

§1318-B. Procedures for removal of discharges of hazardous matter

1. Reporting. Except as provided in this subsection, the responsible party or person causing the discharge shall report a discharge immediately to the Department of Public Safety, which shall immediately notify the Commissioner of Environmental Protection and the public safety agency of the municipality in which the discharge takes place. Upon submission to the commissioner of a written spill prevention control and clean-up plan that meets the criteria of section 1318-C, subsection 1, a discharge containing a hazardous matter that is covered by the plan must be reported only if the discharge equals or exceeds the applicable reportable quantity for that particular hazardous matter as specified in Code of Federal Regulations, Title 40, Parts 302.4, 302.5 and 302.6 (b)(1), revised as of July 1, 2002, or when the discharge extends or spreads beyond the area on the site covered by the spill prevention control and clean-up plan.

[PL 2005, c. 330, §33 (AMD).]

2. Preservation of public order. The local public safety agency shall exercise authority for preservation of public order and safety, shall coordinate the response to the spill and shall be reimbursed under section 1318-A. The Department of Public Safety shall exercise this authority in those areas of the State without a local public safety agency, or in any situation in which a local public safety agency requests assistance from the Department of Public Safety.

[PL 1989, c. 317, §2 (AMD).]

3. Commissioner of Environmental Protection to direct removal. The Commissioner of Environmental Protection shall have authority and responsibility to plan, implement and, with the cooperation of the appropriate public safety agency, direct that part of the response to a discharge of hazardous matter that involves removal.

A. The responsible party or person causing the discharge shall immediately undertake removal of the discharge. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §255 (AMD).]

B. The commissioner may undertake the removal of the discharge and may retain agents and make contracts for this purpose. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §255 (AMD).]

C. Any unexplained discharge of hazardous matter occurring within state jurisdiction, or on land or in water or air beyond state jurisdiction that for any reason penetrates within state jurisdiction, must be removed by or under the direction of the commissioner. [PL 1989, c. 890, Pt. A, §40 (AFF); PL 1989, c. 890, Pt. B, §255 (AMD).]

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4. Limited liability for responders. A person who voluntarily, without expectation of monetary or other compensation, assists or advises the commissioner in mitigating or attempting to mitigate the effects of an actual or threatened discharge of hazardous matter is not liable for removal costs, damages, injuries, civil liabilities or penalties that result from actions taken or omitted in the course of rendering assistance or advice in accordance with the directions of the commissioner. This liability limitation does not apply:

A. If the person is grossly negligent or engages in willful misconduct; or [PL 1995, c. 642, §11 (NEW).]

B. To a person who caused the discharge or threatened discharge or otherwise is determined to be a responsible party. [PL 1995, c. 642, §11 (NEW).]

[PL 1995, c. 642, §11 (NEW).]

SECTION HISTORY

PL 1979, c. 730, §2 (NEW). PL 1981, c. 184, §§1,2 (AMD). PL 1989, c. 317, §2 (AMD). PL 1989, c. 890, §§A40,B254, 255 (AMD). PL 1991, c. 208, §2 (AMD). PL 1995, c. 642, §§10,11 (AMD). PL 1997, c. 364, §39 (AMD). PL 2005, c. 330, §33 (AMD).

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