

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1999**

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**HOUSE BILL 1326\***  
**Committee Substitute Favorable 7/7/99**

Short Title: Dry-Cleaning Solvent Cleanup Amends.

(Public)

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Sponsors:

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Referred to:

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April 23, 1999

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO EARMARK THE STATE SALES TAX REVENUE FROM DRY-  
3 CLEANING AND LAUNDRY SERVICES FOR THE DRY-CLEANING  
4 SOLVENT CLEANUP FUND, AND TO AMEND THE DRY-CLEANING  
5 SOLVENT CLEANUP ACT OF 1997 TO REPEAL THE REQUIREMENT OF  
6 FINANCIAL RESPONSIBILITY FOR DRY-CLEANING FACILITIES AND  
7 WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO  
8 ALLOW THE ENVIRONMENTAL MANAGEMENT COMMISSION TO ENTER  
9 INTO CONTRACTS WITH PRIVATE CONTRACTORS FOR ASSESSMENT  
10 AND REMEDIATION ACTIVITIES AT DRY-CLEANING FACILITIES AND  
11 WHOLESALE DRY-CLEANING SOLVENT DISTRIBUTION FACILITIES, TO  
12 ESTABLISH A STATE GOAL FOR THE REDUCTION OF THE USE OF  
13 PERCHLOROETHYLENE F-1,1,3 BY DRY-CLEANING FACILITIES, TO  
14 REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
15 RESOURCES TO REPORT TO THE ENVIRONMENTAL REVIEW  
16 COMMISSION ON THE PROGRESS IN ATTAINING THIS GOAL AND THE  
17 COST AND EFFECTIVENESS OF DRY-CLEANING TECHNOLOGIES AND  
18 CHEMICALS THAT OFFER AN ALTERNATIVE TO THE USE OF

1 PERCHLOROETHYLENE F-1,1,3, AND TO MAKE OTHER CHANGES IN THE  
2 DRY-CLEANING SOLVENT CLEANUP ACT OF 1997.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended to add a new section to read:

"§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.

At the end of each quarter, the Secretary must transfer to the Dry-Cleaning Solvent Cleanup Fund established under G.S. 143-215.104C a percentage of the net amount of State sales and use taxes collected under G.S. 105-164.4(a)(4), as determined by the Secretary based on available data. The percentage amount to be transferred is as follows:

| <u>Quarters in Fiscal Year</u>  | <u>Percentage</u> |
|---------------------------------|-------------------|
| <u>2001-2002</u>                | <u>15%</u>        |
| <u>2002-2003</u>                | <u>30%</u>        |
| <u>2003-2004</u>                | <u>45%</u>        |
| <u>2004-2005 and thereafter</u> | <u>60%.</u> "     |

Section 2. G.S. 143-215.104C(b) reads as rewritten:

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

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

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

(3) Gifts and grants made to the Fund.

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

Section 3. G.S. 143-215.104B(b)(20), 143-215.104E, 143-215.104F(b)(3), 143-215.104F(d)(3), 143-215.104F(g), 143-215.104J(a)(5), 143-215.104P(a)(1), and Section 3 of S.L. 1997-392 are repealed.

Section 4. G.S. 143-215.104F(f) reads as rewritten:

"(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement shall accept written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners. ~~The requirements in this subsection shall be in addition to any insurance or other financial responsibility, including deductibles or retentions, established pursuant to G.S. 143-215.104E.~~

Facility or Abandoned Site Where Release Occurred    Costs

Dry-cleaning facilities owned by persons who employ  
fewer than five full-time employees, or the  
equivalent, in activities related to dry-cleaning  
operations during the preceding calendar year    ~~\$5,000~~ \$10,000

Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year ~~\$10,000~~ \$15,000

Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year ~~\$15,000~~ \$20,000

Wholesale distribution facilities ~~\$25,000~~ \$30,000

Abandoned dry-cleaning facility sites \$50,000."

Section 5. G.S. 143-215.104C reads as rewritten:

"§ 143-215.104C. (Repealed effective January 1, 2012) Dry-Cleaning Solvent Cleanup Fund.

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

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

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

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

(3) Gifts and grants made to the Fund.

7 (c) Disbursements. – A claim filed against the Fund may be paid only from monies  
8 in the Fund and only in accordance with the provisions of this Part. Any obligation to pay  
9 or reimburse claims against the Fund shall be expressly contingent upon availability of  
10 monies in the Fund. Neither the State nor any of its agencies shall have any obligation to  
11 pay or reimburse any costs for which monies are not available in the Fund. The  
12 provisions of this Part shall not constitute a contract, either express or implied, to pay or  
13 reimburse costs in excess of the monies available in the Fund. In making disbursements  
14 from the Fund, the Commission shall ~~pay the claims with the highest priority before claims of~~  
15 ~~lower priority, and claims of equal priority in the order in which the facility or abandoned site~~  
16 ~~was certified~~ obligate monies to facilities or sites with higher priority before facilities or  
17 sites of lower priority, and facilities or sites with equal priority in the order in which the  
18 facilities or sites were prioritized until the revenue is exhausted. Consistent with the  
19 provisions of this Part, the Commission may disburse monies from the Fund to abate  
20 imminent hazards caused by dry-cleaning solvent contamination at abandoned dry-  
21 cleaning facility sites that have not been certified. Up to twenty percent (20%) of the

1 amount of revenue credited to the Fund in a year may be used to defray costs incurred by  
2 the Department and the Attorney General's Office in connection with administration of  
3 the program described in this Part, including oversight of response activities."

Section 6. G.S. 143-215.104D(a) reads as rewritten:

4 "(a) Administrative Functions. – The Commission may delegate any or all of the  
5 powers enumerated in this subsection to the ~~Department or engage a private contractor or~~  
6 ~~contractors to carry out the activities enumerated in this subsection. If the Commission~~  
7 ~~engages a private contractor to carry out the functions enumerated in subdivisions (1)~~  
8 ~~through (6) of this subsection, no action of the contractor shall be effective until ratified~~  
9 ~~by the Commission.~~ Department. The Commission shall:

(1) Accept petitions for certification and petitions to enter into dry-cleaning solvent assessment agreements or remediation agreements under this Part.

(2) Prioritize certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites for the initiation of assessment or remediation activities that are reimbursable from the Fund.

(3) Develop forms to be used by persons applying for reimbursement of assessment or remediation costs.

(4) Schedule funding of assessment and remediation activities.

(5) Determine whether assessment or remediation is necessary at a site at which dry-cleaning solvent contamination has occurred.

(5a) Enter into contracts with private contractors for assessment and remediation activities at certified dry-cleaning facilities, certified wholesale distribution facilities, or certified abandoned dry-cleaning facility sites.

(6) Determine that all necessary assessment and remediation has been completed at a contamination site.

(7) Make payments from the Fund to reimburse the costs of assessment and remediation. ~~Any payments made by a private contractor engaged by the Commission shall be authorized by the Commission prior to disbursement."~~

Section 7. G.S. 143-215.104F, as amended by Sections 3 and 4 of this act, reads as rewritten:

"§ 143-215.104F. (Repealed effective January 1, 2012) Requirements for certification, assessment agreements, and remediation agreements.

10 (a) Any person petitioning for certification of a facility or abandoned site pursuant  
11 to G.S. 143-215.104G, for a dry-cleaning solvent assessment agreement pursuant to G.S.  
12 143-215.104H, or for a dry-cleaning solvent remediation agreement pursuant to G.S. 143-  
13 215.104I, shall meet the requirements set out in this section and any other applicable  
14 requirements of this Part.

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

(1) Information necessary for the Commission to determine the priority ranking of Any information that the petitioner possesses relating to the contamination at the facility or abandoned site described in the petition.

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

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

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

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

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

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

1 (c) Requirement for Property Owners. – In addition to the information required by  
2 subsection (b) of this section, a petitioner who is the owner of the property on which the  
3 dry-cleaning solvent contamination identified in the petition is located shall provide the  
4 Commission a written agreement authorizing the Commission or its agent to have access  
5 to the property for purposes of conducting assessment or remediation activities or  
6 determining whether assessment or remediation activities are being conducted in  
7 compliance with this Part and any assessment agreement or remediation agreement.

(c1) Costs incurred by the petitioner for activities to obtain certification of a facility or site shall not be reimbursable from the Fund.

8 (d) The Commission shall reject any petition made pursuant to this Part in any of  
9 the following circumstances:

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

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

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

(1) The petitioner fails to provide the information required by subsection (b) of this section.

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

(f) Financial Responsibility Requirements. – Each potentially responsible person who petitions the Commission to ~~enter into a dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation agreement~~ certify a facility or abandoned site shall accept

written responsibility in the amount specified in this section for the assessment or remediation of the dry-cleaning solvent contamination identified in the petition. If two or more potentially responsible persons petition the Commission jointly, the requirements below shall be the aggregate requirements for the financial responsibility of all potentially responsible persons who are party to the petition. Unless an alternative arrangement is agreed to by co-petitioners, the financial responsibility requirements of this section shall be apportioned equally among the co-petitioners.

Facility or Abandoned Site Where Release Occurred    Costs

Dry-cleaning facilities owned by persons who employ fewer than five full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year \$10,000

Dry-cleaning facilities owned by persons who employ at least five but fewer than 10 full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year \$15,000

Dry-cleaning facilities owned by persons who employ 10 or more full-time employees, or the equivalent, in activities related to dry-cleaning operations during the preceding calendar year \$20,000

Wholesale distribution facilities \$30,000

Abandoned dry-cleaning facility sites \$50,000."

Section 8. G.S. 143-215.104G reads as rewritten:

"§ 143-215.104G. (Effective January 1, 1999; repealed effective January 1, 2012)  
Certification of facilities and abandoned sites.

1        (a) A potentially responsible party may petition the Commission to certify a  
2 facility or abandoned site where a release of dry-cleaning solvent is believed to have has  
3 occurred. The Commission shall certify the facility or abandoned site if the petitioner  
4 meets the applicable requirements of G.S. 143-215.104F. Upon its decision to certify a  
5 facility or abandoned site, the Commission shall inform the petitioner of its decision and  
6 of the initial priority ranking of the facility or site.

7        (b) ~~The Commission may change the initial priority rankings of any facility or~~  
8 ~~abandoned site as additional facilities or abandoned sites are certified if the Commission,~~  
9 ~~in its sole discretion, determines that additional facilities or sites pose a higher degree of~~  
10 ~~harm or risk to public health and the environment. However, the Commission shall not~~  
11 ~~change the priority ranking of a facility or an abandoned site that is set in a dry-cleaning~~  
12 ~~solvent remediation agreement.~~

1 (c) A potentially responsible party who petitions for certification of a facility or  
2 abandoned site shall provide the Commission with either of the following:

(1) ~~A proposed dry-cleaning solvent assessment agreement or dry-cleaning solvent  
remediation agreement or an indication~~ written statement of the petitioner's intent to enter  
into an assessment agreement or remediation agreement.

(2) A written statement of the petitioner's intent to conduct assessment and  
remediation activities pursuant to subsection (d) of this section.

3 (d) A person who has access to property that is contaminated by dry-cleaning  
4 solvent and who has successfully petitioned for certification of the facility or abandoned  
5 site from which the contamination is believed to have resulted may undertake assessment  
6 or remediation of dry-cleaning solvent contamination located on the property consistent  
7 with the standards established by the Commission pursuant to G.S. 143-215.104D(b)(3)  
8 without first entering into a dry-cleaning solvent assessment agreement or a dry-cleaning  
9 solvent remediation agreement. No assessment or remediation activities undertaken  
10 pursuant to this subsection shall rely on standards that require the creation of land-use  
11 restrictions. A person who undertakes assessment or remediation activities pursuant to  
12 this subsection shall provide the Commission prior written notice of the activity. Costs  
13 associated with assessment or remediation activities undertaken pursuant to this  
14 subsection shall not be eligible for reimbursement from the Fund.

(e) The rejection of any petition filed pursuant to this section shall not affect the rights of  
any other petitioner, other than any parent, subsidiary, or other affiliate of the petitioner,  
under this Part. The rejection of a petition or the decertification of a facility or abandoned  
site may be the basis for rejection of a petition by any parent, subsidiary, or other affiliate  
of the petitioner for the facility or abandoned site."

Section 9. G.S. 143-215.104H reads as rewritten:

"§ 143-215.104H. (Effective January 1, 1999; repealed effective January 1, 2012) Dry-  
Cleaning Solvent Assessment Agreements.

15 (a) Assessment Agreements. – One or more potentially responsible parties may  
16 petition the Commission to enter into a dry-cleaning solvent assessment agreement  
17 regarding a facility or abandoned site that has been certified pursuant to G.S. 143-  
18 215.104G. The Commission may, in its discretion, enter into an assessment agreement  
19 with any potentially responsible party who satisfies the requirements of this section and  
20 the applicable requirements of G.S. 143-215.104F. If more than one potentially  
21 responsible party petitions the Commission, the Commission may enter into a single  
22 assessment agreement with one or more of the petitioners. The Commission shall not  
23 unreasonably refuse to enter into an assessment agreement pursuant to this section.  
24 ~~Petitioners shall~~ The Commission may require the petitioners to provide the Commission  
25 with any information necessary to demonstrate that the: ~~demonstrate:~~

(1) ~~Priority~~ The priority ranking assigned to the facility or site is consistent with the  
rules adopted by the Commission or the adjusted priority ranking that the petitioner  
agrees to accept is consistent with the rules adopted by the Commission.

(2) ~~Projected~~ The projected schedule for funding of assessment activities, including  
reimbursements from the Fund activities is adequate.

(3) ~~Assessment~~ The assessment activities to be undertaken with respect to the dry-cleaning solvent contamination and any other contamination at the contamination site are adequate.

(4) ~~Person~~ The person who will be responsible for implementation of the activities is capable and qualified to conduct the assessment.

(4a) The amount of funds already expended by the petitioner for assessment or remediation of dry-cleaning solvent contamination at the facility or site.

(5) ~~Petitioner~~ The petitioner has and will continue to have available the financial resources necessary to pay the costs of assessment activities and the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(6) ~~Permits~~ The permits or other authorizations required to conduct the assessment activities and to lawfully dispose of any hazardous substances or wastes generated by the assessment activities have been or can be obtained.

(7) ~~Assessment~~ The assessment activities will not increase the existing level of public exposure to health or environmental hazards at the contamination site.

(8) ~~Costs~~ The costs to be incurred in connection with the assessment activities contemplated by the assessment agreement are reasonable and necessary.

(9) ~~Petitioner~~ The petitioner has obtained the consent of other property owners to enter into their property for the purpose of conducting assessment activities specified in the assessment agreement.

1 (b) The terms and conditions of an assessment agreement regarding dry-cleaning  
2 solvent contamination shall be guided by and consistent with the rules adopted by the  
3 Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and  
4 limitations set out in this Part. An assessment agreement shall, subject to the availability  
5 of monies from the Fund:

~~(1) Specify the date on which remediation will begin.~~

(1a) Require that the petitioner shall be liable to the Fund for an amount equal to the difference, if any, between the applicable amount of financial responsibility established by G.S. 143-215.104F and the amount reasonably paid by the petitioner for assessment or remediation activities of the type specified in G.S. 143-215.104N(a)(1) through (7) and otherwise consistent with the requirements of this Part.

(2) Provide for the prompt reimbursement of response costs incurred in assessment activities that are found by the Commission to be consistent with the assessment agreement and this Part.

6 (c) The Commission may refuse to enter into a dry-cleaning solvent assessment  
7 agreement with any petitioner if:

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

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

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



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

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

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

Section 10. G.S. 143-215.104I(a) reads as rewritten:

5 "(a) Upon the completion of assessment activities required by a dry-cleaning  
6 solvent assessment agreement, one or more potentially responsible parties may petition  
7 the Commission to enter into a dry-cleaning solvent remediation agreement for any  
8 contamination requiring remediation. The Commission may, in its discretion, enter into a  
9 remediation agreement with any petitioner who satisfies the requirements of this section  
10 and the applicable requirements of G.S. 143-215.104F. If more than one potentially  
11 responsible party petitions the Commission, the Commission may enter into a single  
12 remediation agreement with one or more of the petitioners. The Commission shall not  
13 unreasonably refuse to enter into a remediation agreement pursuant to this section. The  
14 Commission may, in its discretion, enter into a remediation agreement that includes the  
15 assessment described in G.S. 143-215.104H. Petitioners shall provide the Commission  
16 with any information necessary to demonstrate that:

~~(1) The petitioner, and any parent, subsidiary, or other affiliate of the petitioner has substantially complied with:~~

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

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

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

(2) As a result of the remediation agreement, the contamination site will be suitable for the uses specified in the remediation agreement while fully protecting public health

and the environment from dry-cleaning solvent contamination and any other contaminants included in the remediation agreement.

(3) There is a public benefit commensurate with the liability protection provided under this Part.

(4) The petitioner has or can obtain the financial, managerial, and technical means to fully implement the remediation agreement and assure the safe use of the contamination site.

(5) The petitioner has complied with or will comply with all applicable procedural requirements.

(6) The remediation agreement will not cause the Department to violate the terms and conditions under which the Department operates and administers remedial programs, including the programs established or operated pursuant to Article 9 of Chapter 130A of the General Statutes, by delegation or similar authorization from the United States or its departments or agencies, including the United States Environmental Protection Agency.

(7) The priority ranking assigned to the facility or site is consistent with the rules adopted by the Commission or the ~~adjusted~~ priority ranking that the petitioner agrees to accept is consistent with the rules adopted by the Commission.

(8) The projected schedule for funding of remediation ~~activities, including reimbursements from the Fund.~~ activities.

(9) The petitioner will continue to have available the financial resources necessary to satisfy the share of response costs imposed on the petitioner by G.S. 143-215.104F.

(10) The expenditures eligible for reimbursement from the Fund and to be incurred in connection with the remediation agreement are reasonable and necessary.

(11) The consent of other property owners to enter into their property for purposes of conducting remediation activities specified in the remediation agreement."

Section 11. G.S. 143-215.104I(c)(6) reads as rewritten:

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

...

(6) The ~~final~~ priority ranking of the facility or abandoned site."

Section 12. G.S. 143-215.104N(a) reads as rewritten:

4       "(a) Reimbursement. – To the extent monies are available in the Fund for  
5 reimbursement of response costs, the Commission shall reimburse any ~~person~~ person,  
6 including a private contractor, responsible for implementing reasonable and necessary  
7 assessment and remediation activities at a contamination site associated with a certified  
8 facility or a certified abandoned site pursuant to a dry-cleaning solvent assessment  
9 agreement or dry-cleaning solvent remediation agreement for the following assessment  
10 and remediation response ~~costs~~ 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."

Section 13. G.S. 143-215.104I(g) reads as rewritten:

"(g) The terms and conditions of a dry-cleaning solvent remediation agreement concerned with dry-cleaning solvent contamination shall be guided by and consistent with the rules adopted by the Commission pursuant to G.S. 143-215.104D and the reimbursement authorities and limitations set out in this Part. A remediation agreement shall provide, subject to availability of monies in the Fund, for prompt reimbursement of response costs incurred in assessment or remediation activities that are found by the Commission to be consistent with the remediation agreement and this Part. A remediation agreement may provide for the Commission to conduct assessment and remediation activities at the site."

Section 14. G.S. 143-215.104N(c) reads as rewritten:

- 1 "(c) The Commission shall not pay or reimburse any response costs arising from a
- 2 dry-cleaning solvent assessment agreement or dry-cleaning solvent remediation
- 3 agreement until the petitioners who are party to the agreement have exhausted the
- 4 financial resources made available under the agreement pursuant to ~~G.S. 143-215.104E and~~
- 5 G.S. 143-215.104F."

Section 15. G.S. 143-215.104O reads as rewritten:

"§ 143-215.104O. (Repealed effective January 1, 2012) Remediation of uncertified sites.

- 6 (a) In the event the owner or operator of a facility or the current owner of an
- 7 abandoned site cannot be identified or located, unreasonably refuses to enter into either
- 8 an assessment agreement or remediation agreement or cannot be made to comply with the
- 9 provisions of an assessment agreement or remediation agreement between the petitioner
- 10 and the Commission, the Commission may direct the Department or a private contractor
- 11 engaged by the Commission to use staff, equipment, or materials under the control of the
- 12 Department or contractor or provided by other cooperating federal, State, or local
- 13 agencies to develop and implement a plan for abatement of an imminent hazard, or to
- 14 provide interim alternative sources of drinking water to third parties affected by dry-
- 15 cleaning solvent contamination resulting from a release at the facility or abandoned site.
- 16 The cost of any of these actions shall be paid from the Fund. The Department or private
- 17 contractor shall keep a record of all expenses incurred for personnel and for the use of
- 18 equipment and materials and all other expenses of developing and implementing the
- 19 remediation plan.

- 20 (b) The Commission shall request the Attorney General to commence a civil
- 21 action to secure reimbursement of costs incurred under this ~~subsection~~-section.

1 (c) In the event a civil action is commenced pursuant to this Part to recover monies  
2 paid from the Fund, the Commission may recover, in addition to any amount due, the  
3 costs of the action, including reasonable attorneys' fees and investigation expenses. Any  
4 monies received or recovered as reimbursement shall be paid into the Fund or other  
5 source from which the expenditures were made."

Section 16. Section 5 of S.L. 1997-392 reads as rewritten:

"Section 5. This act constitutes a recent act of the General Assembly within the meaning  
of G.S. 150B-21.1. The Environmental Management Commission may adopt temporary  
rules to implement this act until ~~1 January 1999~~ 30 June 2000." ♦

Section 17. Section 7 of S.L. 1997-392 reads as rewritten:

6 "Section 7. (a) Any person who undertakes assessment or remediation of dry-  
7 cleaning solvent contamination pursuant to ~~an~~ a notice of violation or enforcement action  
8 by the Department of ~~Environment, Health, Environment~~ and Natural Resources during the  
9 period beginning 1 October 1997 and ~~1 January 1999~~ ending 30 June 2000 may, on or  
10 after ~~1 January 1999~~ 30 June 2000 seek reimbursement from the Dry-Cleaning Solvent  
11 Cleanup Fund for any costs exceeding fifty thousand dollars (\$50,000). The Commission  
12 shall reimburse costs if it finds that the costs incurred were (i) appropriately documented  
13 and reasonably necessary to assess or remediate the dry-cleaning solvent contamination;  
14 (ii) for any of the activities described in subdivisions (1) through (7) of G.S. 143-  
15 215.104N(a); (iii) not subject to any of the limitations in subdivisions (4) ~~or (5)~~ through  
16 (9) of G.S. 143-215.104N(b); and (iv) not reimbursable from pollution and remediation  
17 legal liability insurance; and (v) required by a notice of violation or a specific order of the  
18 Department of ~~Environment, Health, Environment~~ and Natural Resources issued on or after  
19 30 June 1996. No reimbursement may be paid pursuant to this section for dry-cleaning  
20 solvent contamination that did not result from operations at a dry-cleaning or wholesale  
21 distribution facility. Notwithstanding any other provision of this subsection, the  
22 Commission may by rule shorten the period during which costs subject to reimbursement  
23 pursuant to this subsection may be incurred.

24 (b) Any person who, as of ~~1 January 1999~~ 30 June 2000, is undertaking assessment  
25 or remediation of dry-cleaning solvent contamination shall be eligible to petition the  
26 Commission to enter into a dry-cleaning solvent assessment agreement or dry-cleaning  
27 solvent remediation agreement with respect to the contamination. In calculating the  
28 required financial contribution of parties to any agreement, the Commission shall  
29 determine the reasonable cost of any necessary unreimbursed assessment or remediation  
30 activity undertaken by the parties with respect to the contamination site prior to ~~1 January~~  
31 ~~1999~~ 30 June 2000 and shall credit the amount toward any applicable financial  
32 responsibility limits established in G.S. 143-215.104F. Notwithstanding any other  
33 provision of this subsection, the Commission may by rule establish a different cutoff date  
34 for assessment and remediation activities covered by this subsection."

Section 18. If any section or provision of this act is declared unconstitutional or invalid  
by the courts, the unconstitutional or invalid section or provision does not affect the  
validity of this act as a whole or any part of this act other than the part declared to be  
unconstitutional or invalid.

Section 19. Article 21A of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.104V. Dry-cleaning solvent reduction goals.

It shall be the goal of the State of North Carolina to reduce the use of Perchloroethylene F-1,1,3 (PERC) by dry-cleaning facilities in accordance with the following schedule:

Percent Reduction in PERC                      Reduction Deadline

10%    1 July 2004

25%    1 July 2009

50%    1 July 2014

100% 1 July 2019."

Section 20. G.S. 143-215.104U reads as rewritten:

"§ 143-215.104U. (Repealed effective January 1, 2012) Reporting requirements.

1        (a)     The Secretary shall present an annual report to the Environmental Review  
2 Commission that shall include at least the following:

(1)     A list of all dry-cleaning solvent contamination reported to the Department.

(2)     A list of all facilities and abandoned sites certified by the Commission and the status of contamination associated with each facility or abandoned site.

(3)     An estimate of the cost of assessment and remediation required in connection with facilities or abandoned sites certified by the Commission and an estimate of assessment and remediation costs expected to be paid from the Fund.

(4)     A statement of receipts and disbursements for the Fund.

(5)     A statement of all claims against the Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations.

(6)     The adequacy of the Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Fund.

(7)     The progress of the State in attaining the goals of reducing the use of Perchloroethylene F-1,1,3 (PERC) as established in G.S. 143-215.104T.

(8)     The cost and effectiveness of dry-cleaning technologies and chemicals that offer an alternative to the use of Perchloroethylene F-1,1,3 (PERC).

3        (b)     The Secretary shall make the annual report required by this section on or  
4 before 1 October of each year."

Section 21. Sections 1 and 2 of this act become effective July 1, 2001. G.S. 105-164.44E and G.S. 143-215.104C(b)(4), as enacted by this act, are repealed on July 1, 2010. The remainder of this act is effective when it becomes law, and Sections 3 and 4 of this act apply retroactively to April 1, 1998.