

SENATE, No. 252

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senator Johnson

SYNOPSIS

Requires owner or operator of certain trains to have discharge response, cleanup, and contingency plans to transport certain hazardous materials by rail; requires DEP to request bridge inspection reports from US DOT.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning freight rail safety and supplementing Title 58
2 of the Revised Statutes.

3

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

6

7 1. As used in P.L. , c. (C.) (pending before the
8 Legislature as this bill):

9 "Cleanup and removal costs" means all direct costs associated
10 with a discharge, and those indirect costs that may be imposed by
11 the department pursuant to section 1 of P.L.2002, c.37 (C.58:10b-
12 2.1) associated with a discharge, incurred by the State, or its
13 political subdivisions, or their agents, or any person with written
14 approval from the department in the: (1) removal or attempted
15 removal of hazardous substances, or (2) taking of reasonable
16 measures to prevent or mitigate damage to the public health, safety,
17 or welfare, including, but not limited to, public and private
18 property, shorelines, beaches, surface waters, water columns and
19 bottom sediments, soils, and other affected property, including
20 wildlife and other natural resources, and shall include costs incurred
21 by the State for the indemnification and legal defense of contractors
22 pursuant to sections 1 through 11 of P.L.1991, c.373 (C.58:10-
23 23.11f8 et seq.);

24 "Commissioner" means the Commissioner of Environmental
25 Protection;

26 "Contamination" or "contaminant" means any discharged
27 hazardous substance, hazardous waste as defined pursuant to
28 section 1 of P.L.1976, c.99 (C.13:1E-38), or pollutant as defined
29 pursuant to section 3 of P.L.1977, c.74 (C.58:10A-3);

30 "Department" means the Department of Environmental
31 Protection;

32 "Discharge" means any intentional or unintentional action or
33 omission resulting in the releasing, spilling, leaking, pumping,
34 pouring, emitting, emptying, or dumping of hazardous substances
35 into the waters or onto the lands of the State, or into waters outside
36 the jurisdiction of the State when damage may result to the lands,
37 waters, or natural resources within the jurisdiction of the State;

38 "Emergency response action" means those activities conducted
39 by a local unit to clean up, remove, prevent, contain, or mitigate a
40 discharge that poses an immediate threat to the environment or to
41 the public health, safety, or welfare;

42 "Emergency services personnel" means a person who is
43 employed as a law enforcement officer, emergency medical service
44 technician, firefighter, emergency communications operator,
45 hazardous materials responder, or in a related occupation or
46 profession, or who serves as a volunteer member of a fire
47 department, duly incorporated fire or first aid company, or
48 volunteer emergency, ambulance, or rescue squad association,

1 organization, or company which provides emergency services for a
2 local unit;

3 "Emergency services provider" means a law enforcement
4 agency, emergency medical services unit, fire department,
5 emergency communications provider, hazardous material response
6 unit, volunteer fire department, duly incorporated fire or first aid
7 company, or volunteer emergency, ambulance, or rescue squad
8 association, organization, or company which provides emergency
9 services for a local unit;

10 "Hazardous substances" means the "environmental hazardous
11 substances" on the environmental hazardous substance list adopted
12 by the department pursuant to section 4 of P.L.1983,
13 c.315 (C.34:5A-4); elements and compounds, including petroleum
14 products, which are defined by the department, after public hearing,
15 and which shall be consistent to the maximum extent possible with,
16 and which shall include, the list of hazardous substances adopted by
17 the federal Environmental Protection Agency pursuant to section
18 311 of the "Federal Water Pollution Control Act Amendments of
19 1972," Pub.L.92-500, as amended by the "Clean Water Act of
20 1977," Pub.L.95-217 (33 U.S.C. s.1251 et seq.); the list of toxic
21 pollutants designated by the Congress of the United States or the
22 federal Environmental Protection Agency pursuant to section 53 of
23 that act; and the list of hazardous substances adopted by the federal
24 Environmental Protection Agency pursuant to section 101 of the
25 "Comprehensive Environmental Response, Compensation, and
26 Liability Act of 1980," Pub.L.96-510 (42 U.S.C. s.9601 et seq.);
27 provided, however, that sewage and sewage sludge shall not be
28 considered as hazardous substances for the purposes of P.L. ,
29 c. (C.) (pending before the Legislature as this bill);

30 "High hazard train" means any railroad locomotive propelling a
31 railroad tank car or connection of railroad tank cars transporting
32 200,000 gallons or more of petroleum or petroleum products or
33 20,000 gallons or more of hazardous substances other than
34 petroleum or petroleum products;

35 "Local unit" means any county or municipality, or any agency or
36 other instrumentality thereof, or a duly incorporated volunteer fire,
37 ambulance, first aid, emergency, or rescue company or squad;

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

40 "Natural resources" means all land, fish, shellfish, wildlife, biota,
41 air, waters, and other resources owned, managed, held in trust, or
42 otherwise controlled by the State;

43 "Owner" or "operator" means, with respect to any high hazard
44 train, any person owning the high hazard train, or operating it by
45 lease, contract, or other form of agreement; provided, however, that
46 the owner or operator shall not mean a person who operates a high
47 hazard train only for the purposes of positioning or moving railroad
48 tank cars within the confines of a major facility, or a person whose

1 interest in a high hazard train solely involves the ownership or lease
2 of one or more railroad tank cars without operational authority;

3 "Person" means public or private corporations, companies,
4 associations, societies, firms, partnerships, joint stock companies,
5 individuals, the United States, the State of New Jersey, and any of
6 its political subdivisions or agents;

7 "Petroleum" or "petroleum products" shall have the same
8 meaning as set forth in section 3 of P.L.1976, c.141 (C.58:10-
9 23.11b);

10 "Remedial action" means those actions taken at a site or offsite if
11 a contaminant has migrated or is migrating therefrom, as may be
12 required by the department, including the removal, treatment,
13 containment, transportation, securing, or other engineering or
14 treatment measures, whether to an unrestricted use or otherwise,
15 designed to ensure that any discharged contaminant at the site or
16 that has migrated or is migrating from the site, is remediated in
17 compliance with the applicable health risk or environmental
18 standards;

19 "Remediation" or "remediate" means all necessary actions to
20 investigate and clean up or respond to any known, suspected, or
21 threatened discharge, including, as necessary, the preliminary
22 assessment, site investigation, remedial investigation, and remedial
23 action, provided, however, that "remediation" or "remediate" shall
24 not include the payment of compensation for damage to, or loss of,
25 natural resources. For the purpose of this definition, "remedial
26 investigation" means a process to determine the nature and extent of
27 a discharge of a contaminant at a site or a discharge of a
28 contaminant that has migrated or is migrating from the site and the
29 problems presented by a discharge, and may include data collected,
30 site characterization, sampling, monitoring, and the gathering of
31 any other sufficient and relevant information necessary to determine
32 the necessity for remedial action and to support the evaluation of
33 remedial actions if necessary and "site investigation" means the
34 collection and evaluation of data adequate to determine whether or
35 not discharged contaminants exist at a site or have migrated or are
36 migrating from the site at levels in excess of the applicable
37 remediation standards; and

38 "Waters" means the ocean and its estuaries to the seaward limit
39 of the State's jurisdiction, all springs, streams, and bodies of surface
40 or groundwater, whether natural or artificial, within the boundaries
41 of this State.

42

43 2. a. The owner or operator of a high hazard train traveling
44 within this State shall submit a discharge response, cleanup, and
45 contingency plan to the Department of Environmental Protection.
46 The owner or operator of a high hazard train shall submit a
47 discharge response, cleanup, and contingency plan within six

1 months of the effective date of P.L. , c. (C.) (pending before
2 the Legislature as this bill).

3 b. The discharge response, cleanup, and contingency plan shall
4 contain the following information:

5 (1) A summary and detailed description of the emergency
6 response measures to be used by the trained personnel or discharge
7 cleanup contractors employed by the owner or operator of the high
8 hazard train, as applicable, in responding to, and minimizing health
9 and environmental dangers from, fires, explosions, or unauthorized
10 discharges or releases of hazardous substances to the air, soil, or
11 waters of the State, including: the planned deployment of personnel
12 and equipment in the event of a discharge or other emergency, the
13 chain of command for the emergency response measures, and the
14 ability of the emergency response measures to comply with the
15 timetables established pursuant to section 7 of P.L. , c. (C.)
16 (pending before the Legislature as this bill);

17 (2) An identification of all equipment available for cleanup and
18 emergency response measures, including all equipment located in a
19 location other than the high hazard train, that is either under the
20 direct control of the owner or operator of the high hazard train, or
21 that is available, by contract, to the owner or operator of the high
22 hazard train in the event of a discharge or other emergency;

23 (3) A list of the names, business addresses, home addresses,
24 telephone numbers, electronic mail addresses, and qualifications of
25 all emergency response coordinators employed by the owner or
26 operator of the high hazard train, along with the authority and
27 responsibilities of each emergency response coordinator in the
28 event of a discharge or other emergency, and the names and
29 qualifications of all other trained personnel employed by the owner
30 or operator of the high hazard train, which have been trained to
31 operate containment, cleanup, and removal equipment and are
32 required to respond to a discharge or other emergency;

33 (4) The priorities for the deployment of trained personnel and
34 emergency response, recovery, and containment equipment to
35 protect residential, environmentally sensitive, or other areas against
36 a discharge or other emergency based on use, seasonal sensitivity,
37 or other relevant factors; and

38 (5) Any other information deemed necessary or useful by the
39 department.

40 c. The discharge response, cleanup, and contingency plan shall
41 certify that:

42 (1) trained personnel and emergency response, recovery, and
43 containment equipment as specified in the discharge response,
44 cleanup, and contingency plan are readily available on the high
45 hazard train or can be speedily deployed to the high hazard train;

46 (2) the emergency response, recovery, and containment
47 equipment is in good repair;

1 (3) the discharge response, cleanup, and contingency plan is
2 consistent with applicable local, regional, and State emergency
3 response plans;

4 (4) the discharge response, cleanup, and contingency plan
5 complies with departmental regulations; and

6 (5) the discharge response, cleanup, and contingency plan was
7 reviewed, and approved by a licensed professional engineer or
8 certified hazardous materials manager.

9 d. The discharge response, cleanup, and contingency plan shall
10 provide for simulated emergency response drills, to be conducted at
11 least once annually, to determine the adequacy of and personnel
12 familiarity with the discharge response, cleanup, and contingency
13 plan.

14 e. The owner or operator of a high hazard train shall include
15 with the discharge response, cleanup, and contingency plan
16 submitted to the department:

17 (1) An environmentally sensitive areas and habitats protection
18 plan, reviewed and certified by a marine biologist and an
19 ornithologist, that shall:

20 (a) identify all environmentally sensitive areas and wildlife
21 habitats that could be affected by a discharge from the high hazard
22 train that travels in proximity to the environmentally sensitive area;

23 (b) identify the seasonal sensitivity of the areas or habitats;

24 (c) in the event of a discharge, provide for the protection from,
25 and mitigation of, any potentially adverse impact of the discharge
26 on the identified areas or habitats; and

27 (d) provide for an environmental assessment of the impact of
28 any discharge on the identified areas and habitats, including the
29 effects on the habitat's flora, fauna, or organisms.

30 The environmentally sensitive areas and habitats protection plan
31 shall, using criteria established by the department for identifying
32 environmentally sensitive areas or habitats, identify any
33 environmentally sensitive area or habitat that could be adversely
34 affected by a discharge from the high hazard train;

35 (2) A copy of any existing agreement between the owner or
36 operator of the high hazard train and an emergency services
37 provider of a local unit located along the travel route of the high
38 hazard train to coordinate the emergency response actions of the
39 local unit and the owner or operator of the high hazard train; and

40 (3) A copy of all current contracts or agreements between the
41 owner or operator of the high hazard train and a discharge cleanup
42 organization for remedial action, including containment, cleanup,
43 removal, and disposal.

44

45 3. a. The owner or operator of a high hazard train shall submit
46 an application for renewal of the discharge response, cleanup, and
47 contingency plan every five years to the department, unless the
48 department requires a more frequent submission. Applications for

1 discharge response, cleanup, and contingency plan renewals shall be
2 accompanied by a summary of all unauthorized discharges within
3 this State by the owner or operator of the high hazard train and any
4 other information as may be deemed necessary or useful to the
5 department. Discharge response, cleanup, and contingency plan
6 renewals may be limited to certifying that the existing discharge
7 response, cleanup, and contingency plan on file with the department
8 is current. Filing of a revised discharge response, cleanup, and
9 contingency plan may be required by the department at the time of
10 renewal so as to incorporate into the discharge response, cleanup,
11 and contingency plan all amendments to the discharge response,
12 cleanup, and contingency plan adopted since the filing of the
13 original discharge response, cleanup, and contingency plan or its
14 last renewal.

15 b. The owner or operator of a high hazard train shall file an
16 amendment to the discharge response, cleanup, and contingency
17 plan, not later than 30 days after any modification of the high
18 hazard train, rail yards, fueling stations, or the high hazard train's
19 route of travel.

20

21 4. A copy of the discharge response, cleanup, and contingency
22 plan, discharge response, cleanup, and contingency plan renewal,
23 and all discharge response, cleanup, and contingency plan
24 amendments shall be filed by the owner or operator of a high hazard
25 train with the New Jersey Office of Emergency Management.

26

27 5. The owner or operator of a high hazard train shall, at all
28 times, retain on file with the department evidence of financial
29 responsibility for the cleanup and removal costs of a discharge or
30 release of a hazardous substance, and for the removal of any
31 damaged or disabled high hazard train equipment or parts. The
32 amount, nature, terms, and conditions of the financial responsibility
33 shall be determined by the department. The owner or operator of a
34 high hazard train shall file evidence of financial responsibility with
35 the department within 180 days of the effective date of P.L. ,
36 c. (C.) (pending before the Legislature as this bill).

37

38 6. The owner or operator of a high hazard train shall offer
39 training to the emergency services personnel of every local unit
40 having jurisdiction along the travel route of a high hazard train.
41 Initial training shall be offered within one year of the effective date
42 of P.L. , c. (C.) (pending before the Legislature as this bill)
43 with renewal training offered to the emergency service personnel of
44 every local unit having jurisdiction along the travel route of a high
45 hazard train at least once every three years thereafter. The training
46 shall address: the general hazards of the petroleum, petroleum
47 products, or hazardous substances being transported by the high
48 hazard train; techniques to assess hazards to the environment in the

1 event of a discharge; techniques to assess the safety of emergency
2 service personnel and the general public in the event of a discharge
3 that poses an imminent threat to public health, safety, or welfare;
4 factors an emergency service provider shall consider in determining
5 whether to attempt to suppress a fire or to evacuate the public and
6 emergency service personnel from an area in the event of a
7 discharge that poses an imminent threat to public health, safety, or
8 welfare; and other suggested protocols or practices for emergency
9 service personnel to consider in the event of a discharge that poses
10 an imminent threat to public health, safety, or welfare.

11

12 7. Following a discharge that requires emergency response
13 action, the owner or operator of a high hazard train shall:

14 a. Within one hour of a discharge, identify an emergency
15 response coordinator to advise the emergency services provider of
16 the local unit. The emergency response coordinator may be made
17 available by telephone, but is required to have authorization to
18 deploy all necessary emergency response resources of the owner or
19 operator of the high hazard train;

20 b. Within three hours of a discharge, deploy the emergency
21 response coordinator and trained personnel to the discharge site to
22 assess the discharge and to advise the emergency service provider
23 of the local unit;

24 c. Within eight hours of a discharge, deliver and deploy
25 emergency response, recovery, and containment equipment, trained
26 personnel, and all other materials needed to provide on-site
27 containment of the discharged petroleum, petroleum products, and
28 hazardous substances and to protect environmentally sensitive areas
29 and potable water intakes within one mile of the discharge site and
30 within eight hours of calculated water travel time in any river or
31 stream that the discharge site intersects; and

32 d. Within 60 hours of a discharge, deliver and deploy
33 additional emergency response, recovery, and containment
34 equipment, trained personnel, and all other materials needed to
35 provide containment and recovery of the discharged petroleum,
36 petroleum products, and hazardous substances and to protect
37 environmentally sensitive areas and potable water intakes at any
38 location along the travel route of the high hazard train or in any
39 river or stream that the discharge site intersects.

40

41 8. The provisions of P.L. , c. (C.) (pending before the
42 Legislature as this bill) shall not apply to the owner or operator of a
43 Class III carrier, as defined by the Surface Transportation Board
44 pursuant to 49 C.F.R. Part 1201 1-1, that operates within a single
45 municipality on not more than 25 total track miles and is engaged in
46 switching or terminal railroad services.

1 Nothing contained herein shall be construed to exempt a major
2 facility from the provisions of the "Spill Compensation and Control
3 Act," P.L.1976, c.141 (C.58:10-23.11 et seq.).
4

5 9. a. Except as otherwise provided in subsection b. of this
6 section, the department shall, as soon as practicable, but not later
7 than six months following a filing of a discharge response, cleanup,
8 and contingency plan or a renewal of a discharge response, cleanup,
9 and contingency plan, or, in the case of amendments, within 60 days
10 of the filing of the amendments, review the filing to determine
11 compliance with all statutory requirements, including rules and
12 regulations adopted pursuant thereto.

13 b. The department may, at any time during the discharge
14 response, cleanup, and contingency plan, discharge response,
15 cleanup, and contingency plan renewal, or discharge response,
16 cleanup, and contingency plan amendment review period approve,
17 conditionally approve, or disapprove a discharge response, cleanup,
18 and contingency plan, discharge response, cleanup, and contingency
19 plan renewal, or discharge response, cleanup, and contingency plan
20 amendments. If a discharge response, cleanup, and contingency
21 plan, discharge response, cleanup, and contingency plan renewal, or
22 discharge response, cleanup, and contingency plan amendments are
23 disapproved, the owner or operator of the high hazard train shall
24 have 30 days from receipt of written notice of the disapproval, and
25 the reasons therefor, with which to submit a revised discharge
26 response, cleanup, and contingency plan, discharge response,
27 cleanup, and contingency plan renewal, or discharge response,
28 cleanup, and contingency plan amendments. If after 30 days of
29 receipt of a written request therefor, the owner or operator of the
30 high hazard train fails to file a revised discharge response, cleanup,
31 and contingency plan, discharge response, cleanup, and contingency
32 plan renewal, or amendments to the department or fails to contest
33 the department's request in accordance with the "Administrative
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the discharge
35 response, cleanup, and contingency plan, discharge response,
36 cleanup, and contingency plan renewal, or discharge response,
37 cleanup, and contingency plan amendments shall be deemed to have
38 been disapproved by the department and the owner or operator of
39 the high hazard train shall be in violation of section 2 or section 3
40 of P.L. , c. (C.) (pending before the Legislature as this bill),
41 as applicable. The department may, for good cause, extend by up to
42 an additional 30 days the time period for filing a revised discharge
43 response, cleanup, and contingency plan, discharge response,
44 cleanup, and contingency plan renewal, or discharge response,
45 cleanup, and contingency plan amendments.
46

47 10. a. Whenever, on the basis of available information, the
48 Commissioner of Environmental Protection finds that the owner or

1 operator of a high hazard train is in violation of the provisions of
2 P.L. , c. (C.) (pending before the Legislature as this bill), or
3 any rule or regulation adopted pursuant thereto, the commissioner
4 may:

5 (1) Levy a civil administrative penalty in accordance with
6 subsection b. of this section; or

7 (2) Bring an action for a civil penalty in accordance with
8 subsection c. of this section.

9 The exercise of any of the remedies provided in this section shall
10 not preclude recourse to any other remedy so provided.

11 b. The commissioner is authorized to assess a civil
12 administrative penalty of not more than \$25,000 for each violation
13 of the provisions of P.L. , c. (C.) (pending before the
14 Legislature as this bill), or any rule or regulation adopted pursuant
15 thereto, and each day during which each violation continues shall
16 constitute an additional, separate, and distinct offense. Any amount
17 assessed under this section shall fall within a range established by
18 regulation by the commissioner for violations of similar type,
19 seriousness, duration, and conduct; provided, however, that prior to
20 the adoption of the rule or regulation, the commissioner may, on a
21 case-by-case basis, assess civil administrative penalties up to a
22 maximum of \$25,000 per day for each violation, utilizing the
23 criteria set forth herein. In addition to any civil administrative
24 penalty assessed under this subsection and notwithstanding the
25 \$25,000 maximum penalty set forth above, the commissioner may
26 assess any economic benefits from the violation gained by the
27 violator. Prior to assessment of a penalty under this subsection, the
28 owner or operator of the high hazard train committing the violation
29 shall be notified by certified mail or personal service that the
30 penalty is being assessed. The notice shall: include a reference to
31 the section of the statute or regulation violated; recite the facts
32 alleged to constitute a violation; state the basis for the amount of
33 the civil penalties to be assessed; and affirm the rights of the
34 alleged violator to a hearing. The ordered party shall have 35
35 calendar days from receipt of the notice within which to deliver to
36 the commissioner a written request for a hearing. After the hearing
37 and upon finding that a violation has occurred, the commissioner
38 may issue a final order after assessing the amount of the fine
39 specified in the notice. If a hearing is not requested, the notice shall
40 become a final order after the expiration of the 35 calendar day
41 period. Payment of the assessment is due when a final order is
42 issued or the notice becomes a final order. The authority to levy an
43 administrative order is in addition to all other enforcement
44 provisions in P.L. , c. (C.) (pending before the Legislature
45 as this bill), or of any rule or regulation adopted pursuant thereto,
46 and the payment of any assessment shall not be deemed to affect the
47 availability of any other enforcement provisions in connection with
48 the violation for which the assessment is levied. The department

1 may compromise any civil administrative penalty assessed under
2 this subsection in an amount and with conditions the department
3 determines appropriate. A civil administrative penalty assessed,
4 including a portion thereof required to be paid pursuant to a
5 payment schedule approved by the department, which is not paid
6 within 90 days of the date that payment of the penalty is due, shall
7 be subject to an interest charge on the amount of the penalty, or
8 portion thereof, which shall accrue as of the date payment is due. If
9 the penalty is contested, an additional interest charge shall not
10 accrue on the amount of the penalty until 90 days after the date on
11 which a final order is issued. Interest charges assessed and
12 collectible pursuant to this subsection shall be based on the rate of
13 interest on judgments provided in the New Jersey Rules of Court.

14 c. Any owner or operator of a high hazard train who violates
15 the provisions of P.L. , c. (C.) (pending before the
16 Legislature as this bill), or any rule or regulation adopted pursuant
17 thereto, or who fails to pay in full a civil administrative penalty
18 levied pursuant to subsection b. of this section, or who fails to make
19 a payment pursuant to a penalty payment schedule entered into with
20 the department, or who knowingly makes any false or misleading
21 statement, representation, or certification on any application,
22 record, report, or other document required to be submitted to the
23 department, shall be subject, upon order of a court, to a civil penalty
24 not to exceed \$25,000 for each day during which the violation
25 continues. Any civil penalty imposed pursuant to this subsection
26 may be collected, and any costs incurred in connection therewith
27 may be recovered, in a summary proceeding pursuant to the
28 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
29 et seq.). In addition to any penalties, costs or interest charges, the
30 court may assess against the violator the amount of economic
31 benefit accruing to the violator from the violation. The Superior
32 Court shall have jurisdiction to enforce the "Penalty Enforcement
33 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

34 d. The owner or operator of a high hazard train that
35 experiences a discharge shall be subject to the penalty and
36 injunctive relief provisions of section 22 of P.L.1976,
37 c.141 (C.58:10-23.11u).

38
39 11. Whenever information is received by the New Jersey Office
40 of Emergency Management pursuant to United States Department
41 of Transportation Emergency Order Docket No. DOT-OST-2014-
42 0067, or any law, rule, regulation, or order that shall supersede that
43 order, or pursuant to section 4 of P.L. , c. (C.) (pending
44 before the Legislature as this bill), the New Jersey Office of
45 Emergency Management shall provide that information to each
46 county office of emergency management and emergency services
47 provider having jurisdiction along the travel route of a high hazard
48 train.

1 12. In accordance with the federal regulations promulgated
2 pursuant to section 11405 of the federal "Fixing America's Surface
3 Transportation Act," Pub.L.114-94, the Commissioner of
4 Environmental Protection shall, at least annually and whenever the
5 Commissioner of Environmental Protection shall deem necessary,
6 request from the United States Secretary of Transportation a copy
7 of the most recent bridge inspection report generated pursuant to the
8 federal "Fixing America's Surface Transportation Act," Pub.L.114-
9 94, for every bridge owned by a railroad or upon which a railroad is
10 located.

11 The Commissioner of Environmental Protection shall submit any
12 bridge inspection report, acquired by the Department of
13 Environmental Protection pursuant to this section, to the Governor
14 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
15 Legislature.

16

17 13. The department shall adopt rules and regulations pursuant to
18 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
19 et seq.) to effectuate the purposes of this act.

20

21 14. This act shall take effect immediately.

22

23

24

STATEMENT

25

26 This bill requires the owner or operator of a high hazard train
27 traveling within this State to submit to the Department of
28 Environmental Protection (department) within six months of the
29 effective date of the bill a discharge response, cleanup, and
30 contingency plan (plan) that contains certain information.

31 The bill requires the plan to be renewed every five years with the
32 department unless the department requires a more frequent
33 submission and any amendments to the plan are to be filed with the
34 department within 30 days of the date of any modification of the
35 high hazard train, rail yards, fueling stations, or the high hazard
36 train's route of travel. The owner or operator of a high hazard train
37 is required to retain on file with the department evidence of
38 financial responsibility for the cleanup and removal costs of a
39 discharge or release of a hazardous substance, and for the removal
40 of any damaged or disabled high hazard train equipment or parts. A
41 copy of the plan, plan renewal, and all plan amendments are to be
42 filed by the owner or operator of a high hazard train with the New
43 Jersey Office of Emergency Management.

44 The bill requires the owner or operator of a high hazard train to
45 offer training to the emergency services personnel of every local
46 unit having jurisdiction along the travel route of the high hazard
47 train. The initial training is to be offered within one year of the

1 effective date of this bill and renewal training is to be offered at
2 least once every three years thereafter.

3 The bill requires the owner or operator of a high hazard train,
4 which has experienced a discharge that requires emergency
5 response action, to deliver and deploy sufficient emergency
6 response, recovery, and containment equipment and trained
7 personnel to contain and recover the discharged materials and
8 protect environmentally sensitive areas and potable water intakes
9 within certain timeframes.

10 The provisions of the bill are not applicable to the owner or
11 operator of a Class III carrier, as defined by the federal Surface
12 Transportation Board, that operates within a single municipality on
13 not more than 25 total track miles and is engaged in switching or
14 terminal railroad services. The bill clarifies that it is not to be
15 construed to exempt major facilities from the provisions of the
16 “Spill Compensation and Control Act.”

17 The bill requires the department to review plans or plan renewals
18 within six months of filing and plan amendments within 60 days of
19 filing. If a plan, plan renewal, or plan amendment is disapproved,
20 the owner or operator of the high hazard train is required to submit
21 a revised plan, plan renewal, or plan amendment within 30 days
22 from the receipt of written notice of the disapproval. The bill
23 permits the department to issue civil administrative penalties for
24 violations under the bill and bring an action for civil penalties.
25 Under the bill, the owner or operator of a high hazard train that
26 experiences a discharge is subject to the penalty and injunctive
27 relief provisions of the “Spill Compensation and Control Act.”

28 The New Jersey Office of Emergency Management is to provide
29 certain information to certain county offices of emergency
30 management and emergency services.

31 The bill requires the department to, annually or whenever
32 deemed necessary, request from the U.S. Department of
33 Transportation a copy of the most recent bridge inspection report
34 generated pursuant to the federal “Rail Safety Improvement Act of
35 2008” for every bridge owned by a railroad or upon which a
36 railroad is located. The department is to submit any bridge
37 inspection report acquired from the U.S. Department of
38 Transportation to the Governor and the Legislature.