

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

—
H.P. 1302 - L.D. 1768

An Act To Improve the Department of Environmental Protection's Annual Waste Discharge License Fee System

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation revises the Department of Environmental Protection's annual waste discharge license fee system; and

Whereas, in order to maintain a consistent cash flow into the waste discharge license fee account at the Department of Environmental Protection, one-quarter of the regulated community is billed in each quarter of the year; and

Whereas, if the revised fee schedule does not become effective until 90 days after adjournment of the Legislature, one-half of the regulated community will be billed under the current fee system and the other half will be billed under the revised system, creating inequity within the regulated community as to how fees are assessed; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §353-B, sub-§1, as amended by PL 2007, c. 558, §2, is further amended to read:

1. Fees assessed. After the effective date of this section, licensees must pay annual waste discharge license fees ~~consisting of a base or minimum fee, an annualized license renewal service fee and amounts from paragraph B reflecting the quantity of pollutants actually discharged or licensed to be discharged and from paragraph C in consideration of the potential for water quality impact.~~ Annual waste discharge license fees for existing licensees are determined as set out in subsection 2. Annual waste discharge license fees for new licensees, or licensees that have been reclassified to a new discharge group, are determined by the discharge group to which the facility is assigned. The fee for a new

waste discharge license is the median fee for the selected discharge group, and this fee must be paid at the time of application. If the application for a new license is denied, 50% of the initial annual fee must be refunded.

~~A. A base fee and an annualized license renewal service fee are assessed for the categories of waste discharge licenses identified in subsection 2, paragraph A. When a license authorizes discharges in more than one category, only the largest base fee and the associated annualized license renewal service fee may be applied to the license. When discharge fees described in paragraph B are not applicable or appropriate for a particular license group or discharge activity, only the base and annualized license renewal service fees are assessed.~~

~~B. In addition to the base fee and annualized license renewal service fee amounts, fees are assessed in consideration of the quantity and nature of pollutants discharged. When data are available, average daily discharge quantities are used in computing fees for conventional and nonconventional pollutants discharged from publicly owned sanitary and industrial process wastewater sources. When data are not available and for other pollutants and categories, fees are determined using the discharge limits established in a waste discharge license.~~

~~C. In addition to the base, annualized license renewal service and discharge fees described in paragraphs A and B, fees may be assessed for the following:~~

~~(1) The base fee may be increased by a factor reflecting the initial dilution of an effluent as discharged to the receiving water. This assessment is applied to nonresidential domestic wastewater and industrial process wastewater sources licensed for more than 50,000 gallons per day and having initial dilutions of less than 1,000 to one, except those sources where the licensed flow is less than 50,000 gallons per day and the initial dilution is greater than 50 to one. The assessment is determined by multiplying the applicable base fee times 1.5 divided by the square root of the chronic dilution factor.~~

~~(2) When a license authorizes multiple discharge points from the same location, there is an additional fee of \$35 per discharge point.~~

~~D. If there are no discharges pursuant to a waste discharge license during an entire year, only the base and annualized license renewal service fees are assessed for that year plus applicable water quality impact and multiple discharge points adjustments from paragraph C may be assessed the fee for that year must be reduced to 25% of the fee amount that would otherwise apply to that license.~~

~~E. If a licensee continues to discharge following expiration of the license, the licensee shall must continue to pay any applicable waste discharge license fees provided for in this section. This paragraph does not authorize the discharge and does not affect the applicability of any penalty or enforcement provision.~~

Sec. 2. 38 MRSA §353-B, sub-§2, as amended by PL 2009, c. 213, Pt. FFFF, §2, is repealed and the following enacted in its place:

2. Fee amounts. Waste discharge license fees are determined as specified in this subsection.

A. The fees for waste discharge license groups are as follows.

<u>Discharge group</u>	<u>Basis for annual fee</u>	<u>Median fee for discharge group</u>	<u>Water quality improvement surcharge</u>
<u>Publicly owned treatment facilities, 10,000 gallons per day or less</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$306</u>
<u>Publicly owned treatment facilities, more than 10,000 gallons per day to 0.1 million gallons per day</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$400</u>
<u>Publicly owned treatment facilities, more than 0.1 million gallons per day to 1.0 million gallons per day</u>	<u>annual fee</u>	<u>Average of 2009, 2010 and 2011 bill amounts</u>	<u>\$617</u>
<u>Publicly owned treatment facilities, more than 1.0 million gallons per day to 5.0 million gallons per day</u>	<u>annual fee</u>	<u>Average of 2009, 2010 and 2011 bill amounts</u>	<u>\$1,300</u>

Publicly owned treatment facilities, greater than 5 million gallons per day or with significant industrial waste annual fee Average of 2009, 2010 and 2011 bill amounts \$4,553

Major industrial facility, process wastewater (based on EPA list of major source discharges) annual fee Average of 2009, 2010 and 2011 bill amounts \$19,672

Other industrial facility, process wastewater annual fee 2011 bill amount \$1,214

Food handling or packaging wastewater annual fee 2011 bill amount \$659

Fish-rearing facility 0.1 million gallons per day or less annual fee 2011 bill amount \$312

Fish-rearing facility over 0.1 million gallons per day annual fee 2011 bill amount \$794

<u>Marine aquaculture facility</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$308</u>	
<u>Noncontact cooling water</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$192</u>	
<u>Industrial or commercial sources, miscellaneous or incidental nonprocess wastewater</u>	<u>annual fee</u>	<u>2011 bill amounts</u>	<u>\$363</u>	
<u>Municipal combined sewer overflow</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$413</u>	
<u>Sanitary wastewater, excluding overboard discharge</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$736</u>	
<u>Sanitary overboard discharge, commercial sources</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$446</u>	<u>\$75</u>
<u>Sanitary overboard discharge, residential sources 600 gallons per day or less</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$231</u>	<u>\$75</u>

<u>Sanitary overboard discharge, residential sources more than 600 gallons per day</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$313</u>	<u>\$75</u>
<u>Sanitary overboard discharge, public sources</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$315</u>	<u>\$75</u>
<u>Aquatic pesticide application</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$644</u>	
<u>Snow dumps</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$319</u>	
<u>Salt and sand storage pile</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$429</u>	
<u>Log storage permit</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$422</u>	
<u>General permit coverage for industrial storm water discharges (except construction)</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$300</u>	
<u>General permit coverage for marine aquaculture facility</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$134</u>	

<u>General permit coverage (other)</u>	<u>annual fee</u>	<u>2011 bill amount</u>	<u>\$164</u>
<u>Experimental discharge license</u>	<u>license fee</u>	<u>2011 bill amount</u>	<u>\$899</u>
<u>New or amended mixing zone, in addition to other applicable fees</u>	<u>flat fee</u>	<u>\$5,368</u>	<u>---</u>
<u>Formation of sanitary district</u>	<u>flat fee</u>	<u>\$402</u>	<u>---</u>
<u>Transfer of license for residential or commercial sanitary wastewater</u>	<u>flat fee</u>	<u>\$100</u>	<u>---</u>

On an annual basis, municipalities and publicly owned treatment works whose combined sewer overflows have the potential to affect 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. 3. 38 MRSA §353-B, sub-§§3 and 4, as enacted by PL 1997, c. 794, Pt. B, §7, are amended to read:

3. Schedule. The fee for existing licenses must be paid on the anniversary date of the license or another date initially established by the department. This date, once

established, remains the scheduled date for paying the annual fee, regardless of future changes of the anniversary date. ~~The annual fee for new applications must be estimated and paid at the time of filing the application. When the processing of the application is complete or following the first year of discharge, if applicable, the final annual fee is determined. Any additional amount due or refund of overpayment must be paid within 30 days of determination of the final fee. If the application is denied, 50% of the initial annual fee must be refunded.~~

4. Renewals, amendments and modifications. Except for transfers of licenses for discharges of sanitary wastewater from commercial or residential sources as provided for in subsection 2, there are no additional fees assessed for license renewals, amendments or modifications. Upon significant changes in discharge flow, a licensee may apply for modification of the license to change the licensed discharge flow. The percent change in discharge flow must be used to adjust the annual waste discharge license fee by an equivalent percentage.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor