

# ASSEMBLY, No. 5603

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 12, 2021

**Sponsored by:**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Co-Sponsored by:**

**Assemblywoman Jasey**

**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**

As introduced.



**(Sponsorship Updated As Of: 12/6/2021)**

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, c.315  
13 (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 the  
2 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 8 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.

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

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

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

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

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

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

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

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

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

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

43

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

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

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

19

20 4. The owner or operator of a high hazard train shall make  
21 available to the public on its website, to the extent that the release  
22 of the information shall not conflict with federal law, the following  
23 information:

24 a. The routes and volumes of cargoes updated on a monthly  
25 basis;

26 b. An analysis of the consequences of maximum discharges  
27 from the high hazard trains owned or operated in the State;

28 c. A copy of the most current discharge response, cleanup, and  
29 contingency plan submitted to the department pursuant to sections 2  
30 and 3 of P.L. , c. (C. ) (pending before the Legislature as  
31 this bill); and

32 d. A railroad routing analysis, as required pursuant to section  
33 1551 of the "Implementing Recommendations of the 9/11  
34 Commission Act of 2007," Pub.L.110-53 (6 U.S.C. s.1201 et seq.),  
35 and any accompanying documentation that impacted the owner or  
36 operator's decision in routing the high hazard train through the  
37 State.

38

39 5. A copy of the discharge response, cleanup, and contingency  
40 plan, discharge response, cleanup, and contingency plan renewal,  
41 and all discharge response, cleanup, and contingency plan  
42 amendments shall be filed by the owner or operator of a high hazard  
43 train with the New Jersey Office of Emergency Management.

44

45 6. The owner or operator of a high hazard train shall, at all  
46 times, retain on file with the department evidence of financial  
47 responsibility for the cleanup and removal costs of a discharge or  
48 release of a hazardous substance, and for the removal of any

1 damaged or disabled high hazard train equipment or parts. The  
2 amount, nature, terms, and conditions of the financial responsibility  
3 shall be determined by the department. The owner or operator of a  
4 high hazard train shall file evidence of financial responsibility with  
5 the department within 180 days of the effective date of P.L. ,  
6 c. (C. ) (pending before the Legislature as this bill).

7  
8 7. The owner or operator of a high hazard train shall offer  
9 training to the emergency services personnel of every local unit  
10 having jurisdiction along the travel route of a high hazard train.  
11 Initial training shall be offered within one year of the effective date  
12 of P.P.L. , c. (C. ) (pending before the Legislature as this  
13 bill) with renewal training offered to the emergency service  
14 personnel of every local unit having jurisdiction along the travel  
15 route of a high hazard train at least once every three years  
16 thereafter. The training shall address: the general hazards of the  
17 petroleum, petroleum products, or hazardous substances being  
18 transported by the high hazard train; techniques to assess hazards to  
19 the environment in the event of a discharge; techniques to assess the  
20 safety of emergency service personnel and the general public in the  
21 event of a discharge that poses an imminent threat to public health,  
22 safety, or welfare; factors an emergency service provider shall  
23 consider in determining whether to attempt to suppress a fire or to  
24 evacuate the public and emergency service personnel from an area  
25 in the event of a discharge that poses an imminent threat to public  
26 health, safety, or welfare; and other suggested protocols or practices  
27 for emergency service personnel to consider in the event of a  
28 discharge that poses an imminent threat to public health, safety, or  
29 welfare.

30  
31 8. Following a discharge that requires emergency response  
32 action, the owner or operator of a high hazard train shall:

33 a. Within one hour of a discharge, identify an emergency  
34 response coordinator to advise the emergency services provider of  
35 the local unit. The emergency response coordinator may be made  
36 available by telephone, but is required to have authorization to  
37 deploy all necessary emergency response resources of the owner or  
38 operator of the high hazard train;

39 b. Within three hours of a discharge, deploy the emergency  
40 response coordinator and trained personnel to the discharge site to  
41 assess the discharge and to advise the emergency service provider  
42 of the local unit;

43 c. Within eight hours of a discharge, deliver and deploy  
44 emergency response, recovery, and containment equipment, trained  
45 personnel, and all other materials needed to provide on-site  
46 containment of the discharged petroleum, petroleum products, and  
47 hazardous substances and to protect environmentally sensitive areas  
48 and potable water intakes within one mile of the discharge site and

1 within eight hours of calculated water travel time in any river or  
2 stream that the discharge site intersects; and  
3 d. Within 60 hours of a discharge, deliver and deploy  
4 additional emergency response, recovery, and containment  
5 equipment, trained personnel, and all other materials needed to  
6 provide containment and recovery of the discharged petroleum,  
7 petroleum products, and hazardous substances and to protect  
8 environmentally sensitive areas and potable water intakes at any  
9 location along the travel route of the high hazard train or in any  
10 river or stream that the discharge site intersects.

11  
12 9. The provisions of P.L. , c. (C. ) (pending before the  
13 Legislature as this bill) shall not apply to the owner or operator of a  
14 Class III carrier, as defined by the Surface Transportation Board  
15 pursuant to 49 C.F.R. Part 1201 1-1, that operates within a single  
16 municipality on not more than 25 total track miles and is engaged in  
17 switching or terminal railroad services.

18 Nothing contained herein shall be construed to exempt a major  
19 facility from the provisions of the “Spill Compensation and Control  
20 Act,” P.L.1976, c.141 (C.58:10-23.11 et seq.).

21  
22 10. a. Except as otherwise provided in subsection b. of this  
23 section, the department shall, as soon as practicable, but not later  
24 than six months following a filing of a discharge response, cleanup,  
25 and contingency plan or a renewal of a discharge response, cleanup,  
26 and contingency plan, or, in the case of amendments, within 60 days  
27 of the filing of the amendments, review the filing to determine  
28 compliance with all statutory requirements, including rules and  
29 regulations adopted pursuant thereto.

30 b. The department may, at any time during the discharge  
31 response, cleanup, and contingency plan, discharge response,  
32 cleanup, and contingency plan renewal, or discharge response,  
33 cleanup, and contingency plan amendment review period approve,  
34 conditionally approve, or disapprove a discharge response, cleanup,  
35 and contingency plan, discharge response, cleanup, and contingency  
36 plan renewal, or discharge response, cleanup, and contingency plan  
37 amendments. If a discharge response, cleanup, and contingency  
38 plan, discharge response, cleanup, and contingency plan renewal, or  
39 discharge response, cleanup, and contingency plan amendments are  
40 disapproved, the owner or operator of the high hazard train shall  
41 have 30 days from receipt of written notice of the disapproval, and  
42 the reasons therefor, with which to submit 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. If after 30 days of  
46 receipt of a written request therefor, the owner or operator of the  
47 high hazard train fails to file a revised discharge response, cleanup,  
48 and contingency plan, discharge response, cleanup, and contingency

1 plan renewal, or amendments to the department or fails to contest  
2 the department's request in accordance with the "Administrative  
3 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the discharge  
4 response, cleanup, and contingency plan, discharge response,  
5 cleanup, and contingency plan renewal, or discharge response,  
6 cleanup, and contingency plan amendments shall be deemed to have  
7 been disapproved by the department and the owner or operator of  
8 the high hazard train shall be in violation of section 2 or section 3  
9 of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill), as applicable. The department may, for good cause, extend by  
11 up to an additional 30 days the time period for filing a revised  
12 discharge response, cleanup, and contingency plan, discharge  
13 response, cleanup, and contingency plan renewal, or discharge  
14 response, cleanup, and contingency plan amendments.

15

16 11. a. Whenever, on the basis of available information, the  
17 Commissioner of Environmental Protection finds that the owner or  
18 operator of a high hazard train is in violation of the provisions of  
19 P.L. , c. (C. ) (pending before the Legislature as this bill),  
20 or any rule or regulation adopted pursuant thereto, the  
21 commissioner may:

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

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

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

28 b. The commissioner is authorized to assess a civil  
29 administrative penalty of not more than \$25,000 for each violation  
30 of the provisions of P.L. , c. (C. ) (pending before the  
31 Legislature as this bill), or any rule or regulation adopted pursuant  
32 thereto, and each day during which each violation continues shall  
33 constitute an additional, separate, and distinct offense. Any amount  
34 assessed under this section shall fall within a range established by  
35 regulation by the commissioner for violations of similar type,  
36 seriousness, duration, and conduct; provided, however, that prior to  
37 the adoption of the rule or regulation, the commissioner may, on a  
38 case-by-case basis, assess civil administrative penalties up to a  
39 maximum of \$25,000 per day for each violation, utilizing the  
40 criteria set forth herein. In addition to any civil administrative  
41 penalty assessed under this subsection and notwithstanding the  
42 \$25,000 maximum penalty set forth above, the commissioner may  
43 assess any economic benefits from the violation gained by the  
44 violator. Prior to assessment of a penalty under this subsection, the  
45 owner or operator of the high hazard train committing the violation  
46 shall be notified by certified mail or personal service that the  
47 penalty is being assessed. The notice shall: include a reference to  
48 the section of the statute or regulation violated; recite the alleged to

1 constitute a violation; state the basis for the amount of the civil  
2 penalties to be assessed; and affirm the rights of the alleged violator  
3 to a hearing. The ordered party shall have 35 calendar days from  
4 receipt of the notice within which to deliver to the commissioner a  
5 written request for a hearing. After the hearing and upon finding  
6 that a violation has occurred, the commissioner may issue a final  
7 order after assessing the amount of the fine specified in the notice.  
8 If a hearing is not requested, the notice shall become a final order  
9 after the expiration of the 35 calendar day period. Payment of the  
10 assessment is due when a final order is issued or the notice becomes  
11 a final order. The authority to levy an administrative order is in  
12 addition to all other enforcement provisions in P.L. ,  
13 c. (C. ) (pending before the Legislature as this bill), or of any  
14 rule or regulation adopted pursuant thereto, and the payment of any  
15 assessment shall not be deemed to affect the availability of any  
16 other enforcement provisions in connection with the violation for  
17 which the assessment is levied. The department may compromise  
18 any civil administrative penalty assessed under this subsection in an  
19 amount and with conditions the department determines appropriate.  
20 A civil administrative penalty assessed, including a portion thereof  
21 required to be paid pursuant to a payment schedule approved by the  
22 department, which is not paid within 90 days of the date that  
23 payment of the penalty is due, shall be subject to an interest charge  
24 on the amount of the penalty, or portion thereof, which shall accrue  
25 as of the date payment is due. If the penalty is contested, an  
26 additional interest charge shall not accrue on the amount of the  
27 penalty until 90 days after the date on which a final order is issued.  
28 Interest charges assessed and collectible pursuant to this subsection  
29 shall be based on the rate of interest on judgments provided in the  
30 New Jersey Rules of Court.

31 c. Any owner or operator of a high hazard train who violates  
32 the provisions of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill), or any rule or regulation adopted pursuant  
34 thereto, or who fails to pay in full a civil administrative penalty  
35 levied pursuant to subsection b. of this section, or who fails to make  
36 a payment pursuant to a penalty payment schedule entered into with  
37 the department, or who knowingly makes any false or misleading  
38 statement, representation, or certification on any application,  
39 record, report, or other document required to be submitted to the  
40 department, shall be subject, upon order of a court, to a civil penalty  
41 not to exceed \$25,000 for each day during which the violation  
42 continues. Any civil penalty imposed pursuant to this subsection  
43 may be collected, and any costs incurred in connection therewith  
44 may be recovered, in a summary proceeding pursuant to the  
45 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
46 et seq.). In addition to any penalties, costs or interest charges, the  
47 court may assess against the violator the amount of economic  
48 benefit accruing to the violator from the violation. The Superior

1 Court shall have jurisdiction to enforce the "Penalty Enforcement  
2 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

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

7  
8 12. Whenever information is received by the New Jersey Office  
9 of Emergency Management pursuant to United States Department  
10 of Transportation Emergency Order Docket No. DOT-OST-2014-  
11 0067, or any law, rule, regulation, or order that shall supersede that  
12 order, or pursuant to section 5 of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill), the New Jersey Office of  
14 Emergency Management shall provide that information to each  
15 county office of emergency management and emergency services  
16 provider having jurisdiction along the travel route of a high hazard  
17 train.

18  
19 13. In accordance with the federal regulations promulgated  
20 pursuant to section 11405 of the federal "Fixing America's Surface  
21 Transportation Act," Pub.L.114-94, the Commissioner of  
22 Environmental Protection shall, at least annually and whenever the  
23 Commissioner of Environmental Protection shall deem necessary,  
24 request from the United States Secretary of Transportation a copy  
25 of the most recent bridge inspection report generated pursuant to the  
26 federal "Rail Safety Improvement Act of 2008," Pub.L.110-432, for  
27 every bridge owned by a railroad or upon which a railroad is  
28 located.

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

34  
35 14. The department shall adopt rules and regulations pursuant to  
36 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
37 et seq.) to effectuate the purposes of this act.

38  
39 15. This act shall take effect immediately.

40  
41  
42 STATEMENT

43  
44 This bill requires the owner or operator of a high hazard train  
45 traveling within this State to submit to the Department of  
46 Environmental Protection (department) within six months of the  
47 effective date of the bill a discharge response, cleanup, and  
48 contingency plan (plan) that contains certain information.

1       The bill requires the plan to be renewed every five years with the  
2 department unless the department requires a more frequent  
3 submission and any amendments to the plan are to be filed with the  
4 department within 30 days of the date of any modification of the  
5 high hazard train, rail yards, fueling stations, or the high hazard  
6 train's route of travel. The owner or operator of a high hazard train  
7 is required to retain on file with the department evidence of  
8 financial responsibility for the cleanup and removal costs of a  
9 discharge or release of a hazardous substance, and for the removal  
10 of any damaged or disabled high hazard train equipment or parts. A  
11 copy of the plan, plan renewal, and all plan amendments are to be  
12 filed by the owner or operator of a high hazard train with the New  
13 Jersey Office of Emergency Management.

14       Under the bill, the owner or operator of a high hazard train is  
15 required to make available to the public on its website, to the extent  
16 the release of the information does not conflict with federal law,  
17 information concerning: the routes and volumes of cargoes updated  
18 on a monthly basis; an analysis of the consequences of maximum  
19 discharges from the high hazard trains owned or operated in the  
20 State; a copy of the most current plan; and a railroad routing  
21 analysis and any accompanying documentation that impacted the  
22 owner or operator's decision in routing the high hazard train  
23 through the State.

24       The bill requires the owner or operator of a high hazard train to  
25 offer training to the emergency services personnel of every local  
26 unit having jurisdiction along the travel route of the high hazard  
27 train. The initial training is to be offered within one year of the  
28 effective date of this bill and renewal training is to be offered at  
29 least once every three years thereafter.

30       The bill requires that the owner or operator of a high hazard  
31 train, which has experienced a discharge that requires emergency  
32 response action, to deliver and deploy sufficient emergency  
33 response, recovery, and containment equipment and trained  
34 personnel to contain and recover the discharged materials and  
35 protect environmentally sensitive areas and potable water intakes  
36 within certain timeframes.

37       The provisions of the bill are not applicable to the owner or  
38 operator of a Class III carrier, as defined by the federal Surface  
39 Transportation Board, that operates within a single municipality on  
40 not more than 25 total track miles and is engaged in switching or  
41 terminal railroad services. The bill clarifies that it is not to be  
42 construed to exempt major facilities from the provisions of the  
43 "Spill Compensation and Control Act."

44       The bill requires the department to review plans or plan renewals  
45 within six months of filing and plan amendments within 60 days of  
46 filing. If a plan, plan renewal, or plan amendment is disapproved,  
47 the owner or operator of the high hazard train is required to submit  
48 a revised plan, plan renewal, or plan amendment within 30 days

1 from the receipt of written notice of the disapproval. The bill  
2 permits the department to issue civil administrative penalties for  
3 violations under the bill and bring an action for civil penalties.  
4 Under the bill, the owner or operator of a high hazard train that  
5 experiences a discharge is subject to the penalty and injunctive  
6 relief provisions of the “Spill Compensation and Control Act.”

7 The New Jersey Office of Emergency Management is to provide  
8 certain information to certain county offices of emergency  
9 management and emergency services.

10 The bill requires the department to, annually or whenever  
11 deemed necessary, request from the U.S. Department of  
12 Transportation a copy of the most recent bridge inspection report  
13 generated pursuant to the federal “ Rail Safety Improvement Act of  
14 2008” for every bridge owned by a railroad or upon which a  
15 railroad is located. The department is to submit any bridge  
16 inspection report acquired from the U.S. Department of  
17 Transportation to the Governor and the Legislature.