

13:1K-6 to 13:1K-13

LEGISLATIVE HISTORY CHECKLIST

NJSA: 13:1K-6 to 13:1K-13; 58:10-23.11o

("Environmental Cleanup Responsibility Act" - proper closure of industrial facilities)

LAWS OF: 1983

CHAPTER: 330

Bill No: A1231

Sponsor(s): Lesniak

Date Introduced: May 13, 1982

Committee: Assembly: Agriculture and Environment

Senate: Energy and Environment

Amended during passage: Yes // Assembly Committee Substitute (OCR) enacted. Amendments during passage denoted by asterisks.

Date of Passage: Assembly: June 13, 1983

Senate: June 30, 1983

Date of Approval: Sept. 2, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: ~~Yes~~ ~~No~~

Following were printed:

Reports: /// No

Hearings: Yes //

See clipping file, "N.J.-Hazardous substances - cleanup - 1983" in New Jersey Reference section.

(over)

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P777
1983c

New Jersey. Legislature. Assembly. Committee on Agriculture
and Environment.

Public hearing on hazardous waste cleanup operations: held
3-23-83. Trenton, 1983.

See also 113 NJLJ 165, Schmidt, Joseph, "Environmental
Cleanup Responsibility Act" (2-16-84)

CHAPTER 330 LAWS OF N. J. 1983
APPROVED 9-2-83

[OFFICIAL COPY REPRINT]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1231

STATE OF NEW JERSEY

ADOPTED MAY 26, 1983

AN ACT concerning the proper closure of certain industrial establishments ***[and]***, *providing penalties for improper closure of these establishments, amending P. L. 1976, c. 141,** supplementing Title 13 of the Revised Statutes*, and making an appropriation*.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Environmental Cleanup Responsibility Act."

1 2. The Legislature finds and declares that the generation,
2 handling, storage and disposal of hazardous substances and wastes
3 poses an inherent danger of exposing the citizens, property and
4 natural resources of this State to substantial risk of harm or
5 degradation; that the closing of operations and the transfer of
6 real property utilized for the generation, handling, storage and
7 disposal of hazardous substances and waste should be conducted
8 in a rational and orderly way, so as to mitigate potential risks;
9 and that it is necessary to impose a precondition on any closure or
10 transfer of these operations by requiring the adequate preparation
11 and implementation of acceptable cleanup procedures therefor.

1 3. As used in this act:

2 a. "Cleanup plan" means a plan for the cleanup of industrial
3 establishments, approved by the department, which may include a
4 description of the location, types and quantities of hazardous sub-
5 stances and wastes that will remain on the premises; a description
6 of the types and location of storage vessels, surface impoundments,
7 or secured landfills containing hazardous substances and wastes;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted June 23, 1983.

8 recommendations regarding the most practicable method of clean-
9 up; and a cost estimate of the cleanup plan.

10 The department, upon a finding that the evaluation of a site for
11 cleanup purposes necessitates additional information, may require
12 graphic and narrative descriptions of geographic and hydrogeo-
13 logic characteristics of the industrial establishment and evaluation
14 of all residual soil, groundwater, and surface water contamination.

15 b. "Closing, terminating or transferring operations" means the
16 cessation of all operations which involve the generation, manu-
17 facture, refining, transportation, treatment, storage, handling or
18 disposal of hazardous substances and wastes, or any temporary
19 cessation for a period of not less than two years, or any other trans-
20 action or proceeding through which an industrial establishment be-
21 comes nonoperational for health or safety reasons or undergoes
22 change in ownership, except for corporate reorganization not sub-
23 stantially affecting the ownership of the industrial establishment,
24 including but not limited to sale of stock in the form of a statutory
25 merger or consolidation, sale of the controlling share of the assets,
26 the conveyance of the real property, dissolution of corporate iden-
27 tity, financial reorganization and initiation of bankruptcy proceed-
28 ings;

29 c. "Department" means the Department of Environmental
30 Protection;

31 d. "Hazardous substances" means those elements and com-
32 pounds, including petroleum products, which are defined as such
33 by the department, after public hearing, and which shall be con-
34 sistent to the maximum extent possible with, and which shall
35 include, the list of hazardous substances adopted by the Environ-
36 mental Protection Agency pursuant to Section 311 of the "Federal
37 Water Pollution Control Act Amendments of 1972" (33 U. S. C.
38 § 1321) and the list of toxic pollutants designated by Congress or
39 the Environmental Protection Agency pursuant to Section 307 of
40 that act (33 U. S. C. § 1317); except that sewage and sewage sludge
41 shall not be considered as hazardous substances for the purposes
42 of this act;

43 e. "Hazardous waste" means any amount of any waste sub-
44 stances required to be reported to the Department of Environ-
45 mental Protection on the special waste manifest pursuant to
46 N. J. A. C. 7:26-7.4, or as otherwise provided by law.

47 f. "Industrial establishment" means any place of business en-
48 gaged in operations which involve the generation, manufacture,
49 refining, transportation, treatment, storage, handling, or disposal
50 of hazardous substances or wastes on-site, above or below ground,

51 having a Standard Industrial Classification number within 22-39
52 inclusive, 46-49 inclusive, 51 or 76 as designated in the Standard
53 Industrial Classifications manual prepared by the Office of Manage-
54 ment and Budget in the Executive Office of the President of the
55 United States. Those facilities or parts of facilities subject to
56 operational closure and post-closure maintenance requirements
57 pursuant to the "Solid Waste Management Act," P. L. 1970, c. 39
58 (C. 13:1E-1 et seq.), the "Major Hazardous Waste Facilities Siting
59 Act," P. L. 1981, c. 279 (C. 13:1E-49 et seq.) or the "Solid Waste
60 Disposal Act" (42 U. S. C. § 6901 et seq.), or any establishment
61 engaged in the production or distribution of agricultural com-
62 modities, shall not be considered industrial establishments for the
63 purposes of this act. The department may, pursuant to the "Ad-
64 ministrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1
65 et seq.), exempt certain sub-groups **or classes of operations within*
66 *those sub-groups** within the Standard Industrial Classification
67 major group numbers listed in this subsection upon a finding that
68 the operation of the industrial establishment does not pose a risk
68A to public health and safety.

69 g. "Negative declaration" means a written declaration, sub-
70 mitted by an industrial establishment and approved by the depart-
71 ment, that there has been no discharge of hazardous substances or
72 wastes on the site, or that any such discharge has been cleaned up
73 in accordance with procedures approved by the department, and
74 there remain no hazardous substances or wastes at the site of the
75 industrial establishment.

1 4. a. The owner or operator of an industrial establishment plan-
2 ning to close operations shall:

3 (1) Notify the department in writing, no more than five days
4 subsequent to public release, of its decision to close operations;

5 (2) Upon closing operations, or 60 days subsequent to public
6 release of its decision to close or transfer operations, whichever
7 is later, the owner or operator shall submit a negative declaration
8 or a copy of a cleanup plan to the department for approval and
9 a surety bond or other financial security for approval by the de-
10 partment guaranteeing performance of the cleanup in an amount
11 equal to the cost estimate for the cleanup plan.

12 b. The owner or operator of an industrial establishment plan-
13 ning to sell or transfer operations shall:

14 (1) Notify the department in writing within five days of the
15 execution of an agreement of sale or any option to purchase;

16 (2) Submit within ***[30]*** **60** days prior to transfer of title a
17 negative declaration to the department for approval, or within

18 ***[30]*** *60* days prior to transfer of title, attach a copy of any
19 cleanup plan to the contract or agreement of sale or any option to
20 purchase which may be entered into with respect to the transfer
21 of operations. In the event that any sale or transfer agreements or
22 options have been executed prior to the submission of the plan to
23 the department, the cleanup plan shall be transmitted, by certified
24 mail, prior to the transfer of operations, to all parties to any trans-
25 action concerning the transfer of operations, including purchasers,
26 bankruptcy trustees, mortgagees, sureties, and financiers;

27 (3) Obtain, upon approval of the cleanup plan by the depart-
28 ment, a surety bond or other financial security approved by the
29 department guaranteeing performance of the cleanup plan in an
30 amount equal to the cost estimate for the cleanup plan.

31 c. The cleanup plan and detoxification of the site shall be im-
32 plemented by the owner or operator, provided that the purchaser,
33 transferee, mortgagee or other party to the transfer may assume
34 that responsibility pursuant to the provisions of this act.

1 5. a. The department shall, pursuant to the "Administrative
2 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt
3 rules and regulations establishing: minimum standards for soil,
4 groundwater and surface water quality necessary for the detoxi-
5 fication of the site of an industrial establishment, including build-
6 ings and equipment, to ensure that the potential for harm to public
7 health and safety is minimized to the maximum extent practicable,
8 taking into consideration the location of the site and surrounding
9 ambient conditions; criteria necessary for the evaluation and ap-
10 proval of cleanup plans; a fee schedule, as necessary, reflecting
11 the actual costs associated with the review of negative declarations
12 and cleanup plans; and any other provisions or procedures neces-
13 sary to implement this act. **Until the minimum standards described*
13A *herein are adopted, the department shall review, approve or dis-*
13B *approve negative declarations and cleanup plans on a case by case*
13C *basis.**

14 b. The department shall, within 45 days of submission, approve
15 the negative declaration, or inform the industrial establishment
16 that a cleanup plan shall be submitted.

17 c. The department shall, in accordance with the schedule con-
18 tained in an approved cleanup plan, inspect the premises to deter-
19 mine conformance with the minimum standards for soil, ground-
20 water and surface water quality and shall certify that the cleanup
21 plan has been executed and that the site has been detoxified.

1 6. a. The provisions of any law, rule or regulation to the con-
2 trary notwithstanding, the transferring of an industrial establish-

3 ment is contingent on the implementation of the provisions of this
4 act.

5 b. If the premises of the industrial establishment would be sub-
6 ject to substantially the same use by the purchaser, transferee,
7 mortgagee or other party to the transfer, and upon written certi-
8 fication thereto and approval by the department thereof, the im-
9 plementation of a cleanup plan and the detoxification of the site
10 may be deferred until the use changes or until the purchaser,
11 transferee, mortgagee or other party to the transfer closes, termi-
12 nates or transfers operations.

13 (1) Within 60 days of receiving notice of the sale or realty
14 transfer and the certification that the industrial establishment
15 would be subject to substantially the same use, the department
16 shall approve, conditionally approve, or deny the certification;

17 (2) Upon approval of the certification, the implementation of a
18 cleanup plan and detoxification of the site shall be deferred.

19 (3) Upon denial of the certification, the cleanup plan and de-
20 toxification of the site shall be implemented pursuant to the pro-
21 visions of this act.

22 c. The authority to defer implementation of the cleanup plan
23 set forth in subsection b. of this section shall not be construed to
24 limit, restrict, or prohibit the department from directing site
25 cleanup under any other statute, rule, or regulation, but shall be
26 solely applicable to the obligations of the owner or operator of an
27 industrial establishment, pursuant to the provisions of this act,
28 nor shall any other provisions of this act be construed to limit,
29 restrict, or prohibit the department from directing site cleanup
30 under any other statute, rule, or regulation.

1 7. No obligations imposed by this act shall constitute a lien or
2 claim which may be limited or discharged in a bankruptcy pro-
3 ceeding. All obligations imposed by this act shall constitute con-
4 tinuing regulatory obligations imposed by the State.

1 8. a. Failure of the transferor to comply with any of the pro-
2 visions of this act is grounds for voiding the sale or transfer of
3 an industrial establishment or any real property utilized in con-
4 nection therewith by the transferee entitles the transferee to re-
5 cover damages from the transferor, and renders the owner or oper-
6 ator of the industrial establishment strictly liable, without regard
7 to fault, for all cleanup and removal costs and for all direct and
8 indirect damages resulting from the failure to implement the
9 cleanup plan.

10 b. Failure to submit a negative declaration, or cleanup plan
11 pursuant to the provisions of section 4 of this act is grounds for

12 voiding the sale by the department.

13 c. Any person who knowingly gives or causes to be given any
 14 false information or who fails to comply with the provisions of this
 15 act is liable for a penalty of not more than \$25,000.00 for each
 16 offense. If the violation is of a continuing nature, each day during
 17 which it continues shall constitute an additional and separate
 18 offense. Penalties shall be collected in a civil action by a summary
 19 proceeding under "the penalty enforcement law" (N. J. S. 2A:58-1
 20 et seq.). Any officer or management official of an industrial estab-
 21 lishment who knowingly directs or authorizes the violation of any
 22 provisions of this act shall be personally liable for the penalties
 23 established in this subsection.

1 *9. Section 16 of P. L. 1976, c. 141 (C. 58:10-23.11o) is amended
 2 to read as follows:

3 16. Moneys in the New Jersey Spill Compensation Fund shall be
 4 disbursed by the administrator for the following purposes and no
 5 others:

6 (1) Costs incurred under section 7 of this act;

7 (2) Damages as defined in section 8 of this act;

8 (3) Such sums as may be necessary for research on the preven-
 9 tion and the effects of spills of hazardous substances on the marine
 10 environment and on the development of improved cleanup and
 11 removal operations as may be appropriated by the Legislature;
 12 provided, however, that such sums shall not exceed the amount of
 13 interest which is credited to the fund;

14 (4) Such sums as may be necessary for the boards, general ad-
 15 ministration of the fund, equipment and personnel costs of the
 16 department and any other State agency related to the enforcement
 17 of this act as may be appropriated by the Legislature;

18 (5) Such sums as may be appropriated by the Legislature for
 19 research and demonstration programs concerning the causes and
 20 abatement of ocean pollution; provided, however, that such sums
 21 shall not exceed the amount of interest which is credited to the fund.

22 (6) *Such sums as may be requested by the commissioner, up to a*
 23 *limit of \$400,000.00 per year, to cover the costs associated with the*
 24 *administration of the "Environmental Cleanup Responsibility Act,"*
 25 *P. L. 198 , c. (C.) (now pending before the*
 26 *Legislature as Assembly Committee Substitute for Assembly Bill*
 27 *No. 1231 of 1982.).*

28 The Treasurer may invest and reinvest any moneys in said fund
 29 in legal obligations of the United States, this State or any of its
 30 political subdivisions. Any income or interest derived from such
 31 investment shall be included in the fund.*

1 *10. *There is appropriated to the Department of Environmental*
2 *Protection from the New Jersey Spill Compensation Fund created*
3 *pursuant to P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) the sum of*
4 *\$400,000.00.**

1 ***[9.]*** *11.* This act shall take effect immediately but shall re-
2 main inoperative for 120 days, but the department may take antici-
3 patory action by developing regulations prior to the effective date
4 of this act.

ASSEMBLY, No. 1231
STATE OF NEW JERSEY

INTRODUCED MAY 13, 1982

By Assemblyman LESNIAK

AN ACT concerning the proper closure of certain industrial establishments and supplementing Title 13 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. This act shall be known and may be cited as the "Environmental Cleanup Responsibility Act."

1-3 2. The Legislature finds and declares that the generation,
4 handling, storage and disposal of hazardous substances and wastes
5 poses an inherent danger of exposing the citizens, property and
6 natural resources of this State to substantial risk of harm or
7 degradation; that the closing of operations and the transfer of
8 real property utilized for the generation, handling, storage and
9 disposal of hazardous substances and waste should be conducted
10 in a rational and orderly way, so as to mitigate potential risks;
11 and that it is necessary to impose a precondition on any closure or
12 transfer of these operations by requiring the adequate preparation
13 and implementation of acceptable cleanup procedures therefor.

1 3. As used in this act:

2 a. "Closing or transferring operations" means the cessation of
3 operations, and any other transaction or proceeding through
4 which an industrial establishment becomes nonoperational or
5 undergoes change in ownership, including but not limited to sale
6 of stock in the form of a statutory merger or consolidation, sale of
7 the controlling share of the assets, the conveyance of the real
8 property, dissolution of corporate identity, financial reorganiza-
9 tion and initiation of bankruptcy proceedings;

10 b. "Department" means the Department of Environmental
11 Protection;

12 c. "Hazardous substances" means those elements and com-
13 pounds, including petroleum products, which are defined as such
14 by the department, after public hearing, and which shall be con-
15 sistent to the maximum extent possible with, and which shall
16 include, the list of hazardous substances adopted by the Environ-
17 mental Protection Agency pursuant to Section 311 of the "Federal
18 Water Pollution Control Act" (33 U.S.C. § 1321) and the list of
19 toxic pollutants designated by Congress or the Environmental
20 Protection Agency pursuant to Section 307 of that act (33 U.S.C.
21 § 1317); except that sewage and sewage sludge shall not be con-
22 sidered as hazardous substances for the purposes of this act;

23 d. "Hazardous waste" means any amount of any waste sub-
24 stances required to be reported to the Department of Environ-
25 mental Protection on the special waste manifest pursuant to
26 N.J.A.C. 7:26-7.4, or as otherwise provided by law.

27 e. "Industrial establishment" means any place of business en-
28 gaged in operations which involve the generation, manufacture,
29 refining, transportation, treatment, storage, handling, or disposal
30 of hazardous substances or wastes on-site, above or below ground.
31 Industrial establishments include, but are not limited to, places of
32 business having Standard Industrial Classification numbers 22-39
33 inclusive, 46-49 inclusive, 51 and 76 as designated in the Standard
34 Industrial Classifications manual prepared by the Office of Man-
35 agement and Budget in the Executive Office of the President of
36 the United States. Those facilities or parts of facilities subject to
37 operational, closure and post-closure maintenance requirements
38 pursuant to the "Solid Waste Management Act," P. L. 1970, c. 39
39 (C. 13:1E-1 et seq.) or the "Major Hazardous Waste Facilities
40 Siting Act," P. L. 1981, c. 279 (C. 13:1E-49 et seq.) shall not be
41 considered industrial establishments for the purpose of this act.

1 4. The owner of an industrial establishment planning to close
2 or transfer operations shall:

3 a. Notify the department in writing no less than 180 days prior
4 to closure or transfer of operations;

5 b. Submit a cleanup plan, no later than 90 days prior to closing
6 or transferring operations, detailing the extent of residual soil or
7 groundwater contamination on the premises, describing cleanup
8 procedures and methods to be employed, and including a cost
9 estimate for implementing that plan;

10 c. Attach a copy of the cleanup plan to the contract or agreement
11 of sale or any options to purchase which may be entered into with

12 respect to the closure or transfer operations. In the event that any
13 sale or transfer agreements or options have been executed prior
14 to the submission of the plan to the department, the cleanup plan
15 shall be transmitted, by certified mail, prior to transfer or closure
16 of operation, to all parties to any transaction concerning the
17 transfer or closure of operations, including purchasers, mort-
18 gagees, sureties, and financiers;

19 d. Obtain, prior to closure or transfer of operations, a surety
20 bond or other financial security approved by the department guar-
21 anteeing performance of the cleanup plan in an amount equal to
22 the cost estimate for the cleanup plan.

1 5. A cleanup plan shall consist of the following:

2 a. A graphic and narrative description of geographic and hydro-
3 geologic characteristics of the industrial establishment;

4 b. A description of the location, types and quantities of hazard-
5 ous substances and wastes that will remain on the premises;

6 c. A description of the types and location of storage vessels,
7 surface impoundments, or secured landfills containing hazardous
8 substances and wastes;

9 d. An evaluation of all residual soil, groundwater, and surface
10 water contamination; and,

11 e. An evaluation of alternative methods, and their costs, of
12 cleanup for site closure and a recommendation regarding the most
13 practicable method of closure.

1 6. a. The department shall, pursuant to the "Administrative
2 Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.), adopt
3 rules and regulations establishing: minimum standards for soil,
4 groundwater and surface water quality necessary for the detoxi-
5 fication of the site of an industrial establishment; criteria necessary
6 for the evaluation and approval of cleanup plans; a fee schedule,
7 as necessary, reflecting the costs of administering the provisions
8 of this act; and any other provisions or procedures necessary to
9 implement this act.

10 b. The department shall, prior to the closure or transfer of an
11 industrial establishment, inspect the premises to determine con-
12 formance with the minimum standards for soil, groundwater and
13 surface water quality and shall certify that the cleanup plan has
14 been executed and that the site has been detoxified.

1 7. a. The provisions of any law, rule or regulation to the con-
2 trary notwithstanding, the closing or transferring of an industrial
3 establishment shall be contingent on the implementation of the
4 provisions of this act, provided that the cleanup plan, financial
5 security and detoxification requirements of this act may be assumed

6 by the purchaser, transferee, mortgagee or other party to the trans-
7 fer by express written agreement.

8 b. If the premises of the industrial establishment would be util-
9 ized for substantially the same use by the purchaser, transferee,
10 mortgagee or other party to the transfer, the implementation of
11 the cleanup plan and the detoxification of the site may be deferred
12 until the use changes or until the industrial establishment is closed
13 or becomes nonoperational.

1 8. No obligations imposed by this act shall constitute a lien or
2 claim which may be limited or discharged in a bankruptcy pro-
3 ceeding. All obligations imposed by this act shall constitute con-
4 tinuing regulatory obligations imposed by the State.

1 9. a. Failure to comply with any of the provisions of this act
2 shall be grounds for voiding the sale or transfer of an industrial
3 establishment or any real property utilized in connection therewith,
4 shall entitle the transferee to recover damages from the transferor,
5 and shall render the owner or operator of the industrial establish-
6 ment strictly liable, without regard to fault, for all cleanup and
7 removal costs and for all direct and indirect damages resulting
8 from the failure to implement the cleanup plan.

9 b. Any person who fails to comply with the provisions of this
10 act shall be liable for a penalty of not more than \$25,000.00 for
11 each offense. If the violation is of a continuing nature, each day
12 during which it continues shall constitute an additional and sepa-
13 rate offense. Penalties shall be collected in a civil action by a sum-
14 mary proceeding under "the penalty enforcement law" (N. J. S.
15 2A :58-1 et seq.). Any officer or management official of an industrial
16 establishment who knowingly directs or authorizes the violation
17 of any provisions of this act shall be personally liable for the
18 penalties established in this subsection.

1 10. This act shall take effect immediately.

SPONSOR'S STATEMENT

This bill imposes a precondition on the closure, sale or transfer of certain facilities connected with the manufacturing, refining, transporting, treating, storing, handling, or disposing of hazardous substances or wastes. The precondition is the execution of an approved cleanup plan which details the measures necessary to detoxify the site.

The bill further requires hazardous substances or waste operations to obtain a surety bond or other financial security which would guarantee the implementation of the cleanup plan. It also

permits the purchaser or transferee to assume the responsibility of detoxifying the site or to continue the operation in essentially the same manner and defer the implementation of the cleanup plan.

Violation of any of the provisions of the bill would constitute grounds for voiding the sale or transfer of the real property or business and subject the owners of the facility to a penalty of not more than \$25,000.00 for each offense and to strict liability for all cleanup and removal costs.

ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1231

STATE OF NEW JERSEY

DATED: MAY 11, 1983

The Assembly Agriculture and Environment Committee Substitute for Assembly Bill No. 1231 imposes a precondition on the closure, sale or transfer of certain properties associated with the manufacture, refining, transportation, treatment, storage, handling, or disposing of hazardous substances or wastes. The precondition is the execution of an approved cleanup plan which details the measures necessary to detoxify the property, or the approval by the Department of Environmental Protection of a declaration that there has been no discharge of hazardous substances or wastes on the property or that any such discharge has been cleaned up in accordance with procedures approved by the department and there remain no hazardous substances or wastes on the property.

The department is directed to establish minimum standards for soil and water quality which would constitute detoxification, taking into consideration the location of the property and surrounding ambient conditions.

The bill further requires the owners of hazardous substance or waste operations to obtain a surety bond or other financial security which would guarantee the implementation of the cleanup plan. The committee, in releasing this bill, specifically stated that self-bonding measures taken by an industrial establishment to guarantee implementation of the cleanup plan may be fully acceptable as means of establishing the financial security of the cleanup plan.

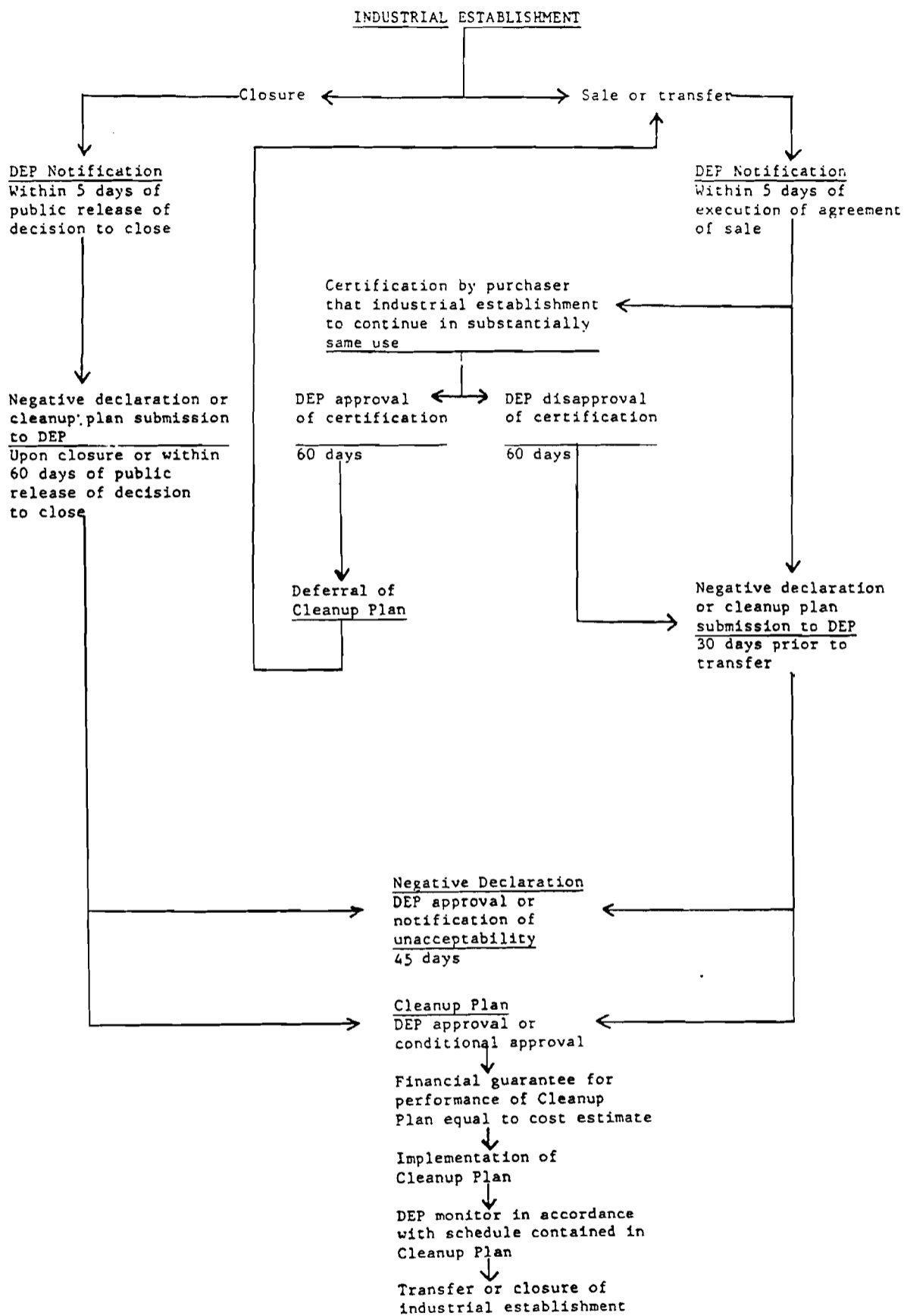
The bill also permits the purchaser or transferee to assume the responsibility to detoxify the property, or to continue the operation in essentially the same manner and defer the implementation of the cleanup plan.

Violation of any of the provisions of the bill would constitute grounds for voiding the sale or transfer of the real property or business by the transferee, and failure to submit a negative declaration or cleanup plan would constitute grounds voiding the sale or transfer by the department.

Finally, any person who knowingly falsifies information required by this bill would subject that person to a penalty of not more than \$25,000.00 for each offense and to strict liability for all cleanup and removal costs.

The following programmatic diagram depicts the procedural requirements of the bill.

PROGRAMMATIC DIAGRAM OF ACS-1231



SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1231

STATE OF NEW JERSEY

DATED: JUNE 23, 1983

The Assembly Agriculture and Environment Committee Substitute for Assembly Bill No. 1231 imposes a precondition on the closure, sale or transfer of certain properties associated with the manufacture, refining, transportation, treatment, storage, handling, or disposing of hazardous substances or wastes. The precondition is the execution of an approved cleanup plan which details the measures necessary to detoxify the property, or the approval by the Department of Environmental Protection of a declaration that there has been no discharge of hazardous substances or wastes on the property or that any such discharge has been cleaned up in accordance with procedures approved by the department and there remain no hazardous substances or wastes on the property.

The department is directed to establish minimum standards for soil and water quality which would constitute detoxification, taking into consideration the location of the property and surrounding ambient conditions.

The bill further requires the owners of hazardous substance or waste operations to obtain a surety bond or other financial security which would guarantee the implementation of the cleanup plan. The committee, in releasing this bill, specifically stated that self-bonding measures taken by an industrial establishment to guarantee implementation of the cleanup plan may be fully acceptable as means of establishing the financial security of the cleanup plan.

The bill also permits the purchaser or transferee to assume the responsibility to detoxify the property, or to continue the operation in essentially the same manner and defer the implementation of the cleanup plan.

Violation of any of the provisions of the bill would constitute grounds for voiding the sale or transfer of the real property or business by the transferee and failure to submit a negative declaration or cleanup plan would constitute grounds voiding the sale or transfer by the department.

Finally, any person who knowingly falsifies information required by this bill would subject that person to a penalty of not more than \$25,000.00 for each offense and to strict liability for all cleanup and removal costs.

The Senate Energy and Environment Committee amended the bill to correct certain technical and procedural deficiencies of the bill; to require the department to review, approve or disapprove negative declarations and cleanup plans on a case by case basis prior to the adoption of minimum standards; to amend the New Jersey "Spill Compensation and Control Fund" created pursuant to P. L. 1976, c. 141 (C. 58:10-23.11 et seq.) to permit the expenditure of up to \$400,000.00 annually to administer the bill; and to appropriate the first installment. The following programmatic diagram depicts the procedural requirements of the bill.

974-601
GKI

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATE

CONTACT: CARL GOLDEN

FRIDAY, SEPTEMBER 2, 1983

Governor Thomas H. Kean today signed the following bills:

A-1231, sponsored by Senator Raymond Lesniak, D-Union, (Lesniak was a member of the General Assembly when he introduced this legislation) which requires the owner or operator of an industrial facility with which hazardous wastes are associated to submit to the Department of Environmental Protection, prior to the sale or transfer of the facility, a written declaration that there has been no discharge of hazardous material, or a cleanup plan which sets out the measures needed to detoxify the site.

The bill also requires posting of a surety bond or other financial instrument by the owner in the amount of the estimated cost of the cleanup. The bill provides for deferment of the cleanup if the purchaser of the property intends to use the facility for the same purposes and agrees to assume responsibility for the cleanup.

A-1312, sponsored by Assemblyman Joseph Charles Jr., D-Hudson, which establishes a program whereby municipalities can enter into lease-purchase arrangements with housing corporations and first-time homebuyers with respect to unneeded municipal property. The bill was the subject of a conditional veto which made technical amendments.

A-978, sponsored by Assemblyman Thomas H. Pankok, D-Salem, which provides that a communication made under the "harassment" statute shall be considered to have taken place either where it was made or where it was received. The bill was conditionally vetoed to correct a technical problem and make its language conform to the rest of the statute.

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