

58:10-23.11d1 et seq.

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NJSA: 58:10-23.11d1 et seq.

(Hazardous  
substances--dischar,  
accident clean-  
up)

LAWS OF: 1990

CHAPTER: 78

Bill No: A3262

Sponsor(s): Smith and others

Date Introduced: March 22, 1990

Committee: Assembly: Energy and Environment

Senate: -----

Amended during passage: No Assembly Committee Substitute enacted.

Date of Passage: Assembly: June 14, 1990

Senate: June 18, 1990

Date of Approval: July 21, 1990

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: No

Fiscal Note: Yes

Veto Message: No

Message on signing: Yes

Following were printed:

Reports: No

Hearings: Yes

(over)

974.90  
p777  
1990

New Jersey. Legislature. Senate. Environmental Quality and New Jersey. Legislature. Assembly. Environmental Quality and Energy Committee.

Joint public hearing, held January 23, 1990 and February 6, 1990 on oil pipeline leak.

974.90  
p777  
1989e

New Jersey. Legislature. Senate. Committee on Energy and Environment.

Public hearing held, on oil spill prevention, held 4-19-89. Camden, 1989.

See newspaper clippings--attached:

"Florio inks bill to stop oil spills", 7-22-90 Trenton Times

"Florio: \$10 million spill fine," 7-22-90 Trenton Times

"State gets toughest spill laws," 7-22-90 Star Ledger

"Tough oil-spill bills are signed," 7-22-90 The Record

"Polluters face stiff penalties," 7-22-90 Inquirer

**KBG/SLJ**

[FIRST REPRINT]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 3262

STATE OF NEW JERSEY

ADOPTED APRIL 23, 1990

Sponsored by Assemblymen SMITH, COHEN and Bryant

1 AN ACT concerning hazardous substance discharge prevention,  
2 amending and<sup>1</sup> supplementing P.L.1976, c.141  
3 [(C.58:10-23.11 et seq.)]<sup>1</sup>, increasing the fee on hazardous  
4 substances and dedicating that increase, and<sup>1</sup> repealing section  
5 of P.L.1976, c.141 <sup>1</sup>[, and making an appropriation]<sup>1</sup>.  
6

7 BE IT ENACTED *by the Senate and General Assembly of the*  
8 *State of New Jersey:*

9 1. (New section)<sup>1</sup> As used in this act:

10 "Major facility" has the same meaning as set forth in section 3  
11 of P.L.1976, c.141 (C.58:10-23.11b);

12 "Transmission pipeline" means new and existing pipe and any  
13 equipment, facility, rights-of-way, or building used or intended  
14 for use in the transportation of a hazardous substance by a  
15 pipeline and having a throughput capacity as established by  
16 regulations adopted by the department<sup>1</sup>. Transmission pipeline  
17 does not include the transportation of a hazardous substance  
18 through onshore production or flow lines, refining, or  
19 manufacturing facilities, or storage terminals or inplant piping  
20 systems associated with those facilities that are within the  
21 boundaries of a major facility<sup>1</sup>.

22 2. (New section) a. Each owner or operator of a major  
23 facility or a transmission pipeline shall submit to the Department  
24 of Environmental Protection a discharge prevention, control, and  
25 countermeasure (DPCC) plan reviewed and certified by a  
26 professional engineer licensed pursuant to P.L.1938, c.342  
27 (C.45:8-27 et seq.) who shall attest that the plan complies with  
28 all applicable departmental requirements and has been prepared  
29 in accordance with sound engineering practices.

30 b. The DPCC plan shall contain the following information:

31 (1) The name of the major facility or transmission pipeline;

32 (2) The name and address of the owner or operator of the  
33 major facility or transmission pipeline;

34 (3) The location of the major facility or transmission pipeline;

35 (4) A description of the major facility or transmission pipeline  
36 and a general site plan and maps showing, as applicable, the  
37 locations of all below-ground or above-ground structures in which

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the  
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Assembly floor amendments adopted June 7, 1990.

1 hazardous substances are stored, handled, used, or transported,  
2 including off-site transmission pipelines from a major facility and  
3 respective pipeline terminuses in- or out-of-State, along with  
4 flow diagrams of major facility or transmission pipeline  
5 operations;

6 (5) The number of barrels or other storage capacity of the  
7 major facility, or, in the case of transmission pipelines, the  
8 transportation capacity of these pipelines, the type and amount  
9 of hazardous substances transferred, refined, processed, or stored  
10 at the major facility or transmission pipeline, and the average  
11 daily throughput of the major facility or transmission pipeline;

12 (6) Topographical and other maps of the major facility's or  
13 transmission pipeline site and off-site land and water areas in  
14 proximity to the major facility or transmission pipeline that could  
15 be adversely affected by a discharge or other emergency. The  
16 maps shall identify and delineate residential and other land use  
17 areas, as well as all environmentally sensitive areas, and identify  
18 the nature of the threats from a discharge thereto;

19 (7) Drainage and diversion plans of the major facility or  
20 transmission pipeline, including the location of all major sewers,  
21 storm sewers, catchment or containment systems or basins,  
22 diversion systems, and all watercourses into which surface water  
23 run-off from the major facility or transmission pipeline drains,  
24 which drainage and diversion plans shall be designed, where  
25 applicable, to prevent hazardous substances, including nonpoint  
26 source pollutants, from draining off-site or into ground or surface  
27 waters of the State;

28 (8) A discharge prevention plan and policy statement that  
29 identifies (a) leak detection and discharge prevention safety  
30 systems, devices, equipment, procedures, or other measures  
31 established for the major facility or transmission pipeline to  
32 prevent an unauthorized discharge, (b) the schedules, methods,  
33 and procedures for testing, maintaining, and inspecting  
34 above-ground and below-ground storage tanks, pipelines, and  
35 other structures, and leak detection and other preventive or  
36 safety systems, devices, or equipment and (c) the qualifications  
37 of personnel specifically charged with implementing the DPCC  
38 plan and policy, and the authority delegated thereto;

39 (9) A summary of the nature, scope, and frequency of  
40 discharge prevention and emergency response training programs  
41 and requirements for major facility or transmission pipeline  
42 personnel;

43 (10) Any other information deemed necessary or useful by the  
44 department.

45 The department may determine the manner and form in which  
46 the above information is to be provided, including the form and  
47 technology to be used in complying with the mapping  
48 requirements of this subsection.

49 3. 1(New section)<sup>1</sup> a. Each owner or operator of a major

1 facility or transmission pipeline shall submit to the Department  
2 of Environmental Protection a discharge response, cleanup, and  
3 removal contingency plan, attested to by the owner or operator,  
4 who shall certify the maximum emergency response capability at  
5 the major facility or transmission pipeline, that the trained  
6 personnel and response equipment as specified in the contingency  
7 plan are available or are at the disposal for the major facility or  
8 transmission pipeline, that the equipment is in good repair, and  
9 that the contingency plan is consistent with applicable local,  
10 regional, and State emergency response plans.

11 b. The contingency plan shall contain the following  
12 information:

13 (1) A summary and detailed description of the major facility's  
14 or transmission pipeline's action plan used by a major facility's  
15 or transmission pipeline's personnel and discharge cleanup  
16 contractors, as applicable, in responding to, and minimizing  
17 health and environmental dangers from, fires, explosions, or  
18 unauthorized discharges or releases of hazardous substances to  
19 the air, soil, or waters of the State, including the deployment of  
20 personnel and equipment in the event of a discharge or other  
21 emergency, and the chain of command for an emergency response  
22 action. The action plan shall provide for simulated emergency  
23 response drills, to be conducted at least once a year, to  
24 determine the currency and adequacy of, and personnel  
25 familiarity with, the emergency response action plan;

26 (2) An identification of all personnel and equipment available  
27 for cleanup and response activities, including all equipment and  
28 personnel located off-site that are either under the direct control  
29 of the owner or operator of the major facility or transmission  
30 pipeline, or that are available, by contract, to the major facility  
31 or transmission pipeline in the event of discharge or other  
32 emergency, and the amount of time that would be required to  
33 mobilize and deploy all response personnel and equipment. A  
34 copy of all current contracts or agreements between the owner or  
35 operator of a major facility or transmission pipeline and a  
36 discharge cleanup organization for emergency response service,  
37 including containment, cleanup, removal and disposal, shall be  
38 maintained at the facility, or in the case of a transmission  
39 pipeline, with a registered agent of the owner or operator or the  
40 transmission pipeline. Upon request the contracts or agreements  
41 shall be made available to the department;

42 (3) The names, home addresses, and qualifications of major  
43 facility or transmission pipeline emergency response  
44 coordinators, and alternates, and identification and qualifications  
45 of the other emergency response personnel trained and required  
46 to respond to a discharge or other emergency, and to operate  
47 containment, cleanup, and removal equipment. The contingency  
48 plan shall specify the authority and responsibilities of the  
49 coordinator or alternate in the event of a discharge or other

1 emergency. A qualified coordinator or alternate shall be present  
2 at all times at a major facility;

3 (4) A plan identifying priorities for the off-site deployment of  
4 personnel and equipment to protect residential, environmentally  
5 sensitive, or other areas against a discharge or other emergency  
6 based on use, seasonal sensitivity, or other relevant factors;

7 (5) An environmentally sensitive areas and habitats protection  
8 plan, reviewed and certified by a marine biologist and an  
9 ornithologist, that shall (a) identify all environmentally sensitive  
10 areas and wildlife habitats that could be affected by a discharge  
11 from the major facility or transmission pipeline, (b) identify the  
12 seasonal sensitivity of the areas or habitats, (c) in the event of a  
13 discharge, provide for the protection from, and mitigation of, any  
14 potentially adverse impact of the discharge on the identified  
15 areas or habitats, and (d) provide for an environmental  
16 assessment of the impact of any discharge on the identified areas  
17 and habitats, including the effects on the habitat's flora, fauna  
18 or organisms. The <sup>1</sup>[habitat] environmentally sensitive areas and  
19 habitats<sup>1</sup> protection plan shall <sup>1</sup>[include, at a minimum, all],  
20 using criteria established by the department for identifying  
21 environmentally sensitive areas or habitats, identify any<sup>1</sup>  
22 environmentally sensitive [areas and habitats identified by the  
23 department pursuant to subsection c. of this section, and such  
24 other like areas that comply with criteria established by the  
25 department for identifying environmentally sensitive areas or  
26 habitat] area or habitat that could be adversely affected by a  
27 discharge from a major facility or transmission pipeline<sup>1</sup> ;

28 (6) A copy of an agreement with the local emergency planning  
29 committee or committees that coordinate the emergency  
30 responses of the parties to the agreement;

31 (7) Any other information deemed necessary or useful by the  
32 department.

33 c. <sup>1</sup>[Within 12 months of the effective date of this act, and  
34 from time-to-time thereafter, the department shall identify and  
35 map all environmentally sensitive habitats and areas--including  
36 waterways, wetlands, coastal areas, water supply areas, shellfish  
37 growing areas, endangered or threatened specie areas, or other  
38 natural or wildlife habitat--in proximity to a major facility or  
39 transmission pipeline as determined by the department that could  
40 be adversely affected by a discharge of a hazardous substance]  
41 The department shall develop base maps, including but not  
42 limited to, waterways, wetlands, coastal areas, water supply  
43 areas, shellfish growing areas, and endangered and threatened  
44 species areas, to provide comprehensive, contiguous coverage of  
45 land and water areas<sup>1</sup>.

46 4. <sup>1</sup>(New section)<sup>1</sup> Each DPCC plan and contingency plan  
47 shall be renewed every five years with the department unless the  
48 department requires a more frequent submission. Applications  
49 for plan renewals shall be accompanied by a summary of all

1 unauthorized discharges at a major facility or transmission  
2 pipeline, and any other information as may be deemed necessary  
3 or useful by the department. Plan renewals may be limited to  
4 certifying that the existing plans on file with the department are  
5 current. Filing of a revised plan may be required by the  
6 department at the time of renewal so as to incorporate into the  
7 plan all amendments adopted since the filing of the original plan  
8 or its last renewal. Amendments to a DPCC plan <sup>1</sup>[or] <sup>1</sup>a  
9 contingency plan <sup>1</sup>, or any other information required to be filed  
10 with the department pursuant to this act<sup>1</sup> shall be <sup>1</sup>[made and]<sup>1</sup>  
11 filed <sup>1</sup>[with the department]<sup>1</sup> within 30 days of the date of any  
12 modification <sup>1</sup>of a facility or transmission pipeline<sup>1</sup> necessitating  
13 a change in <sup>1</sup>a<sup>1</sup> plan <sup>1</sup>or other<sup>1</sup> information filed with the  
14 department. Plan renewals or amendments shall be certified in  
15 the same manner as the original plan.

16 5. (New section) The owner or operator of a major facility or  
17 transmission pipeline shall, at all times, retain on file with the  
18 department evidence of financial responsibility for cleaning up  
19 and removing a discharge or release of a hazardous substance,  
20 and for the removal of any abandoned structure owned or  
21 operated, as the case may be, by the owner or operator of a  
22 major facility or transmission pipeline. The amount, nature,  
23 terms, and conditions of the financial responsibility shall be  
24 determined by the department. The owner or operator of a major  
25 facility or transmission pipeline shall file evidence of financial  
26 responsibility with the department within 180 days of the  
27 effective date of P.L. , c. (C. ) (pending in the Legislature  
28 as this bill).

29 6. <sup>1</sup>(New section)<sup>1</sup> The department shall prescribe, by  
30 regulation, the manner, form and contents of the plans, renewals,  
31 amendments, and other submissions required to be filed pursuant  
32 to P.L. , c. (C. ) (pending in the Legislature as this bill)  
33 so as to ensure the consistency of plans, specifications, maps or  
34 other submissions filed with the department pursuant to this act  
35 as to form, content, clarity, geographical reference to State plan  
36 coordinates, or any other criteria deemed necessary by the  
37 department. <sup>1</sup>The department shall prescribe by regulation the  
38 amount, nature, and conditions of financial responsibility of the  
39 owner or operator of a major facility or transmission pipeline as  
40 required pursuant to section 5 of P.L. ,c. (C. ) (now before  
41 the Legislature as this bill).<sup>1</sup> The department shall establish, as  
42 applicable, minimum performance standards or requirements for  
43 any of the DPCC or contingency plan elements. Plans, plan  
44 renewals and amendments, plan components and any other  
45 required submissions to the department shall comply with  
46 departmental regulations, and, as applicable, shall be certified by  
47 a licensed engineer or land surveyor.

48 7. (New section) A copy of a DPCC plan and contingency plan,  
49 or plan renewal, and all plan amendments shall be filed by the

1 owner or operator of a major facility or transmission pipeline  
2 with the local emergency prevention or local emergency planning  
3 committee or committees.

4 8. <sup>1</sup>(New section) [a. The owner or operator of a major  
5 facility or transmission pipeline who does not have on file with  
6 the department a DPCC plan and a contingency plan reviewed  
7 and approved by the department as of the date of adoption of  
8 rules or regulations pursuant to section 14 of P.L. , c.  
9 (C. ) (pending in the Legislature as this bill), shall file with  
10 the department a DPCC plan and contingency plan as required  
11 under this act within 90 days of that date.

12 b. The owner or operator of a major facility or transmission  
13 pipeline who has on file with the department as of the date of  
14 adoption of rules or regulations pursuant to section 14 of P.L. ,  
15 c. (C. ) (now pending before the Legislature as this bill), a  
16 DPCC plan and a contingency plan reviewed and approved  
17 pursuant to section 5 of P.L.1976, c.141 (C.58:10-23.11d) shall  
18 file a new DPCC plan and contingency plan in accordance with  
19 this act pursuant to a schedule established by the department to  
20 evenly distribute the filings over an 18 month period from the  
21 date of adoption of the rules and regulations. Nothing in this  
22 subsection shall be construed to waive the requirement that  
23 amendments to a plan on file with the department on the date of  
24 adoption of rules and regulations shall be submitted on a timely  
25 basis during the 18-month period as required pursuant to section  
26 4 of this act.] The owner or operator of a major facility or  
27 transmission pipeline who has on file with the department as of  
28 the date of adoption of rules or regulations pursuant to section 14  
29 of P.L. , c. (C. ) (pending in the Legislature as this bill)  
30 a DPCC plan and a contingency plan reviewed and approved  
31 pursuant to section 5 of P.L.1976, c.141 (C.58:10-23.11d), or the  
32 owner or operator of a major facility or transmission pipeline who  
33 does not have on file with the department a DPCC plan and a  
34 contingency plan reviewed and approved by the department, shall  
35 file a new DPCC plan and a contingency plan in accordance with  
36 a schedule provided by the department and promulgated pursuant  
37 to the "Administrative Procedure Act," P.L.1968, c.410  
38 (C.52:14B-1 et seq.) so as to evenly distribute the submittal and  
39 filing of DPCC plans and contingency plans.

40 The department shall use the following criteria to evenly  
41 distribute the submittal and filing of DPCC plans and contingency  
42 plans: size of the facility, material being stored, and proximity to  
43 environmentally sensitive areas or habitats. The schedule  
44 adopted by the department for submitting a DPCC plan or a  
45 contingency plan shall not extend beyond three years after the  
46 adoption of the rules or regulations pursuant to section 14 of  
47 P.L. , c. (C. ) (pending in the Legislature as this bill).<sup>1</sup>

48 9. (New section) a. Except as otherwise provided in  
49 subsection b. of this section, the department shall, as soon as



1 practicable, but not later than six months following a filing of a  
2 DPCC plan, contingency plan, or a renewal thereof, or, in the  
3 case of plan amendments, within 60 days of the filing of the  
4 amendments, review the filing to determine compliance with all  
5 statutory requirements, including rules and regulations adopted  
6 thereunder.

7 b. The department may, at any time during the plan, plan  
8 renewal or plan amendment review period approve, conditionally  
9 approve, or disapprove a plan, plan renewal, or plan amendments.  
10 If a plan, plan renewal or plan amendments are disapproved, the  
11 owner or operator of the major facility or transmission pipeline  
12 shall have 30 days from receipt of written notice of the  
13 disapproval, and the reasons therefor, within which to submit a  
14 revised plan or plan amendments. The department may, at any  
15 time after an on-site inspection of a facility or pipeline, or a  
16 discharge or other emergency at a facility or pipeline, direct the  
17 owner or operator of the major facility or transmission pipeline  
18 to submit amendments to a DPCC plan or contingency plan on  
19 file with the department, or to submit additional documentation  
20 or information in conjunction with a filed plan or amendments. If  
21 within 30 days of receipt of a written request therefor, the owner  
22 or operator of the major facility or transmission pipeline fails to  
23 file a revised plan, amendments, or requested information  
24 satisfactory to the department, or fails to contest the  
25 department's request in accordance with the "Administrative  
26 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the DPCC  
27 plan, contingency plan, renewal plan, or plan amendments shall  
28 be deemed to have been disapproved by the department and the  
29 owner or operator of the facility or pipeline shall be in violation  
30 of section 2 or section 3, as appropriate, of P.L. , c. (C. )  
31 (pending in the Legislature as this bill). The department may, for  
32 good cause, extend by up to an additional 30 days the time period  
33 for filing a revised plan or plan amendments, or for responding to  
34 a request for information.

35 10. <sup>1</sup>(New section)<sup>1</sup> a. The owner or operator of a major  
36 facility or transmission pipeline shall <sup>1</sup>[report an unauthorized  
37 discharge occurring at the major facility or transmission pipeline  
38 to the department immediately upon detection of the discharge]  
39 immediately report any unauthorized discharge occurring at the  
40 major facility or transmission pipeline<sup>1</sup>. Within 30 days of the  
41 reporting of a discharge, the owner or operator of a major  
42 facility or transmission pipeline shall provide the department  
43 with a full report on the nature and causes of the discharge, the  
44 nature and chronology of the actions taken by the owner or  
45 operator and other parties to cleanup and remove the discharged  
46 hazardous substance, an evaluation of all pertinent prevention  
47 and response plans and policies in light of the discharge, and the  
48 owner's or operator's response thereto, and the measures taken  
49 to avoid a recurrence of similar discharges and to remedy

1 shortcomings in the prevention, detection, response, containment,  
2 cleanup, or removal plan components. The report shall be  
3 accompanied by any amendments that may be required to the  
4 DPCC and contingency plans. Upon evaluation of the report, the  
5 department may direct the owner or operator of the major  
6 facility or transmission pipeline to make appropriate amendments  
7 to its DPCC or contingency plan in order to prevent a recurrence  
8 of similar discharges, to improve the response capability at the  
9 major facility or transmission pipeline, or to minimize the  
10 possible adverse impacts of any future discharges on public safety  
11 and the environment. The owner or operator of the major facility  
12 or transmission pipeline shall provide the department with any  
13 other information that may be required by the department to  
14 evaluate the prevention and response capabilities at the major  
15 facility or transmission pipeline.

16 b. The owner or operator of a major facility or transmission  
17 pipeline shall immediately notify the department's environmental  
18 action line of any malfunction of a leak detection or other  
19 discharge monitoring system, or other discharge prevention,  
20 safety system, or device. The owner or operator of the major  
21 facility or transmission pipeline shall provide information as to  
22 the nature of the malfunction and the measures taken to avoid a  
23 recurrence. The department may, at any time, require the  
24 installation or replacement of a leak detection, discharge  
25 monitoring system, or other discharge prevention, safety system,  
26 or device because of severe or repeated malfunctions or other  
27 failures, or that fails to satisfy the standards prescribed therefor  
28 pursuant to section 11 of P.L. , c. (C. ) (pending in the  
29 Legislature as this bill).

30 Nothing in this section shall be construed to limit the authority  
31 of the department to direct the owner or operator of a facility or  
32 pipeline at any time to take immediate measures to strengthen  
33 its prevention or response capabilities.

34 11. (New section) a. On or after the effective date of this  
35 act, any new, or substantial modification or replacement of an  
36 existing, above-ground storage tank or other above-ground  
37 enclosed storage space, or of an existing transmission pipeline,  
38 including appurtenant structures, or a leak detection or other  
39 monitoring system, and prevention or safety system or devices  
40 shall comply with construction or performance standards based  
41 upon best available technology, industry standards, or federal  
42 requirements, whichever may be more stringent, as may be  
43 prescribed by the department or required by law. Except in  
44 emergency situations as defined by the department, notice of a  
45 proposed new construction or installation, substantial  
46 modification or replacement of any structure, system, or device  
47 subject to the provisions of this subsection shall be provided to  
48 the department at least 60 days prior to the commencement of  
49 construction, installation, or modification. The department shall

1 also adopt standards and requirements for retrofitting existing  
2 structures, systems, or devices subject to the provisions of this  
3 subsection in order to prevent, or to minimize the adverse  
4 impacts of, unauthorized discharges.

5 b. (1) The owner or operator of a major facility shall conduct,  
6 or cause to be conducted, a structural integrity test of  
7 above-ground storage tanks or other above-ground enclosed  
8 storage spaces storing hazardous substances, including connecting  
9 underground or above-ground pipelines.

10 (2) The owner or operator of a transmission pipeline shall  
11 conduct, or cause to be conducted, a structural integrity test of  
12 all parts of the pipeline, including all line pipe, valves, and other  
13 appurtenances connected to line pipe, or other facilities that  
14 store or transport hazardous substances associated with the  
15 pipeline.

16 The department shall prescribe the size of the tanks to be  
17 tested, where applicable, and the nature and frequency of the  
18 testing.

19 c. An above-ground storage tank or other enclosed storage  
20 space, and any transmission pipeline existing prior to and on the  
21 effective date of P.L. , c. (C. ) (pending in the  
22 Legislature as this bill), shall be tested in accordance with this  
23 subsection within two years of the adoption by the department of  
24 standards and regulations therefor. The sequence of testing of  
25 existing tanks, enclosed storage spaces, or transmission pipelines  
26 shall be determined by the age or suspected age of the structure,  
27 the proximity to potable water supplies, the discharge record of  
28 the structure for the preceding five years, and the date of the  
29 last structural integrity test performed on the structure. The  
30 test results and a summary of any remedial actions taken as a  
31 consequence thereof shall be submitted to the department within  
32 30 days of completion.

33 d. Testing or inspection of leak detection or other monitoring  
34 systems, and preventive or safety systems or devices shall be  
35 conducted as frequently as may be required by the department.

36 e. In developing standards or testing procedures or other  
37 requirements pursuant to this section, the department shall  
38 consider applicable standards and procedures adopted or  
39 recommended by the United States Environmental Protection  
40 Agency, and the following organizations:

41 (1) American Petroleum Institute (API), 1220 L Street, N.W.,  
42 Washington, D.C. 20005;

43 (2) American Society for Testing and Materials (ASTM), 1916  
44 Race Street, Philadelphia, Pennsylvania 19103;

45 (3) National Association of Corrosion Engineers (NACE), P.O.  
46 Box 218340, Houston, Texas 77218;

47 (4) National Fire Protection Association (NFPA),  
48 Batterymarch Park, Quincy, Massachusetts 02269; and

49 (5) Underwriters Laboratories (UL), 333 Pfingston Road,

1 Northbrook, Illinois 60062.

2 Standards or other requirements for transmission pipelines shall  
3 be at least as stringent as those established for pipeline facilities  
4 by the Secretary of the United States Department of  
5 Transportation pursuant to the "Hazardous Liquid Pipeline Safety  
6 Act of 1979," 49 U.S.C. §2001 et seq; except that transmission  
7 pipeline standards and requirements adopted pursuant to this  
8 section shall be consistent with applicable standards and  
9 requirements adopted pursuant to any other State law regulating  
10 transmission pipelines.

11 f. The Department of Community Affairs shall, within 60 days  
12 of the adoption of regulations by the department, adopt in the  
13 State Uniform Construction Code, all applicable rules and  
14 regulations adopted by the department pursuant to this section.

15 12. (New section) The owner or operator of a major facility or  
16 transmission pipeline shall visually inspect, or cause to be visually  
17 inspected, at least once each month, all above-ground pipelines,  
18 above-ground storage tanks, and above-ground enclosed storage  
19 spaces for leaks, structural and foundation weaknesses, or other  
20 maintenance needs.

21 13. (New section) The owner or operator of a major facility or  
22 transmission pipeline shall maintain at the major facility, or in  
23 the case of a transmission pipeline, with a registered agent of the  
24 owner or operator, for at least 10 years, records of any testing,  
25 inspection, maintenance, and repair of all structures, equipment,  
26 and detection or monitoring, prevention or safety devices related  
27 to discharge prevention and response, and shall make these  
28 records available for inspection by the department or appropriate  
29 local agencies upon request. Records of employee training and  
30 simulated drills for discharge prevention and emergency response  
31 shall also be retained and be available for inspection by the  
32 department or appropriate local agencies.

33 14. (New section) Within one year of the effective date of  
34 P.L. , c. (C. ) (pending in the Legislature as this bill), the  
35 department shall adopt, pursuant to the "Administrative  
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
37 regulations necessary to implement the provisions of P.L. , c.  
38 (C. ) (pending in the Legislature as this bill). Pending  
39 adoption of rules and regulations, the department may require a  
40 major facility or transmission pipeline to take such action to  
41 upgrade the discharge and prevention capabilities at the facility  
42 or pipeline as the department may deem appropriate.

43 <sup>1</sup>[15. (New section) The department shall adopt, pursuant to  
44 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
45 et seq.) rules and regulations establishing a schedule of fees to be  
46 paid by owners or operators of a major facility or transmission  
47 pipeline at the time of the filing of a DPCC plan or discharge  
48 response, cleanup and removal contingency plan, and at the time  
49 of a renewal of or an amendment to either plan. Fees imposed on

1 owners or operators of major facilities or transmission pipelines  
2 shall be based upon the cost of administering monitoring, and  
3 enforcing the provisions of P.L. , c. (C. ) (now before the  
4 Legislature as this bill), or any other pertinent provision of  
5 P.L.1976, c.141 (C.58:10-23.11 et seq.), or any supplement  
6 thereto, relating to prevention and response responsibilities of  
7 major facilities or transmission pipelines. Administrative costs  
8 shall include the costs of computerizing any information required  
9 to be filed with the department under this act.]<sup>1</sup>

10 <sup>1</sup>[16. (New section) There is appropriated to the Department  
11 of Environmental Protection from the New Jersey Spill  
12 Compensation Fund, created pursuant to section 10 of P.L.1976,  
13 c.141 (C.58:10-23.11i) the sum of \$1,600,000 for the purpose of  
14 implementing the provisions of this act. The sum shall be repaid  
15 to the spill fund within three years of commencement of  
16 collection of fees established pursuant to section 15 of this act.]<sup>1</sup>

17 <sup>1</sup>15. (New section) Compliance with any standard or plan  
18 required to be submitted or adopted pursuant to P.L. , c.  
19 (C. ) (now before the Legislature as this bill) shall not be  
20 deemed a defense in addition to the defenses enumerated in  
21 subsection d. of section 8 of P.L.1976, c.141 (C. 58:10-23.11g d.).<sup>1</sup>

22 <sup>1</sup>16. (New section) Eighteen months after the adoption of  
23 regulations pursuant to section 14 of P.L. , c. (C. )  
24 (pending in the Legislature as this bill) the department shall  
25 prepare and submit to the Senate Environmental Quality  
26 Committee, the Assembly Energy and Environment Committee,  
27 or their successors, and to the library of the New Jersey Office  
28 of Legislative Services, a status report on the submittals of the  
29 DPCC and contingency plans required to be adopted pursuant to  
30 P.L. , c. (C. ) (pending in the Legislature as this bill). The  
31 status report shall contain, but need not be limited to, a copy of  
32 the schedule of DPCC and contingency plan submittals, the  
33 number of major facilities, the number of submittals received,  
34 and the submittal schedule for plans not yet received.<sup>1</sup>

35 <sup>1</sup>17. Section 9 of P.L.1976, c.141 (C. 58:10-23.11h) is amended  
36 to read as follows:

37 9. a. There is hereby levied upon each owner or operator of  
38 one or more major facilities a tax to insure compensation for  
39 cleanup costs and damages associated with any discharge of  
40 hazardous substances to be paid by the transferee; provided,  
41 however, that in the case of a major facility which operates as a  
42 public storage terminal for hazardous substances owned by  
43 others, the owner of the hazardous substance transferred to such  
44 major facility or his authorized agent shall be considered to be  
45 the transferee or transferor, as the case may be, for the purposes  
46 of this section and shall be deemed to be a taxpayer for purposes  
47 of this act. Where such person has failed to file a return or pay  
48 the tax imposed by this act within 60 days after the due date  
49 thereof, the director shall forthwith take appropriate steps to

1 collect same from the owner of the hazardous substance. In the  
2 event the director is not successful in collecting said tax, then on  
3 notice to the owner or operator of the public storage terminal of  
4 said fact said owner or operator shall not release any hazardous  
5 substance owned by the taxpayer. The director may forthwith  
6 proceed to satisfy any tax liability of the taxpayer by seizing,  
7 selling or otherwise disposing of said hazardous substance to  
8 satisfy the taxpayer's tax liability and to take any further steps  
9 permitted by law for its collection. For the purposes of this act,  
10 public storage terminal shall mean a public or privately owned  
11 major facility operated for public use which is used for the  
12 storage or transfer of hazardous substances. The tax shall be  
13 measured by the number of barrels or the fair market value, as  
14 the case may be, of hazardous substances transferred to the  
15 major facility; provided, however, that the same barrel, including  
16 any products derived therefrom, subject to multiple transfers  
17 from or between major facilities shall be taxed only once at the  
18 point of the first transfer.

19 When a hazardous substance other than petroleum which has  
20 not been previously taxed is transferred from a major in-State  
21 facility to a facility which is not a major facility, the transferor  
22 shall be liable for tax payment for said transfer.

23 b. (1) The tax shall be [~~\$0.0125~~] \$0.0150 per barrel transferred  
24 and in the case of the transfer of hazardous substances other than  
25 petroleum or petroleum products, the tax shall be the greater of  
26 [~~\$0.0125~~] \$0.0150 per barrel or 1.0% of the fair market value of  
27 the product plus \$0.0025 per barrel; provided, however, that with  
28 respect to transfers of hazardous substances other than  
29 petroleum or petroleum products which are or contain any  
30 precious metals to be recycled, refined, or rerefined in this State,  
31 or which are transferred into this State subsequent to being  
32 recycled, refined or rerefined, the tax shall be [~~\$0.0125~~] \$0.0150  
33 per barrel of the hazardous substance; and provided further,  
34 however, that the total aggregate tax due for any individual  
35 taxpayer which has paid the tax in the 1986 tax year shall not  
36 exceed 125% of the tax due and payable by that taxpayer during  
37 the 1986 tax year plus an additional \$0.0025 per barrel; except  
38 that for a hazardous substance which is directly converted to, and  
39 comprises more than 90% by weight of, a non-hazardous final  
40 product, the taxpayer shall pay no more than 100% of the tax due  
41 and payable in the 1986 tax year plus an additional \$0.0025 per  
42 barrel. For the purposes of this section, "precious metals" means  
43 gold, silver, osmium, platinum, palladium, iridium, rhodium,  
44 ruthenium and copper. In the event of a major discharge or series  
45 of discharges of petroleum or petroleum products resulting in  
46 reasonable claims against the fund exceeding the existing balance  
47 of the fund, the tax shall be levied at the rate of \$0.04 per barrel  
48 of petroleum or petroleum products transferred, until the revenue  
49 produced by such increased rate equals 150% of the total dollar

1 amount of all pending reasonable claims resulting from the  
2 discharge of petroleum or petroleum products; provided, however,  
3 that such rate may be set at less than \$0.04 per barrel  
4 transferred if the administrator determines that the revenue  
5 produced by such lower rate will be sufficient to pay outstanding  
6 reasonable claims against the fund within one year of such levy.  
7 For the purposes of determining the existing balance of the fund,  
8 the administrator shall not include any amount in the fund  
9 collected from the \$0.0025 per barrel increase in the tax imposed  
10 pursuant to P.L. , c. (pending in the Legislature as this bill)  
11 and dedicated for hazardous substance discharge prevention in  
12 accordance with paragraph (2) of this subsection [; and provided  
13 further, however, that under no circumstances shall this rate be  
14 levied for the period of one year immediately following  
15 enactment of this 1986 amendatory and supplementary act,  
16 P.L.1986, c.143 (C.58:10-23.11b et al.)].

17 Interest received on moneys in the fund shall be credited to the  
18 fund.

19 (2) An amount of \$0.0025 per barrel collected from the  
20 proceeds of the tax imposed pursuant to this subsection shall be  
21 deposited into the New Jersey Spill Compensation Fund and  
22 dedicated for the purposes of P.L. , c. (pending in the  
23 Legislature as this bill) and for other authorized purposes  
24 designed to prevent the discharge of a hazardous substance.

25 c. (1) Every taxpayer and owner or operator of a public  
26 storage terminal for hazardous substances shall on or before the  
27 20th day of the month following the close of each tax period  
28 render a return under oath to the director on such forms as may  
29 be prescribed by the director indicating the number of barrels of  
30 hazardous substances transferred and where appropriate, the fair  
31 market value of the hazardous substances transferred to or from  
32 the major facility, and at said time the taxpayer shall pay the full  
33 amount of the tax due.

34 (2) Every taxpayer or owner or operator of a major facility or  
35 vessel which transfers a hazardous substance, as defined in this  
36 act, and who is subject to the tax under subsection a. shall within  
37 20 days after the first such transfer in any fiscal year register  
38 with the director on such form as shall be prescribed by him.

39 d. If a return required by this act is not filed, or if a return  
40 when filed is incorrect or insufficient in the opinion of the  
41 director, the amount of tax due shall be determined by the  
42 director from such information as may be available. Notice of  
43 such determination shall be given to the taxpayer liable for the  
44 payment of the tax. Such determination shall finally and  
45 irrevocably fix the tax unless the person against whom it is  
46 assessed, within 30 days after receiving notice of such  
47 determination, shall apply to the director for a hearing, or unless  
48 the director on his own motion shall redetermine the same. After  
49 such hearing the director shall give notice of his determination to

1 the person to whom the tax is assessed.

2 e. Any taxpayer who shall fail to file his return when due or to  
3 pay any tax when the same becomes due, as herein provided, shall  
4 be subject to such penalties and interest as provided in the "State  
5 Tax Uniform Procedure Law," R.S.54:48-1 et seq. If the Division  
6 of Taxation determines that the failure to comply with any  
7 provision of this section was excusable under the circumstances,  
8 it may remit such part or all of the penalty as shall be  
9 appropriate under such circumstances.

10 f. (1) (Deleted by amendment, P.L.1987, c.76.)

11 (2) (Deleted by amendment, P.L.1987, c.76.)

12 g. In addition to the other powers granted to the director in  
13 this section, he is hereby authorized and empowered:

14 (1) To delegate to any officer or employee of his division such  
15 of his powers and duties as he may deem necessary to carry out  
16 efficiently the provisions of this section, and the person or  
17 persons to whom such power has been delegated shall possess and  
18 may exercise all of said powers and perform all of the duties  
19 delegated by the director;

20 (2) To prescribe and distribute all necessary forms for the  
21 implementation of this section.

22 h. The tax imposed by this act shall be governed in all respects  
23 by the provisions of the "State Tax Uniform Procedure Law,"  
24 R.S.54:48-1 et seq., except only to the extent that a specific  
25 provision of this act may be in conflict therewith.

26 i. (Deleted by amendment, P.L.1986, c.143.)<sup>1</sup>

27 (cf: P.L.1987, c.76, s.43)

28 <sup>1</sup>18. Section 16 of P.L.1976, c.141 (C.58:10-23.11o) is amended  
29 to read as follows:

30 16. Moneys in the New Jersey Spill Compensation Fund shall  
31 be disbursed by the administrator for the following purposes and  
32 no others:

33 (1) Costs incurred under section 7 of this act;

34 (2) Damages as defined in section 8 of this act;

35 (3) Such sums as may be necessary for research on the  
36 prevention and the effects of spills of hazardous substances on  
37 the marine environment and on the development of improved  
38 cleanup and removal operations as may be appropriated by the  
39 Legislature; provided, however, that such sums shall not exceed  
40 the amount of interest which is credited to the fund;

41 (4) Such sums as may be necessary for the boards, general  
42 administration of the fund, equipment and personnel costs of the  
43 department and any other State agency related to the  
44 enforcement of this act, including any costs incurred by the  
45 department pursuant to P.L. , c. (pending in the Legislature as  
46 this bill) or pursuant to any other law designed to prevent the  
47 discharge of a hazardous substance, as may be appropriated by  
48 the Legislature;

49 (5) Such sums as may be appropriated by the Legislature for



1 research and demonstration programs concerning the causes and  
2 abatement of ocean pollution; provided, however, that such sums  
3 shall not exceed the amount of interest which is credited to the  
4 fund;

5 (6) Such sums as may be requested by the commissioner, up to  
6 a limit of \$400,000.00 per year, to cover the costs associated  
7 with the administration of the "Environmental Cleanup  
8 Responsibility Act," P.L.1983, c.330 (C.13:1K-6 et seq.);

9 (7) Costs attributable to the department's obligation to defend  
10 and indemnify a contractor pursuant to subsection a. of section 7  
11 of this act, subject to the appropriation by law of monies from  
12 the General Fund to the fund to defray these costs.

13 The Treasurer may invest and reinvest any moneys in said fund  
14 in legal obligations of the United States, this State or any of its  
15 political subdivisions. Any income or interest derived from such  
16 investment shall be included in the fund.<sup>1</sup>

17 (cf: P.L.1986, c.59, s.4)

18 <sup>1</sup>[17.] 19.<sup>1</sup> Section 5 of P.L.1976, c.141 (C.58:10-23.11d) is  
19 repealed, but rules and regulations adopted by the department  
20 pursuant to that section shall remain in force until rules and  
21 regulations implementing the provisions of P.L. , c. (C. )  
22 (pending in the Legislature as this act) are adopted and take  
23 effect .

24 <sup>1</sup>[18.] 20.<sup>1</sup> This act shall take effect immediately.

25  
26  
27 ENVIRONMENT

28  
29 Establishes additional requirements for hazardous substance  
30 discharge prevention and response by major facilities and  
31 transmission pipelines; increases the fee on hazardous substances  
32 and dedicates that increase.

# ASSEMBLY, No. 3262

## STATE OF NEW JERSEY

INTRODUCED MARCH 22, 1990

By Assemblymen SMITH, COHEN, Doria, Villapiano, Cimino, Scerni, Hudak, Deverin, Jacobson, Schwartz, Spadaro, Duch, McGreevey, Gill, Mazur, Mecca, Baer, Naples, Pelly, Watson, Charles, Kronick, Menendez, Bryant, Assemblywoman Ford, Assemblymen Doyle, Impreveduto, Salmon and Kenny

1 AN ACT concerning hazardous substance discharge prevention,  
2 supplementing P.L.1976, c.141 (C.58:10-23.11 et seq.), and  
3 repealing section 5 of P.L.1976, c.141.  
4

5 BE IT ENACTED *by the Senate and General Assembly of the*  
6 *State of New Jersey:*

7 1. Each owner or operator of a major facility, which, in the  
8 case of a transmission pipeline, shall include a pipeline with a  
9 throughput capacity of 200,000 gallons per day, shall submit the  
10 following information to the Department of Environmental  
11 Protection:

12 a. A discharge prevention, control, and countermeasure  
13 (DPCC) plan reviewed and certified by a professional engineer  
14 licensed pursuant to P.L.1938, c.342 (C.45:8-27 et seq.), who shall  
15 attest that the plan complies with all applicable departmental  
16 requirements and has been prepared in accordance with sound  
17 engineering practices. The DPCC plan shall contain the following  
18 information:

19 (1) the name of the facility;

20 (2) the name and address of the owner or operator of the  
21 facility;

22 (3) the location of the facility;

23 (4) a description of the facility and a general site plan and  
24 maps showing, as applicable, the locations of all below-ground or  
25 above-ground structures in which hazardous substances are  
26 stored, handled, used, or transported, including off-site  
27 transmission pipelines and respective pipeline terminuses in-  
28 out-of-State, along with flow diagrams of facility operations;

29 (5) the number of barrels or other storage capacity of the  
30 facility, or, in the case of transmission pipelines, the  
31 transportation capacity of these pipelines, the type and amount  
32 of hazardous substances transferred, refined, processed, or stored  
33 at the facility, and the average daily throughput of the facility;

34 (6) a topographical and other maps of the facility site and  
35 off-site land and water areas in proximity to the facility that  
36 could be adversely affected by a discharge or other emergency.  
37 The maps shall identify and delineate residential and other land  
38 use areas, as well as all environmentally sensitive areas, and  
39 describe the nature of the threats thereto;

1 (7) drainage and diversion plans of the facility, including the  
2 location of all major sewers, storm sewers, catchment or  
3 containment systems or basins, diversion systems, and all  
4 watercourses into which surface water run-off from the facility  
5 drains, which drainage and diversion plans shall be engineered so  
6 as to prevent hazardous substances, including nonpoint source  
7 pollutants, from draining off-site or into ground or surface  
8 waters of the State;

9 (8) a discharge prevention plan and policy statement that  
10 identifies leak detection and discharge prevention and safety  
11 systems, devices, equipment, procedures, or other measures  
12 established by the facility to prevent an unauthorized discharge,  
13 the schedules, methods, or procedures for testing, maintenance,  
14 and inspection of leak detection and other preventive or safety  
15 systems, devices, equipment, as well as above-ground and  
16 below-ground storage tanks, pipelines, or other structures, and  
17 the qualifications of personnel specifically charged with  
18 implementing the discharge prevention plan and policy, and the  
19 authority delegated thereto;

20 (9) a summary of the nature, scope, and frequency of discharge  
21 prevention and emergency response training programs and  
22 requirements for facility personnel;

23 (10) such other information as may be deemed necessary or  
24 useful by the department.

25 b. A contingency or discharge response, cleanup, and removal  
26 plan, attested to by the owner or operator, who shall certify the  
27 maximum emergency response capability of the facility, that the  
28 trained personnel and response equipment as specified in the plan  
29 are available or are at the disposal of the facility, that the  
30 equipment is in good repair, and that the plan is consistent with  
31 applicable local, regional, and State emergency response plans.  
32 The contingency plan shall contain the following information:

33 (1) a summary and detailed description of the facility's action  
34 plan to be used by facility personnel and discharge cleanup  
35 contractors, as applicable, in responding to, and minimizing  
36 health and environmental dangers from, fires, explosions, or  
37 unauthorized discharges or releases of hazardous substances to  
38 air, soil, or waters of the State, including the deployment of  
39 personnel and equipment in the event of a discharge or other  
40 emergency, and the chain of command for an emergency response  
41 action. The action plan shall provide for simulated emergency  
42 response drills, to be conducted at least once a year, to  
43 determine the currency and adequacy of, and personnel  
44 familiarity with, the emergency response action plan;

45 (2) identification of all personnel and equipment available for  
46 discharge, containment, and removal, including all equipment and  
47 personnel located off-site that are either under the direct control  
48 of the owner or operator of the facility, or that are available, by  
49 contract, to the facility in the event of discharge or other

1 emergency, and the amount of time that would be required to  
2 mobilize and deploy all response personnel and equipment. A  
3 copy of all current contracts or agreements between a facility  
4 and a discharge cleanup organization for emergency response  
5 service, including containment, cleanup, removal and disposal,  
6 shall be on file with the department;

7 (3) the names, home addresses, and qualifications of facility  
8 emergency response coordinators, or alternates, and  
9 identification and qualifications of the other emergency response  
10 personnel trained and required to respond to a discharge or other  
11 emergency, and to operate containment, cleanup, and removal  
12 equipment. The contingency plan shall specify the authority and  
13 responsibilities of the coordinator or alternate in the event of a  
14 discharge or other emergency. A qualified coordinator or  
15 alternate shall be present at all times at a facility;

16 (4) a plan identifying priorities for the off-site deployment of  
17 personnel and equipment to protect residential, environmentally  
18 sensitive, or other areas against a discharge or other emergency,  
19 based on use, seasonal sensitivity or other relevant factors;

20 (5) a copy of an agreement with a local emergency prevention  
21 or emergency response agency within the municipality or  
22 municipalities, or county or counties, in which the facility is  
23 located, that coordinates the emergency responses of the parties  
24 to the agreement;

25 (6) and such other information as the department may deem  
26 necessary or useful.

27 c. Renewals of a DPCC plan and a contingency plan shall be  
28 filed every five years with the department. Applications for plan  
29 renewals shall be accompanied by a summary of all unauthorized  
30 discharges at a major facility, and such other information as may  
31 be deemed necessary or useful by the department. Plan renewals  
32 may be limited to certifying the continued currency of the filed  
33 plan. Filing of a revised plan may be required by the department  
34 at the time of renewal so as to incorporate into the plan all  
35 amendments adopted since the filing of the original plan or its  
36 last renewal. Amendments to a DPCC plan or a contingency plan  
37 shall be made and filed with the department within 30 days of the  
38 date of any modification necessitating a change in plan  
39 information filed with the department. Plan renewals or  
40 amendments shall be certified in the same manner as the original  
41 plan.

42 d. The department, by regulation, shall prescribe the manner  
43 and form of the plans, renewals, or amendments required to be  
44 filed pursuant to this section, and may establish minimum  
45 performance standards or requirements for any of the several  
46 DPCC or contingency plan elements.

47 e. A copy of a DPCC and contingency plan, or plan renewal,  
48 and all plan amendments shall be filed by a major facility with  
49 the local emergency prevention or local emergency response

1 agency of the municipality or municipalities in which the facility  
2 is located.

3 f. (1) Major facilities that do not have on file with the  
4 department a DPCC plan and a contingency plan reviewed and  
5 approved by the department on the 270th day following the  
6 effective date of this act, shall file with the department a DPCC  
7 plan and contingency plan as required under this section within  
8 120 days of that day.

9 (2) Major facilities that have on file with the department on  
10 the 270th day following the effective date of this act, a DPCC  
11 plan and a contingency plan reviewed and approved pursuant to  
12 section 5 of P.L.1976, c.141 (C.58:20-23.11d), shall have 18  
13 months from that day to file a new DPCC plan and contingency  
14 plan in accordance with this section. The department shall  
15 establish a schedule to evenly distribute the filings required to be  
16 made pursuant to this paragraph over the 18-month period.  
17 Nothing in this subsection shall be construed to waive the  
18 requirement that amendments to a filed plan be submitted, as  
19 required in subsection c. of this section, on a timely basis during  
20 the 18-month period.

21 g. The owner or operator of a major facility shall retain on file  
22 with the department at all times evidence of financial  
23 responsibility for containing, cleaning up, removing, disposing, or  
24 mitigating the adverse effects of a discharge or release of a  
25 hazardous substance. The amount, nature, terms, and conditions  
26 of the financial responsibility shall be determined by the  
27 department.

28 h. For purposes of sections 1 through 7 of P.L. , c.  
29 (C. ) (pending in the Legislature as this bill), "major  
30 facility" means in the case of a transmission pipeline, a pipeline  
31 with a throughput of 200,000 gallons per day.

32 2. a. Except as otherwise provided in subsection b. of this  
33 section, the department shall, as soon as practicable, but not  
34 later than six months following a filing of a DPCC plan,  
35 contingency plan, or a renewal thereof, or, in the case of plan  
36 amendments, within 60 days of the filing of the amendments,  
37 review the filing to determine compliance with all statutory  
38 requirements, including rules and regulations adopted thereunder.

39 b. The department may, at any time during the review period  
40 for plans or plan amendments, reject a plan, plan renewal, or plan  
41 amendments. If a plan or plan amendments are rejected, a  
42 facility shall have 30 days within which to submit a revised plan  
43 or plan amendments. The department may, at any time after an  
44 on-site inspection of a facility, or a discharge or other  
45 emergency at the facility, direct that facility to submit  
46 amendments to a DPCC plan or contingency plan on file with the  
47 department, or to submit additional documentation or  
48 information in conjunction with a filed plan or amendments. If  
49 within 30 days of receipt of a written request therefor, a major

1 facility fails to file a revised plan, amendments, or requested  
2 information satisfactory to the department, or fails to contest  
3 the department's request in accordance with the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the DPCC  
5 plan, contingency plan, renewal plan, or plan amendments shall  
6 be deemed to have been rejected by the department and the  
7 facility shall be in violation of section 1 of this act. The  
8 department may extend by up to an additional 30 days the time  
9 period for filing a revised plan, amendments, or information  
10 requested by the department.

11 3. a. An unauthorized discharge occurring at a major facility  
12 shall be reported to the department immediately upon detection.  
13 Within 30 days of the reporting of a discharge, a major facility  
14 shall provide the department with a full report on the nature and  
15 causes of the discharge, the nature and chronology of the actions  
16 taken by the facility and other parties to control, contain,  
17 cleanup, and remove the discharged hazardous substance, an  
18 evaluation of all pertinent prevention and response plans and  
19 policies in light of the discharge and the facility's response  
20 thereto, and the measures taken to avoid a recurrence of similar  
21 discharges and to remedy shortcomings in the prevention,  
22 detection, response, containment, cleanup, or removal plan  
23 components. The report shall be accompanied by any  
24 amendments that may be required to the DPCC and contingency  
25 plans, or upon evaluation of the report, the department may  
26 direct the facility to make appropriate amendments to its DPCC  
27 or contingency plan based on the information available to the  
28 department in order to prevent a recurrence of similar  
29 discharges, to improve the response capability of the facility, or  
30 to mitigate the possible adverse impacts of any future discharges  
31 on public safety and the environment. The facility shall provide  
32 the department with any other information that may be required  
33 by the department to evaluate the prevention and response  
34 capabilities of the facility.

35 b. A major facility shall notify the department, orally and in  
36 writing, as soon as practicable, of any malfunction of a leak  
37 detection or other discharge monitoring system, or other  
38 discharge prevention, safety system, or device. The facility shall  
39 provide information as to the nature of the malfunction and the  
40 measures taken to taken to avoid a recurrence. The department  
41 may, at any time, require the installation or replacement of a  
42 leak detection, discharge monitoring system, or other discharge  
43 prevention, safety system, or device because of severe or  
44 repeated malfunctions or other failures, or that fails to satisfy  
45 the standards prescribed therefor pursuant to subsection a. of  
46 section 4 of P.L. , c. (C. ) (pending in the Legislature as  
47 this bill).

48 Nothing in this section shall be construed to limit the authority  
49 of the department to direct a facility at any time to take

1 immediate measures to strengthen its prevention or response  
2 capabilities.

3 4. a. New, or substantial modification or replacement of an  
4 existing, above-ground storage tank or other above-ground  
5 enclosed storage space, or an existing transmission pipeline,  
6 including appurtenant structures, or a leak detection or other  
7 monitoring system, and prevention or safety system or devices  
8 shall comply with construction or performance standards based  
9 upon best available technology, industry standards, or federal  
10 requirements, whichever may be more stringent, as may be  
11 prescribed by the department or required by law. Except in  
12 emergency situations as defined by the department, notice of a  
13 proposed new construction or installation, substantial  
14 modification or replacement shall be provided to the department  
15 at least 60 days prior to the commencement of construction,  
16 installation or modification. The department shall also adopt  
17 standards and requirements for retrofitting of existing major  
18 facilities in order to prevent or to minimize the adverse impacts  
19 of unauthorized discharges.

20 b. An owner or operator of a major facility shall conduct, or  
21 cause to be conducted, a structural integrity test of  
22 above-ground storage tanks or other above-ground enclosed  
23 storage spaces storing hazardous substances, including connecting  
24 underground or above-ground pipelines, and any transmission  
25 pipeline. The department shall prescribe the size of the tanks to  
26 be tested, and the nature and frequency of the testing.

27 c. An above-ground storage tank or other enclosed storage  
28 space, and any transmission pipeline existing prior to and on the  
29 effective date of this act, shall be tested in accordance with this  
30 subsection within two years of the adoption by the department of  
31 standards and regulations therefor. The sequence of testing of  
32 existing tanks, enclosed storage spaces, or pipelines shall be  
33 determined by the age or suspected age of the structure, their  
34 proximity to potable water supplies, the discharge record of the  
35 structure for the preceding five years, and the date of the last  
36 structural integrity test performed on the structure. The test  
37 results and a summary of any remedial actions taken as a  
38 consequence thereof shall be submitted to the department within  
39 30 days of that completion.

40 d. Testing or inspection of leak detection or other monitoring  
41 systems, and preventive or safety systems or devices shall be  
42 conducted as frequently as may be required by the department.

43 e. In developing standards or testing procedures or other  
44 requirements pursuant to this section, the department shall  
45 consider applicable standards and procedures adopted or  
46 recommended by the United States Environmental Protection  
47 Agency, and the following organizations:

48 (1) American Petroleum Institute (API), 1220 I Street, N.W.,  
49 Washington, D.C. 20005;

1 (2) American Society for Testing and Materials (ASTM), 1916  
2 Race Street, Philadelphia, Pennsylvania 19103;

3 (3) National Association of Corrosion Engineers (NACE), P.O.  
4 Box 218340, Houston, Texas 77218;

5 (4) National Fire Protection Association (NFPA),  
6 Batterymarch Park, Quincy, Massachusetts 02269; and

7 (5) Underwriters Laboratories (UL), 333 Pfingston Road,  
8 Northbrook, Illinois 60062.

9 In the case of transmission pipelines, the standards or other  
10 requirements shall be at least as stringent as those established  
11 for pipeline facilities by the federal Secretary of Transportation  
12 pursuant to the "Hazardous Liquid Pipeline Safety Act of 1979,"  
13 49 U.S.C. §2001 et seq.

14 f. The Department of Community Affairs shall, within 60 days  
15 of the adoption of regulations by the department, adopt in the  
16 State Uniform Construction Code, all applicable rules and  
17 regulations adopted by the department pursuant to this section.

18 5. The owner or operator of a major facility shall visually  
19 inspect, or cause to be visually inspected, at least once each  
20 month, all pipelines, above-ground storage tanks, and  
21 above-ground enclosed storage spaces for leaks, structural and  
22 foundation weaknesses, or other maintenance needs.

23 6. Major facilities shall maintain on-site, for at least 10 years,  
24 records of any testing, inspection, maintenance, and repair of all  
25 structures, equipment, and detection or monitoring, prevention or  
26 safety devices related to discharge prevention and response, and  
27 shall make these records available for inspection by the  
28 department or appropriate local agencies upon request. Records  
29 of employee training and simulated drills for discharge prevention  
30 and emergency responses shall also be retained and be available  
31 for inspection by the department or appropriate local agencies.

32 7. Within 270 days of the effective date of this act, the  
33 department shall, in accordance with the provisions of the  
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.), adopt rules and regulations to implement the provisions of  
36 P.L. , c. (C. ) (pending in the Legislature as this bill).

37 8. The department shall, by regulation, adopt a fee schedule.  
38 The fees shall be collected at the time of the filing of a plan or  
39 plan renewal. Fee amounts shall be based upon the cost of  
40 administering, monitoring, and enforcing the provisions of  
41 sections 1 through 7 of P.L. , c. (C. ) (pending in the  
42 Legislature as this bill).

43 9. Section 5 of P.L.1976, c.141 (C.58:10-23.11d) is repealed,  
44 but rules and regulations adopted by the department pursuant to  
45 that section shall remain in force until readopted, amended, or  
46 rescinded by the department.

47 10. This act shall take effect immediately.



## STATEMENT

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3 This bill revises the law requiring the filing with the  
4 Department of Environmental Protection (DEP) of discharge  
5 prevention, control, and countermeasure (DPCC) plans and  
6 contingency or discharge response, cleanup, and removal plans,  
7 that are currently required to be submitted by a major facility  
8 engaged in the refining, storage, or transfer of hazardous  
9 substances.

10 This bill:

11 (1) expands the number of facilities required to submit DPCC  
12 and contingency plans;

13 (2) strengthens the plan and reporting requirements, and, in  
14 particular, the discharge prevention components of the plans;

15 (3) authorizes the department to adopt construction or  
16 performance standards for above-ground storage tanks or other  
17 enclosed storage spaces, pipelines, leak detection or other  
18 monitoring systems, and prevention or safety systems or devices,  
19 and to adopt standards and other requirements for the  
20 retrofitting of existing facilities, which standards shall be the  
21 more stringent of best available technology, prevailing industry  
22 standards, or those required by federal or State law;

23 (4) authorizes DEP to require, at any time, the installation or  
24 replacement of a leak detection or other discharge monitoring  
25 system, or other discharge prevention or safety system or device  
26 because of severe or repeated malfunctions or other failures, or  
27 that fails to satisfy the standards prescribed by the department;

28 (5) authorizes DEP at any time to direct a facility to take  
29 immediate measures to strengthen its prevention or response  
30 capabilities; and

31 (6) requires DEP to establish a fee schedule to cover the costs  
32 of administering the discharge prevention program.

## ENVIRONMENT

33  
34  
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36  
37 Establishes additional requirements for hazardous substance  
38 discharge prevention, containment, cleanup, and removal.

ASSEMBLY ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 3262

STATE OF NEW JERSEY

DATED: APRIL 16, 1990

The Assembly Committee Substitute for Assembly Bill No. 3262 is reported favorably by the Assembly Energy and Environment Committee.

The committee substitute revises the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10:23.11 et seq.), concerning discharge prevention and emergency response requirements for facilities storing or handling hazardous substances, and extends those provisions to facilities and off-site transmission pipelines previously exempted therefrom. In addition, the substitute bill strengthens the Department of Environmental Protection's (DEP's) authority to require improvements in discharge prevention and safety measures, and reemphasizes the preventive character of the spill control program.

The substitute bill requires owners or operators of covered facilities and transmission pipelines to submit detailed discharge prevention, control and countermeasure (DPCC) plans, and discharge response, cleanup and removal contingency plans to DEP. It also increases the number of facilities for which DPCC plans and contingency plans are required. Currently, owners or operators of major facilities with less than 400,000 gallons of storage capacity of either hazardous chemicals or petroleum are not required to prepare and submit DPCC plans or contingency plans. This bill extends the DPCC/contingency plan requirements to refinery, storage, terminal and related facilities with a storage capacity of 20,000 gallons or more of hazardous chemicals, other than petroleum, or 200,000 gallons of any type of hazardous substance, and to transmission pipelines, defined as offsite pipelines that transport hazardous substances.

Sections 2 and 3 of the bill specify what must be contained in a DPCC plan and a contingency or discharge response, cleanup and removal plan. Section 4 requires both DPCC plans and contingency plans to be renewed every five years, unless DEP requires more frequent submissions. The provisions of the plans, and plan renewals and plan amendments must be certified by a licensed engineer in the case of DPCC plans, or, in the case of contingency plan, by the owner or operator of the facility or transmission pipeline. Section 5 requires the owner or operator of a major facility or pipeline to retain on file with the department evidence of financial

responsibility for responding to, and cleaning up the discharge of a hazardous substance. Section 6 authorizes the department to prescribe the manner and form of the plans, renewals or amendments, and to establish minimum performance standards or requirements for any of the plan elements. Section 7 requires owners or operators of major facilities or transmission pipelines to file copies of DPCC and contingency plans, as well as renewals and amendments, with the local emergency planning committees within the jurisdiction in which the facility is located. Section 8 provides for a phase-in of the filing requirements for DPCC plans and contingency plans.

Section 9 requires DEP to review plans, plan renewals and plan amendments within a designated period of time. The department may, during the review period, approve, conditionally approve or disapprove a plan, renewal or amendment, and the major facility or transmission pipeline shall have the opportunity to submit appropriate revisions within 30 days of receipt of the conditional approval or disapproval. DEP may, following inspection of a facility or pipeline, or a facility or pipeline discharge or other emergency, direct the owner or operator of a major facility or transmission pipeline to submit amendments to a DPCC plan or contingency plan, or to submit such other information as the department may direct. DEP may extend the period for making plan revisions or amendments, or for filing information.

Section 10 requires the owner or operator of a major facility or transmission pipeline to report to DEP any unauthorized discharge immediately upon detection, and stipulates the nature of the information to be provided to the department. The owner or operator is also required to notify the department of any malfunction of a leak detection or other discharge monitoring system, or other discharge prevention, safety system or device. The bill further authorizes DEP to require the installation or replacement of a detection, monitoring, prevention or safety system or device because of severe or repeated malfunctions or other failures, or that fails to satisfy standards established therefor by DEP.

Section 11 requires any new, and substantial modification or replacement of an existing, above-ground storage facility or other enclosed space, transmission pipeline, or leak detection system or device to comply with construction or performance standards based upon best available technology, industry standards, or federal requirements, whichever may be more stringent. The department is also authorized to adopt standards and requirements for retrofitting of existing facilities, pipelines or devices, as applicable, to prevent or minimize unauthorized discharges, or adverse impacts therefrom. Owners or operators of major facilities or transmission pipelines are also required to perform structural integrity tests of storage tanks or spaces, appurtenant structures, and pipelines, with the nature and

frequency of the testing to be determined by DEP. This bill provides a statutory schedule for testing structures in existence at the time of adoption of standards and regulations by the department. Testing or inspection of detection, monitoring, preventive or safety systems or devices shall be prescribed by DEP.

Section 12 requires visual inspections of pipelines and storage facilities at least monthly. Section 13 requires major facilities and transmission pipelines to maintain on-site for at least 10 years all records of testing, inspection, maintenance and repair of structures and equipment, including monitoring, prevention or safety devices. Section 14 directs DEP to adopt, within one year of the bill's enactment, rules and regulations to effectuate the purposes of the bill. Section 15 authorizes adoption of a fee schedule to cover the costs of administering, monitoring and enforcing the bill's provisions. Section 16 appropriates \$1.6 million from the New Jersey Spill Compensation Fund for the start-up costs associated with the implementation of the provisions of this bill. Of that amount, \$400,000 is to be used to map environmentally sensitive areas proximate to major facilities and transmission pipelines in the State. The \$1.6 million is to be repaid to the fund from filing fees collected by DEP.

Section 17 repeals section 5 of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58: 10-23.11d), which provided DEP with statutory authorization to require owners or operators of major facilities or transmission pipelines to submit DPCC and contingency plans. The substantive provisions of this bill will continue this statutory authorization in a more specific and expanded form.

LEGISLATIVE FISCAL ESTIMATE TO  
ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 3262**

**STATE OF NEW JERSEY**

DO NOT REMOVE

DATED: June 27, 1990

Assembly Committee Substitute for Assembly Bill No. 3262 of 1990 revises the provisions of the "Spill Compensation and Control Act," P.L.1976, c.141 (C.58:10:23.11 et seq.), concerning discharge prevention and emergency response requirements for facilities storing or handling hazardous substances, and extends those provisions to facilities and off-site transmission pipelines previously exempted therefrom. In addition, it strengthens the Department of Environmental Protection's (DEP) authority to require improvements in discharge prevention and safety measures, reemphasizes the preventive character of the spill control program, and authorizes the creation of a fee schedule to support all administrative costs associated with carrying out the bill's provisions. An appropriation of \$1,600,000 from the N.J. Spill Compensation Fund is included to cover the department's first-year implementation expenses and is to be repaid from program fee revenues within three years.

The bill requires owners or operators of covered facilities and transmission pipelines to submit detailed discharge prevention, control and countermeasure (DPCC) plans, and discharge response, cleanup and removal contingency plans to the DEP. It also increases the number of facilities for which DPCC plans and contingency plans are required. Currently, owners or operators of major facilities with less than 400,000 gallons of storage capacity of either hazardous chemicals or petroleum are not required to prepare and submit DPCC plans or contingency plans. The bill extends the DPCC/contingency plan requirements to refinery, storage, terminal and related facilities with a storage capacity of 20,000 gallons or more of hazardous chemicals, other than petroleum, or 200,000 gallons of any type of hazardous substance, and to transmission pipelines, defined as offsite pipelines that transport hazardous substances.

Although the department did not respond to the Office of Legislative Services (OLS) request for fiscal note information, it did provide such information to the Assembly Energy and Environment Committee during its deliberations on the bill. The department estimated it would require the following amounts, totaling \$1,200,000 annually, to implement the provisions of the bill:

ACS for A3262

2

<u>Function</u>	<u>Amount</u>
Salary (21 positions)	\$735,000
Fringe and Indirect Expenses	294,000
Operating Expenses	<u>171,000</u>
	\$1,200,000

According to the Committee Statement on the substitute bill, a sum of \$400,000 from the Spill Fund appropriation is intended to pay for the mapping of environmentally sensitive areas proximate to major facilities and transmission pipelines. Given that the balance for operating expenses would then be \$1,200,000, it is uncertain whether the department's estimate was based solely on need or on the availability of this net amount. In any case, the OLS cannot concur with this estimate nor can it provide an alternative estimate due to the lack of information concerning the potential number of regulated facilities under the bill and the corresponding amount of program revenues that could be generated. For example, if the total number of new facilities regulated by the bill is small, fee revenues may not be sufficient to fully support program costs.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.



# OFFICE OF THE GOVERNOR

## NEWS RELEASE

**CN-001**  
**Contact:**

Emma Byrne  
Nancy Kearney

**TRENTON, N.J. 08625**  
**Release:**

Saturday  
July 21, 1990

### FLORIO SIGNS BILLS IMPOSING RECORD FINES FOR OIL SPILLS AND TOUGHER INDUSTRY RULES

PORT ELIZABETH -- On the heels of yet another incident in the Arthur Kill, Governor Jim Florio today signed a package of bills that impose record fines of up to \$10 million for oil spills and toughen industry procedures.

Specifically the bills:

#### IMPOSE RECORD PENALTIES FOR SPILLS

(S 2517/A 3264; Sponsored by Senator Richard Van Wagner, Assemblyman John Villipiano and Assemblywoman Marlene Lynch Ford)

Currently the law allows for penalties of up to \$50,000 per day for each violation, and does not take into account the size of the spill. This bill amends the Spill Compensation and Control Act to allow a penalty of up to \$10 million for a catastrophic spill of a hazardous substance, defined as a spill of 100,000 gallons or more.

The penalties apply to anyone whose discharge reaches New Jersey waters or lands, whether or not the spill actually occurred outside of the state. The bill directs the Department of Environmental Protection to take into account the conduct of the discharge and the extent of the damage in determining the level of the fine.

The bill also provides DEP with other enforcement tools. It authorizes DEP to assess civil administrative penalties to recover costs of investigation or cleanup, instead of having to go to court to collect penalties. It also expands the list of damages for which a polluter must pay to include the cost of restoring or replacing personal property, lost income resulting from damage caused by the spill, and the cost of repairing or replacing damaged and destroyed natural resources.

## **PROHIBIT NIGHTTIME TRANSFERS WITHOUT PROPER LIGHTING**

(A 3268/ S 2478; Sponsored by Senator Richard Van Wagner, Assemblyman George Otlowski)

In order to address the problem of detecting oil spills at night, this bill prohibits nighttime transfers of petroleum products through underwater pipelines unless there is proper lighting.

Within one year, the Department of Environmental Protection (DEP) must promulgate rules requiring lighting of transfer connection points, adjacent facilities and vessel areas and surrounding waters for all nighttime transfers of hazardous substances. The DEP may also require, if necessary, to have lighting at the point at which underwater pipelines emerge onto the land. The DEP regulations are to mirror the Coast Guard's guidelines on lighting to the maximum extent possible.

## **DEPLOY BOOMS AS A PRECAUTION DURING TRANSFERS**

(S 2520/A 3263; Sponsored by Senator Richard Van Wagner/Assemblymen Tom Duch and Louis Gill)

This bill requires the Department of Environmental Protection to adopt regulations that containment booms or other safety devices must be in place for any transfer of a hazardous liquid.

Within one year, DEP will provide a list of hazardous liquids and identify the circumstances for which booms must be in place, based on criteria such as the safety record and degree of danger the transfer poses. DEP may also require that specific equipment or chemicals be on hand to contain a spill. For flammable substances and other transfers when it would be dangerous to use booms, DEP will prescribe other safety measures.

Companies must incorporate these safety measures in the Discharge Prevention Control and Countermeasure plans they are required to file with the DEP. Within 31 days after DEP adopts the regulations, companies must have in place or on stand-by, all equipment and personnel required.

If the transfer is occurring at a land-based facility, the facility is responsible for ensuring that the equipment and personnel are in place. If the transfer is between two vessels, each vessel is responsible.



## **ELIMINATE TAX WRITE-OFFS FOR CLEANUPS**

(A 3265/S 2519; Sponsored by Assemblyman Joe Doria/Senator Richard Van Wagner)

This bill amends the New Jersey Gross Income Tax Act to provide that treble damages paid for cleaning up a spill, and fines and penalties paid for a spill will not be tax deductible as a business expense.

Any fine collected for a violation of a state or federal environmental law, an administrative consent order, a local penalty or fine, or any economic benefit gained as a result of a violation can not be deducted as a business expense from net profits. This does not apply if the fine was for a violation that resulted from an act beyond the control of the violator or if the violation was caused by a person outside the control of the violator, such as a fire or flood.

The bill also prohibits deducting the treble damages paid to the Department of Environmental Protection for the cost of removing or cleaning up a spill. (This occurs when DEP does the cleanup and then assesses damages on the polluter at three times the cost of the cleanup.)

## **IMPOSE TOUGHER REGULATIONS FOR STORAGE AND TRANSFER**

(A 3262/S 2518; Sponsored by Assemblyman Bob Smith and Neil Cohen/Senator Richard Van Wagner)

This bill is the main regulatory bill strengthening the Discharge Prevention Control and Countermeasures (DPCC) program at DEP. The program requires that facilities that refine, store or transfer hazardous substances submit cleanup and removal plans to DEP. This bill beefs up the program and puts greater and more specific burdens on facilities in doing their plans.

The bill requires that the plans must be more specific in identifying areas that might be damaged by a spill. Companies must identify environmentally sensitive areas and come up with plans to protect and assess the damage of those areas.

## **ENFORCE BETTER PIPELINE SAFETY**

(S 2516/A 3266/A 3257; Sponsored by Senator Ray Lesniak/Assemblyman George Hudak and Tom Deverin)

This bill requires facilities to register all pipelines in New Jersey, and directs DEP to conduct a study to make recommendations for regulating pipelines for safety.

Currently, the federal government regulates interstate pipelines, but there is no regulation of intrastate pipelines.

Within 18 months, DEP must adopt regulations establishing a registration program for all intrastate pipelines. Within 6 months after the regulations are issued, facilities must submit the pipeline information, including maps, types of pipes, descriptions of the materials transported through pipes, and any other necessary information.

Within 3 years, DEP must conduct a study to determine the appropriateness of establishing a program similar to the federal interstate pipeline safety program for intrastate pipelines. This study must include an assessment of state-of-the-art leak detection systems, of the closure and removal of abandoned pipelines, of the need for secondary containment devices for underwater pipelines, and of automatic internal leak detection devices. The report will be submitted to the Legislature and the Governor, making specific recommendations of necessary legislative and administrative action.

# # #

REMARKS PREPARED FOR DELIVERY BY GOVERNOR JIM FLORIO  
OIL SPILL PREVENTION AND PENALTIES BILL SIGNING  
ELIZABETH, NEW JERSEY  
SATURDAY, JULY 21, 1990

---

I THOUGHT I'D SEEN THE LAST OF THE ARTHUR KILL OIL SPILLS, BUT ONCE AGAIN, WE'RE STANDING AT THE SCENE OF YET ANOTHER ASSAULT AGAINST THE ENVIRONMENT.

I DON'T KNOW ABOUT YOU, BUT I'VE HAD IT UP TO HERE WITH THE CARELESSNESS, NEGLECT AND INDIFFERENCE WE'VE SEEN FROM THOSE RESPONSIBLE FOR MOVING OIL HERE.

YOU'D THINK BY NOW, THESE COMPANIES UNDERSTOOD THE POINT.

EVEN CHILDREN GET THE POINT. LET ME READ JUST A FEW LINES FROM LETTERS I RECEIVED THE OTHER DAY FROM SOME YOUNG STUDENTS AT THE ASCENSION SCHOOL IN NEW MILFORD:

CRISTINA RODRIGUEZ: "I AM CONCERNED ABOUT THESE OIL SPILLS. WHAT'S GOING TO HAPPEN TO MY WORLD, MY CHILDREN'S WORLD, OR MAYBE EVEN MY GRANDCHILDREN'S WORLD?"

REY CRUZ: "I AM VERY UPSET ABOUT OIL SPILLS. FISH ARE DYING, AND IF THIS KEEPS UP, OUR CHILDREN WON'T EVEN KNOW WHAT A FISH IS."

HOW MUCH PLAINER COULD IT BE? THE ENVIRONMENT CAN'T TAKE THIS KIND OF ABUSE ANY MORE. THE PEOPLE OF NEW JERSEY CAN'T TAKE IT ANY MORE. AND I SURE WON'T TAKE IT ANY MORE.

UNFORTUNATELY, SOME PEOPLE STILL DON'T GET THE MESSAGE.

NOW THEY WILL.

IN A MOMENT, I'M GOING TO SIGN A PACKAGE OF BILLS INTO LAW THAT'S GOING TO MAKE PEOPLE THINK TWICE -- MAYBE MORE -- BEFORE THEY ACT IRRESPONSIBLY TOWARD OUR ENVIRONMENT.

THESE LAWS CARRY A VERY SIMPLE MESSAGE.

YOU SPILL, YOU PAY.

NOT A LITTLE BIT, BUT A LOT.

UP TO \$10 MILLION.

IT'S TIME TO HIT THESE COMPANIES WHERE IT HURTS -- WITH STIFF PENALTIES AND FINES.

AND WHEN THEY'RE FORCED TO PAY FOR THE CLEANUP, AND PAY TRIPLE DAMAGES, WE'RE NOT GOING TO LET THEM DEDUCT THAT AS THE COST OF DOING BUSINESS.

BECAUSE THE COST OF DOING BUSINESS SHOULDN'T COME AT OUR EXPENSE, OR THAT OF THE NATURAL ENVIRONMENT. WE'RE GOING TO PUT THE COST BACK WHERE IT BELONGS -- IN THEIR POCKETS.

AND WHEN THEY FEEL THAT STING, MAYBE -- JUST MAYBE -- THEY'LL WAKE UP AND REALIZE THAT IT'S IN THEIR BEST INTEREST TO PAY ATTENTION TO WHAT THEY'RE DOING.

I KNOW I SPEAK NOT JUST FOR THE PEOPLE OF NEW JERSEY, BUT FOR THE FUTURE CHILDREN -- AND GRANDCHILDREN -- OF CRISTINA AND REY AND ALL THE OTHER CHILDREN WHO ARE CONCERNED.

IT'S NOT GOING TO BE BUSINESS AS USUAL ANY MORE. THESE LAWS ARE GOING TO TEACH INDUSTRY A NEW VERSION OF THE THREE "R'S:"

RESPONSIBILITY FOR ITS ACTIONS.

RESPONSIBILITY TO THE ENVIRONMENT.

AND RESPONSIBILITY AS GOOD NEIGHBORS.

THAT MEANS NO MORE TRANSFERS OF OIL WITHOUT CONTAINMENT BOOMS. IT MEANS NO MORE NIGHT TIME TRANSFERS OF OIL INTO PIPELINES WITHOUT PROPER LIGHTING.

IT MEANS THAT THE INDUSTRY JUST GOT A NEW PARTNER -- THE DEP. WE'RE GOING TO STRENGTHEN ITS HAND, AND IT'S GOING TO USE THAT STRENGTH TO HOLD THE INDUSTRY'S FEET TO THE FIRE.

I'VE ASKED THE CHILDREN WHO WROTE TO ME TO HELP ME TODAY, SO IF THEY WOULD COME FORWARD, WE'LL SIGN THESE BILLS INTO LAW.

AFTER SIX MONTHS AND NEARLY ONE MILLIONS GALLONS OF OIL, WE GOT THE MESSAGE. THIS IS OUR ANSWER.

NONE OF THIS WOULD HAVE BEEN POSSIBLE WITHOUT THE HARD WORK AND PERSISTENCE OF SOME OF OUR LEGISLATORS, WHO ARE HERE TODAY.

I ESPECIALLY WANT TO THANK SENATOR VAN WAGNER FOR HIS EFFORTS. AND I WANT TO THANK SENATOR LESNIAK AND ASSEMBLYMAN SMITH FOR THEIR PART IN THIS LEGISLATION.

AND NOW, I'D LIKE SENATOR VAN WAGNER AND ASSEMBLYMAN SMITH TO COME UP AND SAY A FEW WORDS.