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Title: Dept/ Agency: Offices of Municipal Council/City Clerk
 Action: () Ratifying (X) Authorizing () Amending
 Type of Service: Declaring Intent
 Purpose: Supporting A Bill To Amend The Definition Of Hazardous Substances contained within The Spill Compensation And Control Act, N.J.S.A: 58:10-23.11(B)
 Additional Information:
 Sponsor: Rice

Sponsors:

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Date	Ver.	Action By	Action	Result
1/16/2013	1	Municipal Council	Adopt	Pass

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WHEREAS, the City of Newark is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the City of Newark is a named Third-Party Defendant in the pending environmental litigation captioned NJDEP v. Occidental Chemical, et al., Docket No. ESX-L-9868-05; and

WHEREAS, in the pending litigation the Third-Party Plaintiffs are seeking contribution, among other things, from the City of Newark as a result of various alleged discharges of sewage and/or sewage sludge into the Arthur Kill, the Passaic River Basin, and Newark Bay Complex; and

WHEREAS, the Spill Compensation and Control Act (the "Act"), N.J.S.A. 58:10-23.11(b), currently contains a definition of hazardous substances that reads as follows:

"Hazardous substances" means the "environmental hazardous substances" on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L.1983, c.315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing and which shall be

consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the Federal Environmental Protection Agency pursuant to section 311 [33 U.S.C. 1321] of the Federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977, Pub.L.95-217 (33 U.S.C. § 1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 [33 U.S.C. 1317] of the act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the “Comprehensive Environmental Response, Compensation and Liability Act of 1980,” Pub.L.96-510 (42 U.S.C. § 9601 et seq.); provided, however, that sewage and sewage sludge shall not be considered as hazardous substances for the purposes of P.L.1976, c. 141 (C.58:10-23.11 et seq.); and

WHEREAS, this definition has been held by the New Jersey Courts to only apply to domestic sewage and sewage sludge from a public sewer system or publicly operated sewerage treatment plant; and

WHEREAS, the legislative history for this section of the Act suggests that the Legislature intended for the definition to include all sewage and sewage sludge from a public sewer system of publicly operated sewage treatment plant, whether domestic or commercial; and

WHEREAS, the State Legislature is now proposing an Amendment to the Act that would clarify the definition of hazardous substance to read as follows:

“Hazardous substance” means the “environmental hazardous substance” on the environmental hazardous substance list adopted by the department pursuant to section 4 of P.L. 1983, c315 (C.34:5A-4); such elements and compounds, including petroleum products, which are defined as such by the department, after public hearing, and which shall be consistent to the maximum extent possible with, and which shall include, the list of hazardous substances adopted by the Federal Environmental Protection Agency pursuant to section 311 [33 U.S.C. 1321] of the Federal Water Pollution Control Act Amendments of 1972, Pub.L.92-500, as amended by the Clean Water Act of 1977 Pub.L.95-217 (33 U.S.C. § 1251 et seq.); the list of toxic pollutants designated by Congress or the EPA pursuant to section 307 [33 U.S.C. 1317] of that act; and the list of hazardous substances adopted by the federal Environmental Protection Agency pursuant to section 101 of the “Comprehensive Environmental Response, Compensation and Liability Act of 1980,” Pub.L.96-510 (42 U.S.C. § 9601 et seq.); provided, however, that sewage and sewage sludge, including but not limited to, any domestic, commercial or industrial wastewater, sewage or sewage sludge collected by or expelled from a sanitary sewer system or a public sewage treatment plant shall not be considered as hazardous substances for the purposes of P.L.1976, c. 141 (C.58:10-23.11 et seq.); and

WHEREAS, the City of Newark is in full support of the adoption of the proposal Amendment to the definition of “Hazardous Substances” under the Act;

NOW, THEREFORE, BE IT RESOLVED, BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

The Municipal Council hereby supports the adoption of the amendment of N.J.S.A. 58:10-23.1 (b), which clarifies the definition of “Hazardous Substances” by excluding any domestic, commercial and/or industrial sewage and sewage sludge discharged to or through a public sewage system or to

or through a publicly-operated sewage treatment plant from the definition; and

BE IT FURTHER RESOLVED, that the City of Newark's Clerk be and hereby is authorized to distribute copies of this resolution to all appropriate officials and agencies including its Legislative Representatives, the Governor, and the Lieutenant Governor.

BE IT FURTHER RESOLVED, that no further action of the City of Newark shall be required in connection with this matter and this resolution shall take effect immediately.

Statement

This resolution supports legislation to amend the definition of "Hazardous Substances" contained within the Spill Compensation and Control Act, N.J.S.A.. 58:10-23.11(b).