

**§1364. Powers and duties of the department**

**1. Technical services.** The commissioner shall establish a technical services capability within the department to assist in the identification, evaluation and mitigation of uncontrolled hazardous substance sites.

[PL 1983, c. 569, §1 (NEW).]

**2. Rules.** The board may adopt rules related to the handling of hazardous substances; the investigation, abatement, mitigation and cleanup of spills of hazardous substances; and the investigation, designation and mitigation of uncontrolled hazardous substance sites. The board may provide by rule that any person who knows or has reason to believe that any hazardous substance is present in ground water or soils beneath a site which is owned or operated by that person provide notice of that condition to the department if the concentration of the hazardous substance in ground water exceeds state or federal recommended contaminant levels for drinking water or the concentration in soils exceeds contaminant levels established by the board.

[PL 1993, c. 355, §60 (AMD).]

**3. Investigation and evaluation.** The commissioner may investigate and sample sites where hazardous substances are stored or handled to identify uncontrolled hazardous substance sites. During the course of the investigation, the commissioner may require submission of information or documents that relate or may relate to the site under investigation from any person whom the commissioner has reason to believe may be a responsible party. The information may include the nature and amounts of hazardous substances or other wastes that arrived or may have arrived at the site, manner of transportation, treatment or disposal of the hazardous substances or other wastes and any other information relating to the site or to threats posed by the potential site.

[PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §266 (AMD).]

**4. Designation.** In accordance with section 1365, the commissioner may declare a site to be an uncontrolled hazardous substance site. The designation may be appealed only upon the issuance of an order pursuant to section 1365, subsection 2, as provided in section 1365, subsection 4.

[PL 1987, c. 419, §13 (AMD).]

**5. Mitigation.** The commissioner may take whatever action necessary to abate, clean up or mitigate the threats or hazards posed or potentially posed by an uncontrolled site or to protect the public health, safety or welfare or the environment, including administering or carrying out measures to abate, clean up or mitigate the threats or hazards, and implementing remedies to remove, store, treat, dispose of or otherwise handle hazardous substances located in, on or over an uncontrolled site, including soil and water contaminated by hazardous substances. When the necessary action includes the installation of a public water supply or the extension of mains of an existing water utility, the department's obligation is limited to construction of those works that are necessary to furnish the contaminated or potentially contaminated properties with a supply of water sufficient for existing uses. The department is not obligated to contribute to a water utility's system development charge, nor to provide works or water sources exceeding those required to abate the threats or hazards posed by the uncontrolled site. The department may pay the costs of operation, maintenance and depreciation of the works or water supply for a period not exceeding 20 years if funds are available from Other Special Revenue or proceeds from the sale of bonds. If a water supply well is installed after October 1, 1994 to serve a location that immediately before the well installation was served by a viable community public water system, and the well is or becomes contaminated with a hazardous substance:

A. Neither the commissioner nor any responsible party is obligated under this chapter to reimburse any person for the expense of treating or replacing the well if the well is installed in an area delineated by the department as contaminated as provided in section 548, subsection 1; and [PL 1995, c. 462, Pt. A, §78 (AMD).]

B. The obligation of the commissioner or any responsible party under this chapter with regard to replacement or treatment of the well is limited to reimbursement of the expense of installing the well and its proper abandonment if the well is installed in an area other than one described in paragraph A. The well owner is responsible in such a case for other expenses of replacing or treating the water supply well, including the cost of any pump or piping installed with the well. [PL 1995, c. 462, Pt. A, §78 (AMD).]

For purposes of this subsection, "viable community public water system" has the same meaning as in section 548.

[PL 1995, c. 462, Pt. A, §78 (AMD).]

**6. Accept funds.** The department may accept any public or private funds which may be available for carrying out the purposes of this chapter. The Uncontrolled Sites Fund is established to be used by the department as a nonlapsing revolving fund for carrying out the purposes of this chapter, including the long-term oversight of uncontrolled hazardous substance sites. Money in the fund, not needed currently to meet the obligations of the department in the exercise of its responsibilities under this chapter, shall be deposited with the Treasurer of State to the credit of the fund and may be invested in such a manner as is provided for by law. Interest received on that investment shall be credited to the fund.

[PL 1987, c. 192, §29 (AMD).]

**7. Acquisition of property; authority.** The department may acquire, by purchase, lease, condemnation, donation or otherwise, any real property or any interest in real property that the board in its discretion determines, by 2/3 majority vote, is necessary to conduct remedial actions in response to threats or hazards posed or potentially posed by an uncontrolled site, including, but not limited to:

A. Actions to prevent further threats or hazards and to mitigate or terminate the threats or hazards; [PL 1991, c. 312, §2 (NEW).]

B. Actions to clean up soils and ground water and remove hazardous substances from an uncontrolled site; and [PL 1991, c. 312, §2 (NEW).]

C. Replacement of water supplies contaminated or threatened by hazardous substances. [PL 1991, c. 312, §2 (NEW).]

The department may exercise the right of eminent domain in the manner described in Title 35-A, chapter 65, to take and hold real property for any of the purposes described in this subsection. The commissioner shall report on the circumstances of any taking by eminent domain to the joint standing committee of the Legislature having jurisdiction over natural resource matters during the next regular session following the acquisition of any property by eminent domain. The department may transfer or convey to any person real property or any interest in real property once acquired.

[PL 1991, c. 312, §2 (NEW).]

## SECTION HISTORY

PL 1983, c. 569, §1 (NEW). PL 1985, c. 746, §§33,34 (AMD). PL 1987, c. 192, §29 (AMD). PL 1987, c. 419, §13 (AMD). PL 1989, c. 792 (AMD). PL 1989, c. 890, §§A40,B266, 267 (AMD). PL 1991, c. 66, §A40 (AMD). PL 1991, c. 312, §§1,2 (AMD). PL 1993, c. 355, §60 (AMD). PL 1993, c. 621, §7 (AMD). PL 1995, c. 462, §A78 (AMD).

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