



Louisiana Legislature Revisits Act 312 and Oilfield Legacy Lawsuits

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Nearing the end of the 2025 Regular Legislative Session, on June 11, 2025, the Louisiana Legislature passed Senate Bill No. 244, which brings significant changes to Louisiana’s oilfield-site-remediation statute, commonly known as “Act 312” (found at La. R.S. 30:29). Act 312 applies to cases where environmental damage is alleged from historical oil-and-gas operations (commonly referred to “legacy” cases) and provides the procedure for the State to evaluate, approve and maintain oversight over oilfield-site evaluation and remediation.

SB 244 was signed by the Governor on June 24, 2025, and became Act 458. Effective to legacy cases filed after September 1, 2027, Act 458 will provide much needed clarity, not only to litigants, but to the state agencies entrusted with oversight over oilfield-site remediation.

Submission of Evaluation or Remediation Plans

In legacy cases, parties that admit responsibility or are otherwise found responsible for environmental damage at trial are required to submit to the Louisiana Department of Energy and Natural Resources for review and approval plans addressing the environmental damage. The plan approved by the Department is the Most Feasible Plan for addressing environmental impacts.

In a nod to recent jurisprudence, Act

“Courts are now mandated to adopt the Department’s plan as the Most Feasible Plan unless a party can prove by clear and convincing evidence that another timely submitted plan is a more feasible plan to adequately protect the environment and the public health, safety and welfare.”

458 amends Act 312 to allow a responsible party to submit a remediation plan or an evaluation plan. This change to Act 312 is in harmony with its stated purpose to “ensure that damage to the environment is evaluated and if necessary remediated to a standard that protects the public interest.” This amendment encourages responsible parties to admit responsibility under Act 312 and provides the Department with the flexibility necessary to appropriately address potential impacts to the environment.

Risk-Based Standards and Departmental Authority

The amendments to Act 312 expressly recognize the Department’s authority to use risk-based standards, such as the Risk Evaluation/Corrective Action Program (RECAP), and other exceptions to Statewide Order 29-B, when approving or structuring the Most Feasible Plan. While the Department shall consult with landowners regarding these exceptions, it is not required to obtain their consent to structure a plan with such exceptions, balancing environmental impacts with scientific and practical considerations.

Adoption of the Most Feasible Plan

Courts are now mandated to adopt the Department’s plan as the Most Feasible Plan unless a party can prove by clear and convincing evidence that another timely submitted plan is a more feasible plan to adequately protect the environment and the public health, safety and welfare. This new provision contrasts with the “preponderance of the evidence” standard, and it aims to streamline the process to adopt a Most Feasible Plan, reducing delays and avoiding unnecessary costs.

Appeals Process

Any appeal of a judgment adopting the Most Feasible Plan must be taken to the Louisiana First Circuit Court of Appeal. This centralized appeals process, located in close proximity to the Department, is designed to ensure statewide consistency and efficiency in handling disputes related to remediation or evaluation plans.

Stay of Trial on the Merits

The amendments to Act 312 would expressly provide for a stay of the trial on the merits, from the filing of a limited admission until the court adopts the Most Feasible Plan. This pause conserves costs and allows the parties to focus on proceedings with the Department to develop and approve a Most Feasible Plan—so the parties, the court and the jury have the benefit of the Most Feasible Plan at trial.

recover reasonable attorney fees and all costs from the plaintiff.

Voluntary Administrative Process

The amendments establish an administrative process for alternative dispute resolution if agreed to by the parties, which offers parties a less adversarial path to resolving disputes. This option encourages collaboration and efficiency in addressing claims for environmental impacts.

“Upon adoption of the Most Feasible Plan by the trial court, parties admitting responsibility or found legally responsible are no longer liable for further attorney fees or costs, including expert witness fees and environmental evaluations.”

Damages

The amendments would adopt jurisprudential guidance by clarifying that a party’s legal responsibility is satisfied by meeting the standards set forth in applicable regulations unless there is an express contractual provision for remediation to original condition or another specific contractual standard.

The amendments also limit a plaintiff’s recovery of non-remediation damages. Economic loss damages may be recovered if proven by a preponderance of the evidence. Other non-remediation damages are capped at 300% of the property’s fair-market value, based on its undamaged surface value.

Attorney Fees & Costs

Upon adoption of the Most Feasible Plan by the trial court, parties admitting responsibility or found legally responsible are no longer liable for further attorney fees or costs, including expert witness fees and environmental evaluations. Further, defendants found not to have caused or been legally responsible for environmental damage are now entitled to

