

ASSEMBLY, No. 2042

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Assemblywoman ELIANA PINTOR MARIN

District 29 (Essex and Hudson)

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.

2

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

5

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

16 b. the total quantity of hazardous substances and hazardous
17 wastes generated, manufactured, refined, transported, treated,
18 stored, handled, or disposed of at the industrial establishment at any
19 one time during the owner's or operator's period of ownership or
20 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)

28

29 2. This act shall take effect immediately.

30

31

32

STATEMENT

33

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.

41 Under current law, the owner or operator of an industrial
42 establishment may apply for an exemption from the investigatory
43 and remedial requirements of ISRA that apply when transferring or
44 closing an industrial establishment, if the owner or operator's use of

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 hazardous substances at the site never exceeded certain de minimis
2 levels. The department adopted rules at N.J.A.C. 7:26B-5.9
3 requiring that an owner or operator who applies for this de minimis
4 exemption must also provide the department with a certification that
5 the industrial establishment is not contaminated above remediation
6 standards. However, in a decision issued on July 6, 2012, the
7 Appellate Division of the Superior Court held that the requirement
8 for such certification was without sufficient legislative
9 authorization and therefore invalid.

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