

**§548. Removal of prohibited discharges**

Any person discharging or suffering the discharge of oil in the manner prohibited by section 543 shall immediately undertake to remove that discharge to the commissioner's satisfaction. Notwithstanding the above requirement, the commissioner may undertake the removal or cleanup of that discharge and may retain agents and contractors for those purposes who shall operate under the direction of the commissioner. The commissioner may implement remedies to restore or replace water supplies contaminated by a discharge of oil prohibited by section 543, including all discharges from interstate pipelines, using the most cost-effective alternative that is technologically feasible and reliable and that effectively mitigates or minimizes damages to, and provides adequate protection of, the public health, welfare and the environment. The commissioner may investigate and sample sites where an oil discharge has or may have occurred to identify the source and extent of the discharge. During the course of the investigation, the commissioner may require submission of information or documents that relate or may relate to the discharge under investigation from any person who the commissioner has reason to believe may be a responsible party. If the commissioner finds, after investigation, that a discharge of oil has occurred and may create a threat to public health or the environment, the commissioner may issue a clean-up order in accordance with section 568, subsection 3. [PL 2009, c. 501, §4 (AMD).]

Any unexplained discharge of oil within state jurisdiction or discharge of oil occurring in waters beyond state jurisdiction that for any reason penetrates within state jurisdiction must be removed by or under the direction of the commissioner. Any expenses involved in the removal or cleanup of discharges, including the restoration of water supplies contaminated by discharges from interstate pipelines and other discharges prohibited by section 543, whether by the person reporting the discharge, the commissioner or the commissioner's agents or contractors, must be paid in the first instance from the Maine Ground and Surface Waters Clean-up and Response Fund and any reimbursements due that fund must be collected in accordance with section 551. [PL 2015, c. 319, §14 (AMD).]

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 oil: [PL 1993, c. 621, §1 (NEW).]

**1. Delineated contaminated area.** The commissioner or any person responsible for the discharge of the oil is not obligated by this subchapter 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 a result of the proximity of the area to:

- A. A hazardous waste storage, treatment or disposal facility licensed by the department; [PL 1993, c. 621, §1 (NEW).]
- B. An uncontrolled hazardous substance site as defined in section 1362, subsection 3 and listed by the department; [PL 1993, c. 621, §1 (NEW).]
- C. An oil terminal facility as defined in section 542, subsection 7 licensed by the department; [PL 1993, c. 621, §1 (NEW).]
- D. A solid waste disposal facility as defined in section 1303-C, subsection 30 and licensed by the department; or [PL 1993, c. 621, §1 (NEW).]
- E. A closed or abandoned municipal solid waste landfill listed by the department; and [PL 1993, c. 621, §1 (NEW).]

[PL 1993, c. 621, §1 (NEW).]

**2. Areas not delineated.** If the well is installed in an area other than one described in subsection 1, the obligation under this subchapter of the commissioner or any person responsible for the discharge of oil with regard to replacement or treatment of the well is limited to reimbursement of the expense of

installing the well and its proper abandonment. 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 1993, c. 621, §1 (NEW).]

For purposes of this section, "viable community public water system" means a community water system as defined in Title 22, section 2660-B that has not indicated an intent to imminently cease providing water to that location. [PL 1993, c. 621, §1 (NEW).]

#### SECTION HISTORY

PL 1969, c. 572, §1 (NEW). PL 1971, c. 618, §12 (AMD). PL 1979, c. 541, §A266 (AMD). PL 1983, c. 483, §9 (AMD). PL 1985, c. 496, §A11 (AMD). PL 1989, c. 890, §§A40,B114 (AMD). PL 1991, c. 817, §10 (AMD). PL 1993, c. 621, §1 (AMD). PL 2009, c. 501, §4 (AMD). PL 2015, c. 319, §14 (AMD).

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