

§ 143-215.104N. (Expires January 1, 2032 – see notes) Disbursement of dry-cleaning solvent assessment and remediation costs; limitations; cost recovery.

(a) Allowable Costs. – To the extent monies are available in the Fund, the Commission shall pay for reasonable and necessary assessment and remediation activities at a contamination site associated with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement for the following assessment and remediation response costs, for which appropriate documentation is submitted:

- (1) Costs of assessment with respect to dry-cleaning solvent contamination.
- (2) Costs of treatment or replacement of potable water supplies affected by the contamination.
- (3) Costs of remediation of affected soil, groundwater, surface waters, bedrock or other rock formations, or buildings.
- (4) Monitoring of the contamination.
- (5) Inspection and supervision of activities described in this subsection.
- (6) Reasonable costs of restoring property as nearly as practicable to the conditions that existed prior to activities associated with assessment and remediation conducted pursuant to this Part.
- (7) Other activities reasonably required to protect public health and the environment.

(b) Limitations. – Notwithstanding subsection (a) of this section, the Commission shall not make any disbursement from the Fund:

- (1) For costs incurred in connection with facilities or abandoned sites not certified pursuant to G.S. 143-215.104G.
- (2) For costs not incurred pursuant to a dry-cleaning solvent assessment agreement or a dry-cleaning solvent remediation agreement.
- (3) Repealed by Session Laws 2007-530, s. 11, effective August 31, 2007.
- (4) For costs at a contamination site that has been identified by the United States Environmental Protection Agency as a federal Superfund site pursuant to 40 Code of Federal Regulations, Part 300 (1 July 1996 Edition), except that the Commission may authorize distribution of the required State match in an amount not to exceed two hundred thousand dollars (\$200,000) per year per site. The Commission shall not delegate its authority to disburse funds pursuant to this subdivision.
- (5) For remediation beyond the level required under the Commission's risk-based criteria for determining the appropriate level of remediation.
- (6) For assessment or remediation response costs incurred in connection with any individual dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement in excess of five hundred thousand dollars (\$500,000) per year. However, that the Commission may disburse up to one million dollars (\$1,000,000) per year for assessment and remediation costs incurred in connection with a facility or an abandoned site if the facility or abandoned site has been certified and poses an imminent hazard.
- (7) That would result in a diminution of the Fund balance below one hundred thousand dollars (\$100,000), unless an emergency exists in connection with a dry-cleaning solvent contamination abandoned site that constitutes an imminent hazard.
- (8) For any costs incurred in connection with dry-cleaning solvent contamination from a facility located on a United States military base or owned by the United States or a department or agency of the United States.

- (9) For any costs incurred in connection with dry-cleaning solvent contamination from a facility or abandoned site owned by the State or a department or agency of the State, unless the contamination at the State-owned site was not caused by the State, but was caused by another person.
- (c) Repealed by Session Laws 2007-530, s. 11, effective August 31, 2007.
- (d) If, at any time, the Commission determines that the cost of assessment and remediation activities incurred pursuant to existing dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements equals or exceeds the total revenues expected to be credited to the Fund over the life of the Fund, the Commission shall publish notice of the determination in the North Carolina Register. Following the publication of a notice pursuant to this section, the Commission may continue to enter into dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements until the day of adjournment of the first regular session of the General Assembly that begins after the date the notice is published, but shall have no authority to enter into additional dry-cleaning solvent assessment agreements and dry-cleaning solvent remediation agreements after that date unless the Commission first determines either (i) that revenues will be available from the Fund to pay the costs of assessment and remediation activities expected to be incurred pursuant to the agreements, or (ii) that assessment and remediation activities undertaken pursuant to the agreements will be paid entirely from sources other than the Fund. For the purposes of this subsection, the term "day of adjournment" shall mean: (i) in the case of a regular session held in an odd-numbered year, the day the General Assembly adjourns by joint resolution for more than 10 days, and (ii) in the case of a regular session held in an even-numbered year, the day the General Assembly adjourns sine die.
- (e) If the cleanup of the contamination site is not completed through fault of the petitioner as required by the remediation agreement, the petitioner shall reimburse the Fund for any response costs previously disbursed from the fund for the cleanup, with interest. The Commission shall request the Attorney General to commence a civil action to secure repayment of response costs and interest of the costs. (1997-392, s. 1; 2000-19, ss. 12, 14(a), (b); 2007-530, s. 11; 2009-483, s. 4.)