

CHAPTER 283

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

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

C.58:10C-27.1 Extensions permitted; application.

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

(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 (a) initial receptor evaluation, (b) immediate environmental concern source control report, (c) light non-aqueous phase liquid interim remedial measure report, (d) preliminary assessment report, and (e) 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 P.L.2013, c.283 (C. 58:10C-27.1 et al.), 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.

An application pursuant to this subsection shall be submitted to the department by March 7, 2014 or 30 days after the date of enactment of P.L.2013, c.283 (C. 58:10C-27.1 et al.), whichever is later.

b. For any site subject to the provisions of paragraph (3) of subsection a. of section 27 of P.L.2009, c.60 (C.58:10C-27), if the failure to complete the remedial investigation of the contaminated site is due to a delay in the provision of State financial assistance for the remediation from the Hazardous Discharge Site Remediation Fund, upon application by a person responsible for conducting the remediation, an extension of time shall be provided to allow for the completion of the remedial investigation prior to the department taking direct oversight, except as provided in subsection c. of this section. The applicant shall submit to the department a certification that the person responsible for conducting the remediation filed a technically and administratively complete application for funding prior to March 7, 2014 or

30 days after the date of enactment of P.L.2013, c.283 (C. 58:10C-27.1 et al.), whichever is later, qualifies for funding, and remains eligible for funding. Every six months after the submission of the application for the extension of time pursuant to this subsection, the applicant shall submit to the department a certification with an update on the status of the funding application.

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

An application for an extension of time pursuant to this subsection shall be submitted to the department by March 7, 2014 or 30 days after the date of enactment of P.L.2013, c.283 (C. 58:10C-27.1 et al.), whichever is later.

c. An application submitted pursuant to subsection a. or b. of this section shall be deemed approved upon receipt by the department. The department may undertake direct oversight of a remediation if, at any time during the extension of time: (1) the conditions imposed pursuant to subsection a. or b. of this section, as the case may be, are no longer met; or (2) the person responsible for conducting the remediation fails to meet a mandatory remediation timeframe after submission of the certification submitted pursuant to this section. The department shall so notify the person responsible for conducting the remediation, in writing, that the extension of time for completion of the remedial investigation is revoked because of the applicant's failure to continue to comply with the conditions required, or the applicant's failure to submit one or more of the certifications required pursuant to subsection a. or b. of this section, or that the information included in a certification is incomplete, incorrect, false, or otherwise deficient.

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

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

C.58:10C-27 Direct oversight of remediation by department; conditions.

27. a. Except as provided in section 1 of P.L.2013, c.283 (C. 58:10C-27.1), the department shall undertake direct oversight of a remediation of a contaminated site under the following conditions:

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

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

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

investigation of the entire contaminated site within five years after the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).

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

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

- (1) the contamination at the site includes chromate chemical production waste;
- (2) the department determines that more than one environmentally sensitive natural resource has been injured by contamination from the site;
- (3) the site has contributed to sediments contaminated by polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface water body; or
- (4) the site is ranked by the department in the category requiring the highest priority pursuant to the ranking system developed pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).

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

- (1) the department shall review each document submitted by a licensed site remediation professional and shall approve or deny the submission;
- (2) a feasibility study shall be performed and submitted to the department for approval;
- (3) the department shall select the remedial action for the site;
- (4) the person responsible for conducting the remediation shall establish a remediation trust fund pursuant to section 25 of P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of the remediation;
- (5) all disbursements of funds from the remediation trust fund shall require prior approval by the department;
- (6) all submissions prepared by the licensed site remediation professional concerning the remediation required by the department shall be provided simultaneously to the department and the person responsible for conducting the remediation; and
- (7) the person responsible for conducting the remediation shall implement a public participation plan approved by the department to solicit public comment from the members of the surrounding community concerning the remediation of the site.

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

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

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

3. This act shall take effect immediately.

Approved January 17, 2014.