

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

S

3

SENATE BILL 1362  
Agriculture/Environment/Natural Resources Committee Substitute Adopted  
5/15/07  
Finance Committee Substitute Adopted 6/28/07

Short Title: Amend Dry-Cleaning Solvent Cleanup Act.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE DRY-CLEANING SOLVENT CLEANUP ACT TO CLARIFY THE DEFINITION OF DRY-CLEANING SOLVENT, TO AUTHORIZE THE USE OF FUNDS FROM THE DRY-CLEANING SOLVENT CLEANUP FUND FOR THE INVESTIGATION OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES REASONABLY BELIEVED TO BE CONTAMINATED BY DRY-CLEANING SOLVENT, TO PROVIDE THAT ALL SITE WORK WILL BE PERFORMED BY A PRIVATE CONTRACTOR RETAINED BY THE ENVIRONMENTAL MANAGEMENT COMMISSION, TO MODIFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS APPLICABLE TO POTENTIALLY RESPONSIBLE PARTIES, TO AUTHORIZE TEMPORARY RULE MAKING, AND TO INCREASE THE ANNUAL SPENDING CAP FOR THE CLEANUP OF SITES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-215.104B(b) reads as rewritten:

"(b) Unless a different meaning is required by the context, the following definitions apply in this Part. The definitions set out in this subsection apply only to the implementation of this Part and do not define or limit the scope of any other remedial program:

...

(9) "Dry-cleaning solvent" means ~~Perchloroethylene F 1,1,3 or 1,1,1 trichloroethane, a petroleum based solvent, another comparable product used as a cleaning agent~~ any hydrocarbon or halogenated hydrocarbon used as a solvent in a dry-cleaning operation or the degradation products from these hazardous substances-solvents.

(10) "Dry-cleaning solvent assessment agreement" or "assessment agreement" means an agreement between the Commission and a

1 potentially responsible party who desires ~~to assess~~ an assessment of  
2 whether a release of dry-cleaning solvents at a dry-cleaning facility, an  
3 abandoned dry-cleaning facility site, or a wholesale distribution  
4 facility may be eligible for remediation under this Part and whether  
5 any other contaminants that are identified in the agreement may  
6 require remediation under other remedial programs operated or  
7 administered by the Department.

8 ...

9 (12) "Dry-cleaning solvent remediation agreement" or "remediation  
10 agreement" means an agreement between the Commission and a  
11 potentially responsible party who desires ~~to clean up~~ the cleanup of  
12 dry-cleaning solvent contamination resulting from a release at a  
13 dry-cleaning facility, an abandoned dry-cleaning facility site, or a  
14 wholesale distribution facility under this Part and any other  
15 contaminants that are identified in the agreement under other remedial  
16 programs operated or administered by the Department.

17 (13) "Facility" means a dry-cleaning facility or a wholesale distribution  
18 facility.

19 (14) "Fund" means the Dry-Cleaning Solvent Cleanup Fund.

20 (14a) "Halogenated hydrocarbon" means any hydrocarbon where at least one  
21 hydrogen atom is substituted by a halogen atom.

22 (15) "Hazardous waste" ~~shall have~~ has the same meaning ascribed to it in  
23 G.S. 130A-290.

24 (15a) "Hydrocarbon" means any linear, branched, saturated, or unsaturated  
25 compound whose molecules contain only carbon and hydrogen atoms.

26 ...."

27 **SECTION 2.** G.S. 143-215.104C reads as rewritten:

28 **"§ 143-215.104C. Dry-Cleaning Solvent Cleanup Fund.**

29 (a) Creation. – The Dry-Cleaning Solvent Cleanup Fund is established as a  
30 special revenue fund to be administered by the Commission. Accordingly, revenue in  
31 the Fund at the end of a fiscal year does not revert and interest and other investment  
32 income earned by the Fund must be credited to it. The Fund is created to provide  
33 revenue to implement this Part.

34 (b) Sources of Revenue. – The following revenue is credited to the Fund:

35 (1) Dry-cleaning solvent taxes collected under Article 5D of Chapter 105  
36 of the General Statutes.

37 (2) Recoveries made pursuant to G.S. 143-215.104N and  
38 G.S. 143-215.104O.

39 (3) Gifts and grants made to the Fund.

40 (4) Revenues credited to the Fund under G.S. 105-164.44E.

41 (5) Application fees pursuant to G.S. 143-215.104F(a1).

42 (c) Disbursements. – A claim filed against the Fund may be paid only from  
43 monies in the Fund and only in accordance with the provisions of this Part. Any  
44 obligation to pay ~~or reimburse~~ claims against the Fund shall be expressly contingent

1 upon availability of monies in the Fund. Neither the State nor any of its agencies shall  
2 have any obligation to pay ~~or reimburse~~ any costs for which monies are not available in  
3 the Fund. The provisions of this Part shall not constitute a contract, either express or  
4 implied, to pay ~~or reimburse~~ costs in excess of the monies available in the Fund. In  
5 making disbursements from the Fund, the Commission shall obligate monies to facilities  
6 or sites with higher priority before facilities or sites of lower priority, and facilities or  
7 sites with equal priority in the order in which the facilities or sites were prioritized until  
8 the revenue is exhausted. Consistent with the provisions of this Part, the Commission  
9 may disburse monies from the Fund to abate imminent hazards by dry-cleaning solvent  
10 contamination at abandoned dry-cleaning facility sites that have not been certified. Up  
11 to twenty percent (20%) of the amount of revenue credited to the Fund in a year may be  
12 used to defray costs incurred by the Department and the Attorney General's Office in  
13 connection with administration of the program described in this Part, including  
14 oversight of response activities.

15 (d) Up to one percent (1%) of the amount of the Fund balance may be used by  
16 the Department in each fiscal year for investigation of inactive hazardous substance  
17 disposal sites that the Department reasonably believes to be contaminated by  
18 dry-cleaning solvent. If the contamination is determined to originate from a  
19 dry-cleaning facility, a potentially responsible party may petition for certification of the  
20 facility or abandoned facility site. Acceptance of a petition shall be conditioned upon  
21 the written acceptance by the petitioner of responsibility for the costs of investigation  
22 incurred by the Department pursuant to this subsection. Costs of investigation that are  
23 recovered pursuant to this subsection shall not exceed, and shall be credited toward, the  
24 financial responsibility of the petitioner pursuant to G.S. 143-215.104F(f). If a  
25 potentially responsible party does not petition for certification of the facility or  
26 abandoned facility site, the Commission may request the Attorney General to  
27 commence a civil action to secure reimbursement of costs incurred under this  
28 subsection."

29 **SECTION 3.** G.S. 143-215.104D reads as rewritten:

30 **"§ 143-215.104D. Powers of the Commission.**

31 (a) Administrative Functions. – The Commission may delegate any or all of the  
32 powers enumerated in this subsection to the Department. The Commission shall:

- 33 (1) Accept petitions for certification and petitions to enter into  
34 dry-cleaning solvent assessment agreements or remediation  
35 agreements under this Part.
- 36 (2) Prioritize certified dry-cleaning facilities, certified wholesale  
37 distribution facilities, or certified abandoned dry-cleaning facility sites  
38 for the initiation of assessment or remediation ~~activities that are~~  
39 ~~reimbursable from the Fund.~~ activities.
- 40 (3) ~~Develop forms to be used by persons applying for reimbursement of~~  
41 ~~assessment or remediation costs.~~
- 42 (4) Schedule funding of assessment and remediation activities.
- 43 (5) Determine whether assessment or remediation is necessary at a site at  
44 which dry-cleaning solvent contamination has occurred.

- 1 (5a) Enter into contracts with private contractors for assessment and  
2 remediation activities at certified dry-cleaning facilities, certified  
3 wholesale distribution facilities, and certified abandoned dry-cleaning  
4 facility sites.
- 5 (6) Determine that all necessary assessment and remediation has been  
6 completed at a contamination site.
- 7 (7) Make payments from the Fund to ~~reimburse~~ reimburse for the costs of assessment  
8 and remediation.

9 (b) Rule making. – The Commission shall adopt rules as are necessary to  
10 implement the provisions of this Part. Rules adopted by the Commission shall be  
11 consistent with and shall not duplicate, but may incorporate by reference, the rules  
12 adopted by the Commission for Health Services pursuant to Article 9 of Chapter 130A  
13 of the General Statutes. The Commission shall not delegate the rule-making powers  
14 provided in this subsection.

15 (1) The Commission may adopt rules governing:

- 16 a. ~~Fees for response costs reimbursable under this Part.~~
- 17 b. The certification and decertification of facilities or abandoned  
18 sites.
- 19 c. The prioritization of facilities or abandoned sites and  
20 scheduling of funding for assessment and remediation activities.  
21 These rules shall provide for:
- 22 1. Consideration of the degree of harm or risk to public  
23 health and the environment.
- 24 2. Consideration of the order in which certification is  
25 issued for the facility or abandoned site.
- 26 3. Consideration of the relative cost of assessment and  
27 remediation activities.
- 28 4. Use of the Fund so as to maximize the reduction of harm  
29 or risk posed by certified facilities, certified abandoned  
30 sites, uncertified facilities and uncertified sites.
- 31 d. The disbursement of revenue from the Fund for payment ~~or~~  
32 ~~reimbursement~~ of approved assessment or remediation costs.
- 33 e. The determination whether assessment or remediation is  
34 necessary at a contamination site.
- 35 f. The determination that all necessary assessment and  
36 remediation has been completed at a contamination site.
- 37 g. The terms and conditions of dry-cleaning solvent assessment  
38 agreements and remediation agreements.
- 39 h. The determination whether additional assessment or  
40 remediation is necessary at a contamination site previously  
41 closed under this Part.

42 (2) The Commission may adopt rules establishing minimum management  
43 practices for handling of dry-cleaning solvent at dry-cleaning facilities  
44 and wholesale distribution facilities. The rules may:

- 1 a. Require that all perchloroethylene dry-cleaning machines  
2 installed at a dry-cleaning facility after the effective date of the  
3 rule or temporary rule meet air emission standards that equal or  
4 exceed the standards that apply to comparable dry-to-dry  
5 perchloroethylene dry-cleaning machines with integral  
6 refrigerated condensation.
- 7 b. Prohibit the discharge of dry-cleaning solvents or water that  
8 contains dry-cleaning solvents into sanitary sewers, septic  
9 systems, storm sewers, or waters of the State.
- 10 c. Require spill containment structures around dry-cleaning  
11 machines, filters, stills, vapor adsorbers, solvent storage areas,  
12 and waste solvent storage areas.
- 13 d. Require floor sealants for cleaning room areas if the  
14 Commission finds the sealants to be effective.
- 15 e. Require, by 1 January 2002, the use of improved solvent  
16 transfer systems to prevent releases at the time of delivery of  
17 solvents to a dry-cleaning facility.
- 18 f. Require any other solvent-handling practices the Commission  
19 may find necessary and appropriate to minimize the risk of  
20 releases at dry-cleaning facilities or wholesale distribution  
21 facilities.
- 22 (3) The Commission shall adopt rules establishing a risk-based approach  
23 applicable to the assessment, prioritization, and remediation of  
24 dry-cleaning solvent contamination resulting from releases at facilities  
25 or abandoned sites certified pursuant to G.S. 143-215.104G. The rules  
26 shall address, at a minimum:
  - 27 a. Criteria and methods for determining remediation requirements,  
28 including the level of remediation necessary to assure adequate  
29 protection of public health and the environment.
  - 30 b. The circumstances under which information specific to the  
31 dry-cleaning solvent contamination site should be considered  
32 and required.
  - 33 c. The circumstances under which restrictions on the future use of  
34 any remediated dry-cleaning solvent contamination site should  
35 be considered and required as a means of achieving and  
36 maintaining an adequate level of protection for public health  
37 and the environment.
  - 38 d. Strategies for the assessment and remediation of dry-cleaning  
39 solvent contamination, including presumptive remedial  
40 responses sufficient to provide an adequate level of protection  
41 as described under sub-subdivision a. of this subdivision.
- 42 (c) All rules adopted by the Commission shall be applicable to all dry-cleaning  
43 facilities, wholesale distribution facilities, and abandoned dry-cleaning facilities in the  
44 State and shall, to the maximum extent practicable, be cost-effective and technically

1 feasible while protecting public health and the environment from the release of  
2 dry-cleaning solvents.

3 (d) Unless otherwise provided in this Part, the Commission may delegate any of  
4 its rights, duties, and responsibilities under this Part to the Department."

5 **SECTION 4.** G.S. 143-215.104F reads as rewritten:

6 "**§ 143-215.104F. Requirements for certification, assessment agreements, and**  
7 **remediation agreements.**

8 (a) General Requirements. – Any person petitioning for certification of a facility  
9 or an abandoned site pursuant to G.S. 143-215.104G, for a dry-cleaning solvent  
10 assessment agreement pursuant to G.S. 143-215.104H, or for a dry-cleaning solvent  
11 remediation agreement pursuant to G.S. 143-215.104I, shall meet the requirements set  
12 out in this section and any other applicable requirements of this Part.

13 (a1) Application Fees. – Each person petitioning or co-petitioning for certification  
14 of a facility or an abandoned site pursuant to G.S. 143-215.104G shall pay an  
15 application fee of one thousand dollars (\$1,000) to the Commission.

16 (b) Requirements for Potentially Responsible Persons Generally. – Every  
17 petitioner shall provide the Commission with:

18 (1) Any information that the petitioner possesses relating to the  
19 contamination at the facility or abandoned site described in the  
20 petition.

21 (2) Information necessary to demonstrate the person's ability to incur the  
22 response costs specified in subsection (f) of this section.

23 (3) Repealed by Session Laws 2000, c. 19, s. 3.

24 (4) Information necessary to demonstrate that the petitioner, and any  
25 parent, subsidiary, or other affiliate of the petitioner, has substantially  
26 complied with:

27 a. The terms of any dry-cleaning solvent assessment agreement,  
28 dry-cleaning solvent remediation agreement, brownfields  
29 agreement, or other similar agreement to which the petitioner or  
30 any parent, subsidiary, or other affiliate of the petitioner has  
31 been a party.

32 b. The requirements applicable to any remediation in which the  
33 petitioner has previously engaged.

34 c. Federal and State laws, regulations, and rules for the protection  
35 of the environment.

36 (5) Evidence demonstrating that a release of dry-cleaning solvent has  
37 occurred at the facility or abandoned site and that the release has  
38 resulted in dry-cleaning solvent contamination.

39 (c) Requirement for Property Owners. – In addition to the information required  
40 by subsection (b) of this section, a petitioner who is the owner of the property on which  
41 the dry-cleaning solvent contamination identified in the petition is located shall provide  
42 the Commission a written agreement authorizing the ~~Commission~~ Commission, or its  
43 ~~agent~~ agent, and its private contractor to have access to the property for purposes of  
44 conducting assessment or remediation activities or determining whether assessment or

1 remediation activities are being conducted in compliance with this Part and any  
2 assessment agreement or remediation agreement. (c1) Costs incurred by the petitioner  
3 for activities to obtain certification of a facility or abandoned site shall not be  
4 reimbursable from the Fund.

5 (d) The Commission ~~shall~~ may reject any petition made pursuant to this Part in  
6 any of the following circumstances:

7 (1) The petitioner is an owner or operator of the facility described in the  
8 petition and the facility was not being operated in compliance with  
9 minimum management practices adopted by the Commission pursuant  
10 to G.S. 143-215.104D(b)(2) at the time the contamination was  
11 discovered.

12 (2) The petitioner is an owner or operator of the facility described in the  
13 petition and the petitioner owed delinquent taxes under Article 5D of  
14 Chapter 105 of the General Statutes at the time the dry-cleaning  
15 solvent contamination was discovered.

16 (3) Repealed by Session Laws 2000, c. 19, s. 3.

17 (e) ~~The Commission may reject any petition made pursuant to this Part in any of~~  
18 ~~the following circumstances:~~

19 ~~(4)~~(4) The petitioner fails to provide the information required by subsection  
20 (b) of this section.

21 ~~(2)~~(5) The petitioner falsified any information in its petition that was material  
22 to the determination of the priority ranking, the nature, scope and  
23 extent of contamination to be assessed or remediated, or the  
24 appropriate means to contain and remediate the contaminants.

25 (f) Financial Responsibility Requirements. – Each potentially responsible person  
26 who petitions the Commission to certify a facility or abandoned site shall accept written  
27 responsibility in the amount specified in this section for the assessment or remediation  
28 of the dry-cleaning solvent contamination identified in the petition. If two or more  
29 potentially responsible persons petition the Commission jointly, the requirements below  
30 shall be the aggregate requirements for the financial responsibility of all potentially  
31 responsible persons who are party to the petition. Unless an alternative arrangement is  
32 agreed to by co-petitioners, the financial responsibility requirements of this section shall  
33 be apportioned equally among the co-petitioners. The financial responsibility required  
34 shall be as follows:

35 (1) For dry-cleaning facilities owned by persons who employ fewer than  
36 five full-time employees, or the equivalent, in activities related to  
37 dry-cleaning operations during the calendar year preceding the date of  
38 the petition, ~~the first five thousand dollars (\$5,000) of the costs of~~  
39 ~~assessment or remediation and one percent (1%) of the costs of~~  
40 ~~assessment or remediation in excess of two hundred thousand dollars~~  
41 ~~(\$200,000) but not exceeding one million dollars (\$1,000,000).~~

42 (2) For abandoned dry-cleaning facility sites and for dry-cleaning facilities  
43 owned by persons who employ at least five but fewer than 10 full-time  
44 employees, or the equivalent, in activities related to dry-cleaning

1 operations during the calendar year preceding the date of the petition,  
2 ~~the first ten thousand dollars (\$10,000) of the costs of assessment or~~  
3 ~~remediation, two percent (2%) of the costs of assessment or~~  
4 ~~remediation in excess of two hundred thousand dollars (\$200,000) but~~  
5 ~~not exceeding five hundred thousand dollars (\$500,000), and one and~~  
6 ~~one-half percent (1.5%) of the costs of assessment or remediation~~  
7 ~~in excess of five hundred thousand dollars (\$500,000) but not~~  
8 ~~exceeding one million dollars (\$1,000,000).~~

9 (3) For wholesale distribution facilities and for dry-cleaning facilities  
10 owned by persons who employ 10 or more full-time employees, or the  
11 equivalent, in activities related to dry-cleaning operations during the  
12 calendar year preceding the date of the petition, ~~the first fifteen~~  
13 ~~thousand dollars (\$15,000) of the costs of assessment or remediation,~~  
14 ~~three percent (3%) of the costs of assessment or remediation in excess~~  
15 ~~of two hundred thousand dollars (\$200,000) but not exceeding five~~  
16 ~~hundred thousand dollars (\$500,000), and one percent (1%) two~~  
17 ~~percent (2%) of the costs of assessment or remediation in excess of~~  
18 ~~five hundred thousand dollars (\$500,000) but not exceeding one~~  
19 ~~million dollars (\$1,000,000).~~

20 (4) ~~For wholesale distribution facilities and abandoned dry cleaning~~  
21 ~~facility sites, the first twenty five thousands dollars (\$25,000) of the~~  
22 ~~costs of assessment or remediation, three percent (3%) of the costs of~~  
23 ~~assessment or remediation in excess of two hundred thousand dollars~~  
24 ~~(\$200,000) but not exceeding five hundred thousand dollars~~  
25 ~~(\$500,000), and one percent (1%) of the costs of assessment or~~  
26 ~~remediation in excess of five hundred thousand dollars (\$500,000) but~~  
27 ~~not exceeding one million dollars (\$1,000,000).~~

28 (g) Repealed by Session Laws 2000, c. 19, s. 3."

29 **SECTION 5.** G.S. 143-215.104H reads as rewritten:

30 "**§ 143-215.104H. Dry-Cleaning Solvent Assessment Agreements.**

31 (a) Assessment Agreements. – One or more potentially responsible parties may  
32 petition the Commission to enter into a dry-cleaning solvent assessment agreement  
33 regarding a facility or abandoned site that has been certified pursuant to  
34 G.S. 143-215.104G. The Commission may, in its discretion, enter into an assessment  
35 agreement with any potentially responsible party who satisfies the requirements of this  
36 section and the applicable requirements of G.S. 143-215.104F. If more than one  
37 potentially responsible party petitions the Commission, the Commission may enter into  
38 a single assessment agreement with one or more of the petitioners. The Commission  
39 shall not unreasonably refuse to enter into an assessment agreement pursuant to this  
40 section. The Commission may require the petitioners to provide the Commission with  
41 any information necessary to demonstrate:

42 (1) The priority ranking assigned to the facility or site is consistent with  
43 the rules adopted by the Commission.



- 1           (2) ~~The projected schedule for funding of assessment activities is~~  
2           ~~adequate.~~
- 3           (3) ~~The assessment activities to be undertaken with respect to the~~  
4           ~~dry-cleaning solvent contamination and any other contamination at the~~  
5           ~~contamination site are adequate.~~
- 6           (4) ~~The person who will be responsible for implementation of the~~  
7           ~~activities is capable and qualified to conduct the assessment.~~
- 8           (4a) ~~The amount of funds already expended by the petitioner for~~  
9           ~~assessment or remediation of dry-cleaning solvent contamination at the~~  
10           ~~facility or abandoned site.~~
- 11           (5) The petitioner has and will continue to have available the financial  
12           resources necessary to pay ~~the costs of assessment activities and the~~  
13           share of response costs imposed on the petitioner by  
14           G.S. 143-215.104F.
- 15           (6) The permits or other authorizations required to conduct the assessment  
16           activities and to lawfully dispose of any hazardous substances or  
17           wastes generated by the assessment activities have been or can be  
18           obtained.
- 19           (7) The assessment activities will not increase the existing level of public  
20           exposure to health or environmental hazards at the contamination site.
- 21           (8) ~~The costs to be incurred in connection with the assessment activities~~  
22           ~~contemplated by the assessment agreement are reasonable and~~  
23           ~~necessary.~~
- 24           (9) The petitioner has obtained the consent of other property owners to  
25           enter into their property for the purpose of conducting assessment  
26           activities specified in the assessment agreement.
- 27           (b) The terms and conditions of an assessment agreement regarding dry-cleaning  
28           solvent contamination shall be guided by and consistent with the rules adopted by the  
29           Commission pursuant to G.S. 143-215.104D and the ~~reimbursement~~ disbursement  
30           authorities and limitations set out in this Part. An assessment agreement shall, subject to  
31           the availability of monies from the Fund:
- 32           (1) Repealed by Session Laws 2000, c. 19, s. 9.
- 33           (1a) Require that the petitioner shall be liable to the Fund for an amount  
34           equal to the difference, if any, between the applicable amount for  
35           which the petitioner is responsible under G.S. 143-215.104F and the  
36           amount reasonably paid by the petitioner for assessment or  
37           remediation activities of the type specified in G.S. 143-215.104N(a)(1)  
38           through (7) and that are otherwise consistent with the requirements of  
39           this Part.
- 40           (2) ~~Provide for the prompt reimbursement of response costs incurred in~~  
41           ~~assessment activities that are found by the Commission to be~~  
42           ~~consistent with the assessment agreement and this Part.~~
- 43           (c) The Commission may refuse to enter into a dry-cleaning solvent assessment  
44           agreement with any petitioner if:

1 (1) The petitioner will not accept financial responsibility for the  
2 petitioner's share of the response costs required by G.S. 143-215.104F.

3 ~~(2) The petitioner will not accept responsibility for conducting,~~  
4 ~~supervising, or otherwise undertaking assessment activities required by~~  
5 ~~the Commission.~~

6 (3) The petitioner fails to provide any information required by subsection  
7 (a) of this section.

8 (d) The refusal of the Commission to enter into a dry-cleaning solvent  
9 assessment agreement with any petitioner shall not affect the rights of any other  
10 petitioner under this Part, except that the refusal may be the basis for rejection of a  
11 petition by any parent, subsidiary or other affiliate of the petitioner for the facility or  
12 abandoned site.

13 (e) If the Commission determines from an assessment prepared pursuant to this  
14 Part that the degree of risk to public health or the environment resulting from  
15 dry-cleaning solvent contamination otherwise subject to assessment or remediation  
16 under this Part and Article 9 of Chapter 130A is acceptable in light of the criteria  
17 established pursuant to G.S. 143-215.104D(b)(3) and Article 9 of Chapter 130A, the  
18 Commission shall issue a written statement of its determination and notify the owner or  
19 operator of the facility or abandoned site responsible for the contamination that no  
20 cleanup, no further cleanup, or no further action is required in connection with the  
21 contamination.

22 (f) If the Commission determines that no remediation or further action is  
23 required in connection with dry-cleaning solvent contamination otherwise subject to  
24 assessment or remediation pursuant to this Part and Article 9 of Chapter 130A, the  
25 Commission shall not pay ~~or reimburse~~ any response costs otherwise payable ~~or~~  
26 ~~reimbursable~~ under this Part from the Fund other than costs reasonable and necessary to  
27 conduct the risk assessment pursuant to this section and in compliance with a  
28 dry-cleaning solvent assessment agreement."

29 **SECTION 6.** G.S. 143-215.104I reads as rewritten:

30 **"§ 143-215.104I. Dry-Cleaning solvent remediation agreements.**

31 (a) Upon the completion of assessment activities required by a dry-cleaning  
32 solvent assessment agreement, one or more potentially responsible parties may petition  
33 the Commission to enter into a dry-cleaning solvent remediation agreement for any  
34 contamination requiring remediation. The Commission may, in its discretion, enter into  
35 a remediation agreement with any petitioner who satisfies the requirements of this  
36 section and the applicable requirements of G.S. 143-215.104F. If more than one  
37 potentially responsible party petitions the Commission, the Commission may enter into  
38 a single remediation agreement with one or more of the petitioners. The Commission  
39 shall not unreasonably refuse to enter into a remediation agreement pursuant to this  
40 section. The Commission may, in its discretion, enter into a remediation agreement that  
41 includes the assessment described in G.S. 143-215.104H. Petitioners shall provide the  
42 Commission with any information necessary to demonstrate:

43 (1) Repealed by Session Laws 2000, c. 19, s. 10.

- 1 (2) As a result of the remediation agreement, the contamination site will  
2 be suitable for the uses specified in the remediation agreement while  
3 fully protecting public health and the environment from dry-cleaning  
4 solvent contamination and any other contaminants included in the  
5 remediation agreement.
- 6 (3) There is a public benefit commensurate with the liability protection  
7 provided under this Part.
- 8 (4) ~~The petitioner has or can obtain the financial, managerial, and~~  
9 ~~technical means to fully implement the remediation agreement and~~  
10 ~~assure the safe use of the contamination site.~~
- 11 (5) The petitioner has complied with or will comply with all applicable  
12 procedural requirements.
- 13 (6) The remediation agreement will not cause the Department to violate  
14 the terms and conditions under which the Department operates and  
15 administers remedial programs, including the programs established or  
16 operated pursuant to Article 9 of Chapter 130A of the General  
17 Statutes, by delegation or similar authorization from the United States  
18 or its departments or agencies, including the United States  
19 Environmental Protection Agency.
- 20 (7) The priority ranking assigned to the facility or site is consistent with  
21 the rules adopted by the Commission or the priority ranking that the  
22 petitioner agrees to accept is consistent with the rules adopted by the  
23 Commission.
- 24 (8) ~~The projected schedule for funding of remediation activities.~~
- 25 (9) The petitioner will continue to have available the financial resources  
26 necessary to satisfy the share of response costs imposed on the  
27 petitioner by G.S. 143-215.104F.
- 28 (10) ~~The expenditures eligible for reimbursement from the Fund and to be~~  
29 ~~incurred in connection with the remediation agreement are reasonable~~  
30 ~~and necessary.~~
- 31 (11) The consent of other property owners to enter into their property for  
32 purposes of conducting remediation activities specified in the  
33 remediation agreement.

34 (b) In negotiating a remediation agreement, parties may rely on land-use  
35 restrictions that will be included in a Notice of Dry-Cleaning Solvent Remediation  
36 required under G.S. 143-215.104M. A remediation agreement may provide for  
37 remediation in accordance with standards that are based on those land-use restrictions.

38 (c) A dry-cleaning solvent remediation agreement shall contain a description of  
39 the contamination site that would be sufficient as a description of the property in an  
40 instrument of conveyance and, as applicable, a statement of:

- 41 (1) Any remediation, including remediation of contaminants other than  
42 dry-cleaning solvents, to be conducted on the property, including:  
43 a. A description of specific areas where remediation is to be  
44 conducted.

- 1           b.     The remediation method or methods to be employed.
- 2           ~~e.     The resources that the petitioner will make available and the~~  
3           ~~degree to which the petitioner intends to rely on the Fund for~~  
4           ~~resources.~~
- 5           d.     A schedule of remediation activities.
- 6           e.     Applicable remediation standards. Applicable remediation  
7           standards for dry-cleaning solvent contamination shall not  
8           exceed the requirements adopted by the Commission pursuant  
9           to G.S. 143-104D(b)(3).
- 10          f.     A schedule and the method or methods for evaluating the  
11          remediation.
- 12          (2)    Any land-use restrictions that will apply to the contamination site or  
13          other property.
- 14          (3)    The desired results of any remediation or land-use restrictions with  
15          respect to the contamination site.
- 16          (4)    The guidelines, including parameters, principles, and policies within  
17          which the desired results are to be accomplished.
- 18          (5)    The consequences of achieving or not achieving the desired results.
- 19          (6)    The priority ranking of the facility or abandoned site.
- 20          ~~(7)    The person who will conduct the remediation if that person is not the~~  
21          ~~potentially responsible party entering the remediation agreement.~~
- 22          (d)    The Commission may refuse to enter into a dry-cleaning solvent assessment  
23          agreement or dry-cleaning solvent remediation agreement with any petitioner ~~if~~if  
24          ~~(1)    The petitioner will not accept financial responsibility for the share of~~  
25          ~~the response costs established in G.S. 143-215.104F. This requirement~~  
26          ~~shall not apply to a petitioner who (i) is the owner of property upon~~  
27          ~~which the dry-cleaning solvent contamination is located, and (ii) is not~~  
28          ~~a current or former owner or operator of a facility believed to be~~  
29          ~~responsible for the contamination.~~
- 30          ~~(2)    The petitioner will not accept responsibility for conducting,~~  
31          ~~supervising, or otherwise undertaking remediation activities required~~  
32          ~~by the Commission.~~
- 33          ~~(3)    The the petitioner fails to provide any information that is necessary to~~  
34          ~~demonstrate the facts required to be shown by subsection (a) of this~~  
35          ~~section.~~
- 36          (e)    In addition to the ~~bases~~basis set forth in subsection (d) of this section, the  
37          Commission may refuse to enter into a dry-cleaning solvent remediation agreement with  
38          ~~the~~an owner of the property on which a contamination site is located if the owner  
39          refuses to accept limitations on the future use of the property and to give notice of these  
40          limitations pursuant to G.S. 143-215.104M.
- 41          (f)    The refusal of the Commission to enter into a dry-cleaning remediation  
42          agreement with any petitioner shall not affect the rights of any other petitioner, other  
43          than any parent, subsidiary, or other affiliate of the petitioner, under this Part. The  
44          refusal of the Commission to enter into a remediation agreement may be the basis for

1 rejection of a petition by any parent, subsidiary, or other affiliate of the petitioner for the  
2 facility or abandoned site.

3 (g) The terms and conditions of a dry-cleaning solvent remediation agreement  
4 concerned with dry-cleaning solvent contamination shall be guided by and consistent  
5 with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the  
6 ~~reimbursement—disbursement~~ authorities and limitations set out in this Part. A  
7 ~~remediation agreement shall provide, subject to availability of monies in the Fund, for~~  
8 ~~prompt reimbursement of response costs incurred in assessment or remediation~~  
9 ~~activities that are found by the Commission to be consistent with the remediation~~  
10 ~~agreement and this Part.~~ A remediation agreement ~~may~~ shall provide that the  
11 ~~Commission—Commission's private contractor~~ conduct assessment and remediation  
12 activities at the facility or abandoned site.

13 (h) Any failure of a petitioner or the petitioner's agents or employees to comply  
14 with the dry-cleaning solvent remediation agreement constitutes a violation of this Part  
15 by the petitioner."

16 **SECTION 7.** G.S. 143-215.104J(a) reads as rewritten:

17 "(a) The Commission may decertify a facility or abandoned site or renegotiate or  
18 terminate an assessment agreement or remediation agreement with respect to any party  
19 thereto in the following circumstances:

- 20 (1) The owner or operator of the facility, at any time subsequent to the  
21 certification of the facility, violates any of the minimum management  
22 requirements adopted by the Commission pursuant to  
23 G.S. 143-215.104D(b)(2).
- 24 (2) In the case of dry-cleaning contamination on property that is owned by  
25 a petitioner, the petitioner fails to file a Notice of Dry-Cleaning  
26 Solvent Remediation, if required, as provided in G.S. 143-215.104M.
- 27 (3) The potentially responsible persons who are parties to a dry-cleaning  
28 solvent assessment agreement are unable to reach an agreement with  
29 the Commission to enter into a dry-cleaning solvent remediation  
30 agreement within the time specified in the assessment agreement.
- 31 (4) The payment of taxes assessed to the facility under Article 5D of  
32 Chapter 105 of the General Statutes is delinquent.
- 33 (5) Repealed by Session Laws 2000, c. 19, s. 3.
- 34 (6) The owner or operator fails to comply with all applicable requirements  
35 of this Part ~~to complete any assessment or remediation activities~~  
36 ~~required by~~ or fails to comply with all applicable requirements of an  
37 assessment agreement or remediation agreement.
- 38 (7) The owner or operator of a facility for which an assessment or  
39 remediation activity is scheduled or in progress transfers the ownership  
40 or operation of the facility or abandoned site to another person without  
41 the prior consent of the Commission and the execution of a substitute  
42 assessment agreement or remediation agreement.
- 43 (8) The standards applied to the dry-cleaning solvent contamination  
44 remediation or containment under the provisions of this Part and the

1 dry-cleaning solvent remediation agreement will, or are likely to, cause  
2 the Department to fail to comply with the terms and conditions under  
3 which it operates and administers a remediation program by delegation  
4 or similar authorization from the United States or one of its  
5 departments or agencies, including the Environmental Protection  
6 Agency.

7 (9) A petitioner fails to pay the Commission any amounts for which a  
8 petitioner is responsible pursuant to G.S. 143-215.104F."

9 **SECTION 8.** G.S. 143-215.104K(a) reads as rewritten:

10 "(a) A potentially responsible party who enters into an assessment agreement or  
11 remediation agreement with the Commission and who is complying with the agreement  
12 shall not be held liable for assessment or remediation of areas of contamination  
13 identified in the agreement except as specified in the assessment agreement or  
14 remediation agreement, so long as ~~the any~~ activities conducted at the contamination site  
15 by or under the control or direction of the petitioner do not increase the risk of harm to  
16 public health or the environment and the petitioner is not required to undertake  
17 additional remediation to unrestricted use standards pursuant to subsection (c) of this  
18 section. The liability protection provided under this Part applies to all of the following  
19 persons to the same extent as the petitioner, so long as these persons are not otherwise  
20 potentially responsible parties or parents, subsidiaries, or affiliates of potentially  
21 responsible parties and the person is not required to undertake additional remediation to  
22 unrestricted use standards pursuant to subsection (c) of this section:

23 (1) ~~Any person under the direction or control of the petitioner who directs~~  
24 ~~or contracts for assessment, remediation, or redevelopment of the~~  
25 ~~contamination site.~~

26 (2) Any future owner of the contamination site.

27 (3) A person who ~~develops or occupies~~ the contamination site.

28 (4) A successor or assign of any person to whom the liability protection  
29 provided under this Part applies.

30 (5) Any lender or fiduciary that provides financing ~~for assessment,~~  
31 ~~remediation, or redevelopment of the contamination site.~~  
32 to the petitioner to pay the petitioner's financial obligations under  
33 G.S. 143-215.104F."

34 **SECTION 9.** G.S. 143-215.104L reads as rewritten:

35 "**§ 143-215.104L. Public notice and community involvement.**

36 (a) If a petitioner desires to enter into a dry-cleaning solvent remediation  
37 agreement based on remediation standards that rely on the creation of land-use  
38 restrictions, the Commission or the Commission's private contractor on behalf of the  
39 petitioner shall notify the public and the community in which the facility or abandoned  
40 site is located of the planned remediation and redevelopment activities. The  
41 petitioner~~On behalf of the petitioner, the Commission or the Commission's private~~  
42 contractor shall submit~~prepare~~ a Notice of Intent to Remediate a Dry-Cleaning Solvent  
43 Facility or Abandoned Site and a summary of the Notice of ~~Intent to the~~  
44 Commission.~~Intent.~~ The Notice of Intent shall provide, to the extent known, a legal

1 description of the location of the contamination site, a map showing the location of the  
2 contamination site, a description of the contaminants involved and their concentrations  
3 in the media of the contamination site, a description of the future use of the  
4 contamination site, any proposed investigation and remediation, and a proposed Notice  
5 of Dry-Cleaning Solvent Remediation prepared in accordance with G.S. 143-215.104M.  
6 Both the Notice of Intent and the summary of the Notice of Intent shall state the time  
7 period and means for submitting written comment and for requesting a public meeting  
8 on the proposed dry-cleaning solvent remediation agreement. The summary of the  
9 Notice of Intent shall include a statement as to the public availability of the full Notice  
10 of Intent. After approval of the Notice of Intent and summary of the Notice of Intent by  
11 the Commission, ~~the petitioner~~the Commission or the Commission's private contractor  
12 shall provide a copy of the Notice of Intent to all local governments having jurisdiction  
13 over the contamination site. The ~~petitioner~~Commission or Commission's private  
14 contractor shall publish the summary of the Notice of Intent in a newspaper of general  
15 circulation serving the area in which the contamination is located and shall file a copy  
16 of the summary of the Notice of Intent with the Codifier of Rules, who shall publish the  
17 summary of the Notice of Intent in the North Carolina Register. The ~~petitioner~~  
18 Commission or the Commission's private contractor shall also conspicuously post a  
19 copy of the summary of the Notice of Intent at the contamination site.

20 (b) Publication of the approved summary of the Notice of Intent in the North  
21 Carolina Register and publication in a newspaper of general circulation shall begin a  
22 public comment period of at least 60 days from the later date of publication. During the  
23 public comment period, members of the public, residents of the community in which the  
24 contamination site is located, and local governments having jurisdiction over the  
25 contamination site may submit comment on the proposed dry- cleaning solvent  
26 remediation agreement, including methods and degree of remediation, future land uses,  
27 and impact on local employment.

28 (c) Any person who desires a public meeting on a proposed dry- cleaning solvent  
29 remediation agreement shall submit a written request for a public meeting to the  
30 Commission within 30 days after the public comment period begins. The Commission  
31 shall consider all requests for a public meeting and shall hold a public meeting if the  
32 Commission determines that there is significant public interest in the proposed  
33 remediation agreement. If the Commission decides to hold a public meeting, the  
34 Commission shall, at least 30 days prior to the public meeting, mail written notice of the  
35 public meeting to all persons who requested the public meeting and to any other person  
36 who had previously requested notice. The Commission shall also ~~direct the petitioner to~~  
37 publish, at least 30 days prior to the date of the public meeting, a notice of the public  
38 meeting at least one time in a newspaper having general circulation in the county where  
39 the contamination site is located. In any county in which there is more than one  
40 newspaper having general circulation, the Commission shall ~~direct the petitioner to~~  
41 publish a copy of the notice in as many newspapers having general circulation in the  
42 county as the Commission in its discretion determines to be necessary to assure that the  
43 notice is generally available throughout the county. The Commission shall prescribe the  
44 form and content of the notice to be published. The Commission shall prescribe the

1 procedures to be followed in the public meeting. The Commission shall take detailed  
2 minutes of the meeting. The minutes shall include any written dry-cleaning solvent  
3 remediation agreement. The Commission shall take into account the comment received  
4 during the comment period and at the public meeting if the Commission holds a public  
5 meeting. The Commission shall incorporate into the remediation agreement provisions  
6 that reflect comment received during the comment period and at the public meeting to  
7 the extent practical. The Commission shall give particular consideration to written  
8 comment that is supported by valid scientific and technical information and analysis."

9 **SECTION 10.** G.S. 143-215.104M(a) reads as rewritten:

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

20 **SECTION 11.** G.S. 143-215.104N reads as rewritten:

21 "§ ~~143-215.104N.~~ **Reimbursement—Disbursement of dry-cleaning solvent**  
22 **assessment and remediation costs; limitations; collection—of**  
23 **reimbursement.cost recovery.**

24 (a) ~~Reimbursement.~~ Allowable Costs. – To the extent monies are available in the  
25 ~~Fund for reimbursement of response costs,~~ Fund, the Commission shall ~~reimburse any~~  
26 ~~person, including a private contractor, responsible for implementing pay for~~ reasonable  
27 and necessary assessment and remediation activities at a contamination site associated  
28 with a certified facility or a certified abandoned site pursuant to a dry-cleaning solvent  
29 assessment agreement or dry-cleaning solvent remediation agreement for the following  
30 assessment and remediation response costs, for which appropriate documentation is  
31 submitted:

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



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

3 (1) For costs incurred in connection with facilities or abandoned sites not  
4 certified pursuant to G.S. 143-215.104G.

5 (2) For costs not incurred pursuant to a dry-cleaning solvent assessment  
6 agreement or a dry-cleaning solvent remediation agreement.

7 ~~(3) For costs incurred in connection with dry-cleaning solvent~~  
8 ~~contamination from a facility or abandoned site for which funds~~  
9 ~~obligated by petitioners pursuant to a dry-cleaning solvent assessment~~  
10 ~~agreement or dry-cleaning solvent remediation agreement in~~  
11 ~~accordance with G.S. 143-214.104F(f) are overdue.~~

12 (4) For costs at a contamination site that has been identified by the United  
13 States Environmental Protection Agency as a federal Superfund site  
14 pursuant to 40 Code of Federal Regulations, Part 300 (1 July 1996  
15 Edition), except that the Commission may authorize distribution of the  
16 required State match in an amount not to exceed two hundred thousand  
17 dollars (\$200,000) per year per site. The Commission shall not  
18 delegate its authority to disburse funds pursuant to this subdivision.

19 (5) For remediation beyond the level required under the Commission's  
20 risk-based criteria for determining the appropriate level of remediation.

21 (6) For assessment or remediation response costs incurred in connection  
22 with any individual dry-cleaning solvent assessment agreement or  
23 dry-cleaning solvent remediation agreement in excess of ~~two~~ five  
24 ~~hundred thousand dollars (\$200,000)~~ (\$500,000) per year. However,  
25 that the Commission may disburse up to ~~four hundred thousand one~~  
26 ~~million dollars (\$400,000)~~ (\$1,000,000) per year for assessment and  
27 remediation costs incurred in connection with a ~~certified~~ facility or a  
28 ~~certified~~ an abandoned site ~~that if the facility or abandoned site has~~  
29 been certified and poses an imminent hazard.

30 (7) That would result in a diminution of the Fund balance below one  
31 hundred thousand dollars (\$100,000), unless an emergency exists in  
32 connection with a dry-cleaning solvent contamination abandoned site  
33 that constitutes an imminent hazard.

34 (8) For any costs incurred in connection with dry-cleaning solvent  
35 contamination from a facility located on a United States military base  
36 or owned by the United States or a department or agency of the United  
37 States.

38 (9) For any costs incurred in connection with dry-cleaning solvent  
39 contamination from a facility or abandoned site owned by the State or  
40 a department or agency of the State.

41 ~~(e) The Commission shall not pay or reimburse any response costs arising from a~~  
42 ~~dry cleaning solvent assessment agreement or dry cleaning solvent remediation~~  
43 ~~agreement until the petitioners who are party to the agreement have paid all sums due~~  
44 ~~under the agreement.~~

1       (d) ~~Each dry-cleaning solvent assessment agreement or dry-cleaning solvent~~  
2 ~~remediation agreements made by the Commission pursuant to this Part shall expressly~~  
3 ~~state that the Commission's obligation to reimburse response costs incurred pursuant to~~  
4 ~~these agreements shall be contingent upon the availability of monies from the Fund and~~  
5 ~~that the State and its departments and agencies have no obligation to reimburse~~  
6 ~~otherwise eligible expenses if monies are not available in the Fund to pay the~~  
7 ~~reimbursements.~~ If, at any time, the Commission determines that the cost of assessment  
8 and remediation activities ~~reimbursable-incurred~~ pursuant to existing dry-cleaning  
9 solvent assessment agreements and dry-cleaning solvent remediation agreements equals  
10 or exceeds the total revenues expected to be credited to the Fund over the life of the  
11 Fund, the Commission shall publish notice of the determination in the North Carolina  
12 Register. Following the publication of a notice pursuant to this section, the Commission  
13 may continue to enter into dry-cleaning solvent assessment agreements and dry-cleaning  
14 solvent remediation agreements until the day of adjournment of the first regular session  
15 of the General Assembly that begins after the date the notice is published, but shall have  
16 no authority to enter into additional dry-cleaning solvent assessment agreements and  
17 dry-cleaning solvent remediation agreements after that date unless the Commission first  
18 determines either (i) that revenues will be available from the Fund to ~~reimburse~~ pay the  
19 costs of assessment and remediation activities expected to be ~~reimbursable-incurred~~  
20 pursuant to the agreements, or (ii) that assessment and remediation activities undertaken  
21 pursuant to the agreements will be paid entirely from sources other than the Fund. For  
22 the purposes of this subsection, the term "day of adjournment" shall mean: (i) in the  
23 case of a regular session held in an odd-numbered year, the day the General Assembly  
24 adjourns by joint resolution for more than 10 days, and (ii) in the case of a regular  
25 session held in an even-numbered year, the day the General Assembly adjourns sine die.

26       (e) ~~The Commission shall pay the reimbursable response costs of eligible parties~~  
27 ~~as they are incurred.~~ If the cleanup of the contamination site is not completed through  
28 fault of the petitioner as required by the remediation agreement, the petitioner shall  
29 reimburse the Fund for any response costs previously reimbursed-disbursed from the  
30 fund for the cleanup shall be repaid to the Fund, cleanup, with interest. The Commission  
31 shall request the Attorney General to commence a civil action to secure repayment of  
32 response costs and interest of the costs."

33       **SECTION 12.** G.S. 143-215.104P(a) reads as rewritten:

34       "(a) The Secretary may assess a civil penalty of not more than ten thousand  
35 dollars (\$10,000) or, if the violation involves a hazardous waste, as defined in  
36 G.S. 130-290, of not more than twenty-five thousand dollars (\$25,000) against any  
37 person who:

- 38           (1) Repealed by Session Laws 2000, c. 19, s. 3.
- 39           (2) Engages in dry-cleaning operations using dry-cleaning solvent for  
40           which the appropriate sales or use tax has not been paid.
- 41           (3) Fails to comply with rules adopted by the Commission pursuant to this  
42           Part.
- 43           (3a) Fails to comply with the rules adopted by the Commission pursuant to  
44           Article 21B of Chapter 143 of the General Statutes that apply to

1 dry-cleaning solvents at facilities as defined in this Part. Violations of  
2 this subdivision shall be enforced as provided in G.S. 143-215.114A,  
3 143-215.114B, and 143-215.114C. This enforcement authority does  
4 not apply to facilities located in counties that have been delegated as  
5 local air pollution control programs by the Commission pursuant to  
6 G.S. 143-215.112.

7 (3b) Fails to comply with rules adopted by the Commission for Health  
8 Services pursuant to Article 9 of Chapter 130A of the General Statutes  
9 that apply to dry-cleaning solvents at facilities as defined in this Part.  
10 Violations of this subdivision shall be enforced as provided in  
11 G.S. 130A-18, 130A-22, 130A-25, and 130A-26.1.

12 (4) Fails to file, submit, or make available, as the case may be, any  
13 documents, data, or reports required by this Part.

14 (5) Violates or fails to act in accordance with the terms, conditions, or  
15 requirements of any special order or other appropriate document issued  
16 pursuant to G.S. 143-215.2.

17 (6) Falsifies or tampers with any recording or monitoring device or  
18 method required to be operated or maintained under this Part or rules  
19 implementing this Part.

20 (7) Knowingly renders inaccurate any recording or monitoring device or  
21 method required to be operated or maintained under this Part or rules  
22 implementing this Part.

23 (8) Knowingly makes any false statement, representation, or certification  
24 in any application, record, report, plan, or other document filed or  
25 required to be maintained under this Part or rule implementing this  
26 Part.

27 (9) Knowingly makes a false statement of material fact in a rule-making  
28 proceeding or contested case under this Part.

29 (10) Refuses access to the Commission or its duly designated representative  
30 to any premises for purposes of conducting a lawful inspection  
31 provided for in this Part or rule implementing this Part."

32 **SECTION 13.** G.S. 143-215.104T(b) reads as rewritten:

33 "(b) Notwithstanding the provision of the Tort Claims Act, G.S. 143-291 through  
34 G.S. 143-300.1 or any other provision of law waiving the sovereign immunity of the  
35 State of North Carolina, the State, its agencies, officers, employees, and agents shall be  
36 absolutely immune from any liability in any proceeding for any injury or claim arising  
37 from negotiating, entering into, implementing, monitoring, or enforcing a dry-cleaning  
38 solvent assessment agreement, a dry-cleaning solvent remediation agreement, or a  
39 Notice of Dry-Cleaning Solvent Remediation under this Part or any other action  
40 implementing this Part."

41 **SECTION 14.** G.S. 105-187.31 reads as rewritten:

42 "**§ 105-187.31. Tax imposed.**

43 A privilege tax is imposed on a dry-cleaning solvent retailer at a flat rate for each  
44 gallon of dry-cleaning solvent sold by the retailer to a dry-cleaning facility. An excise

1 tax is imposed on dry-cleaning solvent purchased outside the State for storage, use, or  
2 consumption by a dry-cleaning facility in this State. The rate of the privilege tax and the  
3 excise tax is ten dollars (\$10.00) for each gallon of halogenated hydrocarbon-based  
4 dry-cleaning solvent ~~that is chlorine-based~~ and one dollar and thirty-five cents (\$1.35)  
5 for each gallon of hydrocarbon-based dry-cleaning solvent ~~that is hydrocarbon-based~~.  
6 solvent. These taxes are in addition to all other taxes."

7         **SECTION 15.** If the Environmental Management Commission adopts rules  
8 establishing a risk-based approach applicable to the assessment, prioritization, and  
9 remediation of dry-cleaning solvent contamination, the original notice of text for which  
10 was published at 21 N.C. Reg. 1818 (April 16, 2007); the Rules Review Commission  
11 approves these rules, including any changes incorporated as a result of public comments  
12 or Rules Review Commission requirements; and the Rules Review Commission  
13 receives 10 or more letters of objection to these rules in accordance with  
14 G.S. 150B-21.3(b2), the Environmental Management Commission, notwithstanding the  
15 requirements of G.S. 150B-21.1 and G.S. 150B-21.3, may adopt these rules as  
16 temporary rules in accordance with the temporary rule-making procedures set out in  
17 Chapter 150B.

18         **SECTION 16.(a)** G.S. 143-215.104F(a1), as enacted by Section 4 of this act,  
19 becomes effective on 1 September 2007 and applies to applications for certifications  
20 made, and assessment agreements and remediation agreements entered into on or after  
21 that date. G.S. 143-215.104F(f), as amended by Section 4 of this act, is effective  
22 retroactively to 1 August 2001 and applies to assessment agreements and remediation  
23 agreements entered into on or after that date. The Environmental Management  
24 Commission shall credit any payment received from a petitioner prior to 1 September  
25 2007 against the petitioner's co-payment obligations under G.S. 143-215.104F, but the  
26 Environmental Management Commission shall not repay, and this section shall not  
27 operate to create any right for a petitioner to demand, any refund of funds received prior  
28 to 1 September 2007. All other amendments to G.S. 143-215.104F, as enacted by  
29 Section 4 of this act, are effective when this act becomes law.

30         **SECTION 16.(b)** G.S. 143-215.104N(b)(6), as enacted by Section 11 of this  
31 act, is effective retroactively to 1 January 2007. All other amendments to  
32 G.S. 143-215.104N, as enacted by Section 11 of this act, are effective when this act  
33 becomes law.

34         **SECTION 16.(c)** Section 12 of this act becomes effective 1 January 2008.

35         **SECTION 16.(d)** Section 13 of this act becomes effective retroactively to 1  
36 January 1998.

37         **SECTION 16.(e)** Except as provided in subsections (a) through (d) of this  
38 section, this act is effective when it becomes law.