§ 27-1203. Mitigation and remediation of solid waste sites.

1. The solid waste site priority in this state is to mitigate and remediate any solid waste site causing or substantially contributing to impairments of drinking water quality which may impact public health.

2. The department shall, in conjunction with the department of health, develop a system to select and prioritize sites for mitigation and remediation, considering the effects on the health of the state.

3. Beginning July first, two thousand nineteen and annually thereafter, the department shall prepare and submit to the governor and the legislature a comprehensive plan designed to mitigate and remediate solid waste sites. This plan shall establish a solid waste site mitigation and remediation priority list.

4. The department is authorized to conduct preliminary investigations to determine if a solid waste site is causing or substantially contributing to imminent or documented drinking water source contamination. The department, and any employee, agent, consultant or other person acting at the direction of the department, shall have the authority to enter all solid waste sites for the purpose of preliminary investigation, mitigation and remediation, provided that the department has made a reasonable effort to identify the owner of such property to notify such owner of the intent to enter the property at least ten days in advance. In the event the commissioner of health makes a written determination that such ten day notice will not be sufficient to protect public health, two days' written notice shall be sufficient. Any inspection of the property and each taking of samples shall take place at reasonable times and shall be commenced and completed with reasonable promptness. Such preliminary investigation shall include:

a. conducting or causing to be conducted field investigations of high priority sites identified in the plan established pursuant to subdivision three of this section for the purpose of further defining necessary mitigation and remediation, if any. To the maximum extent practicable, the department shall utilize existing information

including, but not limited to, subsurface borings and any analyses or tests of samples taken from such sites by owners or operators, other responsible persons and any federal or non-federal agencies;

b. making any subsurface borings and any analyses or tests of samples taken as may be necessary or desirable to effectuate the field investigations of sites as required under this section subject to the requirements of this title. If the owner of a solid waste site can be identified, the department shall provide such owner with a minimum of ten days' written notice of the intent to take such borings or samples in accordance with the provisions of subdivision twelve of section 27-1205 of this title. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner or operator. Upon the completion of all sampling activities, the department or authorized person shall remove, or cause to be removed, all equipment and well machinery and return the ground surface of the property to its condition prior to such sampling, unless the department or authorized person, and the owner of the property shall otherwise agree;

c. making any record searches or document reviews as may be necessary or desirable to effectuate the purposes of this section subject to the requirements of this title.

5. If the department or the department of health, as appropriate, determines that a solid waste site poses a significant threat to the public health or environment due to hazardous waste, the department shall refer the site to the inactive hazardous waste disposal site remedial program pursuant to title thirteen of this article.

6. Where the department has determined through a preliminary investigation conducted pursuant to subdivision four of this section that a solid waste site is causing or substantially contributing to contamination of a public drinking water supply, the owner or operator of a solid waste site shall, at the department's written request, cooperate with any and all remedial measures deemed necessary and which shall be undertaken by the department, in conjunction with the

department of health, for the mitigation and remediation of a solid waste site or area which is necessary to ensure that drinking water meets applicable standards, including maximum contaminant levels, notification levels, maximum residual disinfectant levels, or action levels established by the department of health. The department may implement necessary measures to mitigate and remediate the solid waste site within amounts appropriated for such purposes from the solid waste mitigation program.