

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

February 1, 2007

Senator John L. Martin  
Representative Theodore S. Koffman  
Joint Standing Committee on Natural Resources  
123<sup>rd</sup> Maine State Legislature  
100 State House Station  
Augusta, ME 04333-0100

RE: Report required under An Act to Ensure Adequate Funding for Clean up of Hazardous Waste, Biomedical Waste and Waste Oil, Public Law 2005 Chapter 549

Dear Senator Martin, Representative Koffman and Members of the Committee:

I am writing regarding the above referenced law signed by the Governor on April 6, 2006. Specifically, I am writing with regard to that portion of the law that requires the Maine Department of Environmental Protection (DEP) to prepare a report on funding for clean up of sites contaminated by hazardous waste, biomedical waste and waste oil, including an assessment of the adequacy of the Maine Hazardous Waste Fund. (Background material on the Fund and its uses is attached.)

The required report was included in a legislative proposal that provided for an increase in the then existing fees assessed on hazardous waste and waste oil. The proposal further provided for an opportunity to create a registration process and fee for biomedical waste generators.

I write with this interim report to request an extension of time for submitting the full report until April 15, 2008. The reason for this request is as follows:

- The effective date of the law was August 23, 2006.
- The fees for hazardous waste and waste oil are transmitted quarterly to the DEP. The quarters run from July 1 – September; October – December; January – March; and April – June 30. The quarterly reports and any fee(s) due are required to be submitted within thirty days of the end of each quarter. Hence, reports and fees are due by the end of October, January, April, and July.
- By February 1, 2007 (the current due date for the report) we will have received only *one* quarterly transportation report with the new fee structure and the increased fee would have been in place for only one half of the reporting period. The first quarterly report that includes a full quarter of the new fee structure is due on January 31, 2007. It has been our experience that it can take as long as another

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30-60 days to contact licensed transporters and receive and process all the reports due.

- An extension of time until April 15, 2008, would allow for inclusion of a full year of reporting and fee data submitted at the increased rate.

The extension until April 15, 2008 would also allow for a more complete assessment of actual expenditures. In 2006, the legislature approved a General Fund appropriation for the Department. This appropriation was needed to provide program stability until the fee increases took effect. This appropriation was utilized during FY 2006 and hence the true amount of expenditures for adequately staffing and administering the program are not accurately reflected in a review of the Maine Hazardous Waste Fund financial statement at this time.

Lastly, staff have not yet completed the rule making regarding the registration and associated fees for biomedical waste facilities. The issue of biomedical waste registration fees was raised at a public informational workshop on the proposed rulemaking and several comments were received on this issue. The Department hopes to complete this rulemaking by July, 2007. The Department is optimistic that a fee formula can be created that will provide for the costs of the program without imposing an unfair burden on the smaller biomedical waste community.

In closing, for the reasons stated above, the Department respectfully requests an extension of time until April 15, 2008 to file the report regarding an assessment of the adequacy of the Maine Hazardous Waste Fund. If there are any questions regarding the request for extension, please feel free to contact me or Remediation Bureau Director Mark Hyland at 287-7890.

Sincerely,



David P. Littell, Commissioner  
Maine Department of Environmental Protection

Enclosure: Background on the Maine Hazardous Waste Fund

Cc: Mark Hyland, Director, Bureau of Remediation and Waste Management



# The Maine Hazardous Waste Fund

## A. Purpose

The Maine Hazardous Waste Fund (the Fund) is established to be used by the department as a non - lapsing, revolving fund for carrying out the department's responsibilities under the relevant subchapters of Maine law. All fees, penalties, interest and other charges paid under the relevant subchapters of Maine law must be credited to this fund. Likewise, this fund must be charged with the expenses of the department related to those responsibilities, including costs of removal or abatement of discharges and costs of the inspection or supervision of hazardous waste activities and hazardous waste handlers. The commissioner submits budget recommendations for disbursements from the fund for each biennium. The budget is submitted as part of the unified current services budget legislation in accordance with Title 5, sections 1663 to 1666.

## B. Role

Money in the Fund is disbursed by the Commissioner for the following purposes:

- Costs incurred in the removal or abatement of an unlicensed discharge or threatened discharge of hazardous waste, waste oil or biomedical waste. Whenever practical, the Commissioner may offer the responsible party the opportunity to remove or abate the discharge or threatened discharge;
- Costs incurred for the purchase of necessary hazardous waste, waste oil and biomedical waste testing, response, inspection and monitoring equipment and supplies, response and compliance personnel and training of personnel in accordance with an allocation approved by the Legislature;
- Amounts necessary to reimburse direct costs of municipalities that do not exceed \$5,000 as required by Title 38 section 1319-R, subsection 3, for their participation in proceedings for site review of a commercial hazardous waste facility license.
- Costs incurred in the inspection or supervision of hazardous waste, waste oil and biomedical waste activities and handlers;
- Costs incurred in the administration of or the provision of technical assistance under the toxics use, toxics release and hazardous waste reduction program established in Title 38 chapter 26.

The Fund is used to ensure that the state has adequately trained and equipped staff that are capable of providing emergency response to releases and threatened releases of hazardous waste, biomedical waste and waste oil. For example, in 2006, the Department's Division of Response Services received 2,948 reports of oil and hazardous chemical spills. The Fund provided a portion of the funding towards the cost of responding to these reports. The Fund is also used to prevent emergency situations involving the release and threatened release of hazardous waste, biomedical waste and waste oil through the licensing, inspection and supervision of hazardous

waste, waste oil and biomedical waste activities and handlers. Lastly, the Fund is used to administer technical assistance and oversight of the toxics release and hazardous waste reduction program.

### C. Relationship to Other Clean up Programs

The Fund is generally not utilized to provide funding for the clean up of sites requiring long term remedial efforts. The Fund does provide personnel services allotment for staff that may oversee these types of projects. However, actual site clean up costs for these projects are typically paid for by the responsible party or parties. It is also possible, depending on the specific circumstances and threats posed, that federal emergency response action monies or State bond monies could be used to stabilize a site and reduce immediate threats to the public health and environment. Expenditures from the Fund are also used to provide for the 25% match required to procure federal grant monies to administer the federal hazardous waste program including the universal hazardous waste and corrective action (clean - up) programs.

For example, The HoltraChem Manufacturing site in Orrington is a site contaminated by several hazardous waste contaminants including mercury. The majority of staff time consumed in activities to oversee the corrective actions at the site has been paid from the Fund. However, the actual site cleanup costs are being paid by the responsible party. Similarly, the Augusta Tissue site required inspection and inventory of the oils and chemicals abandoned at the site. Salary for staff performing those activities was paid by the Maine Hazardous Waste Fund, but the majority of expenses incurred for the repackaging and removal of waste oil and hazardous waste were paid for the federal Environmental Protection Agency through the emergency removal program. In other matters such as the New Franklin Laundry Site in Bangor, the initial site and closure inspections of the generating facility were activities performed by staff paid from the Maine Hazardous Waste Fund. Once it became evident that the responsible party did not have sufficient financial resources to fund the required studies and corrective actions, the project was referred to the State's Uncontrolled Sites Investigation and Remediation program. Due to the imminent and substantial threats to human health posed by the release of perchloroethylene at the site, the federal emergency removal program was contacted and was able to provide emergency funding for the removal of contaminated soils.