

ASSEMBLY, No. 2340

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 6, 2014

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman L. GRACE SPENCER

District 29 (Essex)

Assemblyman JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

SYNOPSIS

Requires report and public hearing prior to DEP recommendation of site for inclusion on Superfund list.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/23/2014)

1 AN ACT concerning contaminated sites, 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. a. The Department of Environmental Protection shall, prior
8 to the transmission of a recommendation to the United States
9 Environmental Protection Agency regarding the inclusion of a site
10 on the National Priorities List pursuant to the "Comprehensive
11 Environmental Response, Compensation, and Liability Act of
12 1980," 42 U.S.C. s.9605:

13 (1) Prepare a report that identifies the site under consideration
14 for inclusion on the National Priorities List with a metes and
15 bounds description, the lot and block number, and the street address
16 including the municipality, describes the condition of the property,
17 including discharged hazardous substances present at the site or that
18 are suspected of being present at the site, assesses the risks to
19 human health and the environment posed by the hazardous
20 substances and the basis for that assessment, and presents the State's
21 proposed recommendation regarding the site's inclusion on the
22 National Priorities List;

23 (2) Transmit the report required to be prepared pursuant to
24 paragraph (1) of this subsection at least 30 days in advance of the
25 public hearing required pursuant to paragraph (4) of this subsection
26 to the county executive, county manager, the freeholder director or
27 chairperson, as appropriate to the form of county government, and
28 each member of the board of chosen freeholders of the county in
29 which the site is located, to the clerk of the municipality in which
30 the site is located, and to each owner of all real property as shown
31 on the current tax duplicate, located in the State and within 200 feet
32 in all directions of the site;

33 (3) Make the report required to be prepared pursuant to
34 paragraph (1) of this subsection available upon request, at no cost,
35 or at the cost of reproduction, to the public at least 30 days in
36 advance of the date of the public hearing required pursuant to
37 paragraph (4) of this subsection; and

38 (4) Conduct a public hearing on the proposed recommendation
39 for inclusion of the site on the National Priorities List at least 60
40 days in advance of the date on which the State is to present its
41 recommendation of the inclusion of the site on the National
42 Priorities List to the United States Environmental Protection
43 Agency. The public hearing shall be held in the municipality in
44 which the site is located and notice shall be provided to each owner
45 having a recorded interest in the property, to the county executive,
46 county manager, the freeholder director or chairperson, as
47 appropriate to the form of county government, and each member of
48 the board of chosen freeholders of the county in which the site is

1 located, to the clerk of the municipality in which the site is located,
2 and to each owner of all real property as shown on the current tax
3 duplicate, located in the State and within 200 feet in all directions
4 of the site by mail at least 21 days prior to the hearing, and by
5 publication thereof once each week for two consecutive weeks in a
6 newspaper of general circulation in the municipality or
7 municipalities in which the site is located. The last publication of
8 the notice shall be not less than 7 days prior to the date set for the
9 hearing. At the hearing, the department shall present its proposed
10 recommendation regarding the site's inclusion on the National
11 Priorities List and shall accept public comments at the hearing and
12 for 30 days thereafter.

13 b. After the 30-day public comment period has closed, the
14 department may make its final decision regarding its
15 recommendation to the United States Environmental Protection
16 Agency for a site's inclusion on the National Priorities List. In
17 reaching its decision, the department shall consider the testimony at
18 the public hearing, the public comments, the mitigating and
19 aggravating factors associated with listing the site on the National
20 Priorities List including, but not limited to, the threats to the public
21 health and the environment, the existence of a potentially
22 responsible party for the contamination and that person's
23 willingness and ability to perform the remediation, the delay that
24 may occur should the site be listed on the National Priorities List,
25 and the impact that the listing may have on the municipality in
26 which the site is located.

27 c. At least seven days prior to the transmission of its
28 recommendation to the United States Environmental Protection
29 Agency regarding the inclusion of a site on the National Priorities
30 List, the Department of Environmental Protection shall notify the
31 county executive, county manager, the freeholder director or
32 chairperson, as appropriate to the form of county government, and
33 each member of the board of chosen freeholders of the county in
34 which the site is located, the clerk of the municipality in which the
35 site is located, the State Senator and members of the General
36 Assembly who represent the municipality in which the site is
37 located, of the State's decision and the reasons therefor.

38

39 2. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 The bill requires the Department of Environmental Protection
45 (DEP) to prepare a report and conduct a public hearing prior to
46 recommending a site for inclusion on the federal Superfund list.

47 The bill specifically provides that prior to the transmission of a
48 recommendation to the United States Environmental Protection

1 Agency (EPA) regarding the inclusion of a site on the National
2 Priorities List (NPL) pursuant to the "Comprehensive
3 Environmental Response, Compensation, and Liability Act of
4 1980," 42 U.S.C. s.9605, the DEP must:

5 (1) prepare a report identifying the site under consideration for
6 inclusion on the NPL, describing the condition of the property,
7 assessing the risks to human health and the environment posed by
8 the hazardous substances and the basis for that assessment, and
9 presenting the State's proposed recommendation regarding the site's
10 inclusion on the NPL;

11 (2) transmit the report at least 30 days in advance of the public
12 hearing required pursuant to the bill to the county governing body,
13 to the clerk of the municipality in which the site is located, and to
14 each owner of all real property within 200 feet in all directions of
15 the site;

16 (3) make the report available to the public at least 30 days in
17 advance of the date of the public hearing; and

18 (4) conduct a public hearing on the DEP's proposed
19 recommendation for inclusion of the site on the NPL at least 60
20 days in advance of the date on which the State is to make its
21 recommendation to the EPA.

22 The bill requires the DEP to conduct the public hearing on the
23 proposed recommendation in the municipality in which the site is
24 located, and requires the DEP to provide advance notice of the
25 hearing to each owner having a recorded interest in the property, to
26 the county governing body, to the clerk of the municipality in which
27 the site is located, and to each owner of all real property within 200
28 feet in all directions of the site by mail and by publication of the
29 notice in a newspaper of general circulation in the municipality or
30 municipalities in which the site is located. The bill requires the DEP
31 to present its proposed recommendation regarding the site's
32 inclusion on the NPL at the public hearing, and specifies that the
33 DEP must accept public comments at the public hearing and for 30
34 days after the date the public hearing is held.

35 The bill provides that after the 30-day public comment period
36 closes, the DEP may make its final decision regarding its
37 recommendation to the EPA for a site's inclusion on the NPL. In
38 reaching its decision, the bill requires the DEP to consider the
39 testimony at the public hearing, the public comments, the mitigating
40 and aggravating factors associated with listing the site including,
41 but not limited to, the threats to the public health and the
42 environment, the existence of a potentially responsible party for the
43 contamination and that person's willingness and ability to perform
44 the remediation, the delay that may occur should the site be listed
45 on the NPL, and the impact that the listing may have on the
46 municipality in which the site is located.

47 The bill provides that at least seven days prior to the
48 transmission of its recommendation to the EPA, the DEP must

A2340 GREENWALD, SPENCER

5

- 1 notify the county and municipal government officials, and the State
- 2 Senator and members of the General Assembly who represent the
- 3 municipality in which the site is located, of the State's decision and
- 4 the reasons for the decision.