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LAW/RWH

P.L.2013, CHAPTER 283, *approved January 17, 2014*

Assembly Substitute for
Assembly, No. 4543

1 AN ACT concerning oversight of contaminated sites, and amending
2 and supplementing P.L.2009, c.60.

3

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

6

7 1. (New section) a. Except as provided in subsection b. or c.
8 of this section, for any site subject to the provisions of paragraph
9 (3) of subsection a. of section 27 of P.L.2009, c.60 (C.58:10C-27),
10 upon application by a person responsible for conducting the
11 remediation, an extension of time until May 7, 2016 shall be
12 provided to allow for the completion of the remedial investigation
13 prior to the department taking direct oversight provided that the
14 applicant continues to comply with the conditions imposed pursuant
15 to this subsection. The applicant shall certify, in a document
16 submitted electronically by the licensed site remediation
17 professional retained by the applicant, that the following conditions
18 have been met:

19 (1) a licensed site remediation professional has been retained to
20 conduct a remediation of the site;

21 (2) any remediation requirements included in mandatory
22 remediation timeframes adopted pursuant to section 28 of P.L.2009,
23 c.60 (C.58:10C-28), for the site have been met at the time of the
24 certification;

25 (3) technically complete submissions have been made in
26 compliance with all rules and regulations for site remediation, as
27 applicable, for the (a) initial receptor evaluation, (b) immediate
28 environmental concern source control report, (c) light non-aqueous
29 phase liquid interim remedial measure report, (d) preliminary
30 assessment report, and (e) site investigation report;

31 (4) a remediation funding source has been established, if
32 required of the applicant by section 25 of P.L.1993, c.139
33 (C.58:10B-3);

34 (5) if a remediation funding source is not required to be
35 established by the applicant pursuant to law, then a remediation
36 trust fund for the estimated cost of the remedial investigation has
37 been established pursuant to the standards established in section 25
38 of P.L.1993, c.139 (C.58:10B-3);

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.

1 (6) any oversight costs imposed by the department, known at the
2 time of the application, and not in dispute on the date of enactment
3 of P.L. , c. (C.) (pending before the Legislature as this bill),
4 have been paid to the department; and

5 (7) the annual fees imposed by the department for the
6 remediation and remediation funding source surcharges imposed
7 pursuant to section 33 of P.L.1993, c.39 (C.58:10B-11) have been
8 paid to the department, as applicable.

9 An application pursuant to this subsection shall be submitted to
10 the department by March 7, 2014 or 30 days after the date of
11 enactment of P.L. , c. (C.) (pending before the Legislature as
12 this bill), whichever is later.

13 b. For any site subject to the provisions of paragraph (3) of
14 subsection a. of section 27 of P.L.2009, c.60 (C.58:10C-27), if the
15 failure to complete the remedial investigation of the contaminated
16 site is due to a delay in the provision of State financial assistance
17 for the remediation from the Hazardous Discharge Site Remediation
18 Fund, upon application by a person responsible for conducting the
19 remediation, an extension of time shall be provided to allow for the
20 completion of the remedial investigation prior to the department
21 taking direct oversight, except as provided in subsection c. of this
22 section. The applicant shall submit to the department a certification
23 that the person responsible for conducting the remediation filed a
24 technically and administratively complete application for funding
25 prior to March 7, 2014 or 30 days after the date of enactment of
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 whichever is later, qualifies for funding, and remains eligible for
28 funding. Every six months after the submission of the application
29 for the extension of time pursuant to this subsection, the applicant
30 shall submit to the department a certification with an update on the
31 status of the funding application.

32 The extension of time for the completion of a remedial
33 investigation of a contaminated site prior to the department taking
34 direct oversight of the remediation pursuant to this subsection shall
35 be no more than two years after receipt of funding, or no more than
36 two years after the applicant is no longer eligible for funding.

37 An application for an extension of time pursuant to this
38 subsection shall be submitted to the department by March 7, 2014
39 or 30 days after the date of enactment of P.L. , c. (C.) (pending
40 before the Legislature as this bill), whichever is later.

41 c. An application submitted pursuant to subsection a. or b. of
42 this section shall be deemed approved upon receipt by the
43 department. The department may undertake direct oversight of a
44 remediation if, at any time during the extension of time: (1) the
45 conditions imposed pursuant to subsection a. or b. of this section, as
46 the case may be, are no longer met; or (2) the person responsible for
47 conducting the remediation fails to meet a mandatory remediation

1 timeframe after submission of the certification submitted pursuant
2 to this section. The department shall so notify the person
3 responsible for conducting the remediation, in writing, that the
4 extension of time for completion of the remedial investigation is
5 revoked because of the applicant's failure to continue to comply
6 with the conditions required, or the applicant's failure to submit one
7 or more of the certifications required pursuant to subsection a. or b.
8 of this section, or that the information included in a certification is
9 incomplete, incorrect, false, or otherwise deficient.

10 d. The department shall provide notice on its internet website
11 of any extensions provided pursuant to this section. In the notice,
12 the department shall provide the name and location of the site for
13 which the extension is provided and the length of the extension of
14 time.

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16 2. Section 27 of P.L.2009, c.60 (C.58:10C-27) is amended to
17 read as follows:

18 27. a. **【The】** Except as provided in section 1 of P.L. , c. (C.)
19 (pending before the Legislature as this bill), the department shall
20 undertake direct oversight of a remediation of a contaminated site
21 under the following conditions:

22 (1) the person responsible for conducting the remediation has a
23 history of noncompliance with the laws concerning remediation, or
24 any rule or regulation adopted pursuant thereto, that includes the
25 issuance of at least two enforcement actions after the date of
26 enactment of P.L.2009, c.60 (C.58:10C-1 et al.) during any five-
27 year period concerning a remediation;

28 (2) the person responsible for conducting the remediation at a
29 contaminated site has failed to meet a mandatory remediation
30 timeframe or an expedited site specific timeframe adopted by the
31 department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28),
32 including any extension thereof granted by the department, or a
33 schedule established pursuant to an administrative order or court
34 order; or

35 (3) unless a longer period has been ordered by a court, the
36 person responsible for conducting the remediation has, prior to the
37 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), failed to
38 complete the remedial investigation of the entire contaminated site
39 10 years after the discovery of a discharge at the site and has failed
40 to complete the remedial investigation of the entire contaminated
41 site within five years after the date of enactment of P.L.2009, c.60
42 (C.58:10C-1 et al.).

43 As used in this subsection, "enforcement action" means an
44 administrative order, a notice of civil administrative penalty, or a
45 court order.

46 b. The department may undertake direct oversight of a
47 remediation of a contaminated site under the following conditions:

- 1 (1) the contamination at the site includes chromate chemical
- 2 production waste;
- 3 (2) the department determines that more than one
- 4 environmentally sensitive natural resource has been injured by
- 5 contamination from the site;
- 6 (3) the site has contributed to sediments contaminated by
- 7 polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface
- 8 water body; or
- 9 (4) the site is ranked by the department in the category requiring
- 10 the highest priority pursuant to the ranking system developed
- 11 pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).
- 12 c. For any site subject to direct oversight by the department
- 13 pursuant to this section:
- 14 (1) the department shall review each document submitted by a
- 15 licensed site remediation professional and shall approve or deny the
- 16 submission;
- 17 (2) a feasibility study shall be performed and submitted to the
- 18 department for approval;
- 19 (3) the department shall select the remedial action for the site;
- 20 (4) the person responsible for conducting the remediation shall
- 21 establish a remediation trust fund pursuant to section 25 of
- 22 P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of
- 23 the remediation;
- 24 (5) all disbursements of funds from the remediation trust fund
- 25 shall require prior approval by the department;
- 26 (6) all submissions prepared by the licensed site remediation
- 27 professional concerning the remediation required by the department
- 28 shall be provided simultaneously to the department and the person
- 29 responsible for conducting the remediation; and
- 30 (7) the person responsible for conducting the remediation shall
- 31 implement a public participation plan approved by the department
- 32 to solicit public comment from the members of the surrounding
- 33 community concerning the remediation of the site.
- 34 d. The department shall issue guidelines establishing specific
- 35 criteria for the conditions under which a site may be subject to
- 36 direct oversight pursuant to subsection b. of this section.
- 37 e. (1) Any oversight procedure, remedy, or other obligation in
- 38 P.L.2009, c.60 (C.58:10C-1 et al.) shall not affect a remediation
- 39 conducted pursuant to and in compliance with a settlement of
- 40 litigation to which the department is a party if the settlement (a)
- 41 occurred prior to the date of enactment of P.L.2009, c.60
- 42 (C.58:10C-1 et al.), or (b) is a settlement of litigation pending on
- 43 the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).
- 44 (2) For any litigation pending or settled on the date of enactment
- 45 of P.L.2009, c.60 (C.58:10C-1 et al.), concerning a remediation
- 46 performed pursuant to the "Resource Conservation and Recovery
- 47 Act," 42 U.S.C. s.6921 et seq., nothing in P.L.2009, c.60

1 (C.58:10C-1 et al.) shall affect an oversight procedure, remedy, or
2 other obligation imposed by a federal administrative order or
3 federal court order.

4 (cf: P.L.2009, c.60, s.27)

5

6 3. This act shall take effect immediately.

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STATEMENT

10

11 This floor substitute would allow an extension of time for the
12 completion of a remedial investigation to a person responsible for
13 conducting a remediation of a contaminated site under certain
14 circumstances. Current law requires the Department of
15 Environmental Protection to assume direct oversight of a cleanup if
16 the person responsible for conducting a remediation has, prior to the
17 date of enactment of P.L.2009, c.60 (C.58:10C-1 et seq.) (i.e., May
18 7, 2009), failed to complete the remedial investigation of the site
19 within 10 years after the date of discovery of a discharge at the site
20 and has failed to complete the remedial investigation of the site
21 within five years after May 7, 2009. This bill would authorize
22 additional time for the completion of the remedial investigation of a
23 site prior to the department undertaking oversight of the
24 remediation under certain circumstances.

25

26 First, an additional two years for the completion of the remedial
27 investigation of a site prior to the department undertaking oversight
28 of the remediation, until May 7, 2016, would be authorized if the
29 person responsible for conducting the remediation certifies, in a
30 document submitted electronically by the licensed site remediation
31 professional retained by the applicant, that certain conditions have
32 been met regarding the remediation. The applicant must certify
33 that: (1) a licensed site remediation professional has been retained
34 to conduct a remediation of the site; (2) any remediation
35 requirements included in mandatory remediation timeframes
36 adopted pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28), for
37 the site have been met at the time of the certification; (3)
38 technically complete submissions have been made in compliance
39 with all rules and regulations for site remediation, as applicable, for
40 the initial receptor evaluation, immediate environmental concern
41 source control report, light non-aqueous phase liquid interim
42 remedial measure report, preliminary assessment report, and site
43 investigation report; (4) a remediation funding source has been
44 established, if required of the applicant by section 25 of P.L.1993,
45 c.139 (C.58:10B-3); (5) if a remediation funding source is not
46 required to be established by the applicant pursuant to law, then a
47 remediation trust fund for the estimated cost of the remedial
investigation has been established pursuant to the standards

1 established in section 25 of P.L.1993, c.139 (C.58:10B-3); (6) any
2 oversight costs imposed by the department, known at the time of the
3 application, and not in dispute on the date of enactment of the bill
4 into law, have been paid to the department; and (7) the annual fees
5 imposed by the department for the remediation and remediation
6 funding source surcharges imposed pursuant to section 33 of
7 P.L.1993, c.39 (C.58:10B-11) have been paid to the department, as
8 applicable.

9 The floor substitute also allows additional time for the
10 completion of the remedial investigation of a site prior to the
11 department undertaking oversight of the remediation, due to a delay
12 in the provision of State financial assistance for the remediation
13 from the Hazardous Discharge Site Remediation Fund. The floor
14 substitute would allow an extension of two years after receipt of
15 funding, or no more than two years after the applicant is no longer
16 eligible for funding.

17 The floor substitute requires an application for an extension to be
18 submitted to the department by March 7, 2014 or 30 days after the
19 date of enactment of the bill into law, whichever is later.

20 The floor substitute would provide that, at any time during the
21 extension, the department may undertake direct oversight of a
22 remediation if the conditions imposed under the bill are no longer
23 met, or the person responsible for conducting the remediation fails
24 to meet a mandatory remediation timeframe.

25 Finally, the floor substitute would require the department to
26 provide notice on its website of any extension, and include the
27 name and location of the site for which the extension is granted, and
28 the length of the extension of time.

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31

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33 _____
34 Authorizes extension of time for completion of remedial
35 investigation of certain contaminated sites prior to DEP undertaking
direct oversight.

ASSEMBLY, No. 4543

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED DECEMBER 12, 2013

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblywoman HOLLY SCHEPISI

District 39 (Bergen and Passaic)

Co-Sponsored by:

Assemblywoman Handlin

SYNOPSIS

Authorizes DEP to extend time for remedial investigation of certain contaminated sites prior to undertaking direct oversight.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/13/2013)

1 AN ACT concerning oversight of contaminated sites, and amending
2 and supplementing P.L.2009, c.60.

3

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

6

7 1. (New section) a. For any site subject to the provisions of
8 paragraph (3) of subsection a. of section 27 of P.L.2009, c.60
9 (C.58:10C-27), upon application by a person responsible for
10 conducting the remediation, the department may grant an extension
11 of time pursuant to the provisions of subsection b. of this section to
12 allow for the completion of the remedial investigation prior to the
13 department taking direct oversight. The applicant shall submit:

14 (1) a certification that a licensed site remediation professional
15 was retained to conduct a remediation of the site prior to November
16 7, 2012;

17 (2) a completed receptor evaluation for the site with a
18 demonstration satisfactory to the department that any immediate
19 environmental concerns identified at the site were addressed in
20 accordance with the technical regulations for site remediation
21 adopted by the department;

22 (3) a summary of all remedial investigation activities conducted
23 at the site;

24 (4) a description of additional work necessary for the
25 completion of the remedial investigation;

26 (5) an explanation of the reason for the inability to complete the
27 remedial investigation within the statutory timeframes; and

28 (6) a schedule for the completion of the remedial investigation.

29 An application pursuant to this subsection shall be submitted no
30 later than March 7, 2014.

31 b. (1) Upon submission of a technically and administratively
32 complete application pursuant to subsection a. of this section, the
33 department may grant an extension of time of up to two years for
34 the completion of the remedial investigation upon a finding that
35 there is good cause for the extension.

36 (2) The department shall notify the applicant, in writing, no later
37 than 45 days after submission of a technically and administratively
38 complete application, of its decision concerning the application and,
39 if an extension of time for completion of the remedial investigation
40 is authorized, the length of the extension.

41 (3) The department shall provide notice in the New Jersey
42 Register of any extension granted pursuant to this section. In the
43 notice, the department shall provide the name and location of the
44 site for which the extension is granted, the rationale for the
45 extension, and the length of the extension.

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.

1 (4) If the person responsible for conducting the remediation of
2 the contaminated site fails to complete the remedial investigation
3 within the additional time provided pursuant to this section, the
4 department shall undertake direct oversight of the remediation as
5 provided in subsection c. of section 27 of P.L.2009, c.60
6 (C.58:10C-27).

7
8 2. Section 27 of P.L.2009, c.60 (C.58:10C-27) is amended to
9 read as follows:

10 27. a. ~~【The】~~ Except as provided in section 1 of P.L. , c. (C.)
11 (pending before the Legislature as this bill), the department shall
12 undertake direct oversight of a remediation of a contaminated site
13 under the following conditions:

14 (1) the person responsible for conducting the remediation has a
15 history of noncompliance with the laws concerning remediation, or
16 any rule or regulation adopted pursuant thereto, that includes the
17 issuance of at least two enforcement actions after the date of
18 enactment of P.L.2009, c.60 (C.58:10C-1 et al.) during any five-
19 year period concerning a remediation;

20 (2) the person responsible for conducting the remediation at a
21 contaminated site has failed to meet a mandatory remediation
22 timeframe or an expedited site specific timeframe adopted by the
23 department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28),
24 including any extension thereof granted by the department, or a
25 schedule established pursuant to an administrative order or court
26 order; or

27 (3) unless a longer period has been ordered by a court, the
28 person responsible for conducting the remediation has, prior to the
29 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), failed to
30 complete the remedial investigation of the entire contaminated site
31 10 years after the discovery of a discharge at the site and has failed
32 to complete the remedial investigation of the entire contaminated
33 site within five years after the date of enactment of P.L.2009, c.60
34 (C.58:10C-1 et al.).

35 As used in this subsection, "enforcement action" means an
36 administrative order, a notice of civil administrative penalty, or a
37 court order.

38 b. The department may undertake direct oversight of a
39 remediation of a contaminated site under the following conditions:

40 (1) the contamination at the site includes chromate chemical
41 production waste;

42 (2) the department determines that more than one
43 environmentally sensitive natural resource has been injured by
44 contamination from the site;

45 (3) the site has contributed to sediments contaminated by
46 polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface
47 water body; or

1 (4) the site is ranked by the department in the category requiring
2 the highest priority pursuant to the ranking system developed
3 pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).

4 c. For any site subject to direct oversight by the department
5 pursuant to this section:

6 (1) the department shall review each document submitted by a
7 licensed site remediation professional and shall approve or deny the
8 submission;

9 (2) a feasibility study shall be performed and submitted to the
10 department for approval;

11 (3) the department shall select the remedial action for the site;

12 (4) the person responsible for conducting the remediation shall
13 establish a remediation trust fund pursuant to section 25 of
14 P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of
15 the remediation;

16 (5) all disbursements of funds from the remediation trust fund
17 shall require prior approval by the department;

18 (6) all submissions prepared by the licensed site remediation
19 professional concerning the remediation required by the department
20 shall be provided simultaneously to the department and the person
21 responsible for conducting the remediation; and

22 (7) the person responsible for conducting the remediation shall
23 implement a public participation plan approved by the department
24 to solicit public comment from the members of the surrounding
25 community concerning the remediation of the site.

26 d. The department shall issue guidelines establishing specific
27 criteria for the conditions under which a site may be subject to
28 direct oversight pursuant to subsection b. of this section.

29 e. (1) Any oversight procedure, remedy, or other obligation in
30 P.L.2009, c.60 (C.58:10C-1 et al.) shall not affect a remediation
31 conducted pursuant to and in compliance with a settlement of
32 litigation to which the department is a party if the settlement (a)
33 occurred prior to the date of enactment of P.L.2009, c.60
34 (C.58:10C-1 et al.), or (b) is a settlement of litigation pending on
35 the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).

36 (2) For any litigation pending or settled on the date of enactment
37 of P.L.2009, c.60 (C.58:10C-1 et al.), concerning a remediation
38 performed pursuant to the "Resource Conservation and Recovery
39 Act," 42 U.S.C. s.6921 et seq., nothing in P.L.2009, c.60
40 (C.58:10C-1 et al.) shall affect an oversight procedure, remedy, or
41 other obligation imposed by a federal administrative order or
42 federal court order.

43 (cf: P.L.2009, c.60, s.27)

44
45 3. This act shall take effect immediately.

STATEMENT

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This bill would allow the Department of Environmental Protection to grant an extension of time for the completion of a remedial investigation to a person responsible for conducting a remediation of a contaminated site under certain circumstances. Current law requires the department to assume direct oversight of a cleanup if the person responsible for conducting a remediation has, prior to the date of enactment of P.L.2009, c.60 (C.58:10C-1 et seq.), (i.e., May 7, 2009), failed to complete the remedial investigation of the site 10 years after the date of discovery of a discharge at the site and has failed to complete the remedial investigation of the site within five years after May 7, 2009. This bill would authorize the department, for good cause, to allow up to an additional two years for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation. The bill requires an application for an extension to be submitted no later than March 7, 2014 and provides the department 45 days to notify the applicant of its decision on whether to allow the extension of time for completion of the remedial investigation and the amount of additional time allowed. Under the bill, the department is required to provide notice in the New Jersey Register of any extension granted, and include in the published notice, the name and location of the site for which the extension is granted, the rationale for the extension, and the length of the extension.

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4543

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2013

The Assembly Agriculture and Natural Resources Committee reports favorably Assembly Bill No. 4543.

This bill would allow the Department of Environmental Protection to grant an extension of time for the completion of a remedial investigation to a person responsible for conducting a remediation of a contaminated site under certain circumstances. Current law requires the department to assume direct oversight of a cleanup if the person responsible for conducting a remediation has, prior to the date of enactment of P.L.2009, c.60 (C.58:10C-1 et seq.) (i.e., May 7, 2009), failed to complete the remedial investigation of the site 10 years after the date of discovery of a discharge at the site and has failed to complete the remedial investigation of the site within five years after May 7, 2009. This bill would authorize the department, for good cause, to allow up to an additional two years for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation. The bill requires an application for an extension to be submitted no later than March 7, 2014 and provides the department 45 days to notify the applicant of its decision on whether to allow the extension of time for completion of the remedial investigation and the amount of additional time allowed. Under the bill, the department is required to provide notice in the New Jersey Register of any extension granted, and include in the published notice, the name and location of the site for which the extension is granted, the rationale for the extension, and the length of the extension.

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 4543

STATE OF NEW JERSEY
215th LEGISLATURE

ADOPTED JANUARY 6, 2014

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblywoman HOLLY SCHEPISI

District 39 (Bergen and Passaic)

Co-Sponsored by:

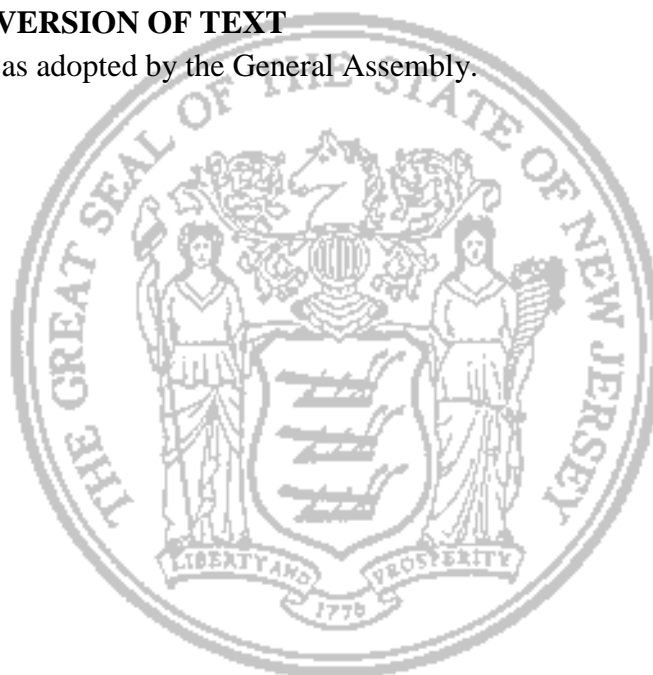
**Assemblywoman Handlin, Assemblyman Space, Assemblywoman McHose,
Senators B.Smith, Bateman, Whelan, Beck and Oroho**

SYNOPSIS

Authorizes extension of time for completion of remedial investigation of certain contaminated sites prior to DEP undertaking direct oversight.

CURRENT VERSION OF TEXT

Substitute as adopted by the General Assembly.



(Sponsorship Updated As Of: 1/14/2014)

1 **AN ACT** concerning oversight of contaminated sites, and amending
2 and supplementing P.L.2009, c.60.

3

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

6

7 1. (New section) a. Except as provided in subsection b. or c.
8 of this section, for any site subject to the provisions of paragraph
9 (3) of subsection a. of section 27 of P.L.2009, c.60 (C.58:10C-27),
10 upon application by a person responsible for conducting the
11 remediation, an extension of time until May 7, 2016 shall be
12 provided to allow for the completion of the remedial investigation
13 prior to the department taking direct oversight provided that the
14 applicant continues to comply with the conditions imposed pursuant
15 to this subsection. The applicant shall certify, in a document
16 submitted electronically by the licensed site remediation
17 professional retained by the applicant, that the following conditions
18 have been met:

19 (1) a licensed site remediation professional has been retained to
20 conduct a remediation of the site;

21 (2) any remediation requirements included in mandatory
22 remediation timeframes adopted pursuant to section 28 of P.L.2009,
23 c.60 (C.58:10C-28), for the site have been met at the time of the
24 certification;

25 (3) technically complete submissions have been made in
26 compliance with all rules and regulations for site remediation, as
27 applicable, for the (a) initial receptor evaluation, (b) immediate
28 environmental concern source control report, (c) light non-aqueous
29 phase liquid interim remedial measure report, (d) preliminary
30 assessment report, and (e) site investigation report;

31 (4) a remediation funding source has been established, if
32 required of the applicant by section 25 of P.L.1993, c.139
33 (C.58:10B-3);

34 (5) if a remediation funding source is not required to be
35 established by the applicant pursuant to law, then a remediation
36 trust fund for the estimated cost of the remedial investigation has
37 been established pursuant to the standards established in section 25
38 of P.L.1993, c.139 (C.58:10B-3);

39 (6) any oversight costs imposed by the department, known at the
40 time of the application, and not in dispute on the date of enactment
41 of P.L. , c. (C.) (pending before the Legislature as this bill),
42 have been paid to the department; and

43 (7) the annual fees imposed by the department for the
44 remediation and remediation funding source surcharges imposed

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.

1 pursuant to section 33 of P.L.1993, c.39 (C.58:10B-11) have been
2 paid to the department, as applicable.

3 An application pursuant to this subsection shall be submitted to
4 the department by March 7, 2014 or 30 days after the date of
5 enactment of P.L. , c. (C.) (pending before the Legislature as
6 this bill), whichever is later.

7 b. For any site subject to the provisions of paragraph (3) of
8 subsection a. of section 27 of P.L.2009, c.60 (C.58:10C-27), if the
9 failure to complete the remedial investigation of the contaminated
10 site is due to a delay in the provision of State financial assistance
11 for the remediation from the Hazardous Discharge Site Remediation
12 Fund, upon application by a person responsible for conducting the
13 remediation, an extension of time shall be provided to allow for the
14 completion of the remedial investigation prior to the department
15 taking direct oversight, except as provided in subsection c. of this
16 section. The applicant shall submit to the department a certification
17 that the person responsible for conducting the remediation filed a
18 technically and administratively complete application for funding
19 prior to March 7, 2014 or 30 days after the date of enactment of
20 P.L. , c. (C.) (pending before the Legislature as this bill),
21 whichever is later, qualifies for funding, and remains eligible for
22 funding. Every six months after the submission of the application
23 for the extension of time pursuant to this subsection, the applicant
24 shall submit to the department a certification with an update on the
25 status of the funding application.

26 The extension of time for the completion of a remedial
27 investigation of a contaminated site prior to the department taking
28 direct oversight of the remediation pursuant to this subsection shall
29 be no more than two years after receipt of funding, or no more than
30 two years after the applicant is no longer eligible for funding.

31 An application for an extension of time pursuant to this
32 subsection shall be submitted to the department by March 7, 2014
33 or 30 days after the date of enactment of P.L. , c. (C.) (pending
34 before the Legislature as this bill), whichever is later.

35 c. An application submitted pursuant to subsection a. or b. of
36 this section shall be deemed approved upon receipt by the
37 department. The department may undertake direct oversight of a
38 remediation if, at any time during the extension of time: (1) the
39 conditions imposed pursuant to subsection a. or b. of this section, as
40 the case may be, are no longer met; or (2) the person responsible for
41 conducting the remediation fails to meet a mandatory remediation
42 timeframe after submission of the certification submitted pursuant
43 to this section. The department shall so notify the person
44 responsible for conducting the remediation, in writing, that the
45 extension of time for completion of the remedial investigation is
46 revoked because of the applicant's failure to continue to comply
47 with the conditions required, or the applicant's failure to submit one

1 or more of the certifications required pursuant to subsection a. or b.
2 of this section, or that the information included in a certification is
3 incomplete, incorrect, false, or otherwise deficient.

4 d. The department shall provide notice on its internet website
5 of any extensions provided pursuant to this section. In the notice,
6 the department shall provide the name and location of the site for
7 which the extension is provided and the length of the extension of
8 time.

9

10 2. Section 27 of P.L.2009, c.60 (C.58:10C-27) is amended to
11 read as follows:

12 27. a. ~~【The】~~ Except as provided in section 1 of P.L. , c. (C.)
13 (pending before the Legislature as this bill), the department shall
14 undertake direct oversight of a remediation of a contaminated site
15 under the following conditions:

16 (1) the person responsible for conducting the remediation has a
17 history of noncompliance with the laws concerning remediation, or
18 any rule or regulation adopted pursuant thereto, that includes the
19 issuance of at least two enforcement actions after the date of
20 enactment of P.L.2009, c.60 (C.58:10C-1 et al.) during any five-
21 year period concerning a remediation;

22 (2) the person responsible for conducting the remediation at a
23 contaminated site has failed to meet a mandatory remediation
24 timeframe or an expedited site specific timeframe adopted by the
25 department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28),
26 including any extension thereof granted by the department, or a
27 schedule established pursuant to an administrative order or court
28 order; or

29 (3) unless a longer period has been ordered by a court, the
30 person responsible for conducting the remediation has, prior to the
31 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), failed to
32 complete the remedial investigation of the entire contaminated site
33 10 years after the discovery of a discharge at the site and has failed
34 to complete the remedial investigation of the entire contaminated
35 site within five years after the date of enactment of P.L.2009, c.60
36 (C.58:10C-1 et al.).

37 As used in this subsection, "enforcement action" means an
38 administrative order, a notice of civil administrative penalty, or a
39 court order.

40 b. The department may undertake direct oversight of a
41 remediation of a contaminated site under the following conditions:

42 (1) the contamination at the site includes chromate chemical
43 production waste;

44 (2) the department determines that more than one
45 environmentally sensitive natural resource has been injured by
46 contamination from the site;

- 1 (3) the site has contributed to sediments contaminated by
2 polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface
3 water body; or
- 4 (4) the site is ranked by the department in the category requiring
5 the highest priority pursuant to the ranking system developed
6 pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).
- 7 c. For any site subject to direct oversight by the department
8 pursuant to this section:
- 9 (1) the department shall review each document submitted by a
10 licensed site remediation professional and shall approve or deny the
11 submission;
- 12 (2) a feasibility study shall be performed and submitted to the
13 department for approval;
- 14 (3) the department shall select the remedial action for the site;
- 15 (4) the person responsible for conducting the remediation shall
16 establish a remediation trust fund pursuant to section 25 of
17 P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of
18 the remediation;
- 19 (5) all disbursements of funds from the remediation trust fund
20 shall require prior approval by the department;
- 21 (6) all submissions prepared by the licensed site remediation
22 professional concerning the remediation required by the department
23 shall be provided simultaneously to the department and the person
24 responsible for conducting the remediation; and
- 25 (7) the person responsible for conducting the remediation shall
26 implement a public participation plan approved by the department
27 to solicit public comment from the members of the surrounding
28 community concerning the remediation of the site.
- 29 d. The department shall issue guidelines establishing specific
30 criteria for the conditions under which a site may be subject to
31 direct oversight pursuant to subsection b. of this section.
- 32 e. (1) Any oversight procedure, remedy, or other obligation in
33 P.L.2009, c.60 (C.58:10C-1 et al.) shall not affect a remediation
34 conducted pursuant to and in compliance with a settlement of
35 litigation to which the department is a party if the settlement (a)
36 occurred prior to the date of enactment of P.L.2009, c.60
37 (C.58:10C-1 et al.), or (b) is a settlement of litigation pending on
38 the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).
- 39 (2) For any litigation pending or settled on the date of enactment
40 of P.L.2009, c.60 (C.58:10C-1 et al.), concerning a remediation
41 performed pursuant to the "Resource Conservation and Recovery
42 Act," 42 U.S.C. s.6921 et seq., nothing in P.L.2009, c.60
43 (C.58:10C-1 et al.) shall affect an oversight procedure, remedy, or
44 other obligation imposed by a federal administrative order or
45 federal court order.
- 46 (cf: P.L.2009, c.60, s.27)

1 3. This act shall take effect immediately.

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STATEMENT

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6 This floor substitute would allow an extension of time for the
7 completion of a remedial investigation to a person responsible for
8 conducting a remediation of a contaminated site under certain
9 circumstances. Current law requires the Department of
10 Environmental Protection to assume direct oversight of a cleanup if
11 the person responsible for conducting a remediation has, prior to the
12 date of enactment of P.L.2009, c.60 (C.58:10C-1 et seq.) (i.e., May
13 7, 2009), failed to complete the remedial investigation of the site
14 within 10 years after the date of discovery of a discharge at the site
15 and has failed to complete the remedial investigation of the site
16 within five years after May 7, 2009. This bill would authorize
17 additional time for the completion of the remedial investigation of a
18 site prior to the department undertaking oversight of the
19 remediation under certain circumstances.

20 First, an additional two years for the completion of the remedial
21 investigation of a site prior to the department undertaking oversight
22 of the remediation, until May 7, 2016, would be authorized if the
23 person responsible for conducting the remediation certifies, in a
24 document submitted electronically by the licensed site remediation
25 professional retained by the applicant, that certain conditions have
26 been met regarding the remediation. The applicant must certify
27 that: (1) a licensed site remediation professional has been retained
28 to conduct a remediation of the site; (2) any remediation
29 requirements included in mandatory remediation timeframes
30 adopted pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28), for
31 the site have been met at the time of the certification; (3)
32 technically complete submissions have been made in compliance
33 with all rules and regulations for site remediation, as applicable, for
34 the initial receptor evaluation, immediate environmental concern
35 source control report, light non-aqueous phase liquid interim
36 remedial measure report, preliminary assessment report, and site
37 investigation report; (4) a remediation funding source has been
38 established, if required of the applicant by section 25 of P.L.1993,
39 c.139 (C.58:10B-3); (5) if a remediation funding source is not
40 required to be established by the applicant pursuant to law, then a
41 remediation trust fund for the estimated cost of the remedial
42 investigation has been established pursuant to the standards
43 established in section 25 of P.L.1993, c.139 (C.58:10B-3); (6) any
44 oversight costs imposed by the department, known at the time of the
45 application, and not in dispute on the date of enactment of the bill
46 into law, have been paid to the department; and (7) the annual fees
47 imposed by the department for the remediation and remediation

1 funding source surcharges imposed pursuant to section 33 of
2 P.L.1993, c.39 (C.58:10B-11) have been paid to the department, as
3 applicable.

4 The floor substitute also allows additional time for the
5 completion of the remedial investigation of a site prior to the
6 department undertaking oversight of the remediation, due to a delay
7 in the provision of State financial assistance for the remediation
8 from the Hazardous Discharge Site Remediation Fund. The floor
9 substitute would allow an extension of two years after receipt of
10 funding, or no more than two years after the applicant is no longer
11 eligible for funding.

12 The floor substitute requires an application for an extension to be
13 submitted to the department by March 7, 2014 or 30 days after the
14 date of enactment of the bill into law, whichever is later.

15 The floor substitute would provide that, at any time during the
16 extension, the department may undertake direct oversight of a
17 remediation if the conditions imposed under the bill are no longer
18 met, or the person responsible for conducting the remediation fails
19 to meet a mandatory remediation timeframe.

20 Finally, the floor substitute would require the department to
21 provide notice on its website of any extension, and include the
22 name and location of the site for which the extension is granted, and
23 the length of the extension of time.

SENATE, No. 3075

STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED NOVEMBER 18, 2013

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Authorizes DEP to extend time for remedial investigation of certain contaminated sites prior to undertaking direct oversight.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning oversight of contaminated sites, and amending
2 and supplementing P.L.2009, c.60.

3

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

6

7 1. (New section) a. For any site subject to the provisions of
8 paragraph (3) of subsection a. of section 27 of P.L.2009, c.60
9 (C.58:10C-27), upon application by a person responsible for
10 conducting the remediation, the department may grant an extension
11 of time pursuant to the provisions of subsection b. of this section to
12 allow for the completion of the remedial investigation prior to the
13 department taking direct oversight. The applicant shall submit:

14 (1) a certification that a licensed site remediation professional
15 was retained to conduct a remediation of the site prior to November
16 7, 2012;

17 (2) a completed receptor evaluation for the site with a
18 demonstration satisfactory to the department that any immediate
19 environmental concerns identified at the site were addressed in
20 accordance with the technical regulations for site remediation
21 adopted by the department;

22 (3) a summary of all remedial investigation activities conducted
23 at the site;

24 (4) a description of additional work necessary for the
25 completion of the remedial investigation;

26 (5) an explanation of the reason for the inability to complete the
27 remedial investigation within the statutory timeframes; and

28 (6) a schedule for the completion of the remedial investigation.

29 An application pursuant to this subsection shall be submitted no
30 later than March 7, 2014.

31 b. (1) Upon submission of a technically and administratively
32 complete application pursuant to subsection a. of this section, the
33 department may grant an extension of time of up to two years for
34 the completion of the remedial investigation upon a finding that
35 there is good cause for the extension.

36 (2) The department shall notify the applicant, in writing, no later
37 than 45 days after submission of a technically and administratively
38 complete application, of its decision concerning the application and,
39 if an extension of time for completion of the remedial investigation
40 is authorized, the length of the extension.

41 (3) The department shall provide notice in the New Jersey
42 Register of any extension granted pursuant to this section. In the
43 notice, the department shall provide the name and location of the
44 site for which the extension is granted, the rationale for the
45 extension, and the length of the extension.

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.

1 (4) If the person responsible for conducting the remediation of
2 the contaminated site fails to complete the remedial investigation
3 within the additional time provided pursuant to this section, the
4 department shall undertake direct oversight of the remediation as
5 provided in subsection c. of section 27 of P.L.2009, c.60
6 (C.58:10C-27).

7
8 2. Section 27 of P.L.2009, c.60 (C.58:10C-27) is amended to
9 read as follows:

10 27. a. 【The】 Except as provided in section 1 of P.L. , c. (C.)
11 (pending before the Legislature as this bill), the department shall
12 undertake direct oversight of a remediation of a contaminated site
13 under the following conditions:

14 (1) the person responsible for conducting the remediation has a
15 history of noncompliance with the laws concerning remediation, or
16 any rule or regulation adopted pursuant thereto, that includes the
17 issuance of at least two enforcement actions after the date of
18 enactment of P.L.2009, c.60 (C.58:10C-1 et al.) during any five-
19 year period concerning a remediation;

20 (2) the person responsible for conducting the remediation at a
21 contaminated site has failed to meet a mandatory remediation
22 timeframe or an expedited site specific timeframe adopted by the
23 department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28),
24 including any extension thereof granted by the department, or a
25 schedule established pursuant to an administrative order or court
26 order; or

27 (3) unless a longer period has been ordered by a court, the
28 person responsible for conducting the remediation has, prior to the
29 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), failed to
30 complete the remedial investigation of the entire contaminated site
31 10 years after the discovery of a discharge at the site and has failed
32 to complete the remedial investigation of the entire contaminated
33 site within five years after the date of enactment of P.L.2009, c.60
34 (C.58:10C-1 et al.).

35 As used in this subsection, "enforcement action" means an
36 administrative order, a notice of civil administrative penalty, or a
37 court order.

38 b. The department may undertake direct oversight of a
39 remediation of a contaminated site under the following conditions:

40 (1) the contamination at the site includes chromate chemical
41 production waste;

42 (2) the department determines that more than one
43 environmentally sensitive natural resource has been injured by
44 contamination from the site;

45 (3) the site has contributed to sediments contaminated by
46 polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface
47 water body; or

1 (4) the site is ranked by the department in the category requiring
2 the highest priority pursuant to the ranking system developed
3 pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).

4 c. For any site subject to direct oversight by the department
5 pursuant to this section:

6 (1) the department shall review each document submitted by a
7 licensed site remediation professional and shall approve or deny the
8 submission;

9 (2) a feasibility study shall be performed and submitted to the
10 department for approval;

11 (3) the department shall select the remedial action for the site;

12 (4) the person responsible for conducting the remediation shall
13 establish a remediation trust fund pursuant to section 25 of
14 P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of
15 the remediation;

16 (5) all disbursements of funds from the remediation trust fund
17 shall require prior approval by the department;

18 (6) all submissions prepared by the licensed site remediation
19 professional concerning the remediation required by the department
20 shall be provided simultaneously to the department and the person
21 responsible for conducting the remediation; and

22 (7) the person responsible for conducting the remediation shall
23 implement a public participation plan approved by the department
24 to solicit public comment from the members of the surrounding
25 community concerning the remediation of the site.

26 d. The department shall issue guidelines establishing specific
27 criteria for the conditions under which a site may be subject to
28 direct oversight pursuant to subsection b. of this section.

29 e. (1) Any oversight procedure, remedy, or other obligation in
30 P.L.2009, c.60 (C.58:10C-1 et al.) shall not affect a remediation
31 conducted pursuant to and in compliance with a settlement of
32 litigation to which the department is a party if the settlement (a)
33 occurred prior to the date of enactment of P.L.2009, c.60
34 (C.58:10C-1 et al.), or (b) is a settlement of litigation pending on
35 the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).

36 (2) For any litigation pending or settled on the date of enactment
37 of P.L.2009, c.60 (C.58:10C-1 et al.), concerning a remediation
38 performed pursuant to the "Resource Conservation and Recovery
39 Act," 42 U.S.C. s.6921 et seq., nothing in P.L.2009, c.60
40 (C.58:10C-1 et al.) shall affect an oversight procedure, remedy, or
41 other obligation imposed by a federal administrative order or
42 federal court order.

43 (cf: P.L.2009, c.60, s.27)

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45 3. This act shall take effect immediately.

STATEMENT

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This bill would allow the Department of Environmental Protection to grant an extension of time for the completion of a remedial investigation to a person responsible for conducting a remediation of a contaminated site under certain circumstances. Current law requires the department to assume direct oversight of a cleanup if the person responsible for conducting a remediation has, prior to the date of enactment of P.L.2009, c.60 (C.58:10C-1 et seq.), (i.e., May 7, 2009), failed to complete the remedial investigation of the site 10 years after the date of discovery of a discharge at the site and has failed to complete the remedial investigation of the site within five years after May 7, 2009. This bill would authorize the department, for good cause, to allow up to an additional two years for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation. The bill requires an application for an extension to be submitted no later than March 7, 2014 and provides the department 45 days to notify the applicant of its decision on whether to allow the extension of time for completion of the remedial investigation and the amount of additional time allowed. Under the bill, the department is required to provide notice in the New Jersey Register of any extension granted, and include in the published notice, the name and location of the site for which the extension is granted, the rationale for the extension, and the length of the extension.

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3075**

STATE OF NEW JERSEY

DATED: DECEMBER 19, 2013

The Senate Environment and Energy Committee favorably reports a committee substitute for Senate Bill No. 3075.

This committee substitute would allow an extension of time for the completion of a remedial investigation to a person responsible for conducting a remediation of a contaminated site under certain circumstances. Current law requires the Department of Environmental Protection to assume direct oversight of a cleanup if the person responsible for conducting a remediation has, prior to the date of enactment of P.L.2009, c.60 (C.58:10C-1 et seq.) (i.e., May 7, 2009), failed to complete the remedial investigation of the site within 10 years after the date of discovery of a discharge at the site and has failed to complete the remedial investigation of the site within five years after May 7, 2009. This bill would authorize additional time for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation under certain circumstances.

First, an additional two years for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation, until May 7, 2016, would be authorized if the person responsible for conducting the remediation certifies, in a document submitted electronically by the licensed site remediation professional retained by the applicant, that certain conditions have been met regarding the remediation. The applicant must certify that: (1) a licensed site remediation professional has been retained to conduct a remediation of the site; (2) any remediation requirements included in mandatory remediation timeframes adopted pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28), for the site have been met at the time of the certification; (3) technically complete submissions have been made in compliance with all rules and regulations for site remediation, as applicable, for the initial receptor evaluation, immediate environmental concern source control report, light non-aqueous phase liquid interim remedial measure report, preliminary assessment report, and site investigation report; (4) a remediation funding source has been established, if required of the applicant by section 25 of P.L.1993, c.139 (C.58:10B-3); (5) if a remediation funding source is

not required to be established by the applicant pursuant to law, then a remediation trust fund for the estimated cost of the remedial investigation has been established pursuant to the standards established in section 25 of P.L.1993, c.139 (C.58:10B-3); (6) any oversight costs imposed by the department, known at the time of the application, and not in dispute on the date of enactment of the bill into law, have been paid to the department; and (7) the annual fees imposed by the department for the remediation and remediation funding source surcharges imposed pursuant to section 33 of P.L.1993, c.39 (C.58:10B-11) have been paid to the department, as applicable.

The committee substitute also allows additional time for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation, due to a delay in the provision of State financial assistance for the remediation from the Hazardous Discharge Site Remediation Fund. The committee substitute requires the person responsible for conducting the remediation to submit a certification that a technically and administratively complete application for funding has been filed prior to March 7, 2014, or 30 days after the date of enactment of the bill into law, the applicant qualifies for funding, and the applicant remains eligible for funding. The committee substitute would allow an extension of two years after receipt of funding, or no more than two years after the applicant is no longer eligible for funding.

The committee substitute requires an application for an extension to be submitted to the department by March 7, 2014 or 30 days after the date of enactment of the bill into law, whichever is later. Under the committee substitute, an extension of time is deemed approved upon receipt of the application by the department.

The committee substitute would provide that, at any time during the extension, the department may undertake direct oversight of a remediation if the conditions imposed under the bill are no longer met, or the person responsible for conducting the remediation fails to meet a mandatory remediation timeframe. The department must notify the person responsible for conducting the remediation, in writing, that the extension of time for conducting the remediation is revoked because the applicant failed to comply with the required conditions, the applicant failed to submit one or more of the certifications required, or the information included in a certification is incomplete, incorrect, false, or otherwise deficient.

The committee substitute would also require the department to provide notice on its website of any extension, and include the name and location of the site for which the extension is granted, and the length of the extension of time.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 3075**

STATE OF NEW JERSEY

DATED: JANUARY 6, 2014

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3075 (SCS).

This bill would allow an extension of time for the completion of a remedial investigation to a person responsible for conducting a remediation of a contaminated site under certain circumstances. Current law requires the Department of Environmental Protection to assume direct oversight of a cleanup if the person responsible for conducting a remediation has, prior to the date of enactment of P.L.2009, c.60 (C.58:10C-1 et seq.) (i.e., May 7, 2009), failed to complete the remedial investigation of the site within 10 years after the date of discovery of a discharge at the site and has failed to complete the remedial investigation of the site within five years after May 7, 2009. This bill would authorize additional time for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation under certain circumstances.

First, an additional two years for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation, until May 7, 2016, would be authorized if the person responsible for conducting the remediation certifies, in a document submitted electronically by the licensed site remediation professional retained by the applicant, that certain conditions have been met regarding the remediation. The applicant must certify that: (1) a licensed site remediation professional has been retained to conduct a remediation of the site; (2) any remediation requirements included in mandatory remediation timeframes adopted pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28), for the site have been met at the time of the certification; (3) technically complete submissions have been made in compliance with all rules and regulations for site remediation, as applicable, for the initial receptor evaluation, immediate environmental concern source control report, light non-aqueous phase liquid interim remedial measure report, preliminary assessment report, and site investigation report; (4) a remediation funding source has been established, if required of the applicant by section 25 of P.L.1993, c.139 (C.58:10B-3); (5) if a remediation funding source is

not required to be established by the applicant pursuant to law, then a remediation trust fund for the estimated cost of the remedial investigation has been established pursuant to the standards established in section 25 of P.L.1993, c.139 (C.58:10B-3); (6) any oversight costs imposed by the department, known at the time of the application, and not in dispute on the date of enactment of the bill into law, have been paid to the department; and (7) the annual fees imposed by the department for the remediation and remediation funding source surcharges imposed pursuant to section 33 of P.L.1993, c.39 (C.58:10B-11) have been paid to the department, as applicable.

The substitute also allows additional time for the completion of the remedial investigation of a site prior to the department undertaking oversight of the remediation, due to a delay in the provision of State financial assistance for the remediation from the Hazardous Discharge Site Remediation Fund. The substitute requires the person responsible for conducting the remediation to submit a certification that a technically and administratively complete application for funding has been filed prior to March 7, 2014, or 30 days after the date of enactment of the bill into law, the applicant qualifies for funding, and the applicant remains eligible for funding. The substitute would allow an extension of two years after receipt of funding, or no more than two years after the applicant is no longer eligible for funding.

The substitute requires an application for an extension to be submitted to the department by March 7, 2014 or 30 days after the date of enactment of the bill into law, whichever is later. Under the substitute, an extension of time is deemed approved upon receipt of the application by the department.

The substitute would provide that, at any time during the extension, the department may undertake direct oversight of a remediation if the conditions imposed under the bill are no longer met, or the person responsible for conducting the remediation fails to meet a mandatory remediation timeframe. The department must notify the person responsible for conducting the remediation, in writing, that the extension of time for conducting the remediation is revoked because the applicant failed to comply with the required conditions, the applicant failed to submit one or more of the certifications required, or the information included in a certification is incomplete, incorrect, false, or otherwise deficient.

The substitute would also require the department to provide notice on its website of any extension, and include the name and location of the site for which the extension is granted, and the length of the extension of time.

FISCAL IMPACT:

The substitute bill is not certified as requiring a fiscal note.