

**PERFORMANCE AUDIT REPORT OF
THE NATIONAL ENVIRONMENT AND PLANNING AGENCY'S
ROLE IN PROTECTING THE ENVIRONMENT
AND PROMOTING SUSTAINABLE DEVELOPMENT**

December 2010

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Foreword

In recent years there have been concerns as it relates to the protection, and sustenance of the environment. There is a global thrust for increased protection and in our local environment, the constant development in many sectors of the economy are bound to have significant impacts.

With this in mind, I commissioned a performance audit study aimed at determining whether the National Environment and Planning Agency (NEPA), the government body assigned to protect the environment, has been effective in executing its statutory duties and has supplied value to taxpayers for funds invested in it, through budgetary allocation.

The study identified that NEPA's business processes and management practices are in need of revision if it is to achieve its mission to ensure protection of the environment and that Jamaica's natural resources are being used in a sustainable way.

I wish to express my sincere thanks to the National Environment and Planning Agency for the cooperation and assistance given to my staff, during the audit. Special thanks to; my staff, Mr. Robert Reeve, National Audit Office of the United Kingdom and all stakeholders who afforded us time from their busy schedule to share their views.



Pamela Monroe Ellis, FCCA, FCA, CISA

Auditor General

Executive Summary

1. The National Environment and Planning Agency (NEPA) was established in April 2001, as an executive Agency assigned with the responsibility to protect Jamaica's environment and promote sustainable development.

2. We found severe managerial weaknesses in the overall operations of NEPA. Adequate measures are not being implemented to assure Jamaicans that the conditions of our natural resources will be maintained for future generations. NEPA is not managing its resources to allow it to undertake effectively its legislative functions and strategies are not designed to foster efficiency and generate growth. Since 2001, there have been no clear signs of growth in NEPA's operations. Our key findings are outlined below:

Key Findings

3. NEPA does not have a proactive strategy towards protection of the environment. NEPA is not assessing the current state of the environment to inform its planning decisions. Plans to implement monitoring systems over the period April 2005 to March 2010 failed to materialise as data required to conduct this exercise was only undertaken once. In addition, taxpayers received no value from this exercise as there was no evaluation of the data.

4. There has been some instability in NEPA's leadership which has contributed to its lack of focus. Six CEOs were engaged over the past ten years, with the average stay per CEO equating to only 18 months. Over 60 per cent of staff interviewed believed the frequent change in leadership brought instability and this view was also shared by stakeholders.

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5. There has been limited progress in NEPA's forward planning function since 2001. Some of the Development Orders needed to inform planning decisions are 30 years old. Seven parishes are not fully covered by Development Orders. The finalisation of the Orders is not being prioritised. The draft Orders prepared during April 2001 to March 2010, were not promulgated as at July 31, 2010. The preparation of which can cost up to \$29 million. Further extended delays in finalisation could require additional research which would result in increased costs to the public.

6. NEPA is an inward looking organisation and has not sought to benchmark its practices with other similar environmental organisations in an effort to enhance its operations. In addition, targets for its Customer Service and Enforcement activities are not designed to promote improved efficiency.

7. There are also severe weaknesses in NEPA's coordination of its monitoring and enforcement activities. There are no formal procedures to indicate how the Enforcement Branch is advised of newly approved permits and licences. For example, 48 per cent of permits and licences are transferred only after 90 working days, leading to inevitable delays in monitoring and enforcement activities. As a consequence, NEPA is at risk of not being able to pursue enforcement action against clients if breaches are not identified within 12 months of being committed. Further, NEPA management and staff did not adequately manage the monitoring of permits and licences. For example, two of the four coordinators were unable to provide a list of the permits and licences under their purview. Whilst the other two coordinators did not inform their monitoring and enforcement staff of 33 per cent of the permits and licences they should be monitoring.

8. NEPA has not implemented appropriate mechanisms to manage its operations to facilitate the effective achievement of its mission "to promote sustainable development by ensuring the protection of the environment and orderly development in Jamaica".

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Less than 50 per cent of NEPA's staff is working in core technical areas and only 26 per cent are engaged to monitor the environment.

9. NEPA staff is monitoring less than half of approved developments. Although NEPA has prioritised the monitoring of developments that present a serious threat to the Jamaican environment, only 28 per cent are monitored. Lack of coordination in monitoring and enforcement activities has resulted in the underperformance of enforcement staff, who spend 60 per cent of their time performing administrative tasks, as opposed to working in the field. In addition, staff did not account for 32 per cent of their time. The average efficiency of Enforcement Officers ranged between 35 to 63 per cent. There is also no verification of the activities reportedly undertaken by at least 89 per cent of these officers.

10. NEPA is not placing sufficient priority on the legal and enforcement arm of its business. For example, NEPA could not present the status of 64 per cent of the 106 cases referred for legal action. Despite the legal requirement to prosecute clients who are required to submit reports on waste disposal plants, NEPA did not take any action against the 65 per cent of clients who failed to submit reports.

11. NEPA can only be effective if it works with and gains the respect of the public. However, NEPA's repeated lack of decisive action on the identification and reporting of environmental breaches has increased the difficulty of its task to protect the environment. NEPA did not address 42 per cent of the environmental concerns reported by the public during the period April 2007 to March 2010.

12. NEPA's diminutive fines ranged from \$100 to \$40,000; such fines do not act as a deterrent. This is an urgent issue if NEPA is to find ways of better preventing illegal environmental activity. We identified that similar organisations in at least two Caribbean countries charged fines which were at least 351 per cent higher than those charged by NEPA.

13. NEPA's is not achieving its legislative requirement to manage its costs and implement suitable strategies to ensure that at least 40 to 90 per cent of these costs are recovered from fees charged for services provided. On the contrary, since its inception in 2001, 95 per cent of NEPA's operation has been supported by public funds and NEPA has only generated revenue of 10 per cent of its budgeted expenditure for the past five years.

14. NEPA does not have a strong business focus. For example, the processing of permit and licence applications does not include verification of the payment of application fees prior to its production. NEPA does not monitor fee collection and this has resulted in their failure to collect \$11 million for 153 licences and permits, processed during January 2007 to March 2010. The lack of systematic efforts to revise fees regularly and to manage continually the requirement to become self sufficient has resulted in the public incurring costs of at least \$221 million for licences and permits processed over the period January 2007 to March 2010. Of this amount \$126 million was incurred for planning applications for which no fees were charged.

Recommendations

The following recommendations identify improvement, which should be applied to NEPA processes and can be achieved through greater monitoring and coordination.

NEPA management can better protect the environment and the public

1. NEPA should finalise its draft Development Orders immediately. This activity should be prioritised based on the level of comparative assessed risk associated with its non-implementation. The TCPA Board should define their requirements in the initial stages and conduct regular reviews of the progress of these orders to ensure that they are designed to meet expected standards and prevent unnecessary delays in the review and process.

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2. NEPA should consider preparing reports on the state of the environment at least tri-annually. This would allow for more purposeful and effective planning decisions that will assist in promoting sustainable development. This report should be established as a specific Key Performance Indicator and assigned as priority in the corporate plan.
3. As a priority, NEPA should find ways to better engage with similar overseas organizations and also business and environmental groups in Jamaica, with a view to develop and enhance NEPA's existing approach to ensure the conservation, protection and proper use of the country's natural resources. NEPA should therefore conduct annual comparisons of its existing processes with those of its counterparts in the wider Caribbean and identify those that can add value to its current processes. In addition, annual evaluations should be conducted to assess the value received from new approaches adopted to determine whether they should be retained or aborted.

The NEPA's monitoring and enforcement regime is ineffective

4. The activities of the Enforcement Branch need to be transformed and re-energised over the next year. The enforcement team needs to be managed properly and made accountable for the use of their time and delivery requirements. Targets should be assigned by NEPA senior management to the Enforcement Branch that delivers improved performance. NEPA should also maintain and review proper records that track the life cycle of each licence and permit issued.
5. Specific enforcement team delivery and reporting requirements should be established and implemented immediately to allow NEPA senior management to track the performance of its enforcement team as well as individual clients. These reports should be evaluated and results included in assessing the performance of the monitoring and enforcement staff.

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6. NEPA should focus immediate and effective priority to those activities that have the potential to cause serious harm to the environment. Monitoring and enforcement activities should be developed to maximise coverage of the entire island through more effective and efficient working practices. NEPA management should place special attention on non-permitted activities, particularly¹ As part of this process, there should be demonstrably improved management and accountability of enforcement coordinators verification activities.
7. Starting immediately, NEPA should conduct annual assessments of the effectiveness of its monitoring exercise to identify areas of weaknesses and determine new approaches that can enhance this process.

Despite the identification of breaches, NEPA management is not taking appropriate action to ensure public and environmental protection

8. NEPA senior management should strengthen immediately the coordination of the Legal and Enforcement functions to include greater accountability for activities undertaken. For example, performance standards should be established for both branches dictating response times for addressing breaches identified and reported. In addition, the NEPA senior management should demand weekly reports that provide details of planned activities versus actual output. Armed with this information, the NEPA senior management should critically examine the activities of the two functions to find ways of improving performance over the next six months and beyond.
9. The stakeholders agreed that the power of the Portfolio Minister to overturn NEPA's decisions, based on environmental and planning concerns, impacts the accountability and transparency of the process. The appeal process could be

¹ Activities that do not require a licence/permit, such as those which existed prior to 1997

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assigned to an independent body², as is the practice in many countries, including those of the Caribbean.

10. It is essential that fines act as a deterrent to wilful action, to breach the legislations which are designed to protect the built and physical environment. The Acts, which relate to NEPA, should be revised and provisions should be made to ensure that fines are reflective of damages incurred and that there are revisions every five years to ensure that they remain relevant and effective³.
11. In an environment of limited resources and given the nature of NEPA's responsibilities, greater emphasis should be placed on engaging the public to identify and report environmental concerns. For example, NEPA's early warning system⁴ should be extended to protect all watersheds. Achievement of the public efforts should be publicised to foster greater cooperation. NEPA could also consider publicising examples of offender activities in an effort to increase compliance with regulations².
12. NEPA should consider fostering greater cooperation from the public and business through the establishment of certification programmes that recognise clients who are in compliance with environmental standards. Through collaboration with both the public and private sector, this could be established as criteria to gain priority treatment for companies wishing to conduct business locally or overseas.

NEPA's has not met the requirement to generate revenue to cover costs

13. NEPA is incurring significant administrative costs and experiencing significant delays, in recovering fees charged to process permits and licences. NEPA senior

² Stakeholders recommendation

³ Recommendation supported by stakeholders

⁴ The early warning system involves the engagement of the public to report unusual water incidents and collect samples of relevant material to facilitate tests by NEPA.

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- management should therefore begin the process now to lobby for amendments to its existing regulations that allow for processing fees to be collected upon submission of application to avoid incurring costs which it may fail to recover. In the interim, NEPA should consider requesting a deposit of at least 50 per cent on licence and permit application fees from its clients. In addition, NEPA could also immediately implement graduated penalties for late collection of licences and permits. This will not only encourage cooperation but it would also enable NEPA to recover additional costs incurred to administer these clients/applications.
14. Application processing should include procedures to ensure that processing does not commence until there is payment confirmation of application fees. NEPA also needs to maintain management accounts that monitor costs of services charged. In addition, specific standards should be established to assess the performance of the Finance Branch, such as, cost efficiency and revenue generation targets.
 15. NEPA senior management should conduct tri-annual evaluation of the cost effectiveness of the licence and permit processes. This would provide NEPA with a consistent and clear rationale for the rate structure for permits and licences. NEPA's plan to explore alternative approaches to ensuring that realistic fees are collected for permit and licences should be fast tracked with a view for it to be implemented within the next year. Fees should be reviewed in conjunction with the corporate plan and should reflect the complexity and costs incurred to process and monitor the respective applications⁵. Given the huge fee adjustment required to allow NEPA to achieve self sufficiency, NEPA should consider implementing gradual increases in fees commencing April 2011 that will allow it to achieve this target within seven years.

⁵ Recommendation supported by stakeholders

Conclusion

Since its inception in 2001, NEPA has not developed appropriate strategies that facilitated its growth and development. The minimum requirements of NEPA's legislation are not being conducted. For example, NEPA is unable to inform the country on the current state of the environment. In addition, Jamaica's planning requirements are not being met. NEPA is not managing its resources and its business operations to ensure that they are utilised effectively in carrying out its mandate. Adequate fees are not being generated to support NEPA's activities. Overall, since 2001, there have been very little changes to the NEPA fee structure. Taxpayers have not received much value for the \$3.6 billion investment they have provided to support NEPA's operation over the past ten years. In addition, the action of polluters are being subsidised by the public. NEPA needs to adopt a more aggressive approach towards protection of the environment. There needs to be more effective management of its operations, in particular its monitoring and enforcement activities. NEPA should also seek to strengthen its strategic plan to ensure that it achieves its legislative functions and that targets are realistic and promote economy, efficiency and effectiveness.

Part One - Introduction

- 1.1 The National Environment and Planning Agency (NEPA) is an Executive Agency whose mandate embraces the need for proper environmental management and sustainable development.
- 1.2 NEPA's main functions includes but is not limited to:
- The development and implementation of planning processes to guide national planning in Jamaica;
 - Increasing public information about the environment to ensure active compliance to relevant legislations; and
 - Working closely with stakeholders to eliminate the occurrence of environmental and planning breaches.

Audit Scope and Methodology

- 1.3 The audit was planned and conducted in accordance with the Government Auditing Standards, which are applicable to Performance Audit and issued by the International Organization of Supreme Audit Institution (INTOSAI). The planning process involved gaining a thorough understanding of the various factors that influence the efficient and effective management of NEPA. We conducted an issue analysis to determine whether NEPA is carrying out its role sufficiently well to support development and protect the environment. The audit was therefore designed to determine whether NEPA is:
- Monitoring development and its impact on the environment in Jamaica;
 - Able to operate efficiently and properly within the confines of the existing legislations and regulations;

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- Learning lessons and listening to the concerns of other environmental organisations; and
 - Efficiently managing the requirement to generate revenue to cover costs.
- 1.4 We examined how NEPA manages its processes to support orderly and sustainable development whilst protecting the environment. We audited the following operational activities of NEPA; preparation of Development Orders, processing of applications, issuing of permits and licences, monitoring compliance and conducting enforcement activities. We also reviewed the efforts of NEPA to meet the requirement of generating revenue to cover up to 90 per cent of its costs.
- 1.5 We conducted this audit through:
- Interviews with NEPA's staff and stakeholders;
 - Focus group meeting;
 - Examination and analysis of NEPA files, data and documentation including annual reports, internal and external audit reports;
 - Reviewing environmental and planning Acts, Regulations and documents relating to policies and procedures for the operation of NEPA;
 - Reviewing the procedure for the processing of applications for planning and environmental permits and licences; and
 - Field visits with monitoring and enforcement officers.

Background

- 1.6 NEPA was established on April 1 2001 by a merger of the National Resources Conservation Authority with the Town Planning Department and the Land Development and Utilization Commission. The creation of NEPA was a direct

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result of the Government of Jamaica Public Sector Modernization Programme which aimed to integrate environmental, planning and sustainable development policies and programmes, and improvement in customer service.

1.7 NEPA's mandate to 'manage the natural and built environment to achieve sustainable development' is supported by the following vision and mission statements:

- **Vision:** Jamaica's natural resources are used in a sustainable way and there is broad understanding of environment, planning and development issues, with extensive participation amongst citizens and high level of compliance with relevant legislation.
- **Mission:** To promote sustainable development by ensuring protection of the environment and orderly development in Jamaica through highly motivated staff performing at the highest standard.

1.8 NEPA operates under the following Acts and Regulations:

- **National Resources Conservation Authority Act, 1991;** which provides for the management, conservation and protection of the natural resources of Jamaica.
- **Town and Country Planning Act, 1958;** which governs land use in accordance with legal instruments known as Development Orders.
- **Beach Control Act, 1956 (amended 2004),** which ensures the proper management of Jamaica coastal and marine resources by a system of licensing of activities on the foreshore and floor of the sea.
- **Watershed Protection Act, 1963;** which provides for the protection of watersheds and areas adjoining the watershed and promotes the conservation of water resources.
- **Wild Life Protection Act, 1945 (amended 1998);** which is primarily concerned with the protection of specified species of fauna and also prohibits the

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removal, sale, or possession of protected animals and use of dynamite or other noxious material or kill or injure fish.

- **Endangered Species Act**, 2000, which governs international and domestic trade in endangered species in and from Jamaica.
- **Land Development and Utilization Act**, 1966; which states the responsibility of the Commissioner of Lands in acquiring land needed by the Government for public purposes.

1.9 NEPA's main activities include, but are not limited to the following areas:

- Monitoring Jamaica's natural resource assets and the state of the environment.
- Processing of applications for environmental permits and licences and granting permits and licences for:
 - Development and Change of Agricultural Land Use
 - Beach use
 - Construction and operation of industrial facilities listed on the prescribed categories project list (NRCA Permit and licence regulation, 1996). For example, power generation plants and sanitary landfills
 - Sewage discharge
 - Industrial waste discharge
 - Export of Wildlife Species, for example, conch, orchid
- Preparing town and parish development plans, Development Orders, advising on land use, planning and development activities, and enforcement of environmental and planning laws and regulations.

NEPA budget and other sources of funding

1.10 NEPA expenditure is financed by the annual vote provided in the related appropriation Act. **Figure 1** shows NEPA’s funding arrangements for the five years 2005 to 2010.

Figure 1 NEPA Budget 2005 to 2010

Period	Budget approved inclusive of Appropriation in Aid (\$000)	Budget Received (\$000)		
		Vote	Appropriation-in-Aid	Total
2009-10	592,525	552,956	22,776	575,732
2008-09	655,841	576,106	16,266	592,372
2007-08	510,152	473,920	17,334	491,254
2006-07	445,276	425,190	12,929	438,119
2005-06	338,128	330,407	8,567	338,974
Total	2,541,922	<u>2,358,579</u>	<u>77,872</u>	<u>2,436,451</u>

Source: Auditor General’s Department Compilation of NEPA Financial Data

1.11 NEPA is authorised to use the appropriation-in-aid collected as fees from the granting of the following permits and licences to meet their general expenses:

- Beach licences
- Life guard licences
- Hunters licences
- Environmental permits and licences
- Import and export permits.

NEPA employs more administrative staff than technical staff

1.12 NEPA resources are used to employ 237 staff. We found that only 49 per cent of the staff are working in NEPA frontline technical operational activity; of this amount only 26 per cent are engaged in the monitoring of compliance and enforcement activities (**Figure 2**). During the course of meetings with NEPA’s senior management, there were concerns that they were unable to fulfil their constitutional mandate because of the lack of adequate technical staff. However,

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NEPA's administrative and ancillary staff account for just over 50 per cent of the staff complement.

Figure 2 NEPA Staffing Balance between Frontline Technical and Other Activities

NEPA Staff	Number	Percentage
Technical	117	49.4
Administrative	104	43.9
Ancillary	16	6.7
Total	237	100

Source: Auditor General's Department Analysis of NEPA Data

Part Two - NEPA's management can better protect both the environment and the public

The management of NEPA has not been helped by the frequent changes in the leadership

- 2.1 Since NEPA's establishment in 2001, there has been a significant turnover of Chief Executive Officers (CEO). During the period 2001-10, there have been six CEOs, whose tenure ranged from two months to three years. The average stay for a NEPA CEO is just over 18 months. NEPA CEOs are employed for an initial three year contractual term. Although it is possible to reappoint a CEO at the end of the three year term, NEPA has never retained a CEO beyond the initial contract.
- 2.2 We met with 33 members of staff in one-to-one conversations to capture their views on how the frequent changes in leadership have impacted on NEPA's business operations. Approximately 67 per cent of these staff believe that the frequent leadership changes have impacted negatively on NEPA's operations. Conversely, 30 per cent felt that the operations were unaffected by the leadership changes. Examples of responses received are shown in **Figure 3**.

Figure 3 Staff Views on NEPA Frequent Leadership Changes

- “The changes have put the Agency in no better position. We may have taken two steps forward with one CEO and two backwards with the replacement.”
- “Continuity gets jammed which leads to a delay in sustainable development.”
- “One CEO would have a specific strategy and would have put things in motion to ensure that they are achieved. But once a new CEO comes along, all these plans get pushed aside.”
- “Change in CEO affects staff ability to focus, as each CEO emphasises different aspects of NEPA’s mandate. NEPA has yet to have a truly national impact.”
- “The changes bring about a level of uncertainty in the organisation. Each CEO comes with a different focus. For example, one CEO’s focus was on cooperation among stakeholders and management of the environment; another was on timely processing of applications; and another was all about enforcement.”
- “The general operations have remained the same.”
- “The changes have impacted the emphasis put on different areas such as enforcement and monitoring activities, application processing, etc. but not on general operations.”
- “The styles are different but I haven’t noticed any impact on operations.”

Source: The Auditor General’s Department Survey

2.3 Further insight was gained from our focus group discussion with NEPA stakeholders. These stakeholders believe that the frequent change in CEO may have been influenced by the number of portfolio Ministries that have overseen NEPA since its establishment in 2001. It was their view that the focus of NEPA was shifted as the respective oversight ministries changed. The portfolio ministries directing NEPA’s operation since 2001 are shown in **Figure 4** below.

Figure 4 Portfolio Ministry's of NEPA since 2001

Period	Portfolio Ministry
April 2001- March 2006	Ministry of Land and Environment
April 2006 – September 2007	Ministry of Local Government and Environment
September 2007 – July 2008	Ministry of Health and Environment
2008 – present	Office of the Prime Minister

Source: Auditor General’s Department Compilation of NEPA Data

There is insufficient controlled planning of development in Jamaica

- 2.4 One of NEPA’s strategic objectives is to ensure that efficient and effective physical planning strategies and development standards are prepared and implemented to foster sustainable settlements, optimise the use of lands and promote a balance between the competing demands for the use of land. NEPA seeks to achieve this through the preparation of Development Orders.
- 2.5 A Development Order is a legal document which is used to guide development in each Local Authority. The Orders designate lands for various uses, such as, residential, commercial, industrial and protected areas. These Orders should clearly define the Government’s proposals for roads, parks, open spaces and other public uses. Jamaica’s Development Orders are as much as 30 years old, with some dating as far back as 1976 (**Appendix 1**), over which time there have been significant changes in land use within the country.
- 2.6 We found that only six parishes are fully covered by Development Orders; which has been the case since in 2001. Although there is a confirmed Development Order for Kingston, Kingston and St. Andrew are regarded as one local authority and therefore the two parishes are classified as partially completed. The seven other parishes are partially covered (**Figure 5**).

Figure 5-Distribution of Development Orders

Parish Fully Covered	Parish Partially Covered
Clarendon	Hanover
Manchester	Kingston and St Andrew
St Ann	Portland
St James	St. Catherine
Trelawny	St. Elizabeth
Westmoreland	St. Mary
	St. Thomas

Source: Auditor General’s Department Compilation of NEPA’s Data

2.7 We also found that NEPA is not prioritising the finalisation of its draft Development Orders. For example, NEPA is operating at a slow pace in the preparation and review of Development Orders. NEPA did not conduct any work on the Development Orders during the period 2001 to 2004. However, during the period November 2005 to March 2010, NEPA completed seven draft Development Orders. Of these, five were submitted to the Town and Planning Authority for review, two of which were completed and forwarded to the Chief Parliamentary Counsel. The other three draft Development Orders were submitted to the Town and Planning Authority in November 2009, one year after their completion. At the time of our audit, the Town and Country Planning Authority had just started the review of these three Orders (July 10 2010). In addition, there is no defined completion date or timescale for this process. NEPA was unable to inform us when the other two Orders would be submitted to the Town and Country Planning Authority for review (**Appendix 2**).

2.8 Local authorities are guided by Development Orders to inform their decisions in the granting of development permits for their respective parishes. In the absence of Development Orders, approval may be granted for projects/development to be undertaken in areas that should be protected from such activities; including the protection of the environment.

2.9 We conducted a focus group meeting with key stakeholders and they were also concerned that the lack of current Development Orders, as well as plans and

urban design has a negative impact on the timely processing of applications (Figure 6). See Appendix 8 for other stakeholders' comments.

Figure 6 : Focus Group Stakeholder Comment

"The Town Planning Department (NEPA) has the expertise in-house to prepare Development Orders. What is lacking is that we don't have current up to date plans, Development Orders, urban design plans. In Kingston, I don't think there was ever any attempt to do any urban design plans to guide the whole process."

Source: Auditor General's Department

2.10 The continued prolonged delays in the completion of draft Development Orders may result in duplication of effort, which would increase the cost of this work. Based on a cost of services study conducted by NEPA, the Development Order process could cost at least \$29 million. NEPA will have to dedicate continued limited financial and staff resources to this process if the outstanding Development Orders are not reviewed and finalised immediately.

NEPA has not conducted any assessment of the impact that existing developments are having on the environment in Jamaica

2.11 Section 4 (2e) of the NRCA Act, 1991 states that NEPA should: "Investigate the effect on the environment of any activity that causes or might cause pollution or that involves or might involve waste management or disposal, and take such action as it thinks appropriate". A key NEPA role is to undertake assessment of the extent of development and its impact on the environment. However, NEPA has not undertaken any such assessment during the ten years of its existence. This omission has prevented NEPA from learning from past decisions and making more informed planning decisions and formulating more appropriate standards that are relevant to Jamaica's current conditions.

2.12 NEPA planned to implement monitoring systems, over the period April 2005 to March 2010, to determine the impact and outcome of environmental and

physical planning activities on the country's environment. To date NEPA's monitoring efforts involved only the compilation of data. Despite being a performance target for the past five years, NEPA has only compiled this data once, in 2007. NEPA did not analyse data it collected therefore rendering the work meaningless and a waste of public money.

- 2.13 We also found no evidence that NEPA evaluated the effectiveness of its monitoring activities. To be effective an organisation should continually seek to improve its processes to make better use of its scarce resources.

NEPA key operational targets have not promoted efficiency

- 2.14 NEPA has consistently achieved favourable performance results of an average 87.5 per cent over the period April 2005 to March 2010. However, evaluation of the targets for two key business areas; Customer Service and Enforcement, revealed that they were not designed to enable growth. For example, NEPA easily surpassed many of its monitoring and enforcement Key Performance Indicator targets by 10 to 240 per cent. For example, in 2007-08, targets for routine monitoring visits were revised downward by at least 30 per cent from 2,160 to 1,420 per annum despite NEPA conducting 2,377 visits in 2006-07. Since 2007-08, this target has remained unchanged.
- 2.15 We also found that the entire staff performance evaluation exercise was flawed and performance outcomes are not indicative of actual work done. Staff work plans that outline individual targets for a given period are not prepared routinely. We identified only 52 work plans for the period April 2008 to March 2010 (48 for 2008-09 and four for 2009-10). This accounted for only 20 per cent and 1.68 per cent of the staff complement for the respective periods. It was therefore impossible to assess whether the performance of the staff was measured against specific individual objectives, which were aligned to NEPA's operational plan. In addition, we could not identify the basis on which at least 96 per cent of the staff were evaluated and found to perform favourably. The high performance ratings resulted in NEPA

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senior management authorising incentive payments averaging \$19.9 million annually over the past three years (**Figure 7**).

Figure 7 Staff Performance over the period 2006-07 to 2008-09

Year	Staff Performing Above 85 per cent (%)	Average Score (%)	Incentive Payments (\$M)
2008-09	96	95.69	23,843,593
2007-08	95	94.59	21,646,891
2006-07	97	92.49	14,312,110
Total	96	94.3	59,802,594

Source: Auditor General's Department Analysis of Incentive Payments

Part Three – NEPA’s monitoring and enforcement regime is ineffective

- 3.1 Section 4 (1) of the NRCA Act requires NEPA “to take such steps as are necessary for the effective management of the physical environment of Jamaica so as to ensure the conservation and proper use of its natural resources”. One of the ways that NEPA achieves this mandate is through the activities of its monitoring and enforcement team.
- 3.2 The NEPA system of monitoring and enforcement is conducted through a team comprising 18 officers. Three officers are assigned to Kingston and St. Andrew; while another three monitor the activities of Hanover and St. James; one is assigned to each of the other parishes. The remaining two officers are investigators who conduct verification monitoring for Kingston and St. Andrew, Clarendon, Manchester and St. Elizabeth. These officers are expected to monitor the terms and conditions of all permits and licences issued by NEPA to ensure that there is full compliance. At the time of our audit the officer assigned to Clarendon was also working in Manchester because the designated officer had resigned.
- 3.3 NEPA’s enforcement team undertakes both routine and post permit monitoring. Routine monitoring involves conducting inspection within selected areas to determine whether there are any illegal activities which pose a threat to the environment. The officers also conduct post permit monitoring which involves them visiting the premises of clients in possession of permits/ licences to ensure that they are adhering to respective conditions. These conditions are designed to ensure that the approved activity does not harm the environment, such as emitting any harmful substance into the environment, such as raw sewage, caustic soda, petroleum and hazardous gases.

Weaknesses in the coordination of monitoring and enforcement activities impact on the potential for successful NEPA outcomes

- 3.4 The procedure for informing the Enforcement Branch of approved permits/ licences is informal and there is no prioritisation of this activity. Further, there is no standard procedure outlining how the 18 enforcement officers are notified of newly approved permits/ licences that should be monitored.

- 3.5 We were informed that once the application process is completed, copies of the approved permits/ licences should be forwarded to the Enforcement Branch. However, we found significant delays in the time taken to submit these documents to the Enforcement Branch, so that monitoring can commence. We reviewed a sample of 106 permits and licences approved by NEPA over the period January 2005 to December 2009. We found that 48 per cent were forwarded after 90 working days and only 12 were forwarded within 30 working days (**Figure 8**). 32 per cent of the transfers took between 121 working days and a year and 11 per cent took over a year.

Figure 8 Time taken to transfer new applications to enforcement branch

Time Taken (Working Days)	Number of Applications	Percentage
0 to 30	12	11
31 – 60	27	26
61- 90	16	15
91 – 120	5	5
121 – 365	34	32
366 and over	12	11
Total	106	100

Source: Auditor General’s Department Analysis of NEPA data

- 3.6 These delays in the dispatching of approved permit/ licence increases the risk that breaches will not be identified in a timely manner, because NEPA is not carrying out the requisite monitoring, evaluation and enforcement. These delays could result in NEPA being barred from enforcement action if breaches are not

identified within 12 months of their occurrence as stated in Section 37 of the NRCA Act (**Figure 9**).

Figure 9; Section 37 of the NRCA Act

All prosecution for offences against this Act or any regulations hereunder shall be commenced within twelve calendar months next after the commission of such offence or, if the court is satisfied that the Authority with due diligence could not have been aware within that period that the offence had been committed, within such further period as the court may allow.

- 3.7 We found that NEPA's oversight of enforcement activities is inadequate. Four officers coordinate enforcement and monitoring activities. These coordinators should not only inform their respective Officers of their assigned duties, but should also undertake monitoring themselves and conduct verification monitoring of their staff reported activities. In order to manage these basic requirements, we would expect that the coordinators would maintain a list of the permits/ licences that their Enforcement Officers should monitor and provide regular updates to staff. This list could also be used as a reference point to guide the activities of the Officers and assess their performance. We found that only two of the four coordinators maintained a record of the approved permits and licences to be monitored by the Enforcement Officers under their purview. In addition, despite repeated requests, six Enforcement Officers were unable to provide listings of the approved permits and licences that they are required to monitor.
- 3.8 A comparison of the permits/ licences monitored by two Enforcement Officers, with the coordinators' list that was received, revealed that they were not promptly advised of all the permits/ licences that they should be monitoring. The Officers were unaware of 33 per cent of the permits/ licences they should be monitoring. This demonstrates poor management of the monitoring of enforcement activities by the coordinators particularly for the parishes of Clarendon and Manchester. At least 45 per cent of the permits and licences for

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those parishes were not brought to the relevant Enforcement Officer's attention, (See **Figure 10**).

Figure 10-Comparison of Accounts on Enforcement Officers List with Coordinator List

Parish	Officer's Accounts List	Coordinator Accounts List	Difference
St Ann	211	257	46
Clarendon and Manchester	178	321	143
Total	389	578	189

Source: Auditor General's Department analysis of NEPA's records

- 3.9 Verification visits are designed to assure NEPA of the quality of monitoring undertaken by the Enforcement team and provide the opportunity to guide their activities. We found that there was no procedure dictating the frequency and minimum level of verification that should be conducted. Verifications were only conducted for three of the 14 parishes during the three years April 2007 to March 2010. We also noted that monitoring reports of Enforcement Officers were not reviewed by their respective coordinators. The consistent failure to conduct verifications and review monitoring reports denies NEPA the opportunity to guide effectively and prioritise enforcement activities and maximise use of staff resources. Additionally, there is no assurance that developers are strictly adhering to the terms and conditions of their permits/licences, and that the Enforcement Officers are effectively policing the environmental activities of their parishes.

NEPA has not delivered on its strategy to monitor high risk permits and licences

- 3.10 In April 2009, NEPA developed a special monitoring list to prioritise its monitoring activities. In July 2010, there were 243 permits/ licences to be monitored on the special list presented.
- 3.11 We were informed that the permits/ licences on this list represent the minimum number of developments that should be monitored monthly. This list is updated regularly as new permits/ licences are issued. The permits/ licences considered

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as special are large developments and/ or activities that pose a serious threat to the environment. For example, sewage treatment plants and petroleum storage and stockpiling. Despite the priority placed on these activities there is no formal mechanism in place to ensure that all such activities are monitored

- 3.12 Despite the existence of the list, NEPA does not place any emphasis on the monitoring of permits/ licences included on the special monitoring list. Enforcement Officers are not formally advised and provided with timely updates of all the special permits/licences to be monitored. We requested a list of all permits/ licences being monitoring from 11 Enforcement Officers, but only five Officers were able to provide a list. Also, none of these Officers were aware of all the priority/ serious threat items on the special monitoring list which fall under their purview (see **Figure 11**).

Figure 11 Comparison of Special Accounts to be monitored with Enforcement Officers List

Parish	Number of Accounts on Special Monitoring list	Permits on Special Monitoring List included on Officer List	Percentage of Accounts on Officer List
Clarendon	32	9	28
St. Ann	14	13	93
St. Elizabeth	3	0	0
St. Mary	18	9	50

Source: Auditor General's Department Analysis of NEPA Reports

- 3.13 We found that only 67 (or 28 per cent) of the 243 special permits/ licences were monitored during the period April 2009 to March 2010, and only 28 (or 12 per cent) of these permits/ licences were monitored more than once (see **Figure 12**). Fifteen permits/ licences for Portland and Westmoreland were never monitored. NEPA management is not ensuring that staff understand the purpose and need for the special monitoring list. Consequently staff activities are not being managed and supervised to ensure that they fulfil minimum monitoring requirements. A full list of accounts not monitored is enclosed at **Appendix 3**.

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Figure 12 Analysis of Special Permits/Licences Monitored during April 2009 to March 2010

Location	Permits/ Licences on Special Monitoring List	Monitored Permits/ Licences on Special Monitoring List	Number of developments visited once	Number of developments visited more than once
St. Andrew	45	16	10	6
St. Catherine	42	10	8	2
Clarendon	24	9	1	8
St. James	22	4	2	2
Trelawny	22	3	1	2
St. Mary	18	2	2	0
St. Ann	17	9	5	4
Kingston	13	3	2	1
Hanover	10	2	1	1
Westmoreland	10	0	0	0
Manchester	8	3	1	2
Portland	5	0	0	0
St. Thomas	4	4	4	0
St. Elizabeth	3	2	2	0
Total	243	67	39	28

Source: Auditor General's Department analysis of NEPA's records

Enforcement Officer Priorities are administrative rather than in the field

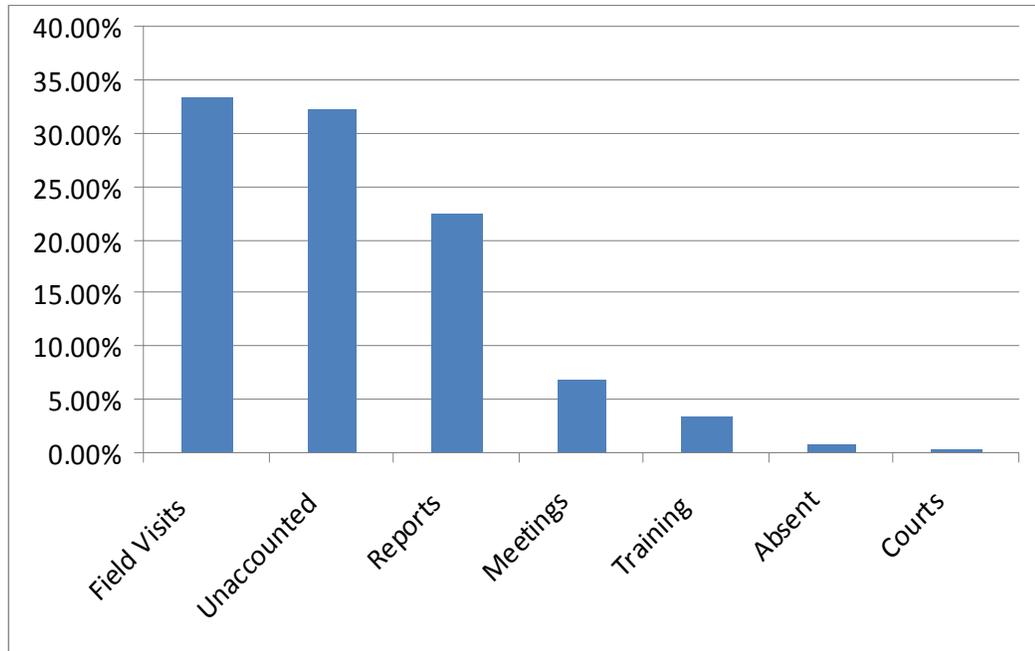
3.14 Enforcement Officers are required to conduct post permit and routine monitoring, and enforcement activities in cases of breach. Their activities also consist of the preparation of reports for activities monitored; weekly and monthly reports that outline monitoring and enforcement activities undertaken for the period. Monthly reports are simply a collation of the weekly reports and bear the same format.

3.15 We could not establish the justification for the number of days spent preparing reports by Enforcement Officers. We found that over the period, January to June 2009, the Officers spent only 33 per cent of their time conducting field visits. At least 32 per cent of the Enforcement Officer's time was unaccounted for and 22 per cent was spent preparing reports (see **Figure 13**). Despite the significant time spent preparing reports, only three of eight officers were able to present copies

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of reports prepared over that period. NEPA's failure to manage and supervise staff properly is exemplified by one Enforcement Officer remaining in the NEPA Head Office for two consecutive months preparing reports, although no monitoring activities were undertaken during the previous month (June 2009)(Appendix 4).

Figure 13 Analysis of Enforcement Officer's Time over Six Months



Source: Auditor General's Department Analysis of NEPA Reports

3.16 We conducted field visits at three locations to observe the activities of Enforcement staff. During the course of the week, Officers spent only two days monitoring and three days preparing reports. We observed that an Officer could monitor at least five large accounts daily or eight small to medium sized developments. However, based on the days allocated for field visits it could take an Officer up to seven months to monitor their assigned developments at least once (**Figure 14**). We found that the average efficiency of Enforcement Officers ranged between 35 to 63 per cent, with no more than two permits/ licences monitored daily. NEPA's lack of proper management within the Enforcement Branch has resulted in ineffective and inefficient monitoring of developments.

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This could mean that environmental abuses remain undetected for prolonged periods.

Figure 14 Analysis of Staff Performance

Parishes	St. Ann	St. Mary	Portland	Clarendon, Manchester	Kingston ⁶
Staff assigned to do monitoring	1	1	1	1	1
Number of developments assigned to Officers	257	126	131	321	193
Average number monitored per day (based on our observation during field visits)	5	5	5	8	5
Number of expected developments monitored per month ⁷	40	40	40	64	40
Actual developments monitored monthly (average)	25	25	14	33	6
Actual accounts monitored daily (average per 20-working day month)	1	1	< 1	< 2	< 1

Source: Auditor General's Department Analysis of Monitoring and Enforcement Efficiency

3.17 Despite the low performance of the monitoring and enforcement staff the Branch reported consistently high performance outcomes over the period April 2006 to March 2009. During this period 96 per cent of the enforcement team received an average performance score of 93 per cent. This highlights the poor management of the enforcement team which has contributed to the low performance demonstrated in the table above.

⁶ Represents one of three officers working in the Kingston and St. Andrew Region

⁷ Average number monitored daily x Number of days assigned to monitoring monthly (8 days)

Part Four - Despite the identification of breaches, NEPA management is not taking appropriate action to ensure public and environmental protection

4.1 NEPA is informed of breaches through monitoring reports prepared by its monitoring and enforcement team, as well as reports from environmental groups and the general public. The NRCA Act and the Town and Country Planning Act outline the enforcement actions to be taken against offenders.

NEPA is not investigating and taking appropriate action in all environmental breaches reported

4.2 NEPA's governing legislation provides significant powers to take appropriate action against offenders. Section 20 of the NRCA Act and Section 29 of the TCPA Act grant NEPA the right to enter any premises to conduct monitoring activities. They can also prosecute any person in breach of the provisions of NEPA permit or licence under the relevant provisions such as, Sections 9 (7) and 10 (4) of the NRCA Act and Section 24 (3) of the TCPA Act. Section 13 of the NRCA Act and Section 22(a) of the TCPA Act also empower NEPA to stop any non-permitted activity or activity operating in breach of the conditions outlined in the permit or licence. The offender is then required to take the necessary corrective action within a specified period. We found that NEPA does not utilise these powers to fulfil its mandate to protect the environment.

4.3 NEPA has reported that 922 enforcement actions, such as prosecution, warning and enforcement notices were taken against clients over the period April 2005 to March 2009. However, NEPA does not maintain appropriate records and could

not present information about the specific cases that were referred for legal action over this period, including the current status of these cases.

- 4.4 We found that the Enforcement Branch referred 106 cases to the Legal Branch during April 2007 to June 2010 for the appropriate sanctions to be taken against the offenders. However, NEPA could not present the status of 64 per cent or 70 of these cases or provide the related documentation to support the actions taken.

NEPA's lack of aggression towards enforcement has resulted in the continued flouting of its regulations

- 4.5 Environmental permits are issued to clients who maintain waste disposal plants⁸. Discharge of untreated sewage and industrial waste can cause significant harm to human life, water quality and the environment. Therefore, in addition to physical monitoring, NEPA regulates clients with such plants by requesting quarterly, self-monitoring reports. These reports should provide information on the quantity and condition of effluent and industrial waste discharge and the area affected by this. NEPA's clients who fail to submit reports should be prosecuted in accordance with Section 17 of the NRCA Act.
- 4.6 We found in NEPA's list dated April 2009, that 55 sewage treatment plants were operating. However, 36 plants, or 65 per cent of these plants were not submitting the required quarterly, self-monitoring reports. We were unable to identify those clients who were not providing reports, as NEPA is not maintaining up to date records. Consequently, NEPA is not monitoring all of the waste disposal facilities to ensure that clients meet minimum standards.
- 4.7 The National Water Commission, which operates approximately 68 sewage plants, has not fulfilled the quarterly, self-monitoring reporting requirement for all of its plants. We found that NEPA has not aggressively pursued the

⁸ Sewage Treatment Plants, and Industrial Waste Facility

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- requirement for the National Water Commission to submit the quarterly reports. NEPA's lack of appropriate action is surprising given that NEPA is aware that 47 plants or 69 per cent of these sewage treatment plants are old and were not built to current specifications. NEPA provided data that shows that the sewage discharge is not adequately treated and is a pollutant.
- 4.8 In 2003, the National Water Commission agreed with NEPA to retrofit 20 plants by 2010. NEPA informed us that this seven year period was agreed on the basis of allowing time for the National Water Commission to obtain funding to carry out the required rehabilitation despite the continued release of pollutants during this period. The National Water Commission has not met the requirements of the agreement to address the defective plants and to comply with the quarterly, self-monitoring reporting. NEPA continues to procrastinate in taking any decisive action against the National Water Commission to ensure compliance with NEPA requirements.

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Case Study 1 Public Resorts to legal actions to force NEPA and the National Water Commission statutory Activity

Harbour View sewage treatment plant and leaking untreated effluent:



Harbour View is one of 44 sewage treatment plants that the National Water Commission should have rehabilitated by 2010.

NEPA, in a report dated October 25, 2002, acknowledged that the malfunctioning Harbour View plant was having a serious impact on the marine environment, with sewage entering inshore Jamaican waters and damaging the bio-diversity of affected and sensitive coral reef eco-systems. Despite recognising the adverse environmental impact and the need for proactive enforcement in 2002, NEPA has not taken action against the National Water Commission.

Harbour View drain with untreated effluent:



In 2004, the public took legal action against NEPA and the National Water Commission. On July 6, 2010, the public won its case against both government organisations. The court ruled that NEPA failed in its statutory duty to serve an enforcement notice on the National Water Commission. The court also ruled that the National Water Commission sewage plant should be rehabilitated within the next 18 months.

- 4.9 Similar problems in ensuring that NEPA's reporting requirements are met relate to specific conditions of permit for petroleum filling stations to submit an annual report on the structural integrity of refilling plants. We found that the NEPA

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Enforcement Branch does not maintain a record of clients who are reporting so that action can be taken to enforce compliance against delinquent clients and to ensure that standards are maintained.

NEPA’s legislation for fines is not providing a deterrent

4.10 NEPA’s enabling Acts impose penalties for environmental breaches committed. These penalties are in the form of monetary fines and/ or imprisonment, and are expected to act as a deterrent. We found that the financial penalties are diminutive and as such do not act as a deterrent to polluters (see **Figure 15**). This is a major weakness in NEPA’s ability to protect the environment.

Figure 15 Examples of Diminutive Fines Contained in NEPA Enabling Acts

Regulations	Section	Offence	Fines charged
Land Development and Utilization Act (1966)	9	Fail to comply with a notice requiring the occupier of agricultural land to prepare and submit to the Commission a development plan for such land	\$10 for each day notice is outstanding
Natural Resources Conservation Authority Act (1991)	10(4)	Refuse/ fail to submit an Environmental Impact Assessment	\$30,000
Natural Resources Conservation Authority Act (1991)	15 (2)	Refuse or fail to comply after service of a notice to abstain from agricultural practice	\$20,000 or imprisonment of 2 years and/ or imprisonment of 1 year in default
Natural Resources (Marine Park) regulations (1992) Amended (2003)	3	Extract/ mine minerals without written permission	\$40,000 or imprisonment of 2 years with or without hard labour
Town and Country Planning Act (1958)	25 (5)	Contravene a tree preservation order	\$100 or imprisonment of 3 months with hard labour

Source: Auditor General Department review of NEPA legislation

4.11 Although aware of the issue with the level of penalties that can be imposed, NEPA has not initiated any dialogue or process with the Portfolio Minister to have the existing fines increased to a level to act as a deterrent. We compared NEPA’s rates for fines to those charged by two counterparts in the wider

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Caribbean. We found that fines against polluters were at least 351 per cent higher in nominal terms than those imposed in Jamaica, (see **Figure 16**).

Figure 16 Fines Charged by other Caribbean Countries

Countries	Penalties for Prevention of Pollution	Exchange Rate (Jamaica \$)	Total Amount (Jamaica \$)
Guyana	Between \$10,000 and \$50,000	89.00	890,000 to 4,450,000
Belize	Between \$5,000 and \$25,000	45.10	225,520 to 1,127,602
Jamaica	50,000 and 100,000		50,000 and 100,000

Source: Auditor General Department Survey

4.12 The most recently revised Act is the Beach Control Act, which was last revised in 2004. The primary Acts such as National Resources Conservation Authority Act and the Town, Country Planning Act have not been revised for the past 19 and 52 years respectively (**Figure 17**).

Figure 17 List of NEPA Governing Legislations

Legislation	Date fees and penalties last revised
Beach Control Act	2004
Natural Resources Conservation Authority Act	1991
Beach Control Regulations	1978
Land Development and Utilisation Act	1966
Watershed Protection Act	1963
The Town and Country Planning Act	1958
Wildlife protection Act	1945

Source: Auditor General Department compilation of NEPA Data

4.13 Section 35 of the NRCA Act and Section 13 of the TCPA Act provide that clients can appeal, to the Portfolio Minister, any decisions taken by NEPA, such as the refusal of an environmental permit/ licence or the issuance of a cessation order

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for non-compliance with the legislation or conditions outlined in the permit. The Portfolio Minister is empowered to overturn the decisions taken by NEPA without providing a reason.

- 4.14 We conducted a focus group discussion with some of NEPA’s stakeholders who are concerned that the power of the Portfolio Minister to overrule any decision taken by NEPA without providing an explanation has a dilutive effect and ridicules any other provision contained within the Act. We found that during the period April 2005 to March 2010, the respective Ministers overturned 41 (or 52 per cent) of the 79 planning and environmental applications that were refused by NEPA, (**Figure 18**).

Figure 18 Appeal Cases 2005-06 to 2009-10

Application	Appeal	Upheld
Planning	53	32
Environmental	26	9

Source: Auditor General’s Department Compilation of Data from the Office of the Prime Minister

- 4.15 The overriding power of the Portfolio Minister in Jamaica, differs in other Caribbean islands, such as Barbados and Trinidad, who use independent and professional processes to consider appeal cases. For example, in Barbados, appeals are made through a tribunal consisting of three members: an attorney of at least ten years standing who is the Chairman; the chief town planner or his nominee; and a marine resource or coastal resource scientist of at least ten years experience. In Trinidad and Tobago, appeals are made through a special court, the Trinidad and Tobago Environmental Commission, which is led by four commissioners.

NEPA has not capitalised on its strategy to work with the public in identifying environmental breaches

- 4.16 Public support is a powerful asset to assist NEPA in identifying and addressing breaches as they occur. NEPA has established a toll free line and use of the internet as avenues for public environmental concerns. NEPA has also established a limited early warning system in one watershed, the Black River. This involves training community members to detect and report unusual water/river incidents. They are also taught to collect water samples. One example of how this has worked is the Black River fish kill which occurred March 2007, where members of the Black River community collected and stored the dead fish on ice to facilitate the investigation.
- 4.17 Despite NEPA proactively seeking the help of the public, we found that of 136 issues reported during the period April 2007 to March 2010, only 57 (42 per cent) showed any evidence of investigation. If NEPA continues to not investigate fully public environmental concerns, it will destroy public trust and discourage any further participation.

Part Five - NEPA has not met the requirement to generate revenue to cover costs

There has been no real growth in NEPA revenue since 2005

- 5.1 Executive Agencies are required to undertake full cost accounting. NEPA as a Model B Executive Agency is expected to earn at least 40 to 90 per cent of its budgeted revenue from fees. However, NEPA has never established these minimum requirements as a target since becoming an Executive Agency in April 2001. Since its inception, NEPA's corporate strategy was mainly to make annual projections of revenue to be derived from the collection of regulated fees for the application and processing of permits and licences.
- 5.2 NEPA relies on the public purse to finance its operations. In contrast to the expectation to earn at least 40 to 90 per cent of its budgeted revenue, at least 95 per cent of NEPA's operation has been financed by the Government over the past ten years (see **Figure 19**). In addition, despite receiving budget shortfall of on average of 22 per cent, over the period 2005-06 to 2009-10, NEPA has not undertaken any new initiatives to increase its income generation to allow it to fund its activities (see **Figure 20**).

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Figure 19 Government of Jamaica Funding 2001-02 to 2009-10

Year	Revenue Collected (\$)	Funding Received (\$)	Actual Expenditure (\$)	Approved Budgeted Expenditure (\$)	Operations Funded (%)
2009-10	61,240,003	552,956,000	596,450,000	592,525,000	93
2008-09	62,515,568	576,106,167	608,373,000	655,841,000	88
2007-08	45,265,580	473,920,827	474,591,000	510,152,000	93
2006-07	46,720,229	425,189,826	411,227,000	445,276,000	95
2005-06	33,716,688	330,406,678	352,667,000	338,128,000	98
2004-05	32,389,967	313,590,000	330,697,374	335,290,000	94
2003-04	27,292,548	350,604,466	391,699,948	358,421,000	98
2002-03	19,328,513	277,421,000	323,758,180	310,264,000	89
2001-02	13,493,003	325,367,000	319,743,425	295,031,000	110
Total	341,962,099	3,625,561,964	3,809,206,927	3,840,928,000	95

Source: Auditor General's Department analysis of NEPA's Financial Data

Figure 20 Budget Provision 2005-06 to 2009-10

Year	Budget Requested (\$000)	Budget Approved Including Supplementary Estimate \$000	Shortfall (\$000)	Shortfall as percentage of request (%)
2009-10	883,529	592,525	291,004	33
2008-09	764,211	655,841	108,370	14
2007-08	645,746	510,152	135,594	21
2006-07	561,436	445,276	116,160	21
2005-06	439,478	338,128	101,350	23
Total	3,294,400	2,541,922	752,478	22

Source: Auditor General's Department analysis of NEPA's Data

5.3 Despite the CEO's responsibility for developing and implementing NEPA's revenue generation plans and policies, the various CEOs over the past five years have all been ineffective in tackling the issue of NEPA revenue generation to cover costs. Although, nominal revenue collection almost doubled over the past

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five years (\$33,716,688 in 2005-06 to \$61,240,003 in 2009-10), NEPA's contribution is consistently limited to only 10 per cent of the budgeted expenditure as shown in **Figure 21**. In addition, NEPA has not established targets to drive revenue growth. We found that the revenue targets were projected at an average of 23 per cent below prior year results over the past five years.

Figure 21 Revenue Collection over the past five years

Year	Projected Revenue from Fees	Actual Collection	Approved Budgeted Expenditure	Revenue as a percentage of budgeted expenditure (%)
2009-10	45,552,690	61,240,003	592,525,000	10
2008-09	33,244,489	62,515,568	655,841,000	10
2007-08	34,668,123	45,265,580	510,152,000	9
2006-07	25,857,100	46,720,229	445,276,000	10
2005-06	17,134,451	33,716,688	338,128,000	10
TOTAL	156,456,853	249,458,068	2,541,922,000	10

Source: Auditor General's Department Analysis of NEPA Data

NEPA's management has not implemented aggressive strategies to recover costs

5.4 The NEPA management has not considered the need to achieve value for taxpayer's money in the delivery of services which should include charging reasonable fees. Although NEPA expenditure increased by 69 per cent from \$353 million in 2005-06 to \$596 million in 2009-10, NEPA fee rates have remained stagnant since 2001. There have been no serious attempts to revise fees during the period April 2005 to March 2010. We also found that the fees charged for services do not reflect the complexity of their required processing. For example, NEPA charges the same fee for an environmental permit whether an Environmental Impact Assessment (EIA) is required or not, despite the former requiring more NEPA staff time.

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5.5 We found that NEPA’s cost recovery rate for its various services was below 30 per cent (see **Figure 22**), which has resulted in the absorption of costs of at least \$221 million for the period January 2007 to March 2010. See a full list of comparison between rates charged by NEPA and costs incurred. This highlight the vast difference between NEPA’s costs and revenue which contributed to low revenue collections of only 10 per cent of budgeted expenditure over 2005-06 to 2009-10 (**Appendix 6**).

Figure 22 Cost Recovery Rate for a Sample of NEPA Services

Description	Unit Cost ⁹	Current Fees	Individual Cost Recovery Rate (%)
Environmental Licences without EIA ¹⁰	207,799.22	7,500	3.6
Environmental Licences with EIA	237,969.33	7,500	3.1
Environmental Permit without EIA-Development	89,528.06	15,000-25,000	16.8-27.9
Environmental Permit with EIA – Development	124,929.33	15,000-25,000	12.0-20.0
Subdivision of 9 lots and under/Planning	24,747.82	0	0
Subdivision 10 Lots and over	53,515.44	0	0

Source: Auditor General’s Department analysis of NEPA Cost of Service Survey

5.6 Permission required for the carrying out of development and construction is shared between NEPA and local authorities. Initial requests are made to the local Parish Council office, and the client makes all the relevant payments to that office. Approximately 77 per cent of applications processed by NEPA consist of planning and subdivision which are processed free of cost to the local parish councils. We identified that this activity has resulted in a significant burden on

⁹ Figures Obtained from Cost of Survey conducted by NEPA

¹⁰ EIA- Environmental Impact Assessment.

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NEPA's budget. During the period January 2007 to March 2010 NEPA incurred costs of approximately \$126 million to process these applications (**Appendix 5**).

Figure 23 Processing Costs for Licences and Permits

Particular	2007	2008	2009	January to March 2010	Total
Sum Processed	1,981	2,444	2,019	201	6,645
Estimated Revenue	8,842,000	14,853,000	11,751,000	493,000	35,939,000
Cost incurred by NEPA	62,195,572	85,799,483	67,460,972	5,745,366	221,201,393

Source: Auditor General's Department Analysis of NEPA Data

- 5.7 We found that despite the legal requirement to maintain full cost accounts NEPA does not maintain appropriate accounting records to enable assessment of its permit and licence processes. NEPA is therefore unable to identify deficiencies in its current processes to facilitate its enhancement.
- 5.8 We found that the Application Management Division was only recovering 72 per cent of revenue incurred from the applications processed (**Figure 24**).

Figure 24 Cost Effectiveness of Application Management Division

Year	Fees Collected for permits and licence	Expenditure of Application Management Division	Revenue collected as percentage of expenditure. (%)
2009-10	61,240,003	88,229,988	69
2008-09	62,515,568	83,903,206	75
2007-08	45,265,580	74,615,161	61
2006-07	46,720,229	56,668,842	82
2005-06	33,716,688	45,375,368	74
TOTAL	249,458,068	348,792,565	72

Source: The Auditor General's Department Analysis of NEPA Data

NEPA management is uncertain how future costs will be met

- 5.9 As noted above, NEPA should earn at least 40 per cent of the revenue required to support its operations. NEPA was advised by its Portfolio Minister in October 2009 that they should implement plans to become self-sufficient by April 2010. Consequently, NEPA developed a proposal to earn at least 45 per cent (246) of the 2009-10 budgeted expenditure (\$550 million), by financial year 2010-11. The proposed earnings equates to 99 per cent of actual collections over the period 2005-06 to 2009-10 combined. Current fees would have to be increased by 2,670 per cent for some services to achieve this target. NEPA's failure to gradually adjust its fees overtime has left it with difficult income generating decisions that complicates its ability to fund its operations.
- 5.10 Despite making this proposal, NEPA informed us that it is not optimistic about achieving this target in the near future and will have to continue to rely on public funds to support its operations. Considering this lack of optimism, the NEPA management is still yet to implement any new initiatives towards achieving this target. The NEPA revenue target for 2010-11 was \$53.5 million representing 7.5 per cent of the budgeted expenditure of \$712.8 million or 8.6 per cent of the approved expenditure for the year.

NEPA procedures do not ensure that all fees are collected

- 5.11 The Branches involved in processing licences and permits are not required to ensure that fees are collected before processing starts. The Application Secretariat Branch has not established systems to ensure that application fees are paid prior to the entering of application information into the NEPA application tracking IT system (AMANDA). Clients are required to pay application fees at the cashier. However, we found that the Application Processing Branch procedures do not require verification of this payment prior to commencement of processing of these licences: Clients are not required to return to the

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Application Secretariat Branch with proof of payment before application information is entered onto AMANDA, which is viewed as the commencement of the processing of applications. NEPA can therefore provide services for which no income has been generated.

- 5.12 We found that neither the Finance nor the Application Secretariat Branches conduct any reconciliation of application fees collected with applications received. We could not account for application fees equivalent to \$205,000 for 103 applications (representing 19 per cent of applications) reported as being received during the period April 2009 to March 2010 (**Figure 25**).

Figure 25 Unaccounted Application Fees

Application Type	Applications Received	Application Fee (\$)	Total Fees Due (\$)	Application Fee Collected (\$)	Difference (\$)	Number of Applications not accounted for
Beach	86	1,000	86,000	85,000	1,000	1
Environmental Permits/Licences	458	2,000	916,000	712,000	204,000	102
TOTAL	544		1,002,000	797,000	205,000	103

Source: Auditor General's Department analysis of NEPA financial Data

- 5.13 The Permits and Licences Regulations, 1996 (revised 2004) enable applicants to delay payments for permits and licences until the document is prepared. We found that this stipulation has resulted in the delayed collection of fees totalling \$11 million as at May 31, 2010, representing 153 uncollected permits and licences processed by NEPA during the period January 2007 to March 2010. Approximately \$9.6 million or 88 per cent of this fee has been outstanding in excess of 12 months for 84 permits/ licences (**Figure 26**). We found that NEPA has made no effort to revise the existing regulations to ensure that processing fees are collected prior to the production of permits/licences.

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Figure 26 NEPA Uncollected Fees for Permits and Licences

Year	Environmental Permits/ Licences	Beach Licence	Total
2010 (January to March)	18	0	18
2009	44	7	51
2008	28	29	57
2007	27	0	27
Total uncollected Licence/Permits	117	36	153
Value not Paid (\$)	1,783,475	9,214,100	10,997,575

Source: Auditor General's Department review of Financial Records

NEPA does not monitor fee collection and there is no understanding of trends and variances

- 5.14 Beach licences, with the exception of application for one off special activities, are valid for a period of one year. The NEPA accounting system is programmed to automatically generate a receivable to reflect the amount that becomes due. Clients in operation without these licences are in breach of the NRCA Act. We found that NEPA does not monitor its accounts receivable. For example, outstanding Beach Licence fees have increased from \$64,250 at 2004-05 to \$18,935,525 as at March 31, 2010 representing 179 renewal fees for beach licences in respect of 71 clients. Despite this significant increase (294 times), no decisive action has been taken by NEPA to collect outstanding fees. Of these, 58 (equivalent to \$1,408,750 or 7.4 per cent) have been in arrears in excess of 12 months (**Figure 27**). We found that at least one client owed NEPA \$8.4 million for an unpaid renewed Beach Licence.
- 5.15 Although the list of these delinquent beach operators was submitted to the NEPA Legal and Enforcement Division monthly by the Finance and Accounts Branch, requesting investigation and legal advice, the Division is yet to take any action to resolve the outstanding sums.

Figure 27 Outstanding Beach Licence Renewals

Year	Licences for Renewal	Amount (\$)
2010-11	98	15,955,525
2009-10	23	1,571,250
2008-09	23	845,000
2007-08	15	282,000
2006-07	12	206,500
2005-06	2	11,000
2004-05	6	64,250
Total	179	18,935,525

Source: Auditor General’s Department compilation of NEPA financial Information

5.16 NEPA management have not met the requirement to ensure that internal financial controls are operating effectively; a key public sector accountability and governance requirement. The Finance Team is not recording accurately application numbers; therefore, basic accounting processes such as matching receipts with their respective applications to facilitate the verification of payment is impossible. For example, we could not verify payments for 72 applications received during the period 2006-10 totalling \$125,000.

NEPA is achieving the processing time for permits and licences but there could be a more rigorous process

5.17 NEPA publishes key performance indicators. For example, NEPA classifies an environmental permit/ licence, planning permit and beach licence as being overdue when the application for the requisite document is not processed after 90 days.

5.18 We found that applications processed between January 2010 and March 2010 were processed within the stipulated 90 days. Overall, for the period 2005-09, delays in processing applications within 90 days reduced from 92 per cent in 2005 to 18 per cent in 2009. The processing of beach licences showed the lowest reduction (94 to 49 per cent) (**Appendix 7**).

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5.19 We found that this increase in applications being processed within the 90 days timeline is attributable to the decision taken to delist applications due to:

- The required information and/ or response from applicant was not received within 30 days notification; and
- Not awaiting comments from consulting agencies prior to completion of processing¹¹.

At least 49 of 66 (74 per cent) planning applications for land sub-divisions, processed during the period January to March 2010, were recommended and forwarded back to the local authorities without the technical input of other technical bodies.

5.20 The NEPA practice of processing applications without the input of other technical bodies is a risky approach and ignores legislative requirements to consult any agency or department of government exercising functions in connection with the environment. The technical input of stakeholders is required to make an appropriate decision. Therefore, this approach to ignore their input suggests that NEPA is not ensuring all the appropriate considerations are made to minimise the impact of development on the environment.

¹¹ The technical input of other entities such as Water Resources Authority is sought prior to finalisation of application processing.

APPENDICES

Appendix 1-Status of Development Orders

Particulars	Date of Order
Areas not covered by Development Orders	
Hanover except the coast	
North St. Elizabeth	
Sections of St. Catherine	
St. Mary except the coast	
Kingston & St. Andrew	
Portland except the coast	
St. Thomas except the coast	
Areas that are covered by Development Orders	
St Ann	2000
Westmoreland Parish	1978
St. James Parish	1982
Trelawny Parish	1982
Manchester Parish	1976
Clarendon Parish	1982
South St. Elizabeth	1966
Coast of St. Catherine	1965
Spanish Town	1964
Bog Walk, Linstead, Ewarton	1965
Hanover Coast	1962
St. Thomas Coast	1965
Kingston	1966
Negril/Green Island	1984
St. Mary Coast	1963
Portland Coast	1963

Source: Auditor General's Department Compilation on NEPA Data

APPENDICES

Appendix 2-Draft Development Orders as at June 2010

Draft Development Order Prepared by Local Area Planning Branch	Proposed Completion Date	Date Completed	Date Submitted to Forward Planning Committee of the Town and Country Planning Authority	Date Submitted to the Chief Parliamentary Counsel
Manchester Parish	Financial year 2006-2007	Qtr 2 2008	November 27 2009	Not yet submitted
Negril and Green Island	Financial year 2008/2009	Qtr 2 2008	November 27 2009	Not yet submitted
Kingston and St Andrew Parish	Financial year 2008/2009	Qtr 3 2008	November 27 2009	Not yet submitted
St Catherine Parish	Financial year 2008/2009	Qtr 4 2009	Not yet submitted	Not yet submitted
St James Parish	Financial year 2009/2010	Qtr 4 2010	Not yet submitted	Not yet submitted

Source: National Environment and Planning Agency

APPENDICES

Appendix 3- Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
Clarendon	2009-13017-EP00075	Scrap metal storage
Clarendon	2009-13017-EP00114	Construction of a two km Conveyor Belt
Clarendon	2009-13017-EP00108	Modification of wetland for construction of a Conveyor Belt
Clarendon	2008-13017-BL00109	Beach Licence for dredging one million cubic metres of material
Clarendon	2007-13017-EP00038	Construction of a highway
Clarendon	2006-13017-EP00123	Construction of a new Dry residue disposal area
Clarendon	2008-13017-EP00169	Storage of scrap metal and derelict vehicles
Clarendon	2009-13017-BL00043	Land Reclamation for port construction using sheet piles
Clarendon	2010-13017-EP00015	Housing subdivision
Clarendon	2008-13017-EP00182	Storage of scrap metal and derelict vehicles
Clarendon	2008-13017-EP00047	Subdivision of 47.5023 hectares into 23 agricultural Lots
Clarendon	2007-13017-EL00027	Discharge of trade effluent from storm water neutralization ponds
Clarendon	2009-13017-EP00113	Port and Harbour Development
Clarendon	2008-13017-EP00203	Scrap metal storage at Sandy Bay
Clarendon	2005-13017-EP00213	Subdivision
Hanover	2009-08017-EP00091	Subdivision of 32.86 Hectares of land into 252 residential lots
Hanover	2009-09017-EP00081	Construction and operation of a petroleum filling station and installation of three underground tanks

APPENDICES

Appendix 3 - Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
Hanover	2006-09017-EP00214	Subdivision of 836,000 square meters of land into 415 residential/recreational lots
Hanover	2006-09017-EP00160	Petroleum storage, stockpiling and dispensing
Hanover	2007-09017-EP00286	Establishment of cemetery and burial facilities
Hanover	2006-09017-EL0057	construction of a sewage treatment plant and licence to discharge treated sewage effluent
Hanover	2010-09017-EP00106	maintenance work - dredging and clearing of fire break canal
Hanover	2006-09017-BL00023	Use of foreshore and floor of the sea in connection with a 2000 room hotel, construction and maintenance of seven encroachments, beach nourishment
Kingston	2009-02017-EP00195	Refinery upgrade
Kingston	2009-02017-EP00166	Petroleum storage and stockpiling
Kingston	2009-02017-EP00048	Construction of 22 housing units
Kingston	2008-01017-EP00292 & 2008-01017-EL00098	Construction and operation of a sewage treatment facility and discharge of treated effluent
Kingston	2003-01017-EL00020	Renewal for the discharge of sewage effluent
Kingston	2006-02017-EP00234	Hazardous waste storage
Kingston	2008-01017-EP00167	Storage of scrap metal and derelict vehicles
Kingston	2008-02001-PA00011	Retention of use of an existing single-storey office
Kingston	2007-01017-EL00005	Hazardous waste treatment/storage facility
Manchester	2009-12012-PA00162	Planning permission for the construction and operation for a hazardous waste (used oil)
Manchester	2007-12017-EP00003	Cement and lime production

APPENDICES

Appendix 3 - Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
Manchester	2004-12017-EP00180	Petroleum storage, stockpiling and dispensing
Manchester	2006-12017-EP00282 & 2006-12017-EL00058	Construction and operation of a sewage treatment facility
Portland	2009-04017-EP00031 & 2009-04017-EL00008	Construction and operation of a sewage treatment and disposal facility
Portland	2007-04017-EP00056	Subdivision of approximately 145.56 hectares of land into 255 lots
Portland	2008-04017-EP00009	Subdivision of 18 acres into 30 lots
Portland	2009-04017-EP00235	Subdivision of twenty-five lots
St. Andrew	2009-02017-EP00159	Subdivision of 15,70.71 squares meters of land into 12 lots and the construction of 67 housing unit
St. Andrew	2008-02001-PA00009	Planning permission for the retention of use of an existing building for residential use to commercial use
St. Andrew	2008-02001-PA00018	Planning permission for the retention of a structure for a single-storey building
St. Andrew		Housing project - construction of 12 housing units
St. Andrew	2009-02017-EP00029 & 2007-14017-EL00013	construction and operation of a sewage treatment and disposal facility
St. Andrew	2009-02001-PA00007	Planning permission for the change of use of a single-storey building to be used for commercial purposes
St. Andrew	003L98	Renewal of licence for discharge of sewage effluent
St. Andrew	2008-02017-EP00130	Housing Development
St. Andrew	2007-02017-EP00243	Subdivision and housing development
St. Andrew	2008-02017-EP00172	Storage of scrap metal

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Appendix 3 - Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
St. Andrew	2008-02017-EP00179	Storage of scrap metal and derelict vehicles
St. Andrew	2008-02017-EP00051 & 2008-02017-EL00013	Discharge of sewage effluent and construction and operation of a sewage treatment facility
St. Andrew	2008-02001-Pb00157	Construction of a single-storey building
St. Andrew	2007-02001-PB00941	Construction of two two-storey offices/residential building
St. Andrew	2007-02017-EP00090	Storage of lube oil
St. Andrew	2007-02017-EL00016	Construction and operation of sewage treatment facility
St. Andrew	2005-02017-EP00309	Housing development - 16 one bedroom
St. Andrew	2005-02017-EP00310 & 2005-02017-EL00060	Construction and operation of sewage treatment facility
St. Andrew	2007-06017-EP00048 & 2007-06017-EL00024	Construction and operation of sewage treatment and disposal facility
St. Andrew	2007-02017-EL00008	Discharge of sewage effluent
St. Andrew	2006-02017-EP00200	Subdivision and housing project
St. Andrew	2009-02017-EP00175	Construction of 18 housing units on 1,881meters of land
St. Andrew	2009-02017-EP00215	Construction of 14 housing unit on 1,876meters of land
St. Andrew	2009-14017-EP00238/9 2009-02017-EL00059	Multi-family resident
St. Catherine	2009-14016-BA00131	Planning Permission for the construction of a commercial building
St. Catherine	2009-14017-EL00033	Upgrade and operation of a sewage treatment facility
St. Catherine	2009-14017-EP00072 & 2009-14017-EL00027	Construction and operation of sewage treatment system

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Appendix 3- Permits and Licences on Special Lists not Monitored

Parish	Reference Number	Activity
St. Catherine	2009-14017-EP0002	Discharge of combined treated sewage and trade effluent
St. Catherine	2009-14017-EP00128	Construction of 2341 housing units on a total of 192.7 hectares
St. Catherine	2004-14017-EL00022	Renewal of licence for trade effluent
St. Catherine	2009-14017-EP00086	Construction of a shopping complex
St. Catherine	2008-14017-EP000243	Subdivision of 40.47 hectares of land into 466 lots
St. Catherine	2009-14017-EP00034 & 2009-14017-EL00010	Construction and operation of a sewage treatment facility and discharge of sewage effluent
St. Catherine	2007-14017-EP00165	Housing Development
St. Catherine	2008-14017-EP00202	Storage of scrap metal
St. Catherine	2005-14017-EP00035	Construction and operation of a distillery
St. Catherine	2008-14017-BL00054 & 2008-14017-BL00055	Construction and maintenance of breakwaters, groynes and dredging of the foreshore and floor of the sea
St. Catherine	2008-14017-EP00189	Storage of scrap metal
St. Catherine	2008-14017-EP00220	Storage of scrap metal and derelict vehicles
St. Catherine	2007-14014-BA00471	Addition to an existing building
St. Catherine	2007-14017-EP00249	Subdivide 40,657.6 of land into 98 residential lots
St. Catherine	2006-14017-BL00039	Use of the foreshore and floor of the sea for recreational purposes
St. Catherine	2007-14017-EP00008	Subdivision of 5,965.71meters into 34 lots
St. Catherine	2005-14017-EP00015	Elevation of mud containment dyke
St. Catherine	2005-14017-EL00059	Construction of a wastewater treatment & disposal facility

APPENDICES

Appendix 3 - Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
St. Catherine	2006-14017-EP00145 & 2006-14017- EL00059	Construction and operation of a sewage treatment plant
St. Catherine	2007-14017-EP00014 & 2007-14017- EL00002	Construction of an ethanol plant and the discharge of trade effluent
St. Catherine	2008-14016-BA00131	
St. Catherine	2009-02017-EP00178	Housing Development twenty (20) studio apartments on 4,211meters of land
St. Catherine	2009-02017-EP00263 & 2009-02017- EL00065	Construction and operation of a Sewage treatment facility
St. Elizabeth	39/68	Renewal of licence for trade effluent
St. James	2009-08017-EP00070	Wetland modification, clearance or reclamation
St. James	2009-08017-EL00038	Discharge of trade effluent
St. James	2009-08017-EP00110	Hotel/Resort of 12 or more rooms
St. James	39/179	Renewal of discharge licence for sewage effluent
St. James	2008-08017-EP00238 & 2008-08017- EL00086	Construction and operation of a sewage treatment facility and discharge of sewage effluent
St. James	2008-08017-EP00175	Storage of scrap metal and derelict vehicles
St. James	2008-08017-EP00174	Storage of scrap metal and derelict vehicles
St. James	2008-08017-EP00210	Storage of scrap metal and derelict vehicles
St. James	2003-08017-EL00027	Renewal discharge of sewage effluent
St. James	2008-08017-EP00186 & 2008-08017- EL00073	Construction and operation of a sewage treatment and disposal facility
St. James	2007-08017-BL00002	Amendment to beach licence for removal and relocation of approximately 3000meters of seagrass

APPENDICES

Appendix 3 - Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
St. James	2007-08017-BL00003	Use of the foreshore and floor of the sea for shoreline protection
St. James	2007-08017-BL00009	Use of the foreshore and floor of the sea for beach nourishment
St. James	2006-08017-EP00099	Construction of sewage treatment Plant
St. James	2006-08017-EP00094	Establishment of a hotel/resort development
St. Mary	2009-05005-PB00036	Planning Permission for the construction of 32 one-bedroom residential units
St. Mary	2003-05017-EP00087	Subdivision of 13 hectares Of land into 165 lots for residential purposes
St. Mary	2008-05005-PA00116	Construction of five two bedroom apartments-
St. Mary	2009-05017-EP00097	Construction of 32 one-bedroom residential units
St. Mary	2009-05027-EP00120 & 2009-05027-EL00034	Construction and operation of sewage treatment system
St. Mary	2007-05017-EP00148 & 2007-05017-EL00034	Construction and operation of sewage treatment facility
St. Mary	2003-05017-EP00113	Subdivision of 18 hectares into 177 lots
St. Mary	2006-05017-EP00212	Housing development of 27 two bedroom townhouses
St. Mary	2008-05005-PA00095	Construction of a cellular tower
St. Mary	2007-05017-EP00105	Subdivision of 237,044.61 meters
St. Mary	2003-05017-EP00112	Subdivision of 17 hectares of land
St. Mary	2006-05017-EP00284	Housing development of 24 units
St. Mary	2007-04017-BL00011	Use of the Santa Maria Lagoon
St. Mary	2008-05017-EP00155	Eco-tourism and nature tourism project

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Appendix 3 - Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
Trelawny	2006-07017-EP00013	Construction of a hotel/resort complex fifty two units containing 112 rooms
Trelawny	2009-07007-BA00009	Amendment to Hotel 1 and 2
Trelawny	2008-07017- BL00018/19/20/21	Beach licence for the construction of 36 sea rooms
Trelawny	2007-07007-PA00003	Change of use of a residential building into a commercial use age (Auto Parts Shop)
Trelawny	2006-07017-EP00026 & 2005-07017- EL00004	Construction and operation of a sewage treatment facility and discharge of effluent
Trelawny	2008-07017-EP00136	Solid waste treatment and disposal facility
Trelawny	2007-07017-BL00013	Port and Harbour Development Use of the Foreshore and floor of the sea for dredging disposal, Coastline reclamation and construction of demountable sea wall and revetment
Trelawny	2008-07017-EP00118 & 2008-07017- EL00063	construction and operation of a sewage treatment and disposal facility
Trelawny	2008-11017-EP00121	Wetland modification
Trelawny	2004-07017-EP00031	Resort/residential subdivision
Trelawny	2009-07017-EP00240 2009-07017-EP00241 200907017-EL00060	Housing project
Trelawny	2010-07017-EP00094	Exemption protected species of birds and animals
Trelawny	2010-07017-EP00280	Sub-division and housing Development
Westmoreland	2003-10017-EP00079 & 2003-10017- EL00021	Amendment to environmental Permit and Licence for the construction and operation of a sewage treatment system
Westmoreland	39/173	Renewal of discharge licence for sewage effluent

APPENDICES

Appendix 3 - Permits and Licences on Special List not Monitored

Parish	Reference Number	Activity
Westmoreland	2008-10015-PB00114	Planning permission for the construction of a mixed use commercial/residential
Westmoreland	2009-10015-PB00011	Planning permission for the construction of a multi-family residential building
Westmoreland	2008-10015-PB00049	Construction of a shopping complex
Westmoreland	2006-10017-BL00041	Use of foreshore and floor of the sea for recreational purposes
Westmoreland	2006-10017-EP00287	Construction and operation of a boatyard and marine
Westmoreland	2006-10017-EP00288	Development and construction of hotel/resort complex
Westmoreland	2004-10017-EP00026	Subdivision of 37.56 hectares into 403 residential/commercial lots
St. Ann	39/174	Renewal of discharge licence for sewage effluent
St. Ann	2007-06017-EP00059	Subdivision of 27.5 hectares of land into 236 lots
St. Ann	2008-06006-PA00026	Construction of a cellular tower
St. Ann	2008-06017-EP00105 & 2008-06017-EL00059	Construction and operation of sewage treatment system
St. Ann	2008-06017-BL00018	Capital dredging and coastline reclamation of 7000meters of sand
St. Ann	2007-06017-EP00117	Subdivision of 80 lots for residential, commercial and residential use.
St. Ann	2009-06017-EP00112	Subdivision of 174 residential lots on 368,066 meters of land

Source: Auditor General's Department Review of NEPA Data

APPENDICES

Appendix 4- Monitoring Activities Undertaken for 2009-10

Parish	Type of Monitoring Undertaken	Total
St. Ann	Post Permit	123
	Routine	183
Total Monitored St. Ann		306
Clarendon	Post Permit	317
	Routine	89
Total Monitored Clarendon		406
St. Mary	Post Permit	211
	Routine	86
Total Monitored St. Mary		297
Portland	Post Permit	69
	Routine	93
Total Monitored Portland		162
Kingston	Post Permit	71
	Routine	4
Total Monitored Kingston		75

Source: Audit General Department Compilation of NEPA Data

APPENDICES

Appendix 5 – Permits and Licences Processing Costs

Particular	2007	2008	2009	Jan – Mar. 2010	Total
Planning/Sub-division					
Sum Processed	1604	1801	1520	180	5105
Estimated unit Cost	24,747	24,747	24,747	24,747	
Total cost to Agency	39,694,188	44,569,347	37,615,440	4,454,460	126,333,435
Estimated Revenue	Nil	Nil	Nil	Nil	Nil
Cost Absorbed by Agency	39,694,188	44,569,347	37,615,440	4,454,460	126,333,435
Environmental Permit					
Sum Processed	261	412	328	13	1014
Estimated unit Cost	47,894	47,894	47,894	47,894	
Total cost to Agency	12,500,334	19,732,328	15,709,232	622,622	48,564,516
Estimated Revenue	7,047,000	11,124,000	8,856,000	351,000	27,378,000
Cost Absorbed by Agency	5,453,334	8,608,328	6,853,232	271,622	21,186,516
Environmental Licence					
Sum Processed	74	138	94	4	310
Estimated unit Cost	207,799	207,799	207,799	207,799	
Total cost to Agency	15,377,126	28,676,262	19,533,106	831,196	64,417,690
Estimated Revenue	703,000	1,311,000	893,000	38,000	2,945,000
Cost Absorbed by Agency	14,674,126	27,365,262	18,640,106	793,196	61,472,690

APPENDICES

Appendix 5 - Permits and Licence Processing Costs

Particular	2007	2008	2009	Jan Mar. 2010	–	Total
Beach Licence						
Sum Processed	42	93	77	4		216
Estimated unit Cost	82,522,	82,522	82,522	82,522		
Total cost to Agency	3,465,924	7,674,546	6,354,194	330,088		17,824,752
Estimated Revenue	1,092,000	2,418,000	2,002,000	104,000		5,616,000
Cost Absorbed by Agency	2,373,924	5,256,546	4,352,194	226,088		12,208,752

Source: Auditor General's Department Assessment of NEPA's Financial Data

APPENDICES

Appendix 6- Cost of Service Survey

Service Description	Cost (\$)	Fees Charged by NEPA (\$)
Environmental Licence without EIA	207,799.22	7,500.00
Environmental Licence with EIA	237,969.33	7,500.00
Environmental Permit without EIA -Development	89,528.06	15,000-25,000
Environmental Permit with EIA -Development	124,929.33	15,000-25,000
Environmental Permit with EIA -Industrial	78,064.41	15,000-25,000
Environmental Permit with EIA -Biological	78,064.41	15,000-25,000
Environmental Permit with EIA -Infrastructural	78,064.41	15,000-25,000
Environmental Permit without EIA -Industrial	47,894.29	15,000-25,000
Environmental Permit without EIA -Biological	47,894.29	15,000-25,000
Environmental Permit without EIA -Infrastructural	47,894.29	15,000-25,000
Air Quality Permit Monitoring	82,541.98	10,000
Subdivision 9 lots and under/planning	24,747.82	Nil

APPENDICES

Appendix 6-Cost of Service Survey

Service Description	Cost (\$)	Fees Charged by NEPA (\$)
Subdivision 10 lots and over	53,515.44	Nil
Development Orders	29,051,249.89	Nil
Quarry Inspection	25,571.43	Nil
Encroachment of the Floor of the Sea	82,522.36	2,000 – 25,000
Encroachment of the Foreshore of the Sea	82,522.36	250 – 150,000
Lifeguard Examinations	1,725.87	700-800
Export Permit	14,756.99	1,000 – 4,000
Import Permit	12,297.58	1,000
Certificate of individual Export (Conch)	14,756.99	1,000
Certificate of individual Export (Orchid)	14,756.99	4,000
Artificial Propagation of Export Certificate	8,056.64	1,000-2,000
Hunters Licence	8,669.11	12,000
Material Transfer Agreement	14,756.99	1,000
Collection of Species	14,756.99	US 30
Wild Life Research	14,756.99	Nil
Exemption Certificate	14,756.99	Nil
CITES Certificate	14,756.99	1,000
Hazardous Waste Trans-	50,099.16	8,000 and 16,000

APPENDICES

Appendix 6-Cost of Service Survey

Service Description	Cost (\$)	Fees Charged by NEPA (\$)
boundary Cost		
Sample Analysis	3,634.68	700

Source: National Environment and Planning Agency

APPENDICES

Appendix 7 – Application Processing Time

Type of Permit/Licence	2005	2006	2007	2008	2009	2010 *
Planning						
Sum Processed	386	471	525	766	375	32
% of sum processed in 90 days	11%	32%	48%	83%	80%	100%
Sum processed as % of sum received	100%	100%	100%	100%	89%	43%
Subdivision						
Sum Processed	882	868	1079	1035	1145	148
% of sum processed in 90 days	7%	19%	16%	57%	71%	100%
Sum processed as % of sum received.	100%	100%	100%	99.6%	95%	53%
Environ Permit						
Sum Processed	167	303	261	412	328	13
% of sum processed in 90 days	10%	6%	16%	65%	74%	100%
% of Sum Received	100%	100%	99.7%	99.7	85%	14%
Environmental Licence						
Sum Processed	43	66	74	138	94	4
% of sum processed in 90 days	5%	3%	14%	54%	79%	100%
Sum processed as % of Sum Received	100%	100%	100%	100%	91%	16%
Beach Licence						
Sum Processed	17	40	42	93	77	4
% of sum processed in 90 day	6%	15%	14%	54%	51%	100%
Sum processed as % of sum received	100%	100%	100%	100%	83%	24%

Source: Auditor General's Department Analysis of NEPA's Data

Appendix 8 – Stakeholders Comments

1. Proceeds from the environmental levy should be redistributed to the various environmental entities to fund their operations. (AIA)
2. NEPA should approach the Ministry of Finance and the Public Service for the fines from breaches of the related laws to be used as Appropriation in Aid.
3. The fees charge for permits should be increased to a level to cover the cost of the damage done to the ecological system by respective development.
4. The cost associated with the monitoring of the developments by NEPA, are some of the factors that should be taken into account in determining the fees for processing of permits and licences.
5. There should be penalties for persons who submit incomplete applications. This will help to ensure that clients provide complete information with applications.
6. Persons repeatedly flout the related laws because of the diminutive fines. Fines need to be reflective of potential harm of the breaches and should act as a deterrent.
7. The offender's names should be published in newspapers/webpage.
8. NEPA as a regulator need to be removed from the direct control of the political directorate. There may be an inherent risk, as it may be hard to say no to your "BOSS".
9. The challenge that NEPA has is that when a company is in breach is to decide whether they shut down the development or work with the developer to remedy the breach. If they shut it down 200 hundred persons may be out of jobs or alternatively NEPA may wish to work with the developer over a given period to get the breach corrected.
10. Government may use tax incentives to encourage developers to comply with the conditions of their permits/licences.

Appendix 8 - Stakeholders Comments

11. NEPA need to publish all permits and licences that are granted and the related terms and conditions. The public will then be able to help NEPA to monitor the developments.
12. NEPA should ask for Environmental Impact Assessment at an earlier stage in the processing of applications for permits and licences. Developers may better plan/ budget for such expenditure.
13. The NEPA Act is being drafted at a very slow pace.
14. There were concerns as to whether the enabling mechanism was in place to allow NEPA to carry out its mandate. For example- development orders, enabling laws, and appropriate agencies to complement NEPA's functions.
15. In most cases NEPA copies standards from first world countries with adequate enabling mechanism to facilitate regulators. However such mechanism is not in Jamaica.
16. Development can be in direct conflict with environmental protection which makes NEPA's mandate very challenging. This was further compounded by the fact that the Government have full autonomy over environmental issues.
17. The planning/ development seemed to take greater precedence than conservation of the natural resources. As a step forward there needs to be greater public education on environmental issues.

Source: Auditor General's Department Survey