

**§424-A. Coordination for addressing water quality problems related to subsurface waste water disposal systems in shellfish growing areas**

**1. Definitions.** For purposes of this section, the following terms have the following meanings:

A. "System" means a subsurface waste water disposal system; [PL 2007, c. 568, §8 (NEW).]

B. "Local plumbing inspector" means a plumbing inspector for the municipality where the system is located; [PL 2007, c. 568, §8 (NEW).]

C. "Municipality" means the municipality where the system is located; and [PL 2007, c. 568, §8 (NEW).]

D. "Certified inspector" means a person certified pursuant to rules adopted by the Department of Health and Human Services to inspect systems. [PL 2007, c. 568, §8 (NEW).]

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**2. Notification to municipality.** If the department or the Department of Marine Resources identifies a violation of a bacteria or toxics standard that is reasonably believed to have resulted in whole or in part from one or more malfunctioning systems and is contributing to closure of a shellfish area, the agency shall notify the municipality.

[PL 2007, c. 568, §8 (NEW).]

**3. Inspection.** If the department or the Department of Marine Resources has notified a municipality pursuant to subsection 2, and by mutual agreement inspections are not to be conducted by the department, the Department of Marine Resources or the municipality, the system or systems must be inspected and an abatement order issued and enforced according to the procedures in this subsection.

A. The department shall designate an area suspected of containing one or more malfunctioning systems and inform the municipality of the designation. The municipality shall provide the department sufficient information concerning property ownership within the designated area to enable the department to send a letter to the owner of each property containing a system within the designated area. [PL 2007, c. 568, §8 (NEW).]

B. The department shall notify each owner of property containing a system within the designated area that the system is suspected of contributing to water quality problems and must be inspected to determine compliance with the rules regulating subsurface waste water disposal adopted by the Department of Health and Human Services. [PL 2007, c. 568, §8 (NEW).]

C. Within 60 days of notification by the department pursuant to paragraph B or within a lesser time period as provided in the notification of the department, the property owner shall:

(1) Submit to the department results of an inspection by a certified inspector that has occurred within the last 12 months pursuant to requirements in Title 30-A, section 4216;

(2) Provide evidence to the department that the system was installed or repaired within the last 12 months; or

(3) Provide for an inspection by a certified inspector. The property owner shall notify the department of the results of the inspection on a form provided by the department and signed by the certified inspector. The inspection must be conducted at a time of year when the system is operating under representative conditions of use for the property. If representative conditions of use will not occur within the period specified by the department, such as if the residence is seasonal and not currently in use, the property owner may request an extension from the department during the inspection period and the department may grant an extension. [PL 2007, c. 568, §8 (NEW).]

D. If an inspection is required pursuant to paragraph C, subsection (3), the provisions of this paragraph apply.

(1) It is the responsibility of the property owner to pay for inspection of the system or systems by a certified inspector.

(2) The local plumbing inspector is not required to conduct the inspection.

(3) If a property owner is unwilling or unable to provide for an inspection, the municipality shall contract with an independent certified inspector. The municipality may assess a fee or a special tax against the land on which the system is located for the amount necessary to hire the certified inspector for the system. The amount of the special tax must be included in the next annual warrant to the tax collector of the municipality for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, section 505, in the year in which the special tax is assessed, must accrue on all unpaid balances of any special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest must be added to and become part of the tax. When determining whether or not to assess a fee or special tax pursuant to this paragraph the municipality shall consider the availability of municipal resources. [PL 2007, c. 568, §8 (NEW).]

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**4. Abatement orders.** If a system is determined to be malfunctioning, the municipality shall issue an abatement order pursuant to Title 30-A, section 3428 to the owner of the property and send a copy of the abatement order to the department.

[PL 2007, c. 568, §8 (NEW).]

**5. Enforcement of abatement order.** This section is enforced primarily at the local level pursuant to Title 30-A, section 4452. In addition to and in coordination with enforcement of the abatement order by the municipality under subsection 4, the department and the Department of Health and Human Services may enforce an abatement order.

[PL 2007, c. 568, §8 (NEW).]

**6. Rules.** The department in coordination with the Department of Health and Human Services and the Department of Marine Resources may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 568, §8 (NEW).]

## SECTION HISTORY

PL 2007, c. 568, §8 (NEW).

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