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An Act Pertaining to Response Costs Incurred by the Department of Environmental Protection under the Waste Motor Oil Disposal Site Remediation Program

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

Sec. 1. 10 MRSA §1020-A, sub-§4, ¶A-1 is enacted to read:

A-1. The provisions of this paragraph may be used as an alternative to the procedure described in paragraph A. This alternative procedure may be used only when the authority is advised by the Department of Environmental Protection of the issuance of a certificate of final response costs and a final remedy selection for the remedy that will be or has been implemented by the department at the Ellsworth, Casco or Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D.

(1) Upon notification by the Department of Environmental Protection, the authority shall determine the costs for that site that represent the collective share of those persons eligible under subsection 7 to have their share of the costs for the waste motor oil disposal site paid from the proceeds of revenue obligation securities. The proceeds of revenue obligation securities may be used only to fund the proportion of response costs attributable to responsible parties that are eligible under subsection 7. The authority may disburse proceeds of revenue obligation securities only after January 15, 2010 or after all Plymouth waste motor oil disposal site response costs set forth in a certificate of costs and a certificate of determination under paragraphs A and B have been paid to or on behalf of eligible persons from the proceeds of revenue obligation securities, whichever occurs first. In determining the amount of response costs incurred by the department, the authority shall rely on a written certificate of response costs from the department supported by copies of invoices, receipts or other evidence of payment. The department shall make the certificate of costs and supporting evidence available for public review and comment for a minimum of 30 days before receiving any disbursements from the proceeds of the revenue obligation securities. Notice of the availability of cost information and the opportunity for public comment must be included in the public notice made pursuant to subsection 7, paragraph B, placed on the publicly accessible website of the department and sent to persons that have registered with the department as interested in receiving a notice of availability of response cost information for the site. If warranted by public comment, the department shall provide the authority with an amended certificate of final response costs.

(2) Upon receipt of full payment of eligible response costs for a responsible party from the proceeds of the revenue obligation securities for a site:

(a) The department or any other agency or instrumentality of the State may not sue or take administrative action against that responsible party pursuant to any state or federal statute or common law regarding response costs or environmental conditions related to the release, threatened release or presence of hazardous substances at or from the site prior to the effective date of this paragraph, including, without limitation, past response costs, future response costs, oversight costs, natural resource damages and the cost of assessment; and

(b) The eligible person on whose behalf the authority paid response costs to the department is protected from contribution actions or claims regarding that site.

(3) If responsible parties at the Ellsworth, Casco or Presque Isle waste motor oil disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and D are determined to not be eligible persons as defined in section 1020, subsection 1, paragraph A, the department shall negotiate in good faith with those responsible parties and seek to enter into a consent decree or other final settlement order or agreement under which the responsible parties agree to pay their proportionate share of response costs calculated in the same manner as for those persons determined to be eligible under subsection 7. Any consent decree or other settlement agreement entered into in accordance with this subparagraph must include a covenant not to sue and contribution protection as provided for in this paragraph.

Sec. 2. 10 MRSA §1020-A, sub-§4, ¶B, as enacted by PL 2007, c. 464, §6, is amended to read:

B. With respect to a waste motor oil disposal site, following the determinations made pursuant to paragraph A or A-1, the authority shall issue a certificate of determination setting forth the amount of:

- (1) The response costs paid or to be paid with respect to that waste motor oil disposal site;
- (2) The eligible response costs with respect to that waste motor oil disposal site to be paid from the proceeds of revenue obligation securities; and
- (3) The proceeds of the revenue obligation securities to be paid to or on behalf of the responsible parties.

Sec. 3. 10 MRSA §1020-A, sub-§5, ¶G, as enacted by PL 2007, c. 464, §6, is amended to read:

G. A person or its successor in interest that:

- (1) Performed repairs at repair facilities located in this State on motor vehicles that are owned by 3rd parties;

(2) Is identified as qualified under this subsection by the potentially responsible party (PRP) group at the waste oil disposal site ~~as qualified under this subsection~~or, in the case when the response action was or will be undertaken by the State, by the Department of Environmental Protection; and

(3) Certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection;

Sec. 4. 10 MRSA §1020-A, sub-§5, ¶H, as enacted by PL 2007, c. 464, §6, is amended to read:

H. Any person or its successor in interest that performed repairs on its own fleet of motor vehicles, is identified by the potentially responsible party (PRP) group at the waste motor oil disposal site ~~or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection,~~ as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection. The motor vehicles at all pertinent times must have been registered, garaged and serviced in this State; and

Sec. 5. 10 MRSA §1020-A, sub-§5, ¶I, as enacted by PL 2007, c. 464, §6, is amended to read:

I. Any person or its successor in interest that performed repairs, at repair facilities located in this State, on special equipment or special mobile equipment, as defined in Title 29-A, section 101, subsections 69 and 70, is identified by the potentially responsible party (PRP) group at the waste motor oil disposal site ~~or, in the case when the response action was or will be undertaken by the State is identified by the Department of Environmental Protection,~~ as qualified under this subsection and certifies to the authority under oath and subject to the provisions of Title 17-A, section 451 that it is qualified under this subsection.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

ENVIRONMENTAL PROTECTION, DEPARTMENT OF

Remediation and Waste Management 0247

Initiative: Deallocates funds in response to transaction cost savings generated from allowing direct reimbursement from the waste motor oil disposal site remediation program at the Finance Authority of Maine to the Department of Environmental Protection, which eliminates negotiating with responsible parties.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	(\$200,000)	(\$300,000)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$200,000)	(\$300,000)

PUBLIC Law, Chapter 304 LD 1386, item 1, 124th Maine State Legislature
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Protection under the Waste Motor Oil Disposal Site Remediation Program

Effective September 12, 2009