

ASSEMBLY, No. 2044

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex)

SYNOPSIS

Requires owner or operator of industrial establishment applying for de minimis exemption from “Industrial Site Recovery Act” to certify as to no actual knowledge of contamination exceeding remediation standards.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning site remediation and amending P.L.1993, c.139.

3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

6 1. Section 9 of P.L.1993, c.139 (C.13:1K-9.7) is amended to
7 read as follows:

8 9. The owner or operator of an industrial establishment may,
9 upon submission of a written notice to the department, transfer
10 ownership or operations or close operations without complying with
11 the provisions of section 4 of P.L.1983, c.330 (C.13:1K-9) if :

12 a. the owner or operator certifies to the department that the
13 owner or operator does not have actual knowledge of any
14 contamination at the industrial establishment above remediation
15 standards; and

b. the total quantity of hazardous substances and hazardous wastes generated, manufactured, refined, transported, treated, stored, handled, or disposed of at the industrial establishment at any one time during the owner's or operator's period of ownership or operations:

21 **[(a)]** (1) does not exceed 500 pounds or 55 gallons;

22 **[(b)]** (2) if a hazardous substance or hazardous waste is mixed
23 with nonhazardous substances, the total quantity in the mixture does
24 not exceed 500 pounds or 55 gallons; or

25 **[(c)]** (3) if, in the aggregate, hydraulic or lubricating oil, does
26 not exceed 220 gallons.

27 (cf: P.L.1993, c.139, s.9)

29 2. This act shall take effect immediately.

STATEMENT

34 This bill would provide that the owner or operator of an
35 industrial establishment applying for a de minimis exemption from
36 the “Industrial Site Recovery Act” (ISRA), P.L.1993, c.139
37 (C.13:1K-9.7), would be required to certify to the Department of
38 Environmental Protection that the owner or operator does not have
39 actual knowledge of any contamination at the industrial
40 establishment above remediation standards.

Under current law, the owner or operator of an industrial establishment may apply for an exemption from the investigatory and remedial requirements of ISRA that apply when transferring or closing an industrial establishment, if the owner or operator's use of hazardous substances at the site never exceeded certain de minimis

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 underlined thus is new matter.

1 levels. The department adopted rules at N.J.A.C. 7:26B-5.9
2 requiring that an owner or operator who applies for this de minimis
3 exemption must also provide the department with a certification that
4 the industrial establishment is not contaminated above remediation
5 standards. However, in a decision issued on July 6, 2012, the
6 Appellate Division of the Superior Court held that the requirement
7 for such certification was without sufficient legislative
8 authorization and therefore invalid.

9 This bill would establish the invalidated regulatory requirement
10 as a matter of law by expressly providing that, in order to qualify
11 for the de minimis exemption from ISRA, the owner or operator of
12 an industrial establishment would be required to certify to the
13 department that the owner or operator does not have actual
14 knowledge of any contamination at the industrial establishment
15 above remediation standards.