

§ 143-215.104M. (Expires January 1, 2032 – see notes) Notice of Dry-Cleaning Solvent Remediation; land-use restrictions in deeds.

(a) Land-Use Restriction. – In order to reduce or eliminate the danger to public health or the environment posed by a dry-cleaning solvent contamination site, the owner of property upon which dry-cleaning solvent contamination has been discovered may file a Notice of Dry-Cleaning Solvent Remediation approved by the Commission identifying the site on which the contamination has been discovered and providing for current or future restrictions on the use of the property. If a petitioner requests that a contamination site be remediated to standards that require land-use restrictions, the owner of the property must file a Notice of Dry-Cleaning Solvent Remediation for the remediation agreement to become effective.

(b) Notice of Restriction. – A Notice of Dry-Cleaning Solvent Remediation shall include:

- (1) A survey plat of the contamination site that has been prepared and certified by a professional land surveyor and that meets the requirements of G.S. 47-30.
- (2) A legal description of the property that would be sufficient as a description in an instrument of conveyance.
- (3) A description of the location and dimensions of the areas of potential environmental concern with respect to permanently surveyed benchmarks.
- (4) The type, location, and quantity of dry-cleaning solvent contamination known to exist on the property.
- (5) Any restrictions on the current or future use of the property or other property that are necessary to assure adequate protection of public health and the environment as provided in rules adopted pursuant to G.S. 143-215.104D(b)(3). These land-use restrictions may apply to activities on, over, or under the land, including, but not limited to, use of groundwater, building, filling, grading, excavating, and mining. Where a contamination site encompasses more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded.

(c) Recordation of Notice. – After the Commission approves and certifies the Notice of Dry-Cleaning Solvent Remediation under subsection (a) of this section, a certified copy of a Notice of Dry-Cleaning Solvent Remediation shall be filed in the office of the register of deeds of the county or counties in which the property described is located. The owner of the property shall file the Notice of Dry-Cleaning Solvent Remediation within 15 days of the property owner's receipt of the Commission's approval of the notice or the effective date of the dry-cleaning solvent remediation agreement, whichever is later.

(d) Notice of Transfer. – When property for which a Notice of Dry-Cleaning Solvent Remediation has been filed is sold, leased, conveyed, or transferred, the deed or other instrument of transfer shall contain in the description section, in no smaller type than that used in the body of the deed or instrument, a statement that the property has been contaminated with dry-cleaning solvent and, if appropriate, cleaned up under this Part.

(e) Cancellation of Notice. – A Notice of Dry-Cleaning Solvent Remediation filed pursuant to this Part may, at the request of the owner of the property subject to the Notice of Dry-Cleaning Solvent Remediation, be canceled by the Secretary after the risk to public health and the environment associated with the dry-cleaning solvent contamination and any other contaminants included in the dry-cleaning solvent remediation agreement has been eliminated as a result of remediation of the property. The Secretary shall forward notice of cancellation to the register of deeds of the county or counties where the Notice of Dry-Cleaning Solvent Remediation is recorded and request that the Notice of Dry-Cleaning Solvent Remediation be canceled. The notice of cancellation shall contain the names of the landowners as shown in the Notice of Dry-Cleaning Solvent Remediation.

(f) Enforcement. – Any restriction on the current or future use of property subject to a Notice of Dry-Cleaning Solvent Remediation filed pursuant to this section shall be enforced by any owner of the property or by any other potentially responsible party. Any land-use restriction may also be enforced by the Commission through the remedies provided in this Part or by means of a civil action in the superior court. The Commission may enforce any land-use restriction without first having exhausted any available administrative remedies. Restrictions also may be enforced by any unit of local government having jurisdiction over any part of the property by means of a civil action without the unit of local government having first exhausted any available administrative remedy. A land-use restriction may also be enforced by any person eligible for liability protection under this Part who will lose liability protection if the land-use restriction is violated. A restriction shall not be declared unenforceable due to lack of privity of estate or contract, due to lack of benefit to particular land, or due to lack of privity of any property interest in particular land. Any person who owns or leases a property subject to a land-use restriction under this section shall abide by the land-use restriction. Failure to submit an annual certification that land-use restrictions are properly recorded and followed shall result in a notice from the Commission to the property owner. The notice shall inform the person of the actions that need to be taken in order for the person to come into compliance and specify a date by which the person must comply, which shall not be less than 30 calendar days from the date the notice is mailed. Any person who fails to comply within the time specified shall then be subject to enforcement procedures as provided in this Part.

(g) Relation to Brownfields Notice. – Unless the Commission decertifies a previously certified facility or a previously certified abandoned site, this section shall apply in lieu of the provisions of Article 9 of Chapter 130A of the General Statutes and Parts 1 and 2 of Article 21A of Chapter 143 of the General Statutes for properties remediated under this Part. (1997-392, s. 1; 1997-443, s. 11A.119(b); 2007-530, s. 10; 2011-186, s. 6; 2012-18, s. 1.21.)