

MAINE STATE LEGISLATURE

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Date: 5-22-09

(Filing No. S-204)

NATURAL RESOURCES

Reproduced and distributed under the direction of the Secretary of the Senate.

STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 502, L.D. 1386, Bill, "An Act Pertaining to Response Costs Incurred by the Department of Environmental Protection under the Waste Motor Oil Disposal Site Remediation Program"

Amend the bill by striking out all of section 1 and inserting the following:

'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

COMMITTEE AMENDMENT

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1 securities. Notice of the availability of cost information and the opportunity for
2 public comment must be included in the public notice made pursuant to
3 subsection 7, paragraph B, placed on the publicly accessible website of the
4 department and sent to persons that have registered with the department as
5 interested in receiving a notice of availability of response cost information for the
6 site. If warranted by public comment, the department shall provide the authority
7 with an amended certificate of final response costs.

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

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

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

21 (3) If responsible parties at the Ellsworth, Casco or Presque Isle waste motor oil
22 disposal sites identified in section 963-A, subsection 51-E, paragraphs B, C and
23 D are determined to not be eligible persons as defined in section 1020, subsection
24 1, paragraph A, the department shall negotiate in good faith with those
25 responsible parties and seek to enter into a consent decree or other final
26 settlement order or agreement under which the responsible parties agree to pay
27 their proportionate share of response costs calculated in the same manner as for
28 those persons determined to be eligible under subsection 7. Any consent decree
29 or other settlement agreement entered into in accordance with this subparagraph
30 must include a covenant not to sue and contribution protection as provided for in
31 this paragraph.'

32 Amend the bill by inserting after section 5 the following:

33 **'Sec. 6. Appropriations and allocations.** The following appropriations and
34 allocations are made.

35 **ENVIRONMENTAL PROTECTION, DEPARTMENT OF**

36 **Remediation and Waste Management 0247**

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

1	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
2	All Other	(\$200,000)	(\$300,000)
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	(\$200,000)	(\$300,000)
5			

6 **SUMMARY**

7 This amendment amends the provisions in the bill regarding an alternative method for
8 payment to the Department of Environmental Protection for cleanup performed at waste
9 motor oil disposal sites. The amendment clarifies that the alternative procedure may be
10 used only upon issuance of a certificate of final response costs and a final remedy
11 selection at the Ellsworth, Casco and Presque Isle waste motor oil disposal sites. It
12 provides that the department may only receive payment after January 15, 2010 or after all
13 response costs at the Plymouth waste motor oil disposal site have been paid to eligible
14 persons, whichever occurs first. It clarifies the future liability of eligible responsible
15 parties against suits by the State and third parties. It requires the department to negotiate
16 in good faith with persons who are not determined to be eligible persons.

17 The amendment also adds an appropriations and allocations section to the bill.

FISCAL NOTE REQUIRED

(See attached)



124th MAINE LEGISLATURE

LD 1386

LR 1956(02)

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

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Natural Resources

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Appropriations/Allocations				
Other Special Revenue Funds	(\$200,000)	(\$300,000)	(\$100,000)	\$0

Fiscal Detail and Notes

Under current law, the Department of Environmental Protection (DEP) negotiates reimbursement from responsible parties for cleanup expenditures from DEP's Uncontrolled Sites Fund. The eligible responsible parties then apply to the Finance Authority of Maine (FAME) Waste Oil Disposal Site Remediation Program for reimbursement. This bill allows FAME to directly reimburse the DEP's Uncontrolled Sites Fund instead of reimbursing the responsible parties who have paid DEP. The DEP will be able to reduce transaction and negotiating costs associated with recovering funds from eligible responsible parties, allowing a deallocation of \$200,000 in FY 2009-10 and \$300,000 in FY 2010-11. Additional costs to the Finance Authority of Maine can be absorbed within existing budgeted resources.