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An Act Regarding the Maximum Fee for Processing an Environmental License Application

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

Whereas, current law specifying a cap on special fees associated with an application before the Department of Environmental Protection provides for a significantly reduced maximum fee as of September 1, 2009; and

Whereas, the reduced special fees are not adequate to allow for appropriate processing of applications that because of their size, uniqueness, complexity or other relevant factors are likely to have significantly higher costs; and

Whereas, it is therefore necessary to promptly adjust these fees; 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 §352, sub-§3, as amended by PL 2007, c. 661, Pt. B, §9, is further amended to read:

3. Maximum fee. The commissioner shall set the actual fees and shall publish a schedule of all fees by November 1st of each year. If the commissioner determines that a particular application, by virtue of its size, uniqueness, complexity or other relevant factors, is likely to require significantly more costs than those listed on Table I, the commissioner may designate that application as subject to special fees. ~~Through August 31, 2009, a special fee may not exceed \$250,000. Beginning September 1, 2009, a special fee may not exceed \$75,000.~~ Such a designation must be made at, or prior to, the time the application is accepted as complete and may not be based solely on the likelihood of extensive public controversy. The maximum fee for processing an application may not exceed \$250,000. All department staff who have worked on the review of the application, including, but not limited to, preapplication consultations, shall submit quarterly reports to the commissioner detailing the time spent on the application and all expenses attributable to the application, including the costs of any appeals filed by the applicant and, after taking into consideration the interest of fairness and equity, any other appeals if the commissioner finds it in the public interest to do so. The costs associated with assistance to the board on an appeal before the board may be separately charged. The processing fee for that application must be the actual cost to the department. The applicant must be billed quarterly and all fees paid prior to receipt of the permit. Nothing in this section limits the commissioner's authority to enter into an agreement with an applicant for payment of costs in excess of the maximum special fee established in this subsection.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect September 1, 2009.

Effective September 1, 2009.