ENVIRONMENTAL PROTECTION

CONTAMINATED SITE REMEDIATION AND REDEVELOPMENT

Notice of Readoption

Processing of Damage Claims Pursuant to the Spill Compensation and Control Act

Readoption: N.J.A.C. 7:1J

Authority: N.J.S.A. 58:10-23.11 et seq. and 13:1D-9.

Authorized By: Shawn LaTourette, Commissioner, Department of Environmental Protection

Effective Date: October 17, 2022

New Expiration Date: October 17, 2029

Take notice that pursuant to N.J.S.A. 52:14B-5.1, Processing of Damage Claims Pursuant to the Spill Compensation and Control Act, N.J.A.C. 7:1J, is readopted and shall continue in effect for a seven-year period. The rules had been scheduled to expire on December 30, 2022. The Department of Environmental Protection has reviewed these rules and has determined that the rules should be readopted because they are necessary, reasonable and proper for the purpose for which they were originally promulgated. In accordance with N.J.S.A. 52:14B-5.1.c(1), timely filing of this notice extended the expiration date of the chapter seven years from the date of filing.

The Legislature established the New Jersey Spill Compensation Fund (the Spill Fund) when it enacted the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq. (the Spill Act), in 1976. The Spill Act prohibits the discharge of petroleum and other hazardous substances, provides for the cleanup and removal of any such discharge, and establishes the Spill Fund in order to protect the economy and environment of the State of New Jersey. The purpose

of the Spill Fund is to provide swift and adequate compensation for damages to property and persons resulting from the discharge of hazardous substances, including all cleanup and removal costs, and all direct and indirect damages arising in connection with a discharge of a hazardous substance. Spill Fund revenues are generated primarily from a tax on the initial transfer of each barrel of petroleum and other hazardous substances from major facilities. Other revenue sources for the Spill Fund include interest earned on Spill Fund monies, penalties collected for violations of the Spill Act, and cost recovery on cleanup actions. To date, the Spill Fund has provided more than $92 million in compensation to individuals, businesses and governmental entities for damages relating to potable well filter system installation and maintenance, public waterline installation, remediation of contaminated sites, and real and personal property damages caused by discharges of hazardous substances.

N.J.A.C. 7:1J, Processing of Damage Claims Pursuant to the Spill Compensation and Control Act, governs the processing of claims under the Spill Act for damages resulting from discharges of a hazardous substance. The rules specify procedures for the entire claim process, including the original filing of the claim, the initial acceptance or denial of the claim by the Spill Fund Administrator, administrative closure of the claim, settlement negotiations between the claimant and potentially responsible parties, settlement negotiations between the claimant and the Spill Fund, and arbitration of claims. The rules also contain provisions designed to ensure that payments to claimants from the Spill Fund are used to compensate the claimants only for damages that result from discharges of hazardous substances, and not from other causes. Implementation of the rules has eliminated many of the delays inherent in case-by-case decision making on individual claims, and has ensured consistency in the decision-making process of evaluating claims.