

§1319-G. Reimbursement to the fund

1. Recovery. The commissioner shall seek recovery to the use of the Maine Hazardous Waste Fund of all sums expended from the fund, including overdrafts, for disbursements made from the fund under section 1319-E, subsection 1, paragraphs A, B and C, including interest computed at 15% a year from the date of expenditure, unless the commissioner finds the amount too small or the likelihood of recovery too uncertain. Requests by the department for reimbursement to the Maine Hazardous Waste Fund, if not paid within 30 days of demand, may be turned over to the Attorney General for collection or may be submitted to a collection agency or agent or an attorney retained by the department with the approval of the Attorney General pursuant to Title 5, section 191.

The commissioner may file a claim with or otherwise seek money from federal agencies to recover to the use of the fund all disbursements from the fund.

[PL 2007, c. 655, §15 (AMD).]

1-A. Lien. All costs incurred by the State in the removal, abatement and remediation of an unlicensed discharge or threatened discharge of hazardous waste, waste oil or biomedical waste under this subchapter and interest are a lien against the real estate of the responsible party.

A certificate of lien signed by the commissioner must be sent by certified mail to the responsible party prior to being recorded and may be filed in the office of the clerk of the municipality in which the real estate is located. The lien is effective when the certificate is recorded with the registry of deeds for the county in which the real estate is located. The certificate of lien must include a description of the real estate, the amount of the lien and the name of the owner as grantor.

When the amount for which a lien has been recorded under this subsection has been paid or reduced, the commissioner, upon request by any person of record holding interest in the real estate that is the subject of the lien, shall issue a certificate discharging or partially discharging the lien. The certificate must be recorded in the registry in which the lien was recorded. Any action of foreclosure of the lien must be brought by the Attorney General in the name of the State in the Superior Court for the judicial district in which the real estate subject to the lien is located.

[PL 2009, c. 501, §16 (NEW).]

2. Waiver of reimbursement. Upon petition of any person who has paid into the fund, the board, after opportunity for a hearing, may waive the right to reimbursement to the fund if it finds that the incident was the result of:

A. An act of war; [PL 1981, c. 478, §7 (NEW).]

B. An act of government, either state, federal or municipal, except insofar as the act was pursuant to section 1319-E; and [PL 1981, c. 478, §7 (NEW).]

C. An act of God, which means an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency. [PL 1981, c. 478, §7 (NEW).]

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3. Waiver of reimbursement for registered used oil collection centers. Upon petition of the owner or operator of a registered used oil collection center, the commissioner may waive the right to reimbursement to the fund of costs incurred in the removal or abatement of up to 660 gallons of hazardous waste from that collection center if the commissioner finds that:

A. The registered used oil collection center is in compliance with the requirements contained in section 1319-Y and any rules adopted pursuant to section 1319-O, subsection 2, paragraph B; [PL 1995, c. 573, §3 (NEW).]

B. The owner or operator of the registered used oil collection center:

(1) Did not mix the oil with hazardous waste; and

(2) Did not knowingly accept hazardous waste or oil mixed with hazardous waste; and [PL 1995, c. 573, §3 (NEW).]

C. The commissioner has not granted any previous waivers of reimbursement for costs incurred in the removal or abatement of hazardous waste from the same registered used oil collection center pursuant to this subsection during the previous 12 months. [PL 1995, c. 573, §3 (NEW).]

Notwithstanding this subsection, the commissioner may not grant waivers of reimbursement to the fund pursuant to this subsection that total more than \$10,000 in any one fiscal year.

[PL 1995, c. 573, §3 (NEW).]

SECTION HISTORY

PL 1981, c. 478, §7 (NEW). PL 1989, c. 890, §§A40,B258 (AMD). PL 1991, c. 817, §34 (AMD). PL 1995, c. 573, §3 (AMD). PL 2007, c. 655, §15 (AMD). PL 2009, c. 501, §16 (AMD).

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