



Environmental Update May 2015

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**No Statute of Limitations Under the Spill Act
Two Recent New Jersey Bills, If Passed, Could Preclude Environmental Claims Against Local Governments
New Jersey Supreme Court Upholds Zoning of Conservation District That Prohibits Development on 34-Acre Parcel
Municipality Unable to Require Local Land Use Approvals for Dam Modification Project
New York Updates Permit for Stormwater Discharges From Construction Activity
NJDEP Coastal Permit Program Rules Amended to Simplify Fee Structure
Regulatory Update
Legislative Update**

No Statute of Limitations Under the Spill Act

On January 26, 2015, the Supreme Court of New Jersey issued its much awaited decision in Morristown Associates v. Grant Oil Co., et al., ___ N.J. ___ (2015), holding that “based on the plain language of the Spill Act, reinforced by its legislative history, ... [the general] six-year statute of limitations [for injury to real property, N.J.S.A. 2A:14-1,] is not applicable to Spill Act contribution claims.”

In Morristown Associates, the Plaintiff sought to recover from several oil delivery companies and a dry cleaner tenant the costs to remediate contamination resulting from a leaking fill pipe connected to an underground storage tank at its shopping center. The Appellate Division affirmed the trial court’s decision, finding that a six-year statute of limitations applied to private party contribution actions brought pursuant to the New Jersey Spill Compensation and Control Act, N.J.S.A. 58:10-23.11, and that such limitations period had expired before plaintiff asserted its claim. The court reasoned that sufficient indications of contamination should have prompted further investigation

by plaintiff more than six years before it commenced suit.

The Supreme Court granted certification on the question of whether the general six-year statute of limitations for damage to real property applied to a private claim for contribution under the Spill Act and, if so, whether the discovery rule – an equitable doctrine that tolls the start of the running of the statute of limitations until the condition is or reasonably should have been discovered – should be applied. Following extensive briefing and more than two hours of oral argument from the parties and interested *amici*, the unanimous Court declared that no statute of limitations exists for Spill Act contribution claims; as a result, it did not need to address the applicability of the discovery rule.

The Court based its decision on a careful parsing of the statutory language, specifically, the liability provision, N.J.S.A. 58:10-23.1 g(c), and the defense provision, N.J.S.A. 58:10-23.1 g(d). While both are mentioned in the contribution provision of the Spill Act, N.J.S.A. 58:10-23.1 f(a)(2)(a), neither sets forth a statute of limitations nor, conversely, states that one does not apply. However, the Spill Act does provide that “[a] contribution defendant shall have only the defenses to liability available to parties pursuant to [N.J.S.A. 58:10-23.1 g(d)].” N.J.S.A. 58:10-23.1 f(a)(2)(a). This list of defenses includes only acts of war, sabotage or God – but no statute of limitations; the use of the term “only” implies an intent to limit the defenses to the three listed. The Court observed that interpreting the Spill Act to have no statute of limitations is consistent with the remedial intent of the Spill Act and of the Legislature in enacting it. By not imposing a statute of limitations, the pool of potential remedial parties available to fund a cleanup remains as large as possible. Without a statute of limitations, parties may devote their initial resources to cleanup rather than litigation.

This decision not only overturned the decisions of the lower courts in this matter but also represents a departure from the analysis of the federal courts; decisions of the district court in New Jersey had found the six-year general statute of limitations applicable to Spill Act contribution actions. The federal court reasoned that such an interpretation was consistent with the analogous federal law, CERCLA. As the federal court had applied New Jersey law in the absence of state court precedent, it is likely that the Morristown Associates decision changes the landscape in the federal courts, eliminating one possible incentive for requesting removal of a case to federal court.

While a contribution plaintiff may no longer be compelled to file a claim within a legal time limit, the Court’s decision did not address the application of the equitable principle of laches to bar or limit recovery should inexcusable delay occur in the assertion of a claim. It therefore remains incumbent upon a party who may have been harmed by contamination caused by another party to investigate potential sources of contamination and not delay in bringing its claim. A potential plaintiff also should take care to develop and preserve such scientific proofs and other evidence necessary to support its claim; without the pressure of a statute of limitations, evidence could become lost if a claim is allowed to linger. Thus, even without the pressure of a statute of limitations, it is

incumbent upon a potential contribution plaintiff to develop and preserve its proofs and bring its action in a timely fashion.

[Back to Top](#)

Two Recent New Jersey Bills, If Passed, Could Preclude Environmental Claims Against Local Governments

In November 2014, the New Jersey Senate (S444) and Assembly (A3880) each introduced bills that, if passed, would preclude parties from asserting claims against local public entities for costs to clean up hazardous sites, even though those entities may be responsible under the law.

The bills state that notwithstanding the provisions of the Spill Act “or any other rule or regulation, no person may bring an action for contribution against a local public entity for cleanup and removal costs or any other damages associated with a discharge of a hazardous substance.” The definition of a “local public entity” includes sewerage authorities. The bills allow the State to retain its authority to pursue these entities for cleanup costs, but preclude private parties from asserting contribution claims. These bills stem from the concern that local governments could face substantial costs with respect to the multi-million or billion dollar cleanups in New Jersey, such as the recent Passaic River case.

Sewerage authorities have historically been identified as responsible parties in environmental cases. The nature of their operations – taking and treating industrial waste from numerous entities – often results in the discharge of pollutants to waterbodies of the state. Given this fact, both business and environmental groups have raised opposition to these bills, concerned that they will let local governments “off the hook” for polluting activities. Environmental groups have argued that parties responsible for environmental harm, even local governments, should be held accountable for such harm. Business groups claim that if the bills are passed, businesses will have to pay more toward a cleanup when there are local public entities also responsible. Moreover, these groups have questioned whether the bills will result in local governmental units engaging in reckless behavior when complying with environmental laws.

At this time, there has been no movement on the bills. It will be interesting to see whether such a drastic measure, letting potentially responsible parties avoid contribution claims, will become the law in New Jersey.

[Back to Top](#)

New Jersey Supreme Court Upholds Zoning of Conservation District That Prohibits Development on 34-Acre Parcel

The New Jersey Supreme Court recently upheld the authority of a municipality to use zoning ordinances to create an Environmental Conservation district and restrict future development of the property within that district.

Riggs v. Township of Long Beach, 109 N.J. 601 (1998).

In the early 2000s, the Township of Ocean (“Township”), with the assistance of the New Jersey Department of Environmental Protection (“NJDEP”), the Office of Smart Growth and other state agencies, created a Master Plan for development that incorporates the principle of smart growth supported by the New Jersey State Development and Redevelopment Plan. The Township’s Master Plan was designed to concentrate development in a town center and facilitate low-density development surrounding the center in order to promote center-based development and protect environmentally sensitive areas outside of the center.

Among the low-density areas the Township sought to protect was a contiguous coastal forest area that was the last substantial tract of undeveloped land in the Township. The Township deemed this area a sensitive coastal ecosystem that provided potential habitat for an endangered species of snake. In 2005 and 2006, the Township adopted a series of ordinances that rezoned this area as an Environmentally Sensitive Planning Area and limited development to one unit per 20 acres (the “Ordinances”).

The Plaintiffs own approximately 34 acres of land in the Township, spread over several contiguous lots. When the Plaintiffs acquired the property, it was subject to mixed use zoning, including a Commercial Development Area that would have permitted hotel, retail, medical and office facility use on one-acre lots, and a Residential Development Area that would have permitted single-family dwellings on two-acre lots. The Ordinances rezoned all but 2.68 acres of Plaintiffs’ land as an Environmentally Sensitive Planning Area, thereby prohibiting any development beyond the Plaintiffs’ existing single-family residence. The other 2.68 acres remained a Residential Development Area.

Plaintiffs challenged the Ordinances as invalid as applied to their property, because the property “does not have significant environmental restraints such as threatened or endangered species, floodplains, wetlands, steep slopes, or any of the usual environmental constraints that merit protection within [Environmental Conservation] districts.”

Amici supporting the Plaintiffs argued that the Ordinances unconstitutionally force the Plaintiffs to “bear the burden of protecting open space on behalf of the entire community,” that “the desire to preserve open space alone is not a proper justification to support a zoning ordinance so restrictive of private property,” and that “the creation of . . . open space opportunities cannot come in the name of protecting environmental features and/or conditions that do not exist on a given property.”

The Township testified that “the Ordinances were enacted as part of the Township’s smart growth planning process, which included preservation of natural resources as a goal,” and that “in establishing the Environmental Conservation district, the Township sought to protect a sensitive coastal ecosystem by preserving a large, contiguous, forested area and by creating a distinct boundary between the town center and outer environs.” The Township also testified that Plaintiffs’ property “is a key connection point linking other forested areas.”

The Court noted that the Municipal Land Use Law (“MLUL”) is a “comprehensive statute” that delegates the State’s zoning authority to municipalities and “allows municipalities to adopt ordinances to regulate land development in a manner which will promote the public health, safety, morals and general welfare using uniform and efficient procedures.” Zoning ordinances are presumed to be valid, but in evaluating a challenge, a court must apply a four-part test: the ordinance must advance one of the purposes of the MLUL, it must be substantially consistent with the land use plan element and the housing plan element of the master plan, it must comport with constitutional constraints on the zoning power, and it must be adopted in accordance with statutory and municipal procedural requirements.

The Court concluded that the Ordinances represented “a legitimate exercise of the Township’s power to zone property consistent with its Master Plan and Municipal Land Use Law goals” and did not violate constitutional constraints. The Court further noted that the inclusion of the Plaintiffs’ property in the Environmental Conservation district must be measured against the Township’s actual objectives in enacting the Ordinances, which included the plan to create a contiguous tract of environmentally related, sensitive coastal uplands in order to preserve and protect coastal habitat and ecosystems and to provide a buffer for the smart growth development promoted in the town center.

The Court further held that Plaintiffs had not exhausted the available remedies – specifically an application for a variance – and should have done so before challenging the Ordinances. The Court noted that, in the event Plaintiffs seek and are denied a variance, they could pursue an inverse condemnation claim against the Township.

The decision underscores the independence and control afforded to municipalities to employ Master Plans and shape development through zoning. It also underscores the power municipalities wield to significantly change and limit development opportunities in order to promote environmental conservation, provided those changes comport with a Master Plan. This type of municipal authority was also recently affirmed by the New York Court of Appeals in the companion cases Wallach v. Town of Dryden and Cooperstown Holstein Corp. v. Town of Middlefield, 2014 NY Slip Op. 04875 (June 30, 2014), which upheld the authority of New York municipalities to ban fracking through zoning ordinances (see [Court of Appeals Upholds Zoning Amendments Prohibiting Fracking](#) in the previous *Environmental Update*). The decision in this case, as well as the recent New York cases, point to a trend of environmental conservation and restriction of development occurring at the municipal level.

[Back to Top](#)

Municipality Unable to Require Local Land Use Approvals for Dam Modification Project

The Appellate Division recently confirmed that the NJDEP's regulatory authority over dam construction and safety under the Safe Dam Act ("SDA"), along with its exclusive authority to regulate the water supply under the Water Supply Management Act, preempts local land use approval requirements as well as municipal ordinances that otherwise would be applicable to a dam improvement project. United Water New Jersey, Inc. v. Borough of Hillside, Docket No. A-0299-13T4 (App. Div. Nov. 26, 2014). At issue in the case were improvements to the dam in the Woodcliff Lake Reservoir that were necessary to bring the dam into compliance with modified state safety requirements to allow such structures to handle storms of a greater magnitude. The municipality, Hillside, asserted that United Water New Jersey, Inc. ("UWNJ"), the entity undertaking the dam improvement project, was required to submit formal applications for local site plan approval. UWNJ sued Hillside seeking a determination that the municipality did not have jurisdiction over the project. In reaching its decision, the court rejected Hillside's arguments that the ordinances address issues of local concern that fall outside the purview of the NJDEP's exclusive regulation. Rather, the court found that an obligation to secure local site plan approval "would substantially undercut the NJDEP's pervasive regulation under the SDA by superimposing local site plan review upon the NJDEP's permitting process."

Parties involved in projects that have significant state or federal oversight should consider whether any attempt by a local agency to insert itself into the process is proper. To the extent they impact state or federal regulatory programs, a municipality's requirements may be preempted.

[Back to Top](#)

New York Updates Permit for Stormwater Discharges From Construction Activity

Construction projects undertaken in the State of New York may now need to comply with stricter and more costly requirements for managing stormwater in light of New York's newly revised General Permit for Stormwater Discharges from Construction Activity. Pursuant to the federal Clean Water Act, stormwater discharges from certain construction activities are unlawful unless the owner or operator of the construction project obtains the necessary permit. Consistent with this requirement, the New York Department of Environmental Conservation ("NYDEC") requires the owner or operator of certain types of construction projects to obtain the new General Permit, which took effect on January 29, 2015, if the project disturbs the soil over an acre or more, with lower size criteria in certain critical water quality areas. This means that the owner or operator of a construction activity of sufficient size must obtain the new General Permit before performing any clearing, grading, excavation, filling, demolition, or stockpiling activities that result in soil disturbance, but not before performing certain routine maintenance.

One of the significant features of the new General Permit is its changes to the requirements for erosion and sediment controls used during construction. The General Permit now specifically requires the owner or operator of the construction project to "select, design, install, implement and maintain control measures to minimize the discharge of pollutants" through a series of non-numeric standards that reflect the use of the "best practicable technology currently available." The owner or operator of a construction project must also comply with the New York State Standards & Specifications for Erosion and Sediment Control ("the Bluebook"), which the NYDEC will soon update. If the owner or operator does not comply with these rules and the Bluebook, the permit application must include "the reason(s) for the deviation or alternative design and provide information which demonstrates that the deviation or alternative design is equivalent to the technical standard."

The new General Permit also contains other changes, including revisions for post-construction controls for new impervious surfaces and significant new flexibility for "redevelopment activities" that disturb existing impervious surfaces. For more information, visit the NYDEC Construction Stormwater Toolbox (<http://www.dec.ny.gov/chemical/8694.html>) and review the full text of the requirements contained in the new General Permit (http://www.dec.ny.gov/docs/water_pdf/gp015002.pdf).

[Back to Top](#)

NJDEP Coastal Permit Program Rules Amended to Simplify Fee Structure

On February 2, 2015, the NJDEP adopted new Coastal Permit Program Rules, N.J.A.C. 7:7-1.1 et seq., which establish the procedure for the NJDEP to review permit applications and appeals from permit decisions under the Coastal Area Facility Review Act ("CAFRA"), N.J.S.A. 13:9-1 et seq. The newly adopted amendments alter the fees for permit applications and for determinations or approvals under the Coastal Rules, as well as under the

Freshwater Wetlands Protection Act Rules at N.J.A.C. 7:7A-1.1 et seq., and the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-1.1 et seq. The NJDEP made these amendments to “establish a simplified, cohesive fee structure across the three chapters of rules, and incorporate a process to adjust fees in the future for each of the three permitting programs based on their respective projected annual budgets and projected fee revenues.” The fees for each program are now adjusted to make uniform the costs for certain permits and determinations that are common to all three programs. The NJDEP announced that this standardized structure will enhance the Department’s ability to implement electronic permitting in the future. Overall, fees will increase, however, the NJDEP states that the revenue raised by the new rules “will still fall short of the amount necessary to fully cover the costs to review and process applications.”

While the changes to fees have been adopted, some additional changes to the Coastal Rules remain pending. The NJDEP also proposed to consolidate the Coastal Rules with the Coastal Zone Management Rules, which establish substantive standards for use and development of New Jersey’s coastal zone under CAFRA. By proposing the consolidation of these rules into a single chapter, the NJDEP aims to “further encourage appropriate redevelopment” of New Jersey’s coastal communities. In addition, the rule proposal introduces a new Appendix G (“The Management and Regulation of Dredging Activities and Dredged Material in New Jersey’s Tidal Waters”) that “establishes the policies and procedures which the Department will use to conduct reviews of applications for permits for dredging activities in tidal waters of the State of New Jersey and the management of the dredged material.” Public hearings were held regarding the consolidation rule proposal in June and July 2014, and the public comment period closed on August 2014.

This proposed consolidation, along with the recently adopted changes to make fees uniform under the Coastal Rules, Freshwater Wetlands Rules, and Flood Hazard Rules, will thereby align the rules governing the permitting processes for the development of the State’s coastal resources, specifically relating to dredging and dredged material management and marina development and expansion.

[Back to Top](#)

Regulatory Update

New Jersey Department of Environmental Protection

New Jersey Compliant With Stringent Standard for Fine Particles

In a letter dated December 18, 2014, the United States Environmental Protection Agency (“EPA”) announced that the State of New Jersey is in compliance with the new and more stringent federal health standard for fine particles.

Particulate matter are fine particles found in the air, such as dust, dirt, soot, smoke and liquid droplets; they are two

and one half microns or less in width - approximately 1/30th the width of a human hair. Sources include certain industrial processes, wood burning, power plants, and motor vehicles. Particulate matter can pose potentially serious health problems, particularly in the more vulnerable members of the population, such as those with chronic respiratory conditions. The EPA considers these fine particles a substantial health risk due to their ability to lodge deeply into the lungs.

The new annual standard of 12 micrograms per cubic meter, more stringent than the previous 15 micrograms per cubic meter, went into effect on December 14, 2014.

The State uses several methods to manage air quality, such as air monitoring, inventories of sources, permits, stack testing, air quality modeling and risk assessment, vehicle inspections, and enforcement.

Jane Herndon, NJDEP Assistant Commissioner, confirmed that levels of fine particles in our air have been declining as a result of the use of sophisticated emissions controls at power plants, and other stationary sources and enforcement of stricter federal vehicle emissions standards.

For more information please see www.nj.gov/NJDEP.

NJDEP Launches New Website: www.CleanAir.NJ.gov

In its continued commitment to the improvement of air quality in New Jersey, the NJDEP has launched CleanAir.NJ.gov, a website aimed to educate state residents about air pollution and how to reduce it.

CleanAir.NJ.gov will be a source of information on the health impacts of air pollution and advice on practical steps to reduce pollution. For example, CleanAir.NJ.gov contains information concerning the formation of smog and its subsequent impact on health and the environment, tips on how an individual can reduce smog, as well as links to more detailed information.

For more information please see www.nj.gov/NJDEP.

New Permits for the Improvement of Water Quality

On March 12, 2015, in an effort to improve surface water quality in urban parts of the state, the NJDEP issued 25 final permits that require municipalities and wastewater authorities to develop strategies to reduce pollution from combined sewer overflows ("CSO"). The NJDEP is working in partnership with local governments, wastewater authorities, the EPA, and nonprofits to encourage the reduction of stormwater flow into CSO systems.

Combined sewer systems are a shared network of underground pipes that direct both sewage and stormwater to a central treatment system before it discharges into a body of water. The systems overflow during heavy rain or snowmelt causing discharges of mixed sewage and stormwater, creating health concerns by contaminating drinking water supplies, resulting in beach closures and causing harm to fish.

The new permits require the development of infrastructure such as holding tanks for the storage of stormwater for later release and treatment plant expansions. The permits also encourage the diversion of stormwater before it enters the sewage piping through rain gardens and green roofs.

Permit holders are required to maintain control technologies at outfalls to prevent material from entering waterways, and to provide real-time information, such as telephone hotlines or websites, on potential discharges into rivers and other waterways. In addition, permit holders are required to post identification signs at discharge points, confirming the possibility of sewage overflows during wet weather and that contact with the water may cause illness, as well as distribute leaflets at areas dependent on waterways such as marinas, docks, and fishing piers.

Permits have been issued to the following municipalities: the Camden County Municipal Utilities Authority; the City of Camden; Gloucester City; the Trenton Sewer Authority; the Joint Meeting of Essex and Union Counties Sewerage Treatment Plant; Elizabeth; the Middlesex County Utilities Authority; Perth Amboy; the Bergen County Utilities Authority; Hackensack; Ridgefield Park; Fort Lee; North Bergen Woodcliff Sewage Treatment Plant; Guttenberg; the North Hudson Sewerage Authority's Adams Street and River Road Wastewater Treatment Plants; the Passaic Valley Sewer Commission; the Bayonne City MUA; the Jersey City MUA; the City of Newark; the North Bergen MUA; East Newark Borough; Harrison Town; Kearny; and Paterson.

For more information please see www.nj.gov/NJDEP.

Environmental Protection Agency

New Jersey's Most Polluted Water Bodies Confirmed by the EPA

The EPA has published a list of bodies of water that did not meet federal water quality standards during 2012. These bodies of water are considered to be either impaired or threatened. An impaired body of water does not meet federal standards regardless of pollution controls being put in place. A threatened body of water is one that is anticipated to be impaired within a two year-period.

Stormwater runoff and combined sewer overflows are the most common sources of water pollutants. PCBs and arsenic are the most common pollutants found in New Jersey's impaired waters, which include the Hackensack River, the Passaic River, and Lake Hopatcong. These pollutants prevent "designated usage" such as drinking water,

swimming, and fishing.

Pursuant to the Clean Water Act, a state must submit a report of water quality assessments undertaken to the EPA every two years. New Jersey's report is compiled by the NJDEP, and includes confirmation of the amount of pollutants a body of water can receive while still meeting water quality standards.

EPA Regional Administrator Judith Enck confirmed that while New Jersey has a long way to go, an important step in reducing water pollution is to identify the most polluted water bodies. The NJDEP is taking steps to improve water quality through stormwater runoff control and stringent regulation of combined sewage outfalls in the Camden and NY/NJ harbor areas. The ultimate goal is to achieve fishable and swimmable water.

For more information, please see www.epa.gov.

Historic Cleanup of Hudson River Continues

On October 30, 2014, the EPA confirmed that the historic Agency-mandated cleanup of the Hudson River will continue for another year. The cleanup targets a 40-mile stretch of the Upper Hudson River between Fort Edward and Troy, New York.

During the late 1970s, approximately 1.3 million pounds of PCBs were discharged into the Hudson River. During 2014, the dredging of PCB contaminated sediment exceeded the 350,000 cubic yards anticipated, amounting to approximately 575,000 cubic yards, with 2.5 million cubic yards being removed to date.

Clean sand and gravel will be placed over previously dredged areas and dredged material will be shipped out-of-state to permitted disposal facilities. The EPA requires that no more than 11% of PCBs in the river bed can be capped; currently it is expected that only 7% will be capped, excluding those areas where capping cannot be avoided.

Sampling for water quality pursuant to the Safe Drinking Water Act in 2014 have shown that water from downstream monitoring locations meets standards.

Dredging is expected to resume in the Spring of 2015.

For more information, please see www.epa.gov.

Wetland Protection in New Jersey Gains \$530,000 Award

The EPA has granted an award of approximately \$530,000 to the New Jersey Meadowlands Commission (“the Commission”) and the NJDEP for the protection of wetlands. Wetlands provide protection against flooding and storm surges as well as protection of habitats for fish and wildlife.

The Commission will use \$215,000 of the grant in order to assess how animals in the Meadowlands have responded to improvements in water and habitat quality, and to determine if contaminant levels are having a negative effect.

The NJDEP will use \$204,000 of the grant to study how human activities and climate change impact wetlands in New Jersey, and to study historical conditions for the determination of future restoration efforts.

The NJDEP will use another \$110,000 of the grant to develop a “Living Shoreline” program to increase the amount of sediments and the growth of marsh plants to enhance shoreline resiliency against storm surge and sea level rise. As part of this program, the NJDEP will develop a website that will serve as a central resource for participating agencies and will inspect living shoreline programs in other states in order to ascertain their effectiveness.

A minimum contribution of 25% of the cost of the project is required from all grant recipients.

For more information, please see www.epa.gov.

[Back to Top](#)

Legislative Update

Recently Introduced Environmental Bills

[A3880 / S444](#): Prohibits contribution action against local public entity for cleanup and removal costs or any other damages associated with discharge of hazardous substances. Status: Pending in Assembly Environment and Solid Waste Committee; pending in Senate Budget and Appropriations Committee. (See full article above).

[A3881 / S2511](#): Removes anhydrous ammonia used for refrigeration as substance regulated by Toxic Catastrophe Prevention Act; eliminates Department of Labor and Workforce Development licensing for operators of refrigerating plants using anhydrous ammonia. Status: Pending in Assembly Environment and Solid Waste Committee; pending in Senate Environment and Energy Committee.

[A3954](#): Requires maximum contaminant level to be established for 1,2,3-trichloropropane in drinking water. Status: Pending in Assembly Environment and Solid Waste Committee.

[A3990](#)

S2650: Requires various measures to address effects of low levels of lead exposure. Status: Pending in Assembly Education Committee; pending in Senate Education Committee.

A4047 / S2660: Creates Office of Sustainability. Status: Pending in Assembly Environment and Solid Waste Committee; pending in Senate Budget and Appropriations Committee.

A4194: Authorizes mobile electronic waste destruction units to operate without a permit from the NJDEP. Status: Pending in Assembly Environment and Solid Waste Committee.

A4205: Establishes air quality standards and requires certificate from Commissioner of Health for operation of indoor ice arenas, indoor motorsports arenas, and special indoor motorsports events. Status: Pending in Assembly Health and Senior Services Committee.

A4258 / S2172: Clarifies liability for discharges of hazardous substances from drilling platforms that enter New Jersey waters. Status: Pending in Assembly Environment and Solid Waste Committee; out of Senate Environment and Energy Committee, second reading in Senate.

A4283 / S2858: Requires owner or operator of certain trains to have discharge response, cleanup, and contingency plans to transport certain hazardous materials by rail. Status: Pending in Assembly Transportation and Independent Authorities Committee; sponsored, not yet introduced in Senate.

A4307: Increases required public notice from 30 days to 60 days for settlements entered into by the NJDEP pursuant to the Spill Compensation and Control Act. Status: Passed by Assembly.

ACR190: Urges the EPA and the Army Corps of Engineers to withdraw proposed rule to redefine "the waters of the United States" under Clean Water Act. Status: Pending in Assembly Environment and Solid Waste Committee.

ACR200: Dedicates fines and settlements from environmental violations for environmental purposes. Status: Pending in Assembly Environment and Solid Waste Committee.

AJR102: Urges the federal Occupational Safety and Health Administration to adopt recommendations of U.S. Chemical Safety and Hazard Investigation Board. Status: Pending in Assembly Labor Committee.

AR180: Urges the U.S. Department of Transportation to expedite rulemaking process for regulations concerning transport of flammable and combustible liquids by rail and require certain design standards for rail tank cars. Status: Pending in Assembly Transportation and Independent Authorities Committee.

AR211: Urges Congress and President to enact the Water Quality Investment Act. Status: Pending in Assembly Environment and Solid Waste Committee.

S568: Requires development and implementation of mitigation plans for radon contamination in certain child care centers; requires the Department of Education to develop such plans for child care centers operating in public schools, request funding, and implement plans when funded. Status: Pending in Senate Education Committee.

S2494: Requires composting or recycling of food waste by large volume generators. Status: Pending in Senate Environment and Energy Committee.

S2534: Requires laboratory analysis of waste or material generated by hydraulic fracturing; requires a permit from

the NJDEP, and disclosure of plans, methods, or processes to treat, store, process, or dispose of such waste or material. Status: Pending in Senate Environment and Energy Committee.

SCR158: Condemns, and strongly urges rejection of, proposed \$225 million settlement in lawsuit brought by New Jersey against Exxon Mobil for natural resource damages at Bayway and Bayonne oil refinery sites and certain other sites in New Jersey. Status: Out of Senate Environment and Energy Committee, second reading in Senate.

Updated Status of Previously Reported Environmental Bills

A1726 / S308: Amends Flood Hazard Area Control Act to require the NJDEP to take certain actions concerning delineations of flood hazard areas and floodplains. Status: Passed by Assembly; pending in Senate Budget and Appropriations Committee.

A1763 / S151: Clarifies intent of P.L.2007, c.340 regarding New Jersey's required participation in Regional Greenhouse Gas Initiative. Status: Out of Assembly Environment and Solid Waste Committee, second reading in Assembly; passed by Senate.

A1958 / S1848: Concerns permits, letters of exemption, and enforcement with regard to agricultural activities under Freshwater Wetlands Protection Act. Status: Passed by the Assembly; out of Senate Environment and Energy Committee, second reading in Senate.

A2340 / S2562: Requires report and public hearing prior to NJDEP recommendation of site for inclusion on Superfund list. Status: Passed by the Assembly; pending in the Senate Environment and Energy Committee.

A3170 / S2800: Requires inspection for pest infestation prior to certain demolition. Status: Out of Assembly Housing and Community Development Committee with Amendments, second reading in Assembly; pending in Senate Community and Urban Affairs Committee.

ACR189 / SCR125: Determines that proposed NJDEP rules and regulations repealing rules and regulations concerning State participation in greenhouse gas cap and trade programs are inconsistent with legislative intent. Status: Out of Assembly Regulatory Oversight Committee, second reading in Assembly; passed by Senate.

[Back to Top](#)

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