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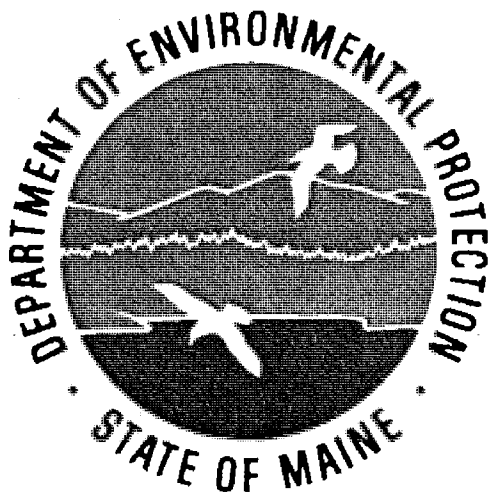
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**REPORT TO THE
NATURAL RESOURCES COMMITTEE
SUMMARIZING THE REVENUES
AND EXPENSES BY PROGRAM
WITHIN THE MAINE ENVIRONMENTAL
PROTECTION FUND**

FOR FISCAL YEAR 2001 – 2002



**MAINE DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

January 2003



JOHN E. BALDACCI
GOVERNOR

BROOKE E. BARNES
ACTING COMMISSIONER

February 7, 2003

Senator John L. Martin, Senate Chair
Representative Theodore Koffman, House Chair
Joint Standing Committee on Natural Resources
State House - Room 437
Augusta, ME 04333

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

Enclosed is the annual report regarding the revenues and expenses of the Maine Environmental Protection Fund (MEPF) for FY 2002. The MEPF gets its revenues mainly from license fees and provides 9.4% of this department's operating funds.

The report indicates the general health of most of the program activities within the Fund and indicates that anticipated revenues are sufficient for the coming biennium, with one exception.

The Department will be submitting a bill this session to revise the program and the fees for the Overboard Discharge Program in the Bureau of Land and Water Quality.

I believe this report will be useful information for our budget discussion scheduled for February 18, 2003.

Sincerely,

Brooke E. Barnes
Acting Commissioner

DEPARTMENT OF ENVIRONMENTAL PROTECTION
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INTRODUCTION

The Maine Environmental Protection Fund statutes, 38 MRSA §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 for FY2002. The report also summarizes the major fee categories by bureau, briefly indicating the purpose, source, and status of the fee categories.

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, wastewater treatment, natural resources protection, asbestos, lead, 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. The MEPF also is authorized to receive and expend other funds related to the department's mission, such as a health and safety grant from the State Division of Employee Benefits, and the revenues and expenses of a non-point source training program.

Currently the MEPF supports 16% of the Department's positions and in FY2002 represented 9.4% 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 were generally realized as projected.
- 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. A fund balance is also required to support program levels during slow periods of economic growth or unanticipated program disruptions, such as the closure of a large paper mill.
- While fees are sufficient to support program activities through the completion of the current fiscal year ending June 30, 2003, fee increases, alternative revenue sources, or program adjustments will be needed to be legislated in FY2003 to be implemented in FY2004 to sustain the Overboard Discharge Waste Water program (OBD). Fee increases, alternative revenue sources, or program adjustments may also be needed to be legislated in FY2005 for implementation in FY2006 in the Waste Water Treatment Plant licensing and monitoring program to sustain the program service level and to meet program requirements to continue Federal delegation of this function.
- Periodic fee increases or other revenues will be required to maintain program levels over time as personnel and operating costs gradually increase and as fee-related licensed discharges and emissions decrease in some areas. From July 1, 1999 to July 1, 2003, personnel costs will have risen approximately 22% due to negotiated and legislatively-approved salary increases and increases in retirement cost, health insurance and workers' compensation costs. Many employees also qualify for merit increases.



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.

An "Other Activities" category represents some sixteen activities related to the department's mission but not formal licensing and monitoring functions. Some are revolving cash pools (e.g. the printing and sale of regulations; the billing of dioxin testing) and others are short term activities/projects where the MEPF provides the appropriate accounting authority (e.g. toxics reduction grants from the University of Iowa Waste Reduction Center, an Aroostook River study, recovery of tire abatement costs from responsible parties, and a department-wide data integration project).

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 in 1987 was initially for \$500,000; it was being retired at a rate of \$25,000 per year, with a balance of \$150,000 remaining to be paid from FY2003 to FY2008. Through legislative action in the second quarter of FY2003, the working capital advance from the General Fund was repaid in full to help resolve the General Fund revenue shortfall.

The following provides the overview of the Fund on a cash basis for the past eight 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
FY00	\$1,431,494	\$4,886,950	\$4,333,049	\$1,985,394
FY01	\$1,985,394	\$4,960,572	\$4,698,965	\$2,247,001
FY02	\$2,247,001	\$5,922,682	\$5,644,682	\$2,524,963

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 was 38% of Fund expenditures in FY2002.

The growth in revenues from FY98 to FY99 was driven in large part 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



FY2002 saw increases of just under \$1,000,000 in both revenues and expenses from the prior year. On the revenue side:

- Air fees- \$208,000 (20%) reflected the timing of fee receipts actually billed in FY2001
- Land fees - \$146,000 (21%) reflected an increase in the volume and scope of activity
- Other Activities- \$516,000 (93%) represented periodic billing for dioxin testing costs, a significant department-wide data integration project, and a grant from the University of Iowa Waste Reduction Center.

On the expenditure side:

- \$600,000 represented in large part the increase in personnel expenditures from merit increases, workers' compensation and health insurance costs, and wage increases.
- \$249,000 represented expenses associated with the dioxin billing
- \$73,000 was spent on the data integration project, and
- \$79,000 was transferred to the Bureau of Health of the Department of Human Services for services from their toxicologists

For the core licensing and monitoring activities, experience indicates that a working capital balance of at least 25% of anticipated expenditures is warranted based on cash flow and potential risks to revenues and collection operations. Fee balances were 30% to 35% higher than expenditures going into FY2003. These balances have allowed the Department to meet General Fund reduction targets for FY 2003, FY 2004 and 2005 in part by shifting the expenditures and one-time deappropriations to the MEPF.

Most significantly, the balance is key to assuring required staffing levels during economic slowdowns. The balance also buffers programs when other revenue sources are having difficulties, and the balances are absorbed with the growth of personnel costs and operational costs.

The "net worth" of the Fund at the end of FY2002 on June 30, 2002, was \$2,259,622. Net worth is the cash balance less encumbrances, the loan from the General Fund, and untaken indirect costs owed. Net worth is anticipated to be reduced by ten to fifteen percent in FY03.

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 related to regulation of stationary air emissions sources.

Source: Fees are assessed on per-ton-of-pollutant basis 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.



Since the mid-nineties, the fee-supported portion of the Air program has struggled with revenue shortfalls, increasing personnel and operational costs, and field monitoring equipment that was beyond repair. Fee revenues decreased by about \$50,000 annually as the "polluter pays" principle kicked in and licensees lowered their discharge levels. In the last five years, the Air Bureau has cut nine (9) positions.

From FY1997 through to FY2002, the Air program struggled with continuing revenue shortfalls as licensed facilities closed or reduced their licensing levels. Lay offs were necessary in FY1999, with the filling of vacancies generally delayed to buffer cash flows. A one-time appropriation in FY2001 for capital equipment provided for the replacement of failed equipment and older equipment which could no longer be maintained. Careful budget management provided for a small positive balance at the end of FY2001.

In FY2002, the Legislature and the Administration acted to shore up the program and avoid a major shortfall of \$330,000 or more in FY2003. An additional position was deleted from the program, General Fund support was provided for one position and part of another one, and \$200,000 in Federal Highway Surface Transportation Program funds became available. Absent General Fund reductions or a reduction in licensed emissions, the Air program should be financially stable until FY07 without additional revenue increases or program cutbacks. The stability includes a minimal amount of money for an on-going capital equipment replacement program for air monitoring stations around the State.

BUREAU OF LAND AND WATER QUALITY

Bureau programs supported in part by MEPF relate to Land, Hydropower, Water, and Overboard Discharge activities. Those activities and fees are integrated to support the various units in the 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.

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 one-time fees derived from a wide range of permits for construction and use projects.

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 FY99, Land fees dropped by \$161,000, to a total of \$779,092, in FY2000, and dropped by \$99,963, to a total of \$679,129, in FY2001. In order to protect less healthy fee areas in the bureau, the bureau allocated an additional \$150,000 of indirect costs to this area in FY2001.

Land fees rebounded to \$825,191 in FY2002, with annual revenues covering all but \$9500 of annual expenditures.

Again, this program area is among the most affected by changes in the economy, with significant volumes of compliance work to be done at the beginning of an economic turn down from a prior high period of permitting activity.



Mid-year FY2003 revenues and expenditures are running just under FY2002. Vacancies need to be filled to continue timely processing of applications and compliance monitoring. Program funding should be sufficient through the coming biennium given the current level of permits and the carry forward balance.

HYDROPOWER FEES

Purpose: Hydropower 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, few dams are expected to be licensed or relicensed in the next few years. Applications for new dams or reconstruction are episodic, but require significant fund reserves when they do occur. Revenues are uneven and are not enough to sustain a position. While any significant increase in licensing activity could burden current staff, the modest fee balance could provide for short term contracted assistance or cover the time expended by staff normally supported by other fee sources.

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 FY99 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 the production reduction at the Sappi Mill in Westbrook, eroded the licensing revenue base even before the NPDES program was implemented.

The program continues to operate under careful fiscal constraints. Absent revenue disruptions, fee levels are sufficient through FY2004 to maintain current program levels. Increased fees or alternative funding will need to be in place by FY06 to maintain current program levels.

OVERBOARD DISCHARGE LICENSING AND ANNUAL INSPECTION FEES

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

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

Status: Overboard discharges are licensed for five years; licensees pay license and inspection fees annually. The number of licensed OBD systems decreases by about 15% annually as State grants and efforts of individual licensees change systems to conventional or environmentally acceptable septic and sewer systems. This decrease in revenue base, along with the significant increases in basic personal services costs, has resulted in legislated fee adjustments in FY99 and in FY01.



It is necessary to legislate another fee increase of about 25% to be implemented in FY04 to continue the program at current levels. The fee increase is part of a legislative proposal which would also expedite the conversion of existing systems to conventional waste water systems. With the new legislation, fee adjustment, and the progressive phasing out of licensed systems, it is anticipated that there will be a gradual decrease in seasonal staff in the next six years, matching the decrease in field work and the decrease in revenues as systems are converted.

At this writing, there are still nearly 1699 systems licensed under the program.

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 activity rather than three, and are largely carried out by the same division within the bureau. Fee program areas are shown separately here 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: Chapter 21 of the Resolves of 2001 requires the Commissioner of Environmental Protection and the Director of the State Planning Office to develop a plan to permanently dedicate revenue from the \$1 fee on the retail sale of tires and batteries, currently deposited into the Maine Solid Waste Management Fund, to tire abatement activities exclusively. Program staff are to be funded through the General Fund or other revenue source. The plan was submitted to the Committee on Natural Resources in January, 2003. Legislative response to the plan could affect the pressure on MEPF revenues.

The Department's recommendation was not to change current solid waste funding structures. If the recommendation is accepted, then the revenues should be sufficient to maintain current program levels through the coming biennium.

ASBESTOS ABATEMENT 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 and companies filing notices regarding asbestos removal and containment work. They are also collected as the result of licensing companies and certifying individuals for asbestos abatement work.

Status: The program appears stable through the coming biennium.



LEAD ABATEMENT 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 generated by licensing companies and certifying individuals for lead removal work.

Status: This program has a very small revenue stream. There is enough experience now with the program to adjust staff cost distribution, with this program bearing its fair share within the overall solid waste cost center. The program funding appears to be stable through the coming biennium.

Other Activities Within the Maine Environmental Protection Fund

There continues to be a number of activities within the Fund that were independent from the basic licensing and compliance programs noted above. These activities are generally small, special purpose functions which are self-sustaining. These include:

- dioxin monitoring reimbursements for laboratory costs from 11 wastewater treatment facilities; operating at a level of up to \$250,000 annually;
- recoveries from uncontrolled tire stockpiles, to be used for continued tire pile abatement;
- a legislated advance from the Hazardous Waste Fund of \$40,000 for the development and management of metallic mining regulations, to be repaid upon the receipt of further mining applications;
- funds for a significant department-wide data integration project;
- a revolving training account for non-point source and other pollution prevention; and
- annual payments from Maine Yankee to support work done at direction of the Maine Radioactive Waste and Decommissioning Commission . (This sub-account was zeroed out in the Supplemental Budget Bill passed by the Legislature in February 2003, with the transfer of funds to the State Undedicated General Fund.)



DEPARTMENT OF ENVIRONMENTAL PROTECTION
 MAINE ENVIRONMENTAL PROTECTION FUND
 SUMMARY OF REVENUES AND EXPENSES BY ACTIVITY
 FOR FISCAL YEAR 2002

	BEGINNING BALANCE	REVENUE	TOTAL EXPENSES	PERSONAL SERVICES	ALL OTHER	CAPITAL	INDIRECT COST	ENDING BALANCE
Bureau of AQ								
AIR FEES	\$188,284	\$2,355,180	\$2,118,449	\$1,661,651	\$217,610	\$4,680	\$234,508	\$425,015
Bureau of LWQ								
LAND FEES	\$358,473	\$825,191	\$834,610	\$655,047	\$88,526	\$0	\$91,037	\$349,054
HYDRO FEES	\$78,873	\$22,570	\$17,916	\$0	\$16,449	\$0	\$1,467	\$83,527
WATER FEES	\$130,054	\$517,008	\$586,443	\$449,061	\$72,366	\$0	\$65,016	\$60,619
OVERBOARD DISCHARGE FEES	\$48,684	\$235,913	\$255,634	\$210,687	\$16,803	\$0	\$28,144	\$28,963
Bureau of RWM								
SOLID WASTE FEES	\$296,653	\$666,781	\$741,202	\$649,060	\$12,561	\$5,851	\$73,730	\$222,232
ASBESTOS FEES	\$249,407	\$196,825	\$151,505	\$105,506	\$29,157	\$0	\$16,842	\$294,727
LEAD ABATEMENT	\$104,123	\$32,013	\$8,144	\$0	\$7,181	\$0	\$963	\$127,992
WORKING CAPITAL POOL	\$179,473	\$0	\$0	\$0	\$0	\$0	\$0	\$179,473
OTHER ACTIVITIES	\$612,977	\$1,071,201	\$930,817	\$192,179	\$638,917	\$0	\$99,721	\$753,361
TOTAL	\$2,247,001	\$5,922,682	\$5,644,720	\$3,923,191	\$1,099,570	\$10,531	\$611,428	\$2,524,963

