

New law provides for the development of an environmental management order in civil actions alleging environmental damage. The order shall provide terms for access to the affected property, investigation and environmental testing, sampling and testing protocols, and time frames for testing and sampling.

New law provides that if any party admits liability for environmental damage in an action for remediation of an oilfield site, the party may elect to limit the admission of liability to responsibility for implementing the most feasible plan to evaluate, and if necessary, to remediate all or a portion of the contamination.

Existing law (R.S. 30:29(H)) provides that an owner of land shall not be precluded from pursuing a judicial remedy or receiving a judicial award for private claims suffered as a result of environmental damage, except as otherwise provided by existing law.

New law provides that if an admission is limited to a party's responsibility for implementing the most feasible plan, the admission shall not be construed as an admission of liability for damages pursuant to existing law nor shall such an admission result in any waiver of any rights or defenses of the admitting party.

New law requires the court to refer the matter to DNR to conduct a public hearing to approve a plan which DNR determines to be the most feasible plan to evaluate or remediate environmental damage.

New law provides that an admission of responsibility, the plan approved by the department, and all written comments provided by the agencies shall be admissible as evidence in any action in accordance with existing law (C.E. Arts. 702 through 705 and C.C.P. Art. 1425).

New law provides that a party making a limited admission may file it into the court record no later than 90 days after the completion of the environmental testing set forth in the environmental management order and that any other party who makes a limited admission shall file it in to the court record within 60 days of the filing of the first limited admission, but no later than 90 days after the completion of the environmental testing set forth in the environmental management order.

New law provides that a party admitting responsibility shall be required to deposit with the department funds to cover the cost of the department's review of the plan, including the cost of holding a public hearing.

Existing law (R.S. 30:29.1(E)(1)) provides for the party submitting evidence to be reimbursed the costs associated with submission of the evidence.

New law provides that a party admitting responsibility shall reimburse the plaintiff the costs which the court deems recoverable under existing law within 30 days of the department's filing of the plan.

Provides that new law shall not establish primary jurisdiction with DNR.

Provides that new law shall not apply to any case in which the court on or before May 15, 2012, has issued or signed an order setting the case for trial, regardless of whether such trial setting is continued.

Effective August 1, 2012.

(Adds C.C.P. Arts. 1552 and 1563)