

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 585 - L.D. 780

An Act Regarding Uncontrolled Hazardous Substance Sites

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

Sec. 1. 38 MRSA §1362, sub-§1, ¶F, as amended by PL 1985, c. 746, §32, is further amended to read:

F. Any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action pursuant to the United States Toxic Substances Control Act, Section 7; ~~and~~

Sec. 2. 38 MRSA §1362, sub-§1, ¶G, as amended by PL 1989, c. 878, Pt. B, §42, is further amended to read:

G. Waste oil as defined in section 1303-C; ~~and~~

Sec. 3. 38 MRSA §1362, sub-§1, ¶H is enacted to read:

H. Any substance defined as a hazardous substance or a pollutant or contaminant under the United States Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 United States Code, Section 9601.

Sec. 4. 38 MRSA §1367-B, as enacted by PL 1991, c. 811, §4 and affected by §7, is amended to read:

§1367-B. Limited ~~exemption~~ exemptions from liability for state or local governmental entities

1. Limited exemption from liability for state or local governmental entities. Liability under section 1367 does not apply to the State or ~~any~~ a political subdivision that acquired ownership or control of an uncontrolled hazardous substance site through tax delinquency proceedings pursuant to Title 36, or through any similar statutorily created procedure for the collection of governmental taxes, assessments, expenses or charges, or involuntarily through abandonment, or in circumstances in which the State or a political subdivision involuntarily acquired ownership or control by virtue of its function as a sovereign. The exemption from liability provided under this subsection does not apply to the State or ~~any~~ a political subdivision that has caused, contributed to or exacerbated a release or threatened release of a hazardous substance on or from the uncontrolled site.

1-A. Limited exemption from liability for publicly owned treatment works. A publicly owned treatment works is exempt from liability under section 1367 as a responsible party under section 1362, subsection 2, paragraph C based on the contribution by the publicly owned treatment works of effluent or sewage sludge to an uncontrolled site, except that the exemption does not apply if the commissioner determines that the publicly owned treatment works:

A. Has failed to follow applicable requirements under this Title and the rules adopted pursuant to this Title for the disposal or use of effluent or sewage sludge;

B. Has failed to comply with an information request or administrative subpoena issued by the department under this chapter; or

C. Has impeded or is impeding, through action or inaction, the performance of a response action or natural resources restoration at the uncontrolled site.

1-B. Limited exemption from liability for public water systems. A public water system is exempt from liability under section 1367 as a responsible party under section 1362, subsection 2, paragraph C based on the contribution by the public water system of water treatment residuals to an uncontrolled site, except that the exemption does not apply if the commissioner determines that the public water system:

A. Has failed to follow applicable requirements under this Title and the rules adopted pursuant to this Title for the disposal or use of water treatment residuals;

B. Has failed to comply with an information request or administrative subpoena issued by the department under this chapter; or

C. Has impeded or is impeding, through action or inaction, the performance of a response action or natural resources restoration at the uncontrolled site.

For the purposes of this subsection, "public water system" has the same meaning as in the federal Safe Drinking Water Act Amendments of 1996, 42 United States Code, Section 300f.

2. Reimbursement for department expenses. Notwithstanding the exemption from liability provided in subsection 1, the State or ~~any~~ a political subdivision that acquires or has acquired ownership of property that encompasses an uncontrolled hazardous substance site pursuant to any of the proceedings referred to in subsection 1 is liable for any costs incurred by the department pursuant to this chapter during the period in which the State or political subdivision had ownership of the property, up to the amount of the proceeds from the sale or disposition of the property minus the out-of-pocket costs of the sale or disposition.

Sec. 5. Report. On or before January 15, 2023, the Department of Environmental Protection shall report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters regarding uncontrolled hazardous substance sites where the department, pursuant to its authority under the Maine Revised Statutes, Title 38, chapter 13-B, has required a responsible party to investigate or remove a hazardous substance that is a pollutant or contaminant under Title 38, section 1362, subsection 1, paragraph H and, for each such site, the common name and chemical abstracts service registry number of the hazardous substance investigated or removed.