  
PROTECTION FUND**

**FOR FISCAL YEAR 1996-1997  
AND  
FOR FISCAL YEAR 1997-1998**



**MAINE DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

**FEBRUARY 1999**



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

ANGUS S. KING, JR.  
GOVERNOR

March 15, 1999

EDWARD O. SULLIVAN  
COMMISSIONER

Senator Sharon Anglin Treat, Chair  
Representative John L. Martin, Chair  
Joint Standing Committee on Natural Resources  
State House Room 437  
Augusta, ME 04333

Dear Senator Treat, Representative Martin and Members of the Committee:

Enclosed is the report on the Maine Environmental Protection Fund for Fiscal Year 1996-1997 and Fiscal Year 1997-1998. I apologize for the delay in transmitting this report.

The report provides a summary of fund revenues and expenses by major fee categories by bureau. The report also comments on the adequacy of the revenues by fee category. Accordingly, the report brings to your attention the Department's concern with Air program and Solid Waste program funding for FY2001. The Department will be making recommendations to the Administration and the Committee in FY2000 so that any changes could be implemented in FY2001.

If you have any concerns or questions at this time, please contact me, Deputy Commissioner Brooke Barnes, Land & Water Bureau Director Martha Kirkpatrick or Air Bureau Director James Brooks.

Sincerely,

A handwritten signature in cursive script that reads "George Viles".

George Viles  
Director  
Office of Management Services

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## INTRODUCTION

The Maine Environmental Protection Fund statutes, 38 MRSA sec. 352, et seq., establish and set the limits on a number of fees for permits and set out other requirements for the administration of the fees and the Fund. This annual report provides a summary of fund revenues and expenses. The report also summarizes the major fee categories by bureau, briefly indicating the purpose, source, and status of the fee categories. There have been three prior annual reports covering the fiscal years 94, 95 and 96. This report covers two fiscal years: FY97 and FY98.

Along with General Fund appropriations and various federal grant programs, the fees provide the revenues which support licensing and compliance functions in the following areas: air emissions, overboard wastewater discharge systems, site location of development, waste water treatment, natural resources protection, asbestos, solid waste management activities, dioxin testing of select wastewater discharges, and State review of Federal dam licensing. Other programs within DEP have separate licensing schedules and accounts.

Currently, the MEPF supports 17.4% of the Department's positions, and in FY 1997-1998 represented 10.6% of the department's expenditures.

To summarize the major elements of this report:

- Revenues for the different programs within the Fund are generally realized as projected. However, air licensing fee projections have not been met, requiring the reduction of expenditures and of staff. During this adjustment process, the Air Program has had to rely on the cash flow of the entire Fund. By the end of FY99 or early in FY2000, the Air program will have offset its earlier reliance on the Fund cash flow.
- Fee revenues are being properly managed and credited to the programs for which they are charged. The uneven timing of revenue receipts does require maintaining an adequate balance in the fund to meet current operations.
- While fees are sufficient to support program activities through the completion of the current biennium on June 30, 1999, fee increases and or alternative revenue sources or program adjustments are needed in several programs to maintain current levels of effort for the future. Specifically, the Department is addressing shortfalls in Air Program revenues and Solid Waste Program revenues, with recommendations to be made as necessary to allow for legislative action in the second regular session of this Legislature for implementation in FY2001.
- Periodic fee increases or other revenues will be required to maintain program levels over time as personnel and operating costs gradually increase and as licensed discharges and emissions decrease in some areas.

## OVERVIEW

The following provides an overview of the current management of the Fund, a brief description of the program activities within the Fund and the revenue and expense summary. The eight program activities within the Fund are labeled as Air, Land, Hydro, Water, Overboard Discharge, Solid Waste, Asbestos and Lead.

The programs within the Fund are managed as separate sub-accounts, with revenues expended within the program areas where they are earned. However, the overall cash flow of the Fund serves to buffer the varying cash flow of the individual programs. A small working capital pool of approximately \$180,000 is also maintained. Along with interest earned on the Fund, the working capital pool is also used to retire an appropriated working capital advance from the General Fund. The advance was initially for \$500,000; it is being retired at a rate of \$25,000 per year, with a balance of \$250,000 remaining to be paid .

The following provides the overview of the Fund for the past five years:

	<b>Beginning Balance</b>	<b>Revenues</b>	<b>Expenses</b>	<b>Ending Balance</b>
FY 94	\$736,868	\$2,579,960	\$2,524,687	\$792,141
FY 95	\$792,141	\$3,731,261	\$3,406,000	\$1,117,402
FY 96	\$1,117,402	\$4,055,518	\$4,023,227	\$1,149,693
FY 97	\$1,149,693	\$3,790,690	\$4,535,647	\$404,735
FY98	\$404,735	\$4,000,215	\$3,755,676	\$649,245

The radical increase in revenues and expenditures from FY94 to FY96 was driven primarily by the growth in mandated activities of the Air Quality Program under the Federal Clean Air Act. The Air Bureau portion of MEPF is now over 50 % of Fund expenditures. Through 1996, the ending balance remained in a safe range of 23% to 28% of expenditures, dipping to 9% in FY97 and improving to 17% in FY98. A balance of 25% of expenditures seems warranted based on cash flow and potential risks to revenues and to collection operations. Individual programs periodically require the support of the Fund's overall cash flow during the year to meet activity and revenue collection cycles.

Following are the bureau program summaries, with the related financial displays on pages 9 and 10.

## BUREAU OF AIR QUALITY

### AIR FEES

Purpose: Air fees support licensing and compliance activities of stationary air emissions sources.

Source: Fees are based on air emissions discharges and a toxics use surcharge.

Status: Air fee increases were legislated in the first part of the decade to meet the need to process pending air licenses in a technically proficient and timely manner and to meet the requirements of the Federal Clean Air Act. Failure to meet Federal requirements could result in loss of regulatory autonomy and the imposition of federal penalties and restrictions.

Successive General Fund reductions and the loss of 11 General Fund positions through FY96 placed undue pressure and reliance on the fees by FY96. Federal grant decreases or delays have also created stress on the program. Fee revenues decreased by about \$50,000 per year as licensees lowered their discharge levels, while staff costs and monitoring costs increased.

In the spring of 1997, the Administration and the Legislature restored 9 General Fund positions for the current FY98 and FY99 biennium, helping to avoid a fee increase and providing an improved revenue mix (5 positions were transferred from Federal funds and 4 positions were transferred from MEPF). The fee supported portion of the Air Program ended up with a significant shortfall at the end of FY 97.

Cost controls and the transfer of costs to the General Fund promised to allow the program to recoup its stability for FY98, but FY98 fee revenues suffered a serious shortfall with closure of Kimberly Clark in Winslow and, to a far smaller degree, a continued phase down of licensed emissions at Loring Air Force Base. The FY98 annual shortfall was well less than half of FY97, and there would have been a positive balance if the Winslow mill had maintained its license.

In this current FY99 year, two personnel have been laid off and several positions have not been filled when staff have resigned; capital equipment replacements have also been deferred, primarily affecting field monitoring stations.

FY99 revenues are anticipated to be down by another \$30,000 as several firms are submitting revised licenses with lower discharge levels. The revised licenses reflect both improved technology implementation by the regulated community and their greater familiarity and confidence that they do not require licenses with a significant buffer level in excess of anticipated emissions. Bureau expenditure controls are expected to erase the accumulated shortfall in FY2000, provided there are no major plant closings.

Based on revenue performance and the growing complexity of the permitting and compliance process requiring the maintenance of at least the current level of operation, fee increases or alternative funding will need to be considered in FY2000 for implementation in FY2001.

## BUREAU OF LAND AND WATER QUALITY

While the programs of the Bureau in MEPF relate to Land, Water, Overboard Discharge and Hydro activities, those activities and fees are integrated to support the various units in the present bureau and are appropriately treated as one rather than four activities. Accordingly, prior shortfall in the Water (waste water treatment plant) licensing and compliance program were carried by the revenues under the Site Location and Natural Resources Act programs. Fee program areas are shown separately to reflect fee performance.

It is also noted that the Legislature approved a loan of \$184,000 from the Groundwater Oil Spill Clean-up Fund for FY1994-1995 to support the Bureau. \$92,000 remains to be paid on this loan, with equal payments due in FY99 and in FY2000.

Importantly, the Legislature enacted a bill to facilitate delegation of the National Pollution Discharge Elimination System (NPDES) in the past session. This program allows the state to receive Federal delegation for all Waste Water permitting and compliance activities and provided a basis for the department and the regulated community to support increased fees and staffing to provide a sound basis for this program. Four positions were also transferred from MEPF to the General Fund to help broaden the program's funding base for the long term and to avoid a continued shortfall in FY99.

Like the Air Program, the NPDES program fees are based on discharges. This approach involves a somewhat complex restructuring of the former licensing process. The restructuring and verification of specific fees for treatment facilities is well underway, as is an improved billing process. Annual fees will begin to be collected in March 1999, with 50% of the 352 facilities to be billed by the end of FY99. The hiring of 8 additional authorized positions will be commensurate with the revenue flow.

### LAND FEES

Purpose: Land fees support licensing and compliance activities under the Site Location of Development Act and the Natural Resources Protection Act.

Source: Land fees are derived from a wide range of permits for construction and use projects and are generally one time fees.

Status: The number of Land applications is affected by swings in the economy and is seasonably variable, producing an uneven and often unpredictable cash flow.

### HYDRO FEES

Purpose: Hydro fees support the State's water quality certification of dam projects being licensed or relicensed by the Federal Energy Regulatory Commission.

Source: The fees are based on the size of the dam project.

Status: After a flurry of applications a number of years ago, there are now very few dams to be licensed or relicensed in the next few years. Revenues are very low and uneven and are not enough to sustain a position working nearly full time in this area. In FY96, there were two positions working in this area, one funded by fees and one General Fund position; since then, there has only been the one General fund position assigned to this and other work. Any significant increase in activity would seriously burden current staff.

#### **WATER FEES**

Purpose: Water fees support licensing and compliance activities relating to wastewater discharges from treatment plants.

Source: Fees are levied on commercial, industrial and publicly owned treatment plants based on the licensed level and composition of discharges.

Status: As noted above, the NPDES legislation enacted last year is now being implemented.

#### **OVERBOARD DISCHARGE LICENSING AND ANNUAL INSPECTION FEES**

Purpose: Overboard discharge fees support licensing and inspection activities of overboard discharge systems.

Source: The fees are levied on domestic and commercial overboard discharges to surface waters.

Status: Overboard discharges are licensed for ten years, and licensees pay license fees every five years. Licensees also pay annual fees for annual inspections. The fees were adjusted as part of the NPDES legislation enacted last year; the fees are expected to be sufficient to support the program.

### **BUREAU OF REMEDIATION AND WASTE MANAGEMENT**

As with the Bureau of Land and Water Quality, the Solid Waste, Asbestos Abatement, and Lead Abatement activities within MEPF of the Bureau of Remediation and Waste Management are integrated and are all carried out by the same division within the bureau. The fees are appropriately treated as one pool. Fee program areas are shown separately to reflect fee performance.

#### **SOLID WASTE FEES**

Purpose: Solid Waste fees support solid waste licensing and compliance activities.

Source: Licensing fees are charged for all types of solid waste facilities and activities including landfills, transfer and storage sites, waste processing facilities, solid waste incinerators, sludge and residuals land application sites, septage disposal sites and waste transportation.



Status: In the current year, Solid Waste fee revenues are approaching expenses currently allocated to the fees. As noted in the overview at the beginning of the report, the MEPF portion of the Solid Waste Program will require a careful review in the coming year to determine if fee adjustments are required to be enacted to be implemented in FY2001.

Work and proposals by a Solid Waste Stakeholder Group could conceivably affect MEPF fees in the coming session. The Group worked during 1998 to develop policy and budgetary recommendations for the overall State Solid Waste Management Program carried out by DEP and the State Planning Office (SPO). Highlights of the Group's budget recommendations were to: broaden the funding base for the overall program (DEP and SPO) by having the General Fund contribute to program support; dedicate a substantial portion of point of purchase tire fees to tire stockpile abatement; and ensure that waste handling fees charged at the point of disposal are more equitable and are not drawn disproportionately from a narrow segment of the population. The group's recommendation in the fall of 1998 concerning MEPF fees was to maintain current revenue levels. Obviously, the policy debate about funding the program could ultimately affect any of the revenue sources.

#### **ASBESTOS FEES**

Purpose: Asbestos fees support the monitoring of asbestos abatement and containment activities and oversight of training and certification programs for asbestos abatement professionals.

Source: Asbestos fees are received from asbestos abatement professionals/companies filing notices regarding asbestos removal and containment work and from licensing companies and certifying individuals for asbestos abatement work.

Status: Current fee levels appear sufficient to support program staff on the Fund.

#### **LEAD FEES**

Purpose : Lead fees support the monitoring of lead abatement activities and oversight of training and certification programs for lead abatement professionals.

Source: Lead fees are received from licensing companies and certifying individuals for lead removal work.

Status: This is a new program area with a very small revenue stream. The fee revenues are meeting expectations at this point.

## Other Activities Within the Maine Environmental Protection Fund

During FY 1995-1996, there continued to be a number of activities within the Fund which were independent from the basic licensing and compliance programs noted above. These activities are small, special purpose functions which are self-sustaining. These include:

- dioxin monitoring reimbursements from 11 wastewater treatment facilities; this represents the majority of activity in the Other Activities category;
- a legislated advance from the Hazardous Waste Fund for the development and management of metallic mining regulations, to be repaid upon the receipt of further mining applications;
- a revolving training account for non-point source and other pollution prevention; and
- an air quality education program supported by Federal Highway Funds through the Maine DOT.

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 MAINE ENVIRONMENTAL PROTECTION FUND  
 SUMMARY OF REVENUES AND EXPENSES BY ACTIVITY  
 FOR FISCAL YEAR 1996-1997

	BEGINNING BALANCE	REVENUE	TOTAL EXPENSES	PERSONAL SERVICES	ALL OTHER	CAPITAL	INDIRECT COST	ENDING BALANCE
AIR FEES	\$197,267	\$1,894,233	\$2,554,565	\$1,722,248	\$487,388	\$20,781	\$324,148	(\$463,066)
LAND FEES	\$240,476	\$511,314	\$516,716	\$408,040	\$58,167		\$50,509	\$235,074
HYDRO FEES	\$5,638	\$7,670	\$1,198		(\$263)		\$1,461	\$12,110
WATER FEES	(\$56,530)	\$102,726	\$149,095	\$117,662	\$5,355		\$26,078	(\$102,899)
OVERBOARD DISCHARGE FEES	\$117,064	\$180,615	\$221,981	\$158,478	\$36,654		\$26,849	\$75,698
SOLID WASTE FEES	\$173,377	\$547,935	\$562,630	\$480,074	\$8,993		\$73,563	\$158,682
ASBESTOS FEES	\$143,011	\$190,868	\$128,590	\$94,583	\$17,022		\$16,985	\$205,289
LEAD ABATEMENT	\$0	\$23,735	\$151	\$0	\$151		\$0	\$23,584
WORKING CAPITAL POOL	\$179,472	\$0	\$0	\$0	\$0		\$0	\$179,472
OTHER ACTIVITIES	\$149,918	\$331,594	\$400,721	\$46,252	\$320,222	\$0	\$34,247	\$80,791
<b>TOTAL</b>	<b>\$1,149,693</b>	<b>\$3,790,690</b>	<b>\$4,535,647</b>	<b>\$3,027,336</b>	<b>\$933,689</b>	<b>\$20,781</b>	<b>\$553,841</b>	<b>\$404,735</b>

Note: some totals do not add due to rounding.

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 MAINE ENVIRONMENTAL PROTECTION FUND  
 SUMMARY OF REVENUES AND EXPENSES BY ACTIVITY  
 FOR FISCAL YEAR 1997-1998

	BEGINNING BALANCE	REVENUE	TOTAL EXPENSES	PERSONAL SERVICES	ALL OTHER	CAPITAL	INDIRECT COST	ENDING BALANCE
AIR FEES	(\$463,066)	\$2,004,694	\$2,182,527	\$1,504,070	\$380,845	\$14,029	\$283,583	(\$640,900)
LAND FEES	\$235,074	\$644,786	\$395,370	\$316,761	\$28,291	\$0	\$50,318	\$484,490
HYDRO FEES	\$12,110	\$7,338	\$0	\$0	\$0	\$0	\$0	\$19,448
WATER FEES	(\$102,928)	\$125,734	\$108,025	\$90,207	\$4,541	\$0	\$13,276	(\$85,218)
OVERBOARD DISCHARGE FEES	\$75,698	\$192,567	\$182,362	\$137,500	\$23,044	\$0	\$21,819	\$85,903
SOLID WASTE FEES	\$158,682	\$466,980	\$455,749	\$390,750	\$9,425	\$0	\$55,574	\$169,913
ASBESTOS FEES	\$205,289	\$180,820	\$178,745	\$113,780	\$46,226	\$0	\$18,739	\$207,364
LEAD ABATEMENT	\$23,584	\$21,650	\$6,799	\$0	\$6,194	\$0	\$605	\$38,435
WORKING CAPITAL POOL	\$179,472	\$0	\$0	\$0	\$0	\$0	\$0	\$179,472
OTHER ACTIVITIES	\$80,790	\$355,646	\$246,098	\$45,169	\$182,665	\$0	\$18,265	\$190,338
<b>TOTAL</b>	<b>\$404,705</b>	<b>\$4,000,215</b>	<b>\$3,755,676</b>	<b>\$2,598,236</b>	<b>\$681,231</b>	<b>\$14,029</b>	<b>\$462,180</b>	<b>\$649,245</b>

Note: some totals do not add due to rounding.