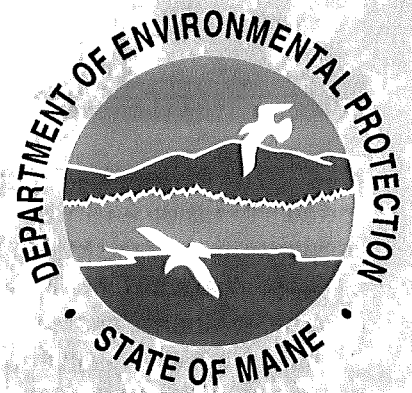


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# **Maine Environmental Protection Fund Fiscal Year 2008 Activity Report**

**Maine Department of Environmental Protection**  
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# MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

## INTRODUCTION & SUMMARY

The *Maine Environmental Protection Fund* law, 38 M.R.S.A. §§ 351 to 354, establishes and sets limits on a variety of fees for licenses and sets out other requirements for the administration of the Maine Environmental Protection Fund (M.E.P.F. or “Fund”). This annual report provides a summary of revenues and expenses for State Fiscal Year 2008 (FY08). The report also summarizes certain fee categories by the Department of Environmental Protection’s (D.E.P.’s) major organizational units, known as bureaus, briefly indicating the purpose, source, and status of the fee categories.

Along with General Fund appropriations and federal grant supported programs, licensing fees provide the revenue that supports application processing and compliance functions in the following areas: air emissions, overboard wastewater discharge systems, site location of development projects, borrow pits, wastewater treatment, storm water run off, natural resources protection projects, asbestos abatement, lead abatement, solid waste management activities, and dioxin testing of select wastewater discharges. Other D.E.P. administered programs have licensing authorities and accounts outside of M.E.P.F. that the Legislature established separately, like hazardous waste management.

An “Other Activities” category within M.E.P.F. represents 19 activities related to the D.E.P.’s mission but not formal licensing and monitoring functions. These are activities and projects for which the M.E.P.F. provides the accounting umbrella, including a revolving account for the printing and sale of training manuals, the repository for toxics reduction grants from the University of Iowa Waste Reduction Center, recovery of certain tire abatement costs from responsible parties, and funds supporting an agency-wide data integration project. The M.E.P.F. also is authorized to receive and expend other funds related to the D.E.P.’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 pollution training program. Details regarding each activity are shown in Appendix A to this report.

The past 10 years of history in the Fund are:

YEAR	BEGINNING BALANCE	REVENUES	TRANSFER TO GENERAL FUND	EXPENSES <sup>1</sup>	ENDING BALANCE
FY99	\$654,592	\$4,847,014	- 0 -	(\$4,070,112)	\$1,431,494
FY00	\$1,431,494	\$4,886,950	- 0 -	(\$4,333,049)	\$1,985,395
FY01	\$1,985,395	\$4,960,572	- 0 -	(\$4,698,965)	\$2,247,002
FY02	\$2,247,002	\$5,922,682	- 0 -	(\$5,644,721)	\$2,524,963
FY03	\$2,524,963	\$5,577,682	(\$361,238)	(\$5,522,960)	\$2,218,447
FY04	\$2,218,447	\$5,357,575	(\$344,926)	(\$5,816,027)	\$1,415,069
FY05	\$1,415,069	\$6,132,290	(\$269,247)	(\$6,321,216)	\$1,226,144
FY06	\$1,226,144	\$7,104,676	(\$183,052)	(\$5,538,376)	\$2,608,808
FY07	\$2,608,808	\$7,386,687	(\$298,409)	(\$7,039,760)	\$2,657,336
FY08	\$2,657,336	\$7,272,842	- 0 -	(\$7,429,549)	\$2,500,629

<sup>1</sup> Total expenses in each year are the sum of the “Transfer to General Fund” and “Expenses” columns.

## MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the FY08 period, D.E.P.'s authorized headcount in the M.E.P.F. was 74, which is 18% of the Agency's current total headcount of 417.5 positions. For this period, M.E.P.F. expenditures were \$7,429,549, representing about 11% of the D.E.P.'s total non-bond expenditures of \$64,031,289. M.E.P.F. revenues in FY08 were slightly down from those realized in FY07 primarily because of effects on the number and size of land development projects being proposed from the overall downturn in Maine's economy.

The major findings in this report are:

- Revenues for the different programs within the Fund were generally realized as projected.
- Revenues and expenditures are accurately associated with programs assessing the fees.
- Presuming that other program funding sources remain as anticipated, revenues are sufficient to support program activities at current levels of effort through the FY10/11 biennium.
- Although transfers were not legislated in FY08 to balance the State's General Fund budget, transfers from the M.E.P.F. to undedicated General Fund total \$1,456,872 for the period spanning FY03 to FY07, resulting in extraordinary caution by D.E.P. during this period for use of the Fund to support existing positions and new initiatives.
- Fee adjustments, or a lack thereof, significantly contribute to the State's capacity to fund the levels of services expected of D.E.P. since there is a strong longstanding correlation between adequate program resources and the time required to appropriately process a license application. In the first session of the 124<sup>th</sup> Legislature, a bill proposing adjustments to asbestos and lead abatement fees will be evaluated in order to align the support needed for those programs to deliver services with adequate resources.

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

**PROGRAM SUMMARIES**

**BUREAU OF AIR QUALITY**

**AIR FEES**

<b>FY08:</b>	<u>Revenue</u>	<u>General Fund Transfers</u>	<u>Other Expenses</u>
	\$2,662,530	- 0 -	(\$2,268,114)

PURPOSE: Support for licensing and compliance activities taken to regulate certain sources.

SOURCE: Fees are based on the volume of certain air pollutant and toxic compound emissions.

STATUS: Air emission fees support 37% of the total costs associated with Maine's air quality programs. The fee authority in this program was legislatively adjusted by the 123<sup>rd</sup> Legislature. This adjustment began implementation in the 2<sup>nd</sup> Quarter of the current fiscal year, with the effects to be reported in the FY09 report.

**AIR-DOT PLANNING AGREEMENT**

<b>FY08:</b>	<u>Revenue</u>	<u>General Fund Transfers</u>	<u>Other Expenses</u>
	\$655,798	- 0 -	(\$626,611)

The *Air-DOT Planning Agreement* reimburses costs for air planning and modeling activities that are linked to the highway construction conformity process. Beginning in FY06, the agreement's reimbursement cap went from \$200,000 to \$600,000 annually. The timing and nature of payments as reimbursements from D.O.T. under the Agreement accounts for the appearance that revenue in FY08 exceeded \$600,000.

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

**BUREAU OF LAND AND WATER QUALITY**

**WATER FEES**

<b>FY08:</b>	<b><u>Revenue</u></b>	<b><u>General Fund Transfers</u></b>	<b><u>Other Expenses</u></b>
	\$549,427	- 0 -	(\$525,818)

**PURPOSE:** Support for application processing, compliance, and water quality activities relating to wastewater discharges from public and private treatment facilities.

**SOURCE:** Commercial, industrial and publicly owned treatment plants pay application and/or annual wastewater discharge fees, determined in part on the amount of pollutants discharged plus a fixed base fee that varies depending on the size and type of a facility.

**STATUS:** In FY08, wastewater discharge fees supported 23% of the costs associated with administering Maine's federally delegated licensing program. The fee authority for this program was established in 1999 at the time D.E.P. combined its administration of the State wastewater permitting program with the then federally administered Clean Water Act program.

**LAND FEES**

<b>FY08:</b>	<b><u>Revenue</u></b>	<b><u>General Fund Transfers</u></b>	<b><u>Other Expenses</u></b>
	\$1,247,225	- 0 -	(\$1,749,601)

**PURPOSE:** Support for application processing and compliance activities under the Site Location of Development Laws and the Natural Resources Protection Act.

**SOURCE:** One-time application fees, often based in part on the size or characteristics of a proposed development.

**STATUS:** The number of land applications is affected by swings in the economy, producing a difficult to predict workload and revenue. Sustained high demand since FY99, and a spike in licensing and compliance activity between FY05 and FY07, generated steadily increasing workload during that period. Maintaining sufficient positions in the program is crucial to assuring expeditious permit processing and compliance monitoring. Although several major projects are known to be upcoming or are already in progress (liquefied natural gas, windpower, and electrical transmission lines), licensing activities regarding commercial and residential subdivisions (traditional program staples) dramatically dropped off beginning in the 3<sup>rd</sup> Quarter of FY08. The result was a significant downward revenue trend that continued into FY09, necessitating temporary reprogramming of staff and the deletion of three (3) license processing positions in the FY09 Emergency Supplemental Budget. The situation continues to be closely monitored and has been extensively discussed during budget briefings with the 124<sup>th</sup> Legislature.

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

**BORROW PIT FEES**

<b>FY08:</b>	<b><u>Revenue</u></b>	<b><u>General Fund Transfers</u></b>	<b><u>Other Expenses</u></b>
	\$195,339	- 0 -	(\$185,782)

PURPOSE: Support for processing notices of intent to comply, compliance monitoring, and evaluation of variance applications.

SOURCE: Borrow pit owners pay a fee when submitting a notice of intent to comply with State standards, and annual fees to continue operations.

STATUS: Maine's borrow pit program currently has a stable base of regulated facilities paying fees that support two full-time positions. The positive FY08 financial information in this section is consistent with recent experience in the program, and if it continues, as expected, it should maintain the program in a solvent condition for the foreseeable future.

**OVERBOARD DISCHARGER FEES**

<b>FY08:</b>	<b><u>Revenue</u></b>	<b><u>General Fund Transfers</u></b>	<b><u>Other Expenses</u></b>
	\$316,689	- 0 -	(\$300,572)

Purpose: Support for application review and compliance monitoring of overboard discharge (O.B.D.) systems, which are largely residential wastewater discharges from individual treatment systems.

Source: Licensing and annual inspection fees are paid by the owners of residential and commercial O.B.D. systems.

Status: Although historically common along Maine's coast, the number of licensed O.B.D. systems is decreasing steadily as a result of a ban on new systems and existing system being removed either through State grant funding or the efforts of individual licensees.

The progressive decrease in licensees results in shrinking revenue. Since 1,380 licensed systems remain, there is sufficient workload to warrant the 2.5 full-time and 3 seasonal positions dedicated to the program in FY08. Legislated fee adjustments, most recently in FY04, have kept this program solvent. The progressive phase-out of licensed systems has resulted in positions being shifted out of the program over the last five years, and it is anticipated that there will be a gradual decrease in seasonal compliance and licensing staff in the next five years, matching an expected decrease in field work and the decrease in revenues as systems are converted. The FY08 financial information in this section is generally consistent with the recent trend in the program, and if it continues as expected, should maintain the program in a solvent condition for the foreseeable future.

# MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

## DIOXIN MONITORING FEES

<u>FY08:</u>	<u>Revenue</u>	<u>General Fund Transfers</u>	<u>Other Expenses</u>
	\$66,303	-0-	(\$91,158)

PURPOSE: Payment of laboratory costs for dioxin monitoring by wastewater treatment plants or industrial facilities.

SOURCE: Certain wastewater treatment facilities pay to reimburse the actual costs of monitoring dioxin proximate to the facilities, with an annual expenditure cap of \$250,000.

STATUS: The dioxin monitoring program is a well established and currently stable program. Since the amount and timing of fees received are based on the testing cycles, financial information provided in this section for FY08 that shows deficit spending is acceptable since the Fund should be fully reimbursed. We believe this program should maintain solvency into the foreseeable future.

## INDUSTRIAL & COMMERCIAL STORMWATER

<u>FY08:</u>	<u>Revenue</u>	<u>General Fund Transfers</u>	<u>Other Expenses</u>
	\$184,992	- 0 -	(\$164,953)

PURPOSE: Support for notice of intent to comply processing, and compliance monitoring of municipal and select industrial and commercial stormwater dischargers.

SOURCE: Industrial and commercial entities that discharge stormwater pay an annual fee.

STATUS: With its beginning in FY05, D.E.P.'s administration of a federally delegated stormwater management program is relatively new. At this time, the program is determining appropriate staffing levels given a growing regulated community expected to be in excess of 1,000 facilities and the need to fully determine the workload required for adequate oversight of the program. There are presently almost 700 facilities enrolled in the program. The FY08 financial information in this section is consistent with current forecasting, with revenue at this level sufficient to maintain the program in a solvent condition for the foreseeable future.



MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

**BUREAU OF REMEDIATION AND WASTE MANAGEMENT**

**SOLID WASTE FEES**

<b>FY08:</b>	<b><u>Revenue</u></b>	<b><u>General Fund Transfers</u></b>	<b><u>Other Expenses</u></b>
	\$830,204	- 0 -	(\$857,332)

**PURPOSE:** Support for application processing and compliance monitoring.

**SOURCE:** Solid waste facilities pay fees at the time of initial application and/or annually if the activity is ongoing.

**STATUS:** The FY08 financial information provided in this section showing deficit spending is indicative of the trend seen in recent years. Reports concerning funding options for the State's solid waste management programs supported by this revenue, and including the Maine Solid Waste Management Fund, were submitted to the Legislature for its consideration in March 2007 and March 2008. No action has been taken as of this date.

**ASBESTOS ABATEMENT FEES**

<b>FY08:</b>	<b><u>Revenue</u></b>	<b><u>General Fund Transfers</u></b>	<b><u>Other Expenses</u></b>
	\$137,802	- 0 -	(\$182,540)

**PURPOSE:** Support for compliance monitoring and training.

**SOURCE:** Asbestos abatement professionals and companies pay fees when filing abatement project notices and when they are licensed to perform work.

**STATUS:** Flat and decreasing funding in the federal grants contributing to the support of this delegated program have put increasing pressure on licensing fee support. Although prior year revenue in this program has allowed the deficit spending seen during the last four (4) years to occur without a negative effect on the Fund, the current situation is unsustainable. In the first session of the 124<sup>th</sup> Legislature, a bill proposing adjustments to asbestos and lead abatement fees will be evaluated in order to make those programs solvent into the foreseeable future.

**LEAD ABATEMENT FEES**

<b>FY08:</b>	<b><u>Revenue</u></b>	<b><u>General Fund Transfers</u></b>	<b><u>Other Expenses</u></b>
	\$21,250	- 0 -	(\$31,431)

**PURPOSE:** Support for compliance monitoring and training.

**SOURCE:** Lead abatement professionals and companies pay fees when filing abatement project notices and when they are licensed to perform work.

**STATUS:** A low number of professionals and lead abatement projects historically resulted in a very small revenue stream for this program. Increasing demands in this area over the last few years requires a revenue adjustment to allow program resources to keep pace.

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

**APPENDIX A:  
SUMMARY OF REVENUES AND EXPENSES BY ACTIVITY**

	BEGINNING BALANCE	REVENUE	TOTAL EXPENSES	PERSONAL SERVICES	ALL OTHER	CAPITAL	OTHER TRANSFERS	GENERAL FUND SWEEP	INDIRECT COST	ENDING BALANCE
Air Emissions	\$594	\$2,662,530	\$2,268,114	\$1,618,021	\$367,237	\$0	\$33,430	\$0	\$249,426	\$395,010
Air/D.O.T. M.O.U.	(\$175,535)	\$655,798	\$626,611	\$540,960	\$15,958	\$0	\$0	\$0	\$69,693	(\$146,348)
Wastewater Discharges	\$165,601	\$549,427	\$525,818	\$390,550	\$69,373	\$0	\$0	\$0	\$65,895	\$189,210
Land Development	\$1,404,476	\$1,247,225	\$1,749,601	\$1,231,437	\$329,826	\$0	\$0	\$0	\$188,338	\$902,100
Borrow Pits	\$168,004	\$195,339	\$185,782	\$153,792	\$11,569	\$0	\$0	\$0	\$20,421	\$177,561
Overboard Discharges	\$152,979	\$316,689	\$300,572	\$244,980	\$21,793	\$0	\$0	\$0	\$33,799	\$169,096
Dioxin Monitoring	\$61,216	\$66,303	\$91,158	\$0	\$68,700	\$14,970	\$0	\$0	\$7,488	\$36,361
Industrial Stormwater	\$187,208	\$184,992	\$164,953	\$118,684	\$27,300	\$0	\$0	\$0	\$18,969	\$207,247
Solid Waste Facilities	(\$79,033)	\$830,204	\$857,332	\$737,080	\$25,591	\$0	\$0	\$0	\$94,661	(\$106,161)
Asbestos Abatement	(\$58,963)	\$137,802	\$182,540	\$131,852	\$30,752	\$0	\$0	\$0	\$19,936	(\$103,701)
Lead Abatement	\$53,549	\$21,250	\$31,431	\$526	\$28,370	\$0	\$0	\$0	\$2,535	\$43,368
All Other Activities	\$777,240	\$405,283	\$445,637	\$258,866	\$103,253	\$0	\$56,188	\$0	\$27,330	\$736,886
<b>TOTAL</b>	<b>\$2,657,336</b>	<b>\$7,272,842</b>	<b>\$7,429,549</b>	<b>\$5,426,748</b>	<b>\$1,099,722</b>	<b>\$14,970</b>	<b>\$89,618</b>	<b>\$0</b>	<b>\$798,491</b>	<b>\$2,500,629</b>

Note: some totals do not add precisely due to rounding.

**APPENDIX A (con't):  
OTHER ACTIVITIES DETAIL**

	BEGINNING BALANCE	REVENUE	TOTAL EXPENSES	PERSONAL SERVICES	ALL OTHER	CAPITAL	OTHER TRANSFERS	GENERAL FUND SWEEP	INDIRECT COST	ENDING BALANCE
N.P.S. Training	(\$4,668)	\$22,110	\$2,202	\$0	\$1,962	\$0	\$0	\$0	\$240	\$15,240
NEIWPC	\$23,451	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$23,451
Oil Publications	(\$2,164)	\$5,845	\$6,642	\$1,986	\$3,929	\$0	\$0	\$0	\$727	(\$2,961)
General Activity	\$80,565	\$105,812	\$171,954	\$102,037	\$3,711	\$0	\$56,188	\$0	\$10,018	\$14,423
Hydro Facilities	\$3,481	\$4,321	\$418	\$0	\$210	\$0	\$0	\$0	\$208	\$7,384
Tire Pile Cleanups	\$21,947	\$12,054	\$437	\$0	\$389	\$0	\$0	\$0	\$48	\$33,564
T.S.O.C.	(\$6,597)	\$2,796	\$4,001	\$0	\$3,518	\$0	\$0	\$0	\$483	(\$7,802)
Data System Dev.	\$35,454	\$0	\$9,934	\$0	\$9,877	\$0	\$0	\$0	\$57	\$25,520
State Stormwater	\$15,248	\$5,219	\$1,739	\$0	\$1,584	\$0	\$0	\$0	\$155	\$18,728
I.T.R.C.	(\$2,574)	\$8,713	\$2,371	\$2,216	\$65	\$0	\$0	\$0	\$90	\$3,768
S.E.P.s	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Augusta Tissue Escrow	\$476,688	\$0	\$44,510	\$0	\$39,556	\$0	\$0	\$0	\$4,954	\$432,178
Aroostook River Study	\$271	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$271
Special Fees	\$0	\$16,731	\$43,163	\$3,025	\$35,415	\$0	\$0	\$0	\$4,723	(\$26,432)
Lead Poisoning Prev.	\$0	\$80,000	\$8,891	\$7,811	\$230	\$0	\$0	\$0	\$850	\$71,109
St.water In Lieu Fees	\$0	\$119,264	\$116,329	\$116,329	\$0	\$0	\$0	\$0	\$0	\$2,935
Iowa Pass-through	\$3	\$0	\$3	\$0	\$0	\$0	\$0	\$0	\$3	\$0
Health/Safety	(\$1,012)	\$2,000	\$2,236	\$0	\$2,030	\$0	\$0	\$0	\$206	(\$1,248)
Maine Yankee	\$134,934	\$20,418	\$21,431	\$18,546	\$573	\$0	\$0	\$0	\$2,312	\$133,921
Sludge	\$786	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$786
R.G.G.I.	\$1,427	\$0	\$9,376	\$6,916	\$204	\$0	\$0	\$0	\$2,256	(\$7,949)
<b>TOTAL</b>	<b>\$777,240</b>	<b>\$405,283</b>	<b>\$445,637</b>	<b>\$258,866</b>	<b>\$103,253</b>	<b>\$0</b>	<b>\$56,188</b>	<b>\$0</b>	<b>\$27,330</b>	<b>\$736,886</b>