

PL 2009, ch. 213, part FFFF

**PART FFFF**

**Sec. FFFF-1. 30-A MRSA §4211, sub-§5, ¶D,** as amended by PL 1999, c. 228, §3, is further amended to read:

D. A nonengineered subsurface wastewater disposal system fee not to exceed \$100 may be charged, and a surcharge of \$15 must be charged. The surcharge must be paid by the municipality to the Treasurer of State, who shall credit the amount to the Water Quality Improvement Fund established under Title 38, section 424-B.

**Sec. FFFF-2. 38 MRSA §353-B, sub-§2, ¶A,** as amended by PL 2007, c. 558, §3, is further amended to read:

A. The base, annualized license renewal service and maximum fees that may be assessed to categories of discharge activities are as follows.

Discharge Group		Base fee not to exceed	Maximum fee for individual in group	Annualized license renewal service fee	<u>Water quality improvement surcharge</u>
Publicly owned treatment facilities, 10,000 gallons per day or less	annual fee	\$67	none	\$150	
Publicly owned treatment facilities, more than 10,000 gallons per day to 0.1 million gallons per day	annual fee	\$219	none	\$150	
Publicly owned	annual	\$219	none	\$225	

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treatment facilities,  
 more than 0.1 million  
 gallons per day to 1.0  
 million gallons per  
 day

fee

Publicly owned  
 treatment facilities,  
 more than 1.0 million  
 gallons per day to 5.0  
 million gallons per  
 day

annual  
 fee

\$219

none

\$450

Publicly owned  
 treatment facilities,  
 greater than 5 million  
 gallons per day or  
 with significant  
 industrial waste

annual  
 fee

\$770

none

\$650

Major industrial  
 facility, process  
 wastewater (based  
 on EPA list of major  
 source discharges)

annual  
 fee

\$1,850

none

\$650

Other industrial  
 facility, process  
 wastewater

annual  
 fee

\$630

none

\$300

Food handling or  
 packaging waste-  
 water

annual  
 fee

\$315

\$2,100

\$150

Fish rearing facility  
 over 0.1 million  
 gallons per day

annual  
 fee

\$288

\$1,753

\$300

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Fish rearing facility 0.1 million gallons per day or less	annual fee	\$288	\$400	none
Marine aquaculture facility	annual fee*	\$288	---	none
Noncontact cooling water	annual fee	\$90	\$7,000	\$60
Industrial or commercial sources, miscellaneous or incidental non- process wastewater	annual fee	\$115	\$2,100	\$150
Municipal combined sewer overflow	annual fee	\$115	\$1,400	\$150
Sanitary wastewater, excluding overboard discharge	annual fee	\$60	\$1,200	\$300
Sanitary overboard discharge, commercial sources	annual fee	\$210	\$1,200	<u>\$75</u>
Sanitary overboard discharge, residential sources 600 gallons per day and less	annual fee	\$175	---	<u>\$75</u>
Sanitary overboard discharge, residential	annual fee	\$200	\$600	<u>\$75</u>

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sources more than  
 600 gallons per day

Sanitary overboard discharge, public sources	annual fee	\$210	\$500	<u>\$75</u>
Aquatic pesticide application	annual fee*	\$200	---	\$370
Snow dumps	annual fee*	\$125	---	\$150
Salt and sand storage pile	annual fee*	\$150	---	\$225
Log storage permit	annual fee*	\$200	---	\$150
General permit coverage for industrial storm water discharges (except construction)	annual fee*	\$300	---	
General permit coverage for marine aquaculture facility	annual fee*	\$125	---	none
General permit coverage (other)	annual fee*	\$100	---	\$30
Experimental discharge license	license fee*	\$500	---	\$225

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New or amended mixing zone, in addition to other applicable fees	flat fee*	\$4,000	---
Formation of sanitary district	flat fee*	\$300	---
Transfer of license for residential or commercial sanitary wastewater	flat fee*	\$100	---

\*Discharge or license quantity fees do not apply to these categories.

When a license authorizes multiple discharge points in different categories in the same license, the total maximum fee for the license may not exceed the maximum fee for the most significant category plus 1/2 of the maximum fee for each of the other applicable categories.

On an annual basis municipalities and publicly owned treatment works whose combined sewer overflows have the potential to impact shellfish harvesting areas as determined by the department by virtue of their locations within estuarine or marine waters of the State must be assessed a surcharge on their wastewater discharge licenses in a total amount of \$12,000. This amount must be allocated among the municipalities and publicly owned treatment works according to their prior 3-year average annual flows as reported to the department.

On an annual basis publicly owned treatment works whose outfalls licensed for the discharge of treated effluent cause adjacent shellfish growing areas to be closed for the purposes of harvesting shellfish must be assessed a license surcharge in a total amount of \$25,000. This amount must be allocated among the publicly owned treatment works according to the acreage that each licensed outfall closes. This acreage must be determined by the Department of Marine Resources in consultation with the department.

**Sec. FFFF-3. 38 MRSA §353-B, sub-§7** is enacted to read:

**7. Revenues derived from surcharge.** Revenues derived from a water quality improvement surcharge must be paid to the Treasurer of State, who shall credit those revenues to the Water Quality Improvement Fund established under section 424-B.

**Sec. FFFF-4. 38 MRSA §410-I, sub-§3** is enacted to read:

**3. Annual coastal water quality monitoring and remediation planning.**

The department shall in coordination with the public health division of the Department of Marine Resources create an annual work plan outlining priorities for the monitoring and classification of shellfish growing areas and for hydrographic studies in shellfish growing areas. The work plan must also prioritize remediation projects that will improve water quality within shellfish growing areas. Staff from both agencies must be assigned in determining responsibilities of the work plan. The Department of Marine Resources shall solicit priorities from the Shellfish Advisory Council established under Title 12, section 6038 and from municipalities with approved municipal shellfish programs for work within shellfish growing areas in those communities. In order for municipal recommendations to be considered for inclusion in a work plan, the municipality must commit to assist in the identification and remediation of nonpoint source pollution, including failing subsurface wastewater disposal systems, in areas affecting the water quality of shellfish growing areas.

The agencies shall prepare a draft work plan by February 1st of each year and make it available for review at a regularly scheduled meeting of the Shellfish Advisory Council, set out under Title 12, section 6038.

The agencies shall begin implementing the work plan by March 1st annually.

**Sec. FFFF-5. 38 MRS §424-B** is enacted to read:

**§ 424-B. Water Quality Improvement Fund**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Fund" means the Water Quality Improvement Fund established in this section.

**2. Fund established.** The Water Quality Improvement Fund is established as a nonlapsing fund under the jurisdiction and control of the department. The fund is established in order to improve and protect water quality in coastal areas through support of the growing area classification program within the water quality and public health program at the Department of Marine Resources, improve the State's wastewater infrastructure, remove licensed overboard discharges, abate pollution from failed subsurface wastewater disposal systems and improve the identification of pollution in shellfish harvesting areas.

**3. Sources of the fund.** The fund consists of:

A. Dedicated revenue derived from surcharges in accordance with section 353-B, subsection 2, paragraph A;

B. Dedicated revenue derived from surcharges in accordance with Title 30-A, section 4211, subsection 5, paragraph D;

C. Sums that are appropriated by the Legislature or transferred to the fund from time to time by the State Controller;

D. Capitalization grants and awards made to the State or an instrumentality of the State by the Federal Government for any of the purposes for which the fund has been established;

E. Interest earned from the investment of fund balances;

F. Private gifts or bequests, directed or advised, and donations made to the State for any of the purposes for which the fund has been established; and

G. Other funds from any public or private source received for use for any of the purposes for which the fund has been established.

**4. Distribution.** After administrative costs, revenue credited to the fund must be distributed as follows.

A. Those funds necessary to support 3 positions in the growing area classification program, including All Other costs and \$20,000 each year for overtime, within the water quality and public health program at the Department of Marine Resources or 50% of the fund, whichever is greater, must be transferred to the Department of Marine Resources. Any funds transferred in excess of those necessary to support the 3 positions is to be used to support flood sampling and processing overtime work by staff in the growing area classification program. At the end of each fiscal year, any remaining funds must be transferred to the fund and used for the purposes described in paragraph B.

B. The remaining balance of the fund must be used to support the removal of licensed overboard discharges; investment in the improvement of the State's wastewater infrastructure; abate or remove sources of pollution from failing subsurface wastewater disposal systems; and support municipal or other qualified applicants in identifying pollution in shellfish harvesting areas.

The department is authorized to be reimbursed from the fund for administrative costs. "Administrative costs" for purposes of this subsection means personal services directly associated with the processing and collection of the license surcharges in section 353-B, subsection 2, paragraph A. The department and the Department of Marine Resources shall annually provide an itemized description of the prior year's expenses from the fund and a proposed budget for the following year to the Shellfish Advisory Council established under Title 12, section 6038 and to representatives of publicly owned treatment works.

**5. Grants.** Provided there are available funds, the department shall establish procedures and criteria for the grant application process, eligibility for grants and the award and use of grants made under this section.

**6. Rules.** The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. FFFF-6. Water quality standards for shellfish harvesting.** The Department of Environmental Protection shall consider bacteria and viral standards used by the National Shellfish Sanitation Program's model ordinance when issuing waste discharge licenses to ensure that shellfish harvesting is protected as a designated use under the Maine Revised Statutes, Title 38, section 465-B.

The Department of Environmental Protection shall review whether the imposition of year-round disinfection requirements at licensed wastewater discharge facilities would serve to improve the ability of the Department of Marine Resources to upgrade the classification of shellfish growing areas, where such facilities affect classification status. The Department of Marine Resources shall identify which facilities affect shellfish growing area classification. If the Department of

Environmental Protection determines that year-round disinfection improves the ability to upgrade the classification of any shellfish growing areas, it shall change the license of that facility to require year-round disinfection sufficient to improve the classification.

**Sec. FFFF-7. Report.** The Department of Marine Resources and the Department of Environmental Protection shall submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 1, 2011 that identifies the point and nonpoint sources of fecal coliform that affect the State's shellfish areas based upon existing information readily available to the departments. The report must be comprehensive and include but not be limited to analysis of: stormwater runoff, overboard discharge sources, farm and agricultural operations, municipal wastewater systems, direct industrial discharges and private septic systems. The joint standing committee of the Legislature having jurisdiction over natural resources matters is authorized to submit legislation to the First Regular Session of the 125th Legislature to amend the fee structure under the Maine Revised Statutes, Title 38, section 353-B on the basis of the fecal coliform source report.

**Sec. FFFF-8. Transfer from General Fund unappropriated surplus; Bureau of Resource Management, Shellfish Fund, Other Special Revenue Funds program, Department of Marine Resources.** Notwithstanding any other provision of law, the State Controller shall transfer \$210,000 by July 15, 2009 from General Fund unappropriated surplus to the Bureau of Resource Management program, Shellfish Fund, Other Special Revenue Funds account within the Department of Marine Resources. On or before June 30, 2010, the State Controller shall transfer revenue credited to the Maine Environmental Protection Fund program, Water Quality Improvement Fund, Other Special Revenue Funds account within the Department of Environmental Protection to the unappropriated surplus of the General Fund to repay the \$210,000.

**Sec. FFFF-9. Transfer from the Submerged Lands Fund, Department of Conservation.** Notwithstanding any other provision of law, the State Controller shall transfer \$80,000 on or before July 15, 2009 and \$80,000 on or before July 15, 2010 from the Land Management and Planning program, Submerged Lands Fund, Other Special Revenue Funds account within the Department of Conservation to the Bureau of Resource Management program, Shellfish Fund, Other Special Revenue Funds account within the Department of Marine Resources.