

MAINE STATE LEGISLATURE

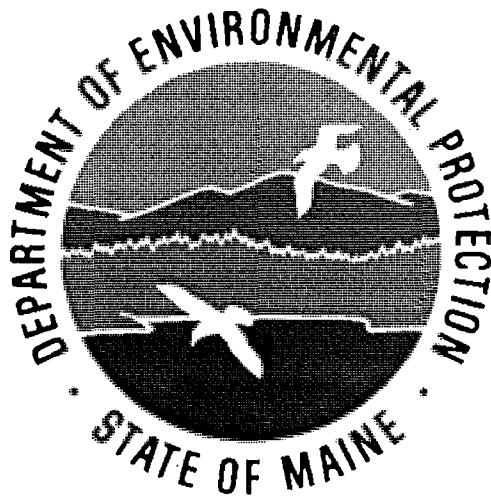
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**REPORT TO THE
NATURAL RESOURCES COMMITTEE
SUMMARIZING THE REVENUES
AND EXPENSES BY PROGRAM
WITHIN THE MAINE ENVIRONMENTAL
PROTECTION FUND**

FOR FISCAL YEAR 1998-1999



**MAINE DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

FEBRUARY 2000

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 four prior annual reports covering the fiscal years 94, 95, 96 and FY97/FY98. This report covers fiscal year 1999.

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 MEPPF supports 17% of the Department's positions, and in FY 1998-1999 represented 10.6% of the department's expenditures, other than bond funds.

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 FY2000, the Air program will have reached the breakeven point for the time being.
- 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, 2001, fee increases and or alternative revenue sources or program adjustments may be needed in several programs to maintain current levels of effort for the future. In particular, the Department is monitoring Air Program revenues and Solid Waste Program revenues, with recommendations possible in the coming biennial budget.
- 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. From July 1, 1999, to July 1, 2001, base salary and retirement costs will have risen 9% through negotiated and legislatively approved salary increases. Some employees also qualify for merit increases. The increases are well above the authorized CPI adjustment for fees under MEPPF.

OVERVIEW

The following provides an overview of the current management of the Fund, a brief description of the major 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 \$225,000 remaining to be paid.

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

	Beginning Balance	Revenues	Expenses	Ending Balance
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	\$4,005,533	\$3,755,676	\$654,592
FY99	\$654,592	\$4,847,014	\$4,070,112	\$1,431,494

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 about 50 % of Fund expenditures.

The growth in revenues from FY98 to FY 99 was driven by:

- Land Fees - \$300,000 increase, largely reflecting the activity in the vibrant economy
- Solid Waste Fees- \$103,000 increase, again linked to the economy
- Air fees- \$285,000 increase. This is not a true increase but reflects the variability of when approximately \$800,000 of fees are received in June or July each year.

Through 1996, the ending balance remained in a safe range of 23% to 28% of expenditures, dipping to 9% in FY97 and improving to 35% in FY99. A balance of at least 25% of expenditures is warranted based on cash flow and potential risks to revenues and collection operations.

Following are the bureau program summaries, with the related financial display on the last page of the report.

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.

The mid '90's saw fee revenues decreasing by about \$50,000 annually as licensees lowered their discharge levels. Operational costs continued to grow though the program level was unchanged. The fee-supported portion of the Air program ended up with a significant shortfall at the end of FY97.

The FY98 shortfall was less than half of the previous year because of program cost controls and the benefit of the Legislature's shift of some costs to the General Fund. Fee revenues suffered because of continued reductions at Loring Air Force Base and the closure of the Kimberly-Clark papermill in Winslow.

In FY99 two personnel were laid off and several positions were not filled promptly when staff resigned; capital equipment replacements were also deferred again. The shortfall was reduced to \$100,000 on an accrual basis.

In FY2000 the revenue base is expected to be down by \$100,000 as the result of reduced operations at the Sappi company in Westbrook. However, continued expenditure controls are expected to cut the Air Quality program's shortfall to near breakeven on an accrual basis.

Consideration is being given to a fee increase or greater General Fund support in the coming biennium (FY2002-FY2003). If the proposed \$512,500 General Fund request for air monitoring equipment replacement in FY2001 is appropriated, then it may be possible to defer a fee increase until the FY2004-Fy2005 biennium.

However, the Air Quality program within MEPF operates without any cash flow buffer of its own and is overly dependent on the overall cash flow of the MEPF.

BUREAU OF LAND AND WATER QUALITY

Bureau programs supported in part by 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. However, in this document 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 during the shortfall in Water revenues. A balance of \$46,000 remains to be paid on this loan in FY2000.

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 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. After several years of growth through FY1999, fees through January of FY2000 appear to be tracking FY1999.

Consistent with departmental planning, two regular staff positions have been filled in the Land program to service the increased volume of applications. Other temporary project positions will assist in addressing the compliance review of permits issued. The program is fiscally sound for the immediate future.

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 few dams to be licensed or relicensed in the next few years. Revenues are uneven and are not enough to sustain a position. Since FY1996, there has been only one General Fund position serving this area as well as carrying out other duties. While any significant increase in licensing activity could burden current staff, the modest fee balance could provide for short term contracted assistance?

WATER FEES

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

Source: Fees are levied on commercial, industrial and publicly owned treatment plants based primarily on the amount of pollutants discharged.

Status: The National Pollution Discharge Elimination System (NPDES) legislation implemented in FY1999 has now provided the fee base to make the water licensing program self-sustaining. Like the Air Program, the fees are based on pollutant discharge levels. License reductions or discontinuance, such as the closing of the Kimberly-Clark Mill in Winslow and Maine Yankee in Wiscasset and production reduction at the Sappi Mill in Westbrook, have eroded the licensing revenue base. Once full staffing is achieved in the NPDES program, the need for periodic fee increases or General Fund relief may be accelerated.

The program appears financially stable through FY2001.

OVERBOARD DISCHARGE LICENSING AND ANNUAL INSPECTION FEES

Purpose: Overboard discharge fees support licensing and inspection activities of overboard discharge systems (i.e. small discharges of treated waste water to surface waters).

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 and inspection fees annually. A newly legislated fee schedule was implemented in FY1999 and program funding now appears to be stable.

BUREAU OF REMEDIATION AND WASTE MANAGEMENT

The Bureau of Remediation and Waste Management's Solid Waste, Asbestos Abatement, and Lead Abatement activities supported in part by MEPF fees are also treated as one rather than three activities and are all carried out by the same division within the bureau. 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: For FY1999 and thus far in FY 2000, Solid Waste fee revenues are 5% to 7% ahead of expenses. As noted in the Overview, the MEPF portion of the Solid Waste Program will be monitored in the coming year to determine if fee adjustments or General Fund relief will be required in FY2002 or FY2003.

Proposals by a Solid Waste Stakeholder Group could conceivably affect MEPF fees in the coming development of the biennial budget for FY 2002 and FY2003. The Stakeholder 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. Even with the authorized CPI adjustment, these levels may not be adequate to meet the modestly growing operating and personnel costs. 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 the 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: In FY 99, revenues were approximately 6% greater than expenses. However, the carry forward balance in the program area is adequate and the program appears stable through FY2001.

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 1999, 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 for laboratory costs from 11 wastewater treatment facilities; this represents the majority of activity in the Other Activities category with expenses of \$314,334;
- 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;
- reimbursement from Maine Yankee for closure activities;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 1998-1999

	BEGINNING BALANCE	REVENUE	TOTAL EXPENSES	PERSONAL SERVICES	ALL OTHER	CAPITAL	INDIRECT COST	ENDING BALANCE
AIR FEES	(\$640,900)	\$2,289,170	\$1,974,592	\$1,544,459	\$187,482	\$5,270	\$237,381	(\$326,322)
LAND FEES	\$484,490	\$940,123	\$630,514	\$416,337	\$103,333	\$9,270	\$101,574	\$794,098
HYDRO FEES	\$19,448	\$18,291	\$0	\$0	\$0	\$0	\$0	\$37,739
WATER FEES	(\$85,218)	\$141,855	\$114,267	\$57,927	\$44,753	\$0	\$11,587	(\$57,630)
OVERBOARD DISCHARGE FEES	\$85,903	\$225,866	\$224,309	\$167,429	\$32,091	\$0	\$24,789	\$87,460
SOLID WASTE FEES	\$169,913	\$570,142	\$528,963	\$446,703	\$22,526	\$0	\$59,734	\$211,092
ASBESTOS FEES	\$207,364	\$178,530	\$167,788	\$113,346	\$33,756	\$0	\$20,686	\$218,106
LEAD ABATEMENT	\$38,435	\$17,625	\$516	\$0	\$357	\$0	\$159	\$55,544
WORKING CAPITAL POOL	\$179,472	\$0	\$0	\$0	\$0	\$0	\$0	\$179,472
OTHER ACTIVITIES	\$195,685	\$465,413	\$429,163	\$7,982	\$381,989	\$13,852	\$25,340	\$231,935
TOTAL	\$654,592	\$4,847,014	\$4,070,112	\$2,754,184	\$806,287	\$28,392	\$481,249	\$1,431,493

Note: some totals do not add due to rounding.