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N.J.A.C. 7:26B
INDUSTRIAL SITE RECOVERY ACT RULES

Statutory authority
N.J.S.A. 13:1D-1 et seq., 13:1K-6, 58:10B-1 et seq., 58:10-23.11a et seq., and 58:10C-1 et seq.

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SUBCHAPTER 1. GENERAL INFORMATION

7:26B-1.1 Scope and authority

This chapter constitutes the rules governing the implementation of the Industrial Site Recovery Act, P.L. 1993 c.139 (N.J.S.A. 13:1K-6 et seq.).

7:26B-1.2 Construction

This chapter shall be liberally construed to allow the Department to implement fully its statutory functions pursuant to the Act.

7:26B-1.3 Severability

If any subchapter, section, subsection, provision, clause, or portion of this chapter, or the application thereof to any person, is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall be confined in its operations to the subchapter, section, subsection, provision, clause, portion, or application directly involved in the controversy in which such judgment shall have been rendered and it shall not affect or impair the remainder of this chapter or the application thereof.

7:26B-1.4 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

"Act" or "ISRA" means the Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et seq.

"Agricultural commodity" means any plant or part thereof, or animal or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by man or animals.

"Area of concern" means any area defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Authorization letter" means a written statement issued by the Department that authorizes an owner or operator of an industrial establishment to transfer ownership or operations or in the case of a cessation of operations, authorizes the cessation of operations as it relates to the owner and operators obligation to remediate the industrial establishment.

"Authorized agent" means the person authorized to receive correspondence or communications, on behalf of the person responsible for conducting the remediation of the industrial establishment, for matters covered by this chapter.

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"Change in ownership" means:

1. The sale or transfer of the business of an industrial establishment;
2. The sale or transfer of any of the real property on which the industrial establishment operates, including any of the block(s) and lot(s) upon which the operations of the industrial establishment are conducted and any contiguous block(s) and lot(s) controlled by the same owner or operator that are vacant land;
3. The sale or transfer of title to an industrial establishment or the real property of an industrial establishment by exercising an option to purchase;
4. The sale or transfer of a general partnership interest in a general partnership or in a limited partnership or the sale or transfer of a limited partnership interest in a limited partnership where the limited partner is liable for the obligation of the limited partnership pursuant to the limited partnership agreement or by law, which results in any one of the following:
 - i. The change in the general partner, or the limited partner where the limited partner is liable for the obligations of the partnership, holding the controlling interest in the direct owner or operator of the industrial establishment;
 - ii. The reduction, by 10 percent or more of the assets available for remediation of the industrial establishment; or
 - iii. The change in the general partner or the limited partner where the limited partner is liable for the obligations of the partnership, holding the controlling interest in the indirect owner of the industrial establishment where the indirect owner's assets would be available for remediation;
5. The sale or transfer of the sole general partner's entire interest in a limited partnership where the limited partnership is one of the following:
 - i. The limited partnership is the direct owner or operator of the industrial establishment; or
 - ii. The limited partnership has the controlling interest in the indirect owner of the industrial establishment where the indirect owner's assets would be available for remediation;
6. The reorganization of a general or limited partnership into a corporation, limited liability company, limited liability partnership or other similar business entity;
7. The sale or transfer of stock in a corporation or interest in a limited liability company, resulting in a merger or consolidation involving the direct owner or operator or indirect owner of the industrial establishment;

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8. The sale or transfer of stock in a corporation or interest in a limited liability company, resulting in a change in the person holding the controlling interest in the direct owner or operator or indirect owner of the industrial establishment; and

9. The sale or transfer of interests in a limited liability company that owns or operates an industrial establishment, is the direct owner or operator or indirect owner of an industrial establishment, where the indirect owner's assets would be available for remediation.

"Closing operations" means:

1. The cessation of operations which, as measured on a constant, annual date-specific basis, within any five-year period:

i. Results in at least a 90 percent reduction in the total value of the product output from the entire industrial establishment; or

ii. For industrial establishments which product output is undefined:

(1) Results in at least a 90 percent reduction in the number of employees; or

(2) Results in at least a 90 percent reduction in the area of operations of an industrial establishment;

2. Any temporary cessation of operations of an industrial establishment for a period greater than two years;

3. An industrial establishment becomes nonoperational for health or safety reasons as a result of a judicial proceeding or final agency action;

4. The initiation of bankruptcy proceedings pursuant to Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 701 et seq. or the filing of a plan of reorganization that provides for a liquidation pursuant to Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 1101 et seq.;

5. Any change of operations of an industrial establishment that changes the industrial establishment's North American Industry Classification System number to one that is not subject to ISRA;

6. The termination of a lease or sublease, unless there is no disruption in operations of the industrial establishment; and

7. The assignment of a lease or sublease, unless there is no change in the operator of the industrial establishment and there is no disruption in operations of the industrial establishment.

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"Commissioner" means the Commissioner of the Department of Environmental Protection or his or her authorized representative.

"Controlling interest" means the interest held by a person or person(s) who possess(es) the power to direct or cause the direction of the management and policies of a corporation, partnership or other business entity.

"Corporate reorganization not substantially affecting ownership" means the restructuring or reincorporation by the management or owners of an entity, which does not diminish the availability of assets for any remediation, diminish the Department's ability to reach those assets, or otherwise hinder the owner's or operator's ability to remediate the industrial establishment.

"Department" means the New Jersey Department of Environmental Protection.

"Direct owner or operator" means any person that directly owns or operates an industrial establishment. A holder of a mortgage or other security interest in the industrial establishment shall not be deemed to be a direct owner or operator of the industrial establishment unless or until it loses its exemption under N.J.S.A. 58:10-23.11g4 or obtains title to the industrial establishment by deed of foreclosure, by other deed, or by court order or other process.

"Discharge" means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of a hazardous substance or hazardous waste into the waters or onto the lands of the State.

"Engineering control" means any physical mechanism defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Final remediation document" means a document defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-1.3.

"GIN" means General Information Notice described at N.J.A.C. 7:26B-3.2(a).

"Hazardous substance" means any substance defined as such pursuant to the Discharges of Petroleum and Other Hazardous Substances Regulations, N.J.A.C. 7:1E.

"Hazardous waste" means any waste defined as such pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., that is further defined as a hazardous waste pursuant to the Solid Waste rules at N.J.A.C. 7:26-1.6.

"Indirect owner" means any person who holds a controlling interest in a direct owner or operator, holds a controlling interest in another indirect owner, or holds an interest in a partnership which is the indirect owner or a direct owner or operator, of an industrial establishment.

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"Industrial establishment" means any place of business or real property at which such business is conducted, having the North American Industry Classification System (NAICS) codes listed in chapter Appendix C, incorporated herein by reference, dated and published in 2002 by the Executive Office of the President of the United States, Office of Management and Budget, ISBN 0-934213-87-9 NTIS PB2002-502024, subject to the specified exceptions and limitations and engaged in operations on or after December 31, 1983, which involve the generation, manufacture, refining, transportation, treatment, storage, handling, or disposal of hazardous substances and wastes on-site, above or below ground unless otherwise provided at N.J.A.C. 7:26B-2.1. For properties which are owner occupied or are leased to a single tenant, the industrial establishment includes all of the block(s) and lot(s) upon which the business is conducted and those contiguous block(s) and lot(s) controlled by the same owner or operator that are vacant land, or that are used in conjunction with such business. For leased properties with two or more leased spaces, the industrial establishment includes the leasehold and any areas of concern that provide, are associated with, or are utilized for, hazardous substances and wastes to or from the leasehold, regardless of their location.

"Innovative remedial action technology" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Institutional control" means a mechanism defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Licensed site remediation professional" means a person defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-1.3.

"Limited restricted use remedial action" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"No further action letter" means a written determination by the Department that, based upon an evaluation of the historical use of the industrial establishment, or of an area of concern or areas of concern, as applicable, and any other investigation or action the Department deems necessary, there are no discharged hazardous substances or hazardous wastes present at the industrial establishment or area(s) of concern, or any other property to which discharged hazardous substances or hazardous wastes originating at the industrial establishment have migrated, or that any discharged hazardous substances or hazardous wastes present at the industrial establishment or that have migrated from the industrial establishment have been remediated in accordance with applicable remediation regulations. The Department may issue a "no further action letter" if hazardous substances or hazardous wastes remain on the industrial establishment or any other property with appropriate engineering and institutional controls.

"Operator" means any person, including users, tenants, or occupants, having and exercising direct actual control of the operations of an industrial establishment. A holder of a mortgage or other security interest in the industrial establishment is not an operator of the industrial establishment unless or until it loses its exemption under N.J.S.A. 58:10-23.11g4 or obtains title

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to the industrial establishment by deed of foreclosure, by other deed, or by court order or other process.

"Owner" means any person who owns the real property of an industrial establishment or who owns the industrial establishment. A holder of a mortgage or other security interest in the industrial establishment is not an owner of the industrial establishment unless or until it loses its exemption under N.J.S.A. 58:10-23.11g4 or obtains title to the industrial establishment by deed of foreclosure, by other deed, or by court order or other process.

"Person" means any individual or entity, including without limitation, a public or private corporation, company, estate, association, society, firm, partnership, joint stock company, foreign individual or entity, interstate agency or authority, the United States and any of its political subdivisions, the State or New Jersey, or any of the political subdivisions within the State of New Jersey, or any of the other meanings which apply to the common understanding of the term.

"Preliminary assessment" means those actions defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remedial action" means those actions defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remedial action workplan" means a plan defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remedial investigation" means those actions defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remediation" or "remediate" means those actions defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Remediation agreement" means a document the Department issued before November 4, 2009 for the transfer of an industrial establishment prior to the completion of the remediation.

"Remediation certification" means a certification prepared pursuant to N.J.A.C. 7:26B-3.3 which, when submitted to the Department by the owner or operator of an industrial establishment, authorizes the owner or operator to transfer ownership or operations prior to the issuance of a final remediation document or a licensed site remediation professional's certification of a remedial action workplan.

"Remediation standard" means a remediation standard defined as such pursuant to the Remediation Standards, N.J.A.C. 7:26D.

"Response action outcome" means a document defined as such pursuant to the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-1.3.

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"Restricted use remedial action" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"SIC" means Standard Industrial Classification.

"Site investigation" means those actions defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

"Transferring ownership or operations" means:

1. Any transaction or proceeding through which an industrial establishment undergoes a change in ownership;

2. The sale or transfer of more than 50 percent of the assets of an industrial establishment, excluding real property within any five-year period as measured on a constant, annual date-specific basis. The term does not include the sale or transfer of equipment or machinery in order to replace, modify, or retool existing equipment or machinery;

3. The execution of a lease for a period of 99 years or longer for an industrial establishment;

4. The dissolution of an entity that is an owner or operator or indirect owner of an industrial establishment, except for any dissolution of an indirect owner of an industrial establishment whose assets would have been unavailable for the remediation of the industrial establishment if the dissolution had not occurred; or

5. Any transfer of an industrial establishment to a trust, except where grantor and beneficiary are identical or are members of the same family. As used in this paragraph, "family" means any of the relations included at N.J.A.C. 7:26B-2.1(a)5.

"Unrestricted use remedial action" means a remedial action defined as such pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

7:26B-1.5 Forms and submissions

Unless otherwise instructed by the Department, any person may obtain any form or application required by this chapter by downloading it from the Department's website at www.nj.gov/dep/srp/srra/forms or by contacting the Department at the address at N.J.A.C. 7:26C-1.6. Unless otherwise instructed by the Department, the person shall submit all forms, applications and documents required by this chapter to the address indicated on the form. If no address is indicated, then submit the form to the Department pursuant to N.J.A.C. 7:26C-1.6.

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7:26B-1.6 Certifications and signatories

Any person submitting an application, form, workplan, report or other submission to the Department pursuant to ISRA and this chapter shall include a certification that is executed in accordance with the Administrative Requirements for the Remediation of Contaminated Sites rules at N.J.A.C. 7:26C-1.5.

7:26C-1.7 (Reserved)

7:26B-1.8 ISRA authorization

(a) An owner or operator is authorized to transfer ownership or operations of an industrial establishment or in the case of a cessation of operations authorize the cessation as it relates to ISRA compliance, without, or prior to the issuance of, a final remediation document in the following circumstances:

1. The owner's or operator's submission of a remediation certification pursuant to N.J.A.C. 7:26B-3.3(c);
2. The Department's approval of a regulated underground storage tank waiver application pursuant to N.J.A.C. 7:26B-5.3(e);
3. The Department's approval of a remediation in progress waiver application pursuant to N.J.A.C. 7:26B-5.4(d); and
4. The Department's approval of a de minimis quantity exemption pursuant to N.J.A.C. 7:26B-5.9.

(b) The issuance of an authorization letter pursuant to (a) above may not relieve the owner or operator or any person responsible for conducting the remediation of the industrial establishment, of the obligations to remediate the industrial establishment pursuant to ISRA, this chapter and any other applicable law.

7:26C-1.9 (Reserved)

7:26B-1.10 Liability for ISRA compliance

(a) Except as provided in (d) below and notwithstanding (e), (f) and (g) below, both the owner and operator are strictly liable without regard to fault, for compliance with ISRA and this chapter.

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(b) An owner or operator shall not transfer ownership or operations of an industrial establishment until:

1. A licensed site remediation professional has issued a response action outcome for the industrial establishment pursuant to N.J.A.C. 7:26C-6;
2. A licensed site remediation professional has certified a remedial action workplan for the industrial establishment pursuant to N.J.A.C. 7:26B-1.7(b);
3. The owner or operator has executed prior to November 4, 2009 a remediation agreement or remediation agreement amendment, or, on or after November 4, 2009, has submitted a remediation certification pursuant to N.J.A.C. 7:26B-3.3(c); or
4. The Department has issued an authorization letter to the owner or operator pursuant to N.J.A.C. 7:26B- 1.8(a).

(c) An owner or operator that is closing operations shall amend the General Information Notice submitted in accordance with N.J.A.C. 7:26B-3.2(a) for any subsequent transfer of ownership or operations of the industrial establishment that occurs prior to (b)1 or 2 above.

(d) Any person, other than the owner or operator of the industrial establishment, that has obtained title to the industrial establishment by deed of foreclosure, by other deed or transfer, or by court order or other process, shall not be deemed an owner or operator of that industrial establishment where the operator had closed operations prior to the transfer of title and where no new industrial establishment has operated under the person's ownership. Nothing contained herein shall be construed as a waiver or release of liability by the Department of an owner or operator subject to the requirements of this chapter for the industrial establishment.

(e) Where the owner of an industrial establishment is a landlord and the operator of the industrial establishment is a tenant, and there has been a failure to comply with the provisions of this chapter, the landlord or the tenant may petition the Department to seek ISRA compliance from that party who is responsible pursuant to the provisions of the lease, to comply with the requirements of this chapter. The petitioning party shall submit the following to the Department at the address provided at N.J.A.C. 7:26C-1.6:

1. A written request to the Department to seek ISRA compliance first from that party that has agreed to be responsible pursuant to the provisions of a lease. The written request shall be in the form of a Landlord/Tenant Petition as specified in chapter Appendix B, incorporated herein by reference. The petitioning party shall send a copy of the petition to the other party(s) to the lease, by certified mail, return receipt requested, at the time of the mailing of the petition to the Department; and

2. A copy of the signed lease between the landlord and tenant.

(f) Based on the information submitted pursuant to (e)1 and 2 above, the Department may determine that the lease clearly defines the responsibilities of either person to comply with the

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provisions of this chapter. The Department shall seek ISRA compliance from the person deemed responsible pursuant to the lease. The Department's determination shall not be construed as a waiver or release of liability by the Department of any other person who may be subject to the requirements of this chapter for the industrial establishment.

(g) The Department may compel compliance by both parties if the Department determines that the lease does not clearly define the responsibilities of the owner or operator of the industrial establishment, or upon the failure by the person responsible pursuant to the lease to comply with the provisions of this chapter.

7:26B-1.11 Civil penalties

(a) Any person who knowingly gives or causes to be given any false information or who fails to comply with the provisions of the Act or this chapter shall be liable for a civil penalty of not more than \$25,000 for the first offense, and not more than \$50,000 for the second and subsequent offenses. If the violation is of a continuing nature, each day during which it continues shall constitute an additional and separate offense.

(b) The Department may assess a civil administrative penalty, pursuant to the Administrative Requirements for the Remediation of Contaminated Sites, at N.J.A.C. 7:26C-9, against any person who violates the requirements of this chapter.

(c) Any officer or management official of an industrial establishment who knowingly directs or authorizes the violation of any provision of ISRA or this chapter shall be personally liable for any penalties provided by ISRA or this chapter.

(d) In its discretion, the Department may compromise and settle any claim for a penalty pursuant to ISRA or this chapter.

7:26B-1.12 Confidentiality claims

Any person required to submit any information pursuant to this chapter which in the person's opinion constitutes a trade secret, proprietary information, specific information regarding an ISRA-subject transaction other than the fact that the ISRA-subject transaction has occurred and the general nature of such transaction, or information related to national security, may assert a confidentiality claim by following the procedures set forth in N.J.A.C. 7:26C-15.

SUBCHAPTER 2. APPLICABILITY

7:26B-2.1 Operations and transactions not subject to ISRA

(a) The following transactions shall not be considered closing operations or transferring of operations or ownership:

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1. Corporate reorganization not substantially affecting the ownership or control of the industrial establishment;
2. A transaction or series of transactions involving the transfer of stock and/or assets among corporations under common ownership if the transaction or transactions will not result in:
 - i. The diminution of the net worth of the corporation that directly owns or operates the industrial establishment by more than 10 percent; or
 - ii. A greater or equal amount of assets are available for the remediation of the industrial establishment before and after the transaction or transactions;
3. A transaction or series of transactions involving the transfer of stock and/or assets resulting in the merger or de facto merger or consolidation of the indirect owner with another person, when the indirect owner's assets would have been unavailable for remediation if the transaction or transactions had not occurred;
4. A transaction or series of transactions involving the transfer of stock and/or assets resulting in a change in the person holding the controlling interest of an indirect owner of an industrial establishment, when the indirect owner's assets would have been unavailable for remediation if the transaction or transactions had not occurred;
5. A transfer where the transferor is the sibling, spouse, child, parent, grandparent, spouse of child, child of a sibling, or sibling of a parent, of the transferee;
6. A transfer to confirm or correct any deficiencies in the recorded title of an industrial establishment;
7. A transfer to release a contingent or reversionary interest except for any transfer of a lessor's reversionary interest in leased real property;
8. A transfer of an industrial establishment by devise or intestate succession;
9. The granting or termination of an easement or a license to any portion of an industrial establishment;
10. The sale or transfer of real property or closing operations of an industrial establishment pursuant to a condemnation proceeding initiated pursuant to the "Eminent Domain Act of 1971," N.J.S.A. 20:3-1 et seq.;
11. The execution, delivery and filing or recording of any mortgage, security interest, collateral assignment or other lien on real or personal property or refinancing of any debt not including a sale and lease back, by the owner or operator of an industrial establishment;

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12. Any transfer of personal property pursuant to a valid security agreement, collateral assignment or other lien, including, but not limited to, seizure or replevin of such personal property which transfer is for the purpose of implementing the secured party's rights in the personal property which is the collateral;

13. A sale or transfer of assets of an industrial establishment that is in the ordinary course of business;

14. The termination of a lease of an industrial establishment where the lease is renewed by the same tenant without a disruption in operations;

15. The execution of a lease for a period of less than 99 years;

16. The sale of a single or multi-family dwelling used primarily for residential purposes;

17. The transfer to a beneficiary pursuant to the terms of a trust;

18. The change, substitution or replacement of a trustee, administrator, executor, guardian, conservator or fiduciary, where the trust, estate or other similar mechanism is an owner or operator of an industrial establishment;

19. Obtaining construction loans by the owner or operator of an industrial establishment;

20. A change in NAICS number as a result of a change in the NAICS manual without a change in the operations of the industrial establishment;

21. The sale or transfer of stock or assets, or both, in a corporation, if the sale or transfer is part of a reorganization of the corporation into a limited liability company, which shall not result in the diminution of the net worth of the corporation and limited liability company, respectively, that directly owns or operates the industrial establishment, before and after the transaction or transactions and does not result in a change in the person or person holding the controlling interest of the entity; and

22. A transaction or series of transactions involving the transfer of stock or assets of a corporation, or the sale or transfer of interests in a limited liability company, that is a direct owner or operator or indirect owner of an industrial establishment, resulting in a merger or consolidation, where the direct owner or operator or indirect owner of an industrial establishment is the surviving or resulting person.

(b) The following operations are not industrial establishments:

1. Those portions of a solid waste or hazardous waste facility subject to operational closure or post-closure maintenance requirements pursuant to the following:

i. The Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.;

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- ii. The Major Hazardous Waste Facilities Siting Act, N.J.S.A. 13:1E-49 et seq.; or
- iii. The Solid Waste Disposal Act, 42 U.S.C. §§ 6901 et seq.;

2. Any office, located on a separate tax lot and block from the industrial establishment it serves, in which personnel are engaged primarily in general administrative, personnel, supervisory, accounting, purchasing, engineering and systems planning, advertising, legal, financial, sales or other related management functions provided however this "office" exemption shall not apply where separate lots and blocks are or have been established after December 31, 1983, at the site of an existing industrial establishment; and

3. Undeveloped or vacant land provided that:

- i. No industrial establishment has operated on such vacant land since December 31, 1983; and
- ii. The contiguous land is not an industrial establishment under the same control or ownership as the vacant land in question.

7:26B-2.2 (Reserved)

7:26B-2.3 (Reserved)

7:26B-2.4 Revisions to North American Industry Classification System Codes for purposes of definition of "industrial establishment"

In the event that the Executive Office of the President, Office of Management and Budget, publishes new or revised North American Industry Classification System (NAICS) codes modifying the 2002 list of NAICS codes on which the definition of "industrial establishment" at N.J.A.C. 7:26B-1.4 is based, the Department shall modify the NAICS codes in Appendix C, as necessary, to ensure that, as required by N.J.S.A. 13:1D-139, the generally equivalent universe of facilities subject to ISRA continues to be regulated under this chapter. Specifically, the Department shall provide limitations and/or exceptions to the NAICS codes set forth in Appendix C as required to maintain the currently regulated universe as of August 15, 2003. The Department shall publish in the New Jersey Register a notice of the new or revised NAICS code(s) and the corresponding administrative change(s) to Appendix C.

SUBCHAPTER 3. NOTIFICATION AND REMEDIATION REQUIREMENTS

7:26B-3.1 (Reserved)

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7:26B-3.2 Notification requirements

(a) An owner or operator planning to close operations or transfer ownership or operations of an industrial establishment shall submit a completed General Information Notice, in accordance with (b) below, within five calendar days after the occurrence of any of the events listed below:

1. The close of operations of an industrial establishment or the owner's or operator's public release of its decision to close operations, whichever occurs first;

2. The execution of an agreement by the owner or operator to transfer ownership or operations of the industrial establishment;

3. The signing of an agreement of sale, or the execution of a lease for a period of 99 years or longer, for the industrial establishment or the real property of the industrial establishment;

4. The effective time of corporate dissolution as specified at N.J.S.A. 14A:12-8, or upon the filing of a certificate of dissolution in the office of the Secretary of State, whichever occurs first;

5. The change in operations sufficient to change the primary NAICS number of an industrial establishment from a primary NAICS number that is subject to ISRA or this chapter to one that is not subject to ISRA or this chapter;

6. The exercise of an option to purchase an industrial establishment or the real property of an industrial establishment;

7. The acceptance of payment for the majority of stock in a corporation involving the direct owner or operator or indirect owner of the industrial establishment pursuant to a tender offer;

8. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, stock in a corporation or interest in a limited liability company, resulting in a merger or consolidation involving the direct owner or operator or indirect owner of the industrial establishment;

9. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, of more than 50 percent of the assets of an industrial establishment within any five-year period as measured on a constant, annual date-specific basis;

10. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, stock in a corporation, of a partnership interest or interest in a limited liability company, resulting in a change in the person holding the controlling interest in the direct owner or operator or indirect owner of the industrial establishment;

11. The sale, transfer or execution of an agreement to sell or transfer, whichever occurs first, a partnership interest in a partnership that owns or operates an industrial establishment

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that would reduce, by ten percent or more, the assets available for remediation of the industrial establishment;

12. The transfer or execution of a trust to transfer an industrial establishment to a trust, whichever occurs first, except where grantor and beneficiary are identical or are members of the same family. Family includes the spouse, children, parents, siblings, grandparents, siblings of a parent, children of a sibling, or spouse of child of the grantor;

13. Receipt by the owner or operator of notice that the industrial establishment has become non-operational for health or safety reasons or by judicial proceeding or final agency action;

14. The appointment by a court of a receiver or liquidating trustee or execution of a deed of assignment for the benefit of creditors, in connection with dissolution (unless the event at (a)4 above has already occurred), liquidation or insolvency proceedings under statutory or common law as to the direct owner or operator or indirect owner of an industrial establishment; and

15. The following events in any bankruptcy proceeding:

i. The entry of an Order for Relief in bankruptcy pursuant to Chapter 7 of the United States Bankruptcy Code (11 U.S.C. §§ 701 et seq.);

ii. The filing of a plan of liquidation pursuant to Chapter 11 of the United States Bankruptcy Code (11 U.S.C. §§ 1101 et seq.); or

iii. Events covered by (a)1 through 15 above.

(b) An owner or operator who is required to complete and submit a General Information Notice pursuant to (a) above shall use the form available on the Department's website at www.nj.gov/dep/srp/srra/forms, which is certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided on the form, which includes the following:

1. Site identification information, including site identification number if known;
2. Current property owner identification and contact information;
3. Current business operator and/or business owner identification and contact information;
4. Identification and description of the transaction triggering ISRA;
5. Applicable NAICS number(s) for the industrial establishment;
6. The date of public release of the closure decision and a copy of the appropriate public announcement, if any;

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7. The date of execution of the agreement of transfer, sale or option to purchase and the name and address of the other parties to the transfer or sale, as applicable;

8. The proposed date for closing or transferring operations;

9. The name, address and telephone number of the authorized agent and the principal whom the authorized agent represents. The owner or operator shall notify the Department in writing, at the address provided at N.J.A.C. 7:26B-1.5, of any change of identity, address, or telephone number of the authorized agent. Where the Department is required by this chapter to notify or otherwise communicate with the person conducting the remediation of the site, written notice to or communication with the authorized agent by the Department shall be sufficient;

10. The applicable fees required pursuant to N.J.A.C. 7:26C-4;

11. Written authorization to allow access; and

12. Any additional information required by the Department from a specific owner or operator.

(c) An owner or operator may withdraw the notice required pursuant to (a) above if the owner or operator determines that none of the transactional events listed in (a) above will occur; provided, however, that any such owner or operator may have statutory liability for conducting the remediation pursuant to other statutes, including, without limitation, the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq.. The withdrawal of the notice does not alter or affect any statutory liability of the owner or operator for conducting the remediation.

(d) An owner or operator submitting a general information notice shall notify the Department, in writing, of any changes, amendments or other necessary modifications to the information contained in the general information notice, within 30 calendar days of the person's discovery that the information provided to the Department in the person's original General Information Notice is incorrect, inaccurate or incomplete.

(e) An owner or operator that is closing operations shall amend the General Information Notice submitted in accordance with (b) above for any subsequent event listed in (a) above that occurs prior to the issuance of a final remediation document, or a licensed site remediation professional's certification of a remedial action workplan for the industrial establishment.

7:26B-3.3 Remediation requirements

(a) An owner or operator shall remediate the industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, when any of the events listed in N.J.A.C. 7:26B-3.2(a) occur.

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(b) An owner or operator or other person who entered into a remediation agreement or a remediation agreement amendment with the Department prior to November 4, 2009, or an owner or operator who submitted a remediation certification to the Department on or after November 4, 2009, shall remediate the industrial establishment in accordance with that agreement or certification, this chapter, and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C.

(c) An owner or operator of an industrial establishment who wishes to transfer ownership or operations of the industrial establishment prior to completion of all applicable requirements of ISRA and this chapter shall submit to the Department a completed Remediation Certification form, available at the Department's website at www.nj.gov/dep/srp/srra/forms, that includes the following:

1. An estimate of the cost of the remediation prepared and certified by a licensed site remediation professional;
2. A certification by the owner or operator of the industrial establishment describing:
 - i. The statutory liability of the owner or operator pursuant to ISRA to perform and to complete the remediation of the industrial establishment;
 - ii. The liability of the owner or operator for penalties for violating the act, subject to the defenses to liability and limitations thereon;
 - iii. The requirement of the owner or operator to perform the remediation the Department requires;
 - iv. The requirement of the owner or operator to allow the Department access to the industrial establishment pursuant to ISRA at N.J.S.A. 13:1K-10;
 - v. The requirement of the owner or operator to comply with the provisions of the Site Remediation Reform Act, N.J.S.A. 58:10C, and this chapter; and
 - vi. The requirement of the owner or operator to prepare and submit any document the Department requires for the remediation of the industrial establishment;
3. Evidence of the establishment of a remediation funding source in an amount of the estimated cost of the remediation and in accordance with N.J.A.C. 7:26C-5; and
4. Evidence of the payment of all applicable fees in accordance with N.J.A.C. 7:26C-4.

7:26B-3.4 Remediation funding source requirements

(a) The owner or operator shall establish and maintain a remediation funding source in accordance with N.J.A.C. 7:26C-5:

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1. Within 14 days after the Department receives a remedial action workplan certified by a licensed site remediation professional for the industrial establishment;
2. Upon the submittal of a remediation certification pursuant to N.J.A.C. 7:26B-3.3(c); or
3. In accordance with the terms of a remediation agreement or remediation agreement amendment.

SUBCHAPTER 4. (Reserved)

SUBCHAPTER 5. ALTERNATE COMPLIANCE OPTIONS

7:26B-5.1 and 5.2 (Reserved)

7:26B-5.3 Regulated underground storage tank waiver

(a) The owner or operator may, upon submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a regulated underground storage tank waiver in accordance with (c) below.

(b) The Department's approval of a regulated underground storage tank waiver application authorizes the owner or operator to close operations or transfer ownership or operations of an industrial establishment prior to the issuance of a final remediation document or prior to a licensed site remediation professional's certification of a remedial action workplan, and without the submittal of a remediation certification if the only areas of concern or the only discharges at the industrial establishment are from an underground storage tank or tanks regulated pursuant to N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B.

(c) To apply for a regulated underground storage tank waiver, the owner or operator shall submit a completed ISRA Alternate Compliance Option Application, available on the Department's website at www.nj.gov/dep/srp/srra/forms, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department, at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;
2. A preliminary assessment report that demonstrates that the only area of concern at the industrial establishment is an underground storage tank or tanks as defined pursuant to N.J.S.A. 58:10A-22 and N.J.A.C. 7:14B or a preliminary assessment and site investigation report which demonstrates that the only discharged hazardous substances or hazardous

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wastes at the industrial establishment or that has migrated offsite, above the applicable remediation standards, are from a discharge from that underground storage tank or tanks;

3. A certification by the owner or operator of the industrial establishment that the owner or operator is in compliance with the provisions of N.J.S.A. 58:10A-21 et seq., N.J.A.C. 7:14B, N.J.A.C. 7:26C and N.J.A.C. 7:26E for all underground storage tanks at the industrial establishment that are covered by that act;

4. A copy of proof of financial responsibility pursuant to N.J.A.C. 7:14B-15; and

5. Payment of all applicable fees required pursuant to N.J.A.C. 7:26C-4.

(d) The owner or operator shall be deemed in compliance with the provisions of N.J.S.A. 58:10A-21 et seq. and N.J.A.C. 7:14B as it relates to the subject discharge of a hazardous substance or hazardous waste from an underground storage tank, if the owner or operator has been issued an order by, or has entered into an agreement with the Department to remediate that discharge and the owner or operator is in compliance with that order or agreement.

(e) The owner or operator:

1. May close operations or transfer ownership or operation of an industrial establishment upon receipt of the Department's written approval of the regulated underground storage tank waiver application; or

2. Shall remediate the industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, if the Department disapproves the regulated underground storage tank waiver application.

7:26B-5.4 Remediation in progress waiver

(a) The owner or operator may, upon the submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a remediation in progress waiver in accordance with (c) below.

(b) The Department's approval of a remediation in progress waiver application authorizes the owner or operator to close operations or transfer ownership or operations of the industrial establishment without the submittal of a remediation certification, prior to the issuance of a final remediation document or prior to a licensed site remediation professional's certification of a remedial action workplan.

(c) To apply for a remediation in progress waiver, the owner or operator shall submit a completed ISRA Alternate Compliance Option Application, available on the Department's website at www.nj.gov/dep/srp/srra/forms certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

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1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A preliminary assessment report and, as applicable, a site investigation report that demonstrates that:

i. There have been no discharges of a hazardous substance or a hazardous waste at the industrial establishment during the owner's or operator's period of ownership or operation; or

ii. Any discharged hazardous substance or hazardous waste that occurred at the industrial establishment during the owner's or operator's ownership or operation has been remediated, and the owner or operator includes identification of the spill incident numbers and a copy of a final remediation document for the remediation of those discharges;

3. Evidence that establishes that the property occupied by the industrial establishment for which the waiver is sought is being remediated by a prior owner or operator pursuant to ISRA, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or other applicable state laws and regulations, or the industrial establishment is currently in the process of an equivalent remediation pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. or any other applicable Federal law;

4. A certification by the owner or operator that any transferee of the industrial establishment has been notified that the industrial establishment is the subject of a remediation;

5. A certification by the owner or operator that:

i. A remediation funding source for the cost of the remediation at the industrial establishment has been established as required pursuant to N.J.A.C. 7:26C-5; or

ii. A financial assurance was established prior to June 16, 1993 and the amount of the financial assurance is consistent with the current cost estimate developed in accordance with N.J.A.C. 7:26E, for the remediation or the implementation of the remedial action workplan at the industrial establishment; and

6. Payment of all applicable fees required pursuant to N.J.A.C. 7:26C-4.

(d) The owner or operator:

1. May close operations or transfer ownership or operation of an industrial establishment upon receipt of the Department's written approval of the remediation in progress waiver application; or

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2. Shall remediate the industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, if the Department disapproves the remediation in progress waiver application.

7:26B-5.5 and 5.6 (Reserved)

7:26B-5.7 Limited conveyance

(a) The owner of an industrial establishment may, upon submittal of the notice required pursuant to N.J.A.C. 7:26B-3.2(a), apply to the Department for a certificate of limited conveyance in accordance with (c) below.

(b) The Department's approval of a certificate of limited conveyance shall be valid for three years from the date of issuance and authorizes the owner of an industrial establishment to transfer up to one third the total appraised value of the real property of the industrial establishment upon the licensed site remediation professional's issuance of a response action outcome or certification of a remedial action workplan or remediation certification for the subject portion of the industrial establishment to be conveyed without the owner or operator conducting a remediation of the entire industrial establishment.

(c) To apply for a certificate of limited conveyance, the owner or operator shall submit a completed an ISRA Alternate Compliance Application available on the Department's website at www.nj.gov/dep/srp/srra/forms, certified in accordance with N.J.A.C. 7:26B-1.6; to the Department at the address provided at N.J.A.C. 7:26B-1.5, which includes the following:

1. The name and location of the site, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the site and the ISRA case number;

2. A site map of the industrial establishment that identifies the real property on which the industrial establishment is situated, and the portion of the real property subject to the proposed transfer and any areas conveyed pursuant to a prior certificate of limited conveyance;

3. A description of the real property to be transferred;

4. An appraisal of the entire industrial establishment, an appraisal of the real property to be transferred and an appraisal of the remaining real property if the certificate of limited conveyance were issued. The appraisals required by this section shall not be made more than one year prior to the submission of the application for a certificate of limited conveyance and shall be conducted by a designated Member, Appraisal Institute (American Institute of Real Estate Appraisers), Senior Real Estate Analyst (Society of Real Estate Appraisers), or Senior Member (American Society of Appraisers);

5. The sale price or fair market value of the real property to be transferred;

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6. Any additional information the Department requests from a specific owner or operator;

7. Copies of all prior certificate(s) of limited conveyance if any, issued for the subject industrial establishment;

8. A copy of the sales agreement specifying the agreed upon price for the real property presently proposed for conveyance or, in the case of an acquisition by a condemning authority where no agreement has been reached, an affidavit from the owner specifying the compensation, including any damages, sought by the owner and the current appraised value; and

9. Payment of a fee of \$600.

(d) The Department shall review the information submitted pursuant to (c) above and shall issue a certificate of limited conveyance for the real property on which an industrial establishment is situated after the Department deems the following criteria to be satisfied:

1. The sale price or fair market value of the real property to be conveyed, together with any additional diminution in value of the remaining property as a result of this transfer, is not more than one-third of the total appraised value of the real property of the industrial establishment prior to the transfer;

2. The remaining real property is an industrial establishment subject to the provisions of this chapter; and

3. Transfers or conveyances made pursuant to this section shall not exceed one-third of the value of the industrial establishment during the period of ownership of the applicant.

(e) Upon the Department's issuance of the certificate of limited conveyance, the owner or operator shall remediate the portion of the real property certified for transfer or conveyance prior to the transfer or conveyance. The remediation of the real property subject to the certificate of limited conveyance shall include any discharges from the remaining portion of the industrial establishment that have migrated or are migrating to the real property certified for conveyance.

(f) For the conveyance to occur upon the Department's disapproval of the ISRA Alternate Compliance Application available on the Department's website at www.nj.gov/dep/srp/srra/forms, the owner or operator shall remediate the entire industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C.

(g) The owner or operator shall remediate the remaining portion of the industrial establishment, or otherwise comply with this chapter, upon the subsequent closing of operations or transferring of ownership or operations of the industrial establishment.

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(h) An owner may, concurrent with or subsequent to a transfer or conveyance executed pursuant to this section, transfer additional portions of the industrial establishment in excess of the permissible conveyance limitation provided at (d)3 above, if the proposed transfer does not constitute a closing of operations or transfer of ownership or operations of an industrial establishment as defined at N.J.A.C. 7:26B-1.4.

(i) An owner who transfers additional portions pursuant to (h) above shall use the funds paid for those additional portions exclusively for remediating the additional portion(s) transferred pursuant to (h) above. The owner shall deposit any portion of the amount paid that remains unexpended for remediation in a remediation trust fund that shall be established pursuant to N.J.A.C. 7:26C-5 and N.J.S.A. 13:1K-11.8(g).

(j) Nothing in this section shall be construed to allow an owner to transfer any of the real property of an industrial establishment without complying with ISRA and this chapter for those portions subject to the transfer.

7:26B-5.8 (Reserved)

7:26B-5.9 De minimis quantity exemption

(a) An owner or operator to whom the Department grants a de minimis quantity exemption is exempt from the substantive requirements of this chapter based on de minimis quantities of hazardous substances or hazardous waste generated, manufactured, refined, transported, treated, stored, handled or disposed of at an industrial establishment. Such an owner or operator is not exempt from any requirement in any other law or regulation to remediate a discharge.

(b) An owner or operator can obtain a de minimis quantity exemption if the following criteria are satisfied:

1. The total quantity of hazardous substances or hazardous wastes generated, manufactured, refined, transported, treated, stored, handled or disposed of at the subject industrial establishment at any one time during the owner's or operator's period of ownership or operation, does not exceed 500 pounds or 55 gallons;
2. If the hazardous substances or hazardous wastes are mixed with nonhazardous substances, then the total quantity of hazardous substances or hazardous wastes in the mixture at any one time during the owner's or operator's period of ownership or operation does not exceed 500 pounds or 55 gallons; and
3. The total quantity of hydraulic or lubricating oil, in the aggregate, does not exceed 220 gallons at any one time during the owner's or operator's period of ownership or operation.

(c) The total quantity of hazardous substances or hazardous wastes at an industrial establishment may be a combination of both (b)1 and 2 above; however, in the aggregate, the total quantity shall not exceed 500 pounds or 55 gallons.

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(d) The total quantity of hazardous substances at an industrial establishment having the NAICS number of 424210 or 446191 as qualified by the limitations noted in Appendix C shall not include any mixture containing hazardous substances if the mixture is in final product form for wholesale or retail distribution.

(e) The owner or operator of the subject industrial establishment that satisfies the criteria established in (b) above may apply for a de minimis quantity exemption by submitting:

1. A completed ISRA Alternative Compliance Option Application de minimis quantity exemption application form available from the Department on its website at www.nj.gov/dep/srp/srra/forms, certified in accordance with N.J.A.C. 7:26B-1.6, to the Department at the address provided on the form, that includes information that identifies the owner or operator and the industrial establishment, describes the quantities and nature of the hazardous substances or hazardous waste generated, manufactured, refined, transported, treated, stored, handled or disposed of at the industrial establishment; and

2. A fee of \$ 300.00.

(f) The owner or operator:

1. May close operations or transfer ownership or operation of an industrial establishment upon receipt of the Department's written approval of the de minimis quantity exemption application; or

2. Shall remediate the industrial establishment in accordance with this chapter and the Administrative Requirements for the Remediation of Contaminated Sites, N.J.A.C. 7:26C, or withdraw the general information notice pursuant to N.J.A.C. 7:26B-3.2(c), if the Department disapproves the application.

SUBCHAPTERS 6 THROUGH 7 (Reserved)

SUBCHAPTER 8. PROGRAM FEES AND OVERSIGHT COSTS

7:26B-8.1 Fee schedule

The owner or operator shall pay all applicable fees and oversight costs as required pursuant to N.J.A.C. 7:26C-4 and this chapter.

7:26B-8.2 through 8.4 (Reserved)

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APPENDIX A (Reserved)

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APPENDIX B - STANDARD LANDLORD/TENANT PETITION

Landlord/Tenant Petition, Pursuant to N.J.S.A. 13:1K-11.9, Requesting the Department of Environmental Protection to First Compel the Other Responsible Person to Comply With the Industrial Site Recovery Act ("ISRA") Based Upon the Parties' Prior Agreement Pursuant to Their Lease.

Both the owner and operator of an industrial establishment are responsible for remediation of any industrial establishment pursuant to N.J.S.A. 13:1K-6 et seq. However, pursuant to N.J.S.A. 13:1K-11.9, where owner is the Landlord and operator is the Tenant and there has been a failure to comply with ISRA, either of those parties may petition the Department of Environmental Protection to request that the Department first compel the other party to comply with ISRA pursuant to a clearly articulated Lease between the parties concerning the subject industrial establishment. This Petition follows:

PETITION

["Name of Landlord or Tenant"] is the [Landlord or Tenant] for ISRA Case No. [] pursuant to a Lease entered into on [Date] with [Name of Landlord or Tenant], [Landlord or Tenant].

[Name of Landlord or Tenant] states that it desires the Department to exercise its discretion to first require [Name of Landlord or Tenant], who is the [Landlord or Tenant], to comply with ISRA with respect to the following property [Lot(s)/Block(s) and Leasehold unit number] the ("industrial establishment").

[Name of Landlord or Tenant] desires that if the Department is satisfied that the Lease clearly reflects an agreement by the parties to the Lease that [Name of Landlord or Tenant] is to be responsible for the ISRA obligations, the Department will agree to first pursue [Landlord/Tenant] to compel compliance with ISRA.

Attached for the Department's review are the following documents in support of this Petition.

1. Landlord's and Tenant's full names and current addresses;
2. A true and correct copy of the fully executed and dated subject Lease, together with any and all Addenda and Riders to that Lease;
3. A copy of the General Information Notice for the ISRA case referenced above;
4. True and correct copies of any and all contracts, agreements, orders and remediation agreements which [Name of Landlord or Tenant] believes may affect the interpretation of the subject lease and the parties' respective responsibilities and remediation obligations pursuant to ISRA and that Lease;
5. A narrative, which identifies, in [Name of Landlord or Tenant's] view, the pertinent sections in the lease, and interpretation of the those sections;

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6. A separate, notarized Affidavit, executed by [Name of Landlord or Tenant], that articulates all relevant facts which, in [Name of Landlord's or Tenant's] view, support and explain any non-compliance with ISRA and the Lease;

7. Copies of any pleadings and discovery documents generated in any lawsuit involving the subject industrial establishment and/or the subject Lease;

8. Copies of any writings issued by the Department of Environmental Protection, to either ISRA responsible party or to any ISRA agent, concerning the subject Lease or the subject industrial establishment and the respective responsibilities of each such party concerning this ISRA transaction; and

9. Any other documents which [Name of Landlord or Tenant] believes may assist the Department in its determination.

Within thirty (30) calendar days after the Department determines that it has received a complete Petition, the Department will advise all parties to the lease of its determination as to whether the Lease is clear in identifying [Name of Landlord or Tenant] as responsible for complying with ISRA under the Lease. [Name of Landlord or Tenant] understands that the Department may require further information, clarification or additional documentation in order to complete this Petition.

The information contained within this Petition, including any documents submitted to the Department in support of this Petition, is complete and accurate to the best of [Name of Landlord or Tenant's] knowledge, information and belief, and, by executing this Petition below, [Name of Landlord or Tenant] hereby certifies to its completeness and accuracy, and also, that [Name of Landlord or Tenant] will notify the Department immediately should new or additional information come to light which may have a bearing upon interpretations of the subject Lease, or the parties' respective ISRA responsibilities, under the lease.

Dated: _____

Name: _____

[Landlord or Tenant]

For ISRA Case No. []

Print Full Name Signed Above

Title

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APPENDIX C - ISRA SUBJECT NAICS CODES

<u>Subsector or Industry #Code</u>	<u>NAICS Description</u>	<u>Exceptions or Limitations</u>
211112	Natural Gas Liquid Extraction	Limited to recovering sulfur from natural gas
212324	Kaolin and Ball Clay Mining	Limited to grinding, washing, separating, etc. of kaolin and ball clay not in conjunction with mining operations
212325	Clay and Ceramic and Refractory Minerals Mining	Limited to grinding, washing, separating, etc. of clay, ceramic and refractory minerals not in conjunction with mining operations
212393	Other Chemical and Fertilizer Mineral Mining	Limited to grinding, washing, separating, etc. of chemical and fertilizer minerals not in conjunction with mining operations
212399	All Other Nonmetallic Mineral Mining	Limited to grinding, washing, separating, etc. of nonmetallic minerals not in conjunction with mining operations
221	Utilities	Except Water Supply, Irrigation Systems (NAICS Industry 221310) and Sewerage Systems (NAICS Industry 221320), Hydroelectric Power Generation (NAICS Industry 221111), and Other Electric Power Generation (NAICS Industry 221119)
238220	Plumbing, Heating, and Air-Conditioning Contractors	Limited to businesses involved with boiler cleaning, chipping and scaling
313111	Yarn Spinning Mills	No exceptions or limitations
313112	Yarn Texturing, Throwing, and Twisting Mills	No exceptions or limitations
313113	Thread Mills	No exceptions or limitations
313210	Broadwoven Fabric Mills	No exceptions or limitations
313221	Narrow Fabric Mills	No exceptions or limitations
313222	Schiffli Machine Embroidery	No exceptions or limitations
313230	Nonwoven Fabric Mills	No exceptions or limitations

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313241	Weft Knit Fabric Mills	No exceptions or limitations
313249	Other Knit Fabric and Lace Mills	No exceptions or limitations
313311	Broadwoven Fabric Finishing Mills	Except for broadwoven converters, who buy fabric goods (except knit goods) in the grey, have them finished on contract, and sell them at wholesale and operations involved in sponging, shrinking, etc. fabric for tailors and dress makers and performing batik work as a business service.
313312	Textile and Fabric Finishing (except Broadwoven Fabric) Mills	Except dyeing gloves, woven or knit, for the trade and converters (except broadwoven), who buy fabric goods (except knit goods) in the grey, have them finished on contract, and sell them at wholesale
313320	Fabric Coating Mills	No exceptions or limitations
314110	Carpet and Rug Mills	No exceptions or limitations
314911	Textile Bag Mills	Limited to operations involved with the manufacture of bags, rubberized fabric
314991	Rope, Cordage, and Twine Mills	No exceptions or limitations
314992	Tire Cord and Tire Fabric Mills	No exceptions or limitations

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314999	All Other Miscellaneous Textile Product Mills	Limited to miscellaneous textile product mills involved with the following operations; apparel fillings (for example, cotton mill waste, kapok) manufacturing, appliqueing on textile products (except apparel), art needlework for the trade, bats and batting (except nonwoven fabrics) manufacturing, beading on textile products (except apparel) for the trade, burnt-out laces manufacturing, cotton battings (except nonwoven batting) manufacturing, crochet ware made from purchased materials, decorative stitching on textile articles and apparel, embroidering contractors on men's, boy's, women's, misses', girls' and infants apparel, fiber textile recovery from textile mill waste and rags, filling (except non-woven textile), upholstery manufacturing, fire hose textile made from purchased materials, garneting of textile waste and rags, padding and wadding (except non-woven fabric) manufacturing, processing of textile mill waste and recovering fibers, quilting of textiles, reclaimed wool processing, recover fiber processing, stitching, decorative and novelty, on textile articles and apparel, textile fire hose made from purchased material, upholstering filling (except non-woven fabric) manufacturing, weather-stripping made from purchased textiles and wool waste processing.
315111	Sheer Hosiery Mills	No exceptions or limitations
315119	Other Hosiery and Sock Mills	No exceptions or limitations
315191	Outerwear Knitting Mills	No exceptions or limitations
315192	Underwear and Nightwear Knitting Mills	No exceptions or limitations

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<u>Subsector or Industry #Code</u>	<u>NAICS Description</u>	<u>Exceptions or Limitations</u>
315211	Men's and Boys' Cut and Sew Apparel Contractors	Limited to the following men's and boys' cut and sew apparel contractors; appliquéing, art needlework, buttonhole making, buttonholing and button covering, decorative stitching, dress and semidress gloves, leather, eyelet making, leather gloves or mittens (except athletic), hemstitching, novelty stitching, pleating, stitching decorative and novelty and work leather gloves.
315212	Women's, Girls', and Infants' Cut and Sew Apparel Contractors	Limited to the following women's, girl's and infant's, cut and sew apparel contractors; appliquéing, art needlework, buttonhole making, buttonholing and button covering, decorative stitching, dress and semidress gloves, leather, eyelet making, leather gloves or mittens (except athletic), hemstitching, novelty stitching, pleating, stitching decorative and novelty and work leather gloves
315299	All Other Cut and Sew Apparel Manufacturing	Limited to the following cut and sew apparel manufacturing; pants, rubber and rubberized fabric, made in the same establishment as the basic materials, pants, vulcanized rubber, manufacturing, raincoats, rubber or rubberized fabric, manufacturing
315992	Glove and Mitten Manufacturing	Limited to the following glove and mitten manufacturing; gloves, leather (except athletic, cut and sewn apparel contractors), manufacturing, leather gloves or mittens (except athletic, cut and sewn apparel contractors) manufacturing, mittens, leather (except apparel contractors), manufacturing, and work gloves, leather (except apparel contractors), manufacturing
315999	Other Apparel Accessories and Other Apparel Manufacturing	Limited to the following other apparel accessories and other apparel manufacturing; bathing caps, rubber, manufacturing

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316110	Leather and Hide Tanning and Finishing	No exceptions or limitations
316211	Rubber and Plastics Footwear Manufacturing	No exceptions or limitations
316213	Men's Footwear (except Athletic) Manufacturing	No exceptions or limitations
316991	Luggage Manufacturing	No exceptions or limitations
316992	Women's Handbag and Purse Manufacturing	No exceptions or limitations
316993	Personal Leather Good (except Women's Handbag and Purse) Manufacturing	No exceptions or limitations
321113	Sawmills	No exceptions or limitations
321114	Wood Preservation	No exceptions or limitations
321211	Hardwood Veneer and Plywood Manufacturing	No exceptions or limitations
321213	Engineered Wood Member (except Truss) Manufacturing	No exceptions or limitations
321214	Truss Manufacturing	No exceptions or limitations
321219	Reconstituted Wood Product Manufacturing	No exceptions or limitations
321911	Wood Window and Door Manufacturing	No exceptions or limitations
321912	Cut Stock, Resawing Lumber, and Planing	No exceptions or limitations
321918	Other Millwork (including Flooring)	No exceptions or limitations
321920	Wood Container and Pallet Manufacturing	Except for operations involved in the production of nailed and lock corner wood boxes and shook

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321992	Prefabricated Wood Building Manufacturing	No exceptions or limitations
321999	All Other Miscellaneous Wood Product Manufacturing	Except for operations involved in the production of boot and shoe cut stock and findings (wood heels)
322	Paper Manufacturing	No exceptions or limitations
323	Printing and Related Support Activities	Except for operations involved in photocopying and duplicating services other than printing
324	Petroleum and Coal Products Manufacturing	No exceptions or limitations
325	Chemical Manufacturing	Except for operations involved in providing the following business services on a contract or fee basis: aerosol packaging and solvent recovery service
326	Plastics and Rubber Products Manufacturing	Except for operations involved in Tire Retreading and Repair Shops (rebuilding tires and retreaded tire Manufacturing) (NAICS Industry 326212)
327	Nonmetallic mineral product Manufacturing	Except for retail operations involved in Manufacturing and selling pottery on site
331	Primary metal Manufacturing	No exceptions or limitations
332	Fabricated Metal Product Manufacturing	No exceptions or limitations
333	Machinery Manufacturing	No exceptions or limitations
334	Computer and Electronic Product Manufacturing	Except for operations involved in the mass reproduction of prepackaged software and the reproduction of video in connection with motion picture production
335	Electrical Equipment, Appliance, and Component Manufacturing	No exceptions or limitations
336	Transportation Equipment Manufacturing	No exceptions or limitations

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337	Furniture and Related Product Manufacturing	Except for retail operations involved in the production and sale of custom wood cabinets, custom made upholstered household furniture and custom made nonupholstered wood household furniture
339	Miscellaneous Manufacturing	Except for operations involved in the production of orthopedic devices to prescription in a retail environment, optical goods stores and laboratories grinding lenses to prescription, dental laboratories and in operations involved with the production of boot and shoe cut stock and findings (metal buckles)
424210	Drugs and Druggists' Sundries Merchant Wholesalers	No exceptions or limitations
424610	Plastics Materials and Basic Forms and Shapes Merchant Wholesalers	Except for merchant wholesalers of plastics foam
424690	Other Chemical and Allied Products Merchant Wholesalers	No exceptions or limitations
424710	Petroleum Bulk Stations and Terminals	No exceptions or limitations
424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	No exceptions or limitations
424910	Farm Supplies Merchant Wholesalers	No exceptions or limitations
424950	Paint, Varnish, and Supplies Merchant Wholesalers	No exceptions or limitations
444220	Nurseries, Garden Centers, and Farm Supply Stores	Limited to operations selling farm supplies, primarily to industrial, commercial, institutional or farm customers (business customers), and not to members of the general public

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454311	Heating Oil Dealers	Limited to operations selling heating oil primarily to industrial, commercial or institutional customers (business customers), and not to members of the general public
454312	Liquefied Petroleum Gas (Bottled Gas) Dealers	Limited to operations selling goods primarily to industrial, commercial or institutional customers (business customers), and not to members of the general public
486	Pipeline Transportation	No exceptions or limitations
488390	Other Support Activities for Water Transportation	Limited to operations involved with ship building and repair services provided by floating drydocks and ship scaling
493	Warehousing	Limited to establishments storing raw materials for other establishments of the same enterprise
511	Publishing Industries	Except direct mail advertising services specifically, mailing list compilers and publishing of prepackaged software and publishing locations where no printing operations have ever been conducted
512	Motion Picture and Sound Recording Industries	Limited to the production of phonograph records and prerecorded audio tapes and disks by integrated record companies (except duplication only) and the publishing or publishing and printing of music books and sheet music
541710	Research and Development in the Physical, Engineering, and Life Sciences	Except for commercial physical, engineering and biological research and development on a contract or fee basis and noncommercial research organizations (physical, engineering, and life sciences)
551114	Corporate, Subsidiary, and Regional Managing Offices	Limited to offices located on the same lot and block as the industry they serve when that industry has a regulated NAICS number.

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562211	Hazardous Waste Treatment and Disposal	No exceptions or limitations
562213	Solid Waste Combustors and Incinerators	No exceptions or limitations
562991	Septic Tank and Related Services	Except equipment rental and leasing specifically portable toilet rental
562998	All Other Miscellaneous Waste Management Services	Limited to tank cleaning and disposal services, commercial or industrial
711	Performing Arts, Spectator Sports and Related Industries	Limited to taxidermists and antique repair and restoration, except antique car restoration
811212	Computer and Office Machine Repair and Maintenance	Limited to refilling or recycling ink jet cartridges
811310	Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance	Except repair and maintenance service of the following: commercial refrigeration, and freezer equipment, truck refrigeration equipment and welding repair service
811420	Reupholstery and Furniture Repair	Except airports, flying fields, and airport terminal services specifically performing aircraft upholstery repair
811490	Other Personal and Household Goods Repair and Maintenance	Limited to pleasure boat, repair and maintenance services without retailing new boats