

Prior law provided that a defendant may request a hearing to determine whether there is good cause for maintaining the defendant as a party in the litigation. Further provided that a party dismissed under prior law will be entitled to a judgment of dismissal with prejudice following a final nonappealable judgment on the claims asserted by the party against whom the preliminary dismissal was granted.

New law retains prior law but further provides that the party against whom the preliminary dismissal was granted will be entitled to recover from the party who asserted the claim an award of reasonable attorney fees and costs, as may be determined by the court.

New law provides that in all cases in which a party makes a limited admission, there will be a rebuttable presumption that the plan approved or structured by the department, after consultation with the DEQ as appropriate, is the most feasible plan to evaluate or remediate to applicable regulatory standards the environmental damage for which responsibility is admitted. For cases tried by a jury, the court must instruct the jury regarding this presumption if so requested by a party.

Prior law did not preclude a judgment ordering damages for or implementation of an additional remediation in excess of the requirements of the plan adopted by the court as may be required in accordance with the terms of an express contractual provision. New law removes prior law.

Prior law provided that any award granted in connection with the judgment for additional remediation is not required to be paid into the registry of the court.

New law provides that only awards for additional remediation in excess of the requirements of the plan adopted by the court are not required to be paid into the registry of the court.

New law provides for the definition of "contamination".

New law provides for remediation damages only for the following items:

- (1) The cost of funding the feasible plan adopted by the court.
- (2) The cost of additional remediation if required by an express contractual provision providing for remediation to original condition or some other specific remediation standard.
- (3) The cost of evaluating, correcting, or repairing any environmental damage caused by unreasonable or excessive operations based on rules, regulations, lease terms and implied lease obligations arising by operation of law, or standards applicable at the time of the activity under questions, provided that such damage is not duplicative of other damages.
- (4) The cost of nonremediation damages.

Provides that new law will not be construed to alter the traditional burden of proof or to imply the existence of extent of damages in any action, nor will it affect an award of reasonable attorney fees or costs.

Prior law provided that when a party files a limited admission for environmental damage, the court will refer the matter to DNR, office of conservation, to conduct a public hearing to approve or structure a plan, which the department determines to be the most feasible plan to evaluate or remediate the environmental damage under the applicable regulatory standards.

New law provides that the plan approved by the department is the most feasible plan to remediate environmental damage under the applicable regulatory standards. Further provides that for cases tried by a jury, the court shall instruct the jury regarding this presumption if requested by a party.

Provides that new law shall not apply to any case in which the court, on or before May 15, 2014, has issued or signed an order setting the case for trial, regardless of whether such trial setting is continued.

Effective August 1, 2014.

(Amends R.S. 30:29(B)(6), (H), and (I) and C.C.P. Art. 1563(A)(2); adds R.S. 30:29(C)(2)(c) and (M))