

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**SENATE BILL 1132
House Committee Substitute Favorable 7/24/06**

Short Title: Risk-Based Environmental Remediation.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO EXPAND AND MAKE CONSISTENT THE CIRCUMSTANCES
3 UNDER WHICH THE DEPARTMENT OF ENVIRONMENT AND NATURAL
4 RESOURCES SHALL ALLOW FOR RISK-BASED REMEDIAL ACTIONS.

5 Whereas, the General Assembly finds that there are contaminated areas in
6 North Carolina, including land and other property, surface water, and groundwater, that
7 are adversely affected by environmental contamination due to the presence of drilling
8 waste; hazardous and toxic materials, substances, and wastes; solid waste; oil; and other
9 wastes, contaminants, and regulated substances; and

10 Whereas, the General Assembly finds that the presence of environmental
11 contamination on these areas creates both potential and actual harm to public health,
12 safety, and welfare and to the environment; and

13 Whereas, the General Assembly finds that this potential and actual harm
14 results in substantial economic losses, including reduced property values and tax
15 revenues; decreased ability to develop and expand the beneficial use of these areas; and
16 other opportunity costs because of the uncertainties and concerns that result from the
17 environmental contamination of these areas; and

18 Whereas, the General Assembly finds that it is in the public interest that
19 contaminated areas are cleaned up or managed in a manner that protects public health,
20 safety, welfare and the environment and protects groundwater that is a current or
21 probable future water supply; and

22 Whereas, the General Assembly finds that North Carolina has numerous and
23 varied State-managed remediation programs to address environmental contamination,
24 including the Inactive Hazardous Sites Response Act of 1987, the hazardous waste
25 management program administered by the State pursuant to the federal Resource
26 Conservation and Recovery Act of 1976, the Leaking Petroleum Underground Storage
27 Tank Cleanup Act of 1988, the Brownfields Property Reuse Act of 1997, the
28 Dry-Cleaning Solvent Cleanup Act of 1997, the federal Superfund program
29 administered in part by the State pursuant to the Comprehensive Environmental

1 Response, Compensation, and Liability Act of 1980 and the Superfund Amendments
2 and Reauthorization Act of 1986, and the groundwater protection rules adopted by the
3 Environmental Management Commission; and

4 Whereas, the General Assembly finds that these remediation programs utilize
5 varying standards, levels, protocols, means, methods, techniques, interpretations, and
6 other requirements and apply various federal regulations and State rules applicable to
7 testing, monitoring, assessing, prioritizing, characterizing, and cleanup or remediation
8 of contaminated areas; and

9 Whereas, the General Assembly finds that the expenditure of public and
10 private resources on unnecessary remediation could better be channeled to other
11 purposes, including new development, renovation and repair, research and development,
12 training and education, and other activities that maintain and enhance North Carolina's
13 competitive position in the world and the excellent quality of life enjoyed by the citizens
14 of North Carolina; and

15 Whereas, the General Assembly finds that public health, safety, and welfare
16 and the environment can be protected by implementing a risk-based remediation process
17 that requires that contaminated areas be cleaned up to a level that is sufficient to ensure
18 protection of public health, safety, and welfare and the environment without excessive
19 expenditure of public or private resources; and

20 Whereas, the General Assembly finds that North Carolina's groundwater is a
21 valuable public and private resource, serving as the drinking water source for one-half
22 of the State's population and also as a water supply for industrial and commercial uses;
23 and

24 Whereas, the General Assembly finds that maintenance of North Carolina's
25 surface water and groundwater resources will become increasingly important to the
26 continued economic vitality of the State in the future; and

27 Whereas, the General Assembly finds that use of site-specific remediation
28 standards based on an objective, scientific, and uniform approach to the evaluation of
29 the risk posed by each contaminated area can be protective of public health, safety, and
30 welfare and the environment; and

31 Whereas, the General Assembly finds that use of site-specific remediation
32 standards in appropriate circumstances may encourage cleanup of contaminated sites;
33 and

34 Whereas, the General Assembly intends that the levels of remediation that are
35 established for each contaminated area are to be applicable or relevant and appropriate
36 standards under federal remediation programs; and

37 Whereas, the General Assembly intends that the protections afforded to
38 public health, safety, and welfare and to the environment by existing environmental,
39 health, and safety standards that apply to ongoing activities not be diminished in any
40 way, in order that those standards will continue to protect against the discharge or
41 release of contaminants to the environment that would result in additional contaminated
42 areas; Now, therefore,

43 The General Assembly of North Carolina enacts:

1 **SECTION 1.** Article 7 of Chapter 143B of the General Statutes is amended
2 by adding a new Part to read:

3 "Part 1A. Risk-Based Environmental Remediation.

4 **"§ 143B-279.15. Definitions.**

5 As used in this Part:

- 6 (1) 'Background standard' means the naturally occurring concentration of a
7 substance in the absence of the release of a contaminant at the site.
8 (2) 'Contaminant' means any substance regulated under any program listed
9 in subdivisions (1) through (6) of G.S. 143B-279.17.
10 (3) 'Department' means the Department of Environment and Natural
11 Resources.
12 (4) 'Groundwater contamination' means a contaminant released to the
13 environment that has resulted, or has the potential to result, in an
14 increase in the concentration of the contaminant or contaminants in the
15 groundwater in excess of unrestricted use standards.
16 (5) 'Institutional controls' means nonengineered measures, including
17 land-use restrictions, used to prevent unsafe exposure to
18 contamination.
19 (6) 'Remedial action plan' means a plan for eliminating or reducing
20 contamination based on rules established pursuant to this Part.
21 (7) 'Remediation' means all actions that are necessary or appropriate to
22 clean up, mitigate, correct, abate, minimize, eliminate, control, or
23 prevent the spreading, migration, leaking, leaching, volatilization,
24 spilling, transport, or further release of a contaminant into the
25 environment in order to protect public health, safety, or welfare or the
26 environment.
27 (8) 'Responsible person' means a person who is or may be liable for
28 remediation under any program listed in subdivisions (1) through (6)
29 of G.S. 143B-279.17.
30 (9) 'Secretary' means the Secretary of Environment and Natural
31 Resources.
32 (10) 'Systemic toxicant' means any substance that may enter the body and
33 have a harmful effect, other than causing cancer.
34 (11) 'Unrestricted use standards' means contaminant concentrations for each
35 environmental medium that are acceptable for all uses, that are
36 protective of public health, safety, and welfare and the environment,
37 and that comply with generally applicable standards, guidance, or
38 methods established by statute or adopted, published, or implemented
39 by the Environmental Management Commission, the Commission for
40 Health Services, or the Department.

41 **"§ 143B-279.16. Purpose.**

42 It is the purpose of this Part to allow the Department to approve the remediation of
43 contaminated property based on site-specific remediation standards in circumstances
44 where site-specific remediation standards are adequate to protect public health, safety,

1 and welfare and the environment and are consistent with protection of current and
2 anticipated future use of groundwater and surface water affected or potentially affected
3 by the contamination.

4 **"§ 143B-279.17. Applicability.**

5 This Part applies to remediation under the following programs to the extent that the
6 programs address the contaminants and the contaminated environmental media and to
7 the extent this Part does not conflict with federal authority:

- 8 (1) The Inactive Hazardous Sites Response Act of 1987, G.S. 130A-310, et
9 seq.
- 10 (2) The hazardous waste management program administered by the State
11 pursuant to the federal Resource Conservation and Recovery Act of 1976,
12 Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901, et seq., as amended.
- 13 (3) Solid waste management facilities regulated under Article 9 of Chapter
14 130A of the General Statutes.
- 15 (4) The federal Superfund program administered in part by the State pursuant
16 to the Comprehensive Environmental Response, Compensation, and
17 Liability Act of 1980, Pub. L. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601, et
18 seq., as amended, the Superfund Amendments and Reauthorization Act of
19 1986, Pub. L. 99-499, 100 Stat. 1613, as amended, and G.S. 130A-310.20,
20 et seq.
- 21 (5) The groundwater protection corrective action requirements adopted by the
22 Environmental Management Commission pursuant to Article 21 of
23 Chapter 143 of the General Statutes.
- 24 (6) Oil Pollution and Hazardous Substances Control Act of 1978, Parts 1 and
25 2 of Article 21A of Chapter 143 of the General Statutes.

26 **"§ 143B-279.18. Remediation standards.**

27 (a) Remediation Standards. – When conducting remediation activities pursuant to
28 this Part, any person who proposes or is required to respond to the release of a
29 contaminant at a site shall attain compliance with one of the following standards:

- 30 (1) The unrestricted use standard applicable to each affected media.
- 31 (2) The background standard for any media in which naturally occurring
32 concentrations of a substance exceeds the unrestricted use standards.
- 33 (3) A site-specific remediation standard developed in accordance with
34 subsection (b) of this section that is approved by the Department.
- 35 (4) Any combination of remediation standards described in this subsection
36 that is approved by the Department.

37 (b) Site-Specific Remediation Standard. – Site-specific remediation standards
38 shall be developed for each medium in accordance with the requirements of this
39 subsection to achieve remediation that eliminates or reduces to protective levels any
40 substantial present or probable future risk to human health, including sensitive
41 subgroups, and the environment based upon the present or currently planned future use
42 of the property comprising the site.

- 1 (1) The site-specific remediation standard for ambient air shall be the air
2 quality standards adopted by the Environmental Management
3 Commission.
- 4 (2) The site-specific remediation standard for surface waters shall be the
5 water quality standards adopted by the Environmental Management
6 Commission.
- 7 (3) The current and probable future use of groundwater shall be identified
8 and protected. Site-specific sources of contaminants and potential
9 receptors shall be identified. Potential receptors must be protected,
10 controlled, or eliminated whether the receptors are located on or off
11 the property where the source of contamination is located. Natural
12 environmental conditions affecting the fate and transport of
13 contaminants, such as natural attenuation, shall be determined by
14 appropriate scientific methods.
- 15 (4) Soil shall be remediated to levels that no longer constitute a continuing
16 source of groundwater contamination in excess of the site-specific
17 groundwater remediation standards approved under this Part.
- 18 (5) Soil shall be remediated to unrestricted use standards on residential
19 property except:
- 20 a. For mixed-use developments where the ground level uses are
21 nonresidential and where all potential exposure to soil has been
22 eliminated, the Department may allow soil to remain on the site
23 in excess of unrestricted use standards.
- 24 b. If soil remediation is impracticable because of the presence of
25 preexisting structures, all areas of the real property at which a
26 person may come into contact with soil shall be remediated to
27 unrestricted use standards, and, on all other areas of the real
28 property, engineering and institutional controls that are
29 sufficient to protect public health, safety, and welfare and the
30 environment shall be implemented and maintained.
- 31 (6) The potential for human inhalation of contaminants from the outdoor
32 air and other site-specific air exposure pathways shall be considered if
33 applicable.
- 34 (7) The site-specific remediation standard shall protect against human
35 exposure to contamination through the consumption of contaminated
36 fish or wildlife and through the ingestion of contaminants in surface
37 water or groundwater supplies.
- 38 (8) For known or suspected carcinogens, site-specific remediation
39 standards shall be established at exposures that represent an excess
40 lifetime cancer risk of one in 1,000,000. The site-specific remediation
41 standard may depart from the one in 1,000,000 risk level based on the
42 criteria set out in 40 Code of Federal Regulations § 300.430(e)(9) (1
43 July 2003 Edition). The cumulative excess lifetime cancer risk to an

1 exposed individual shall not be greater than one in 10,000 based on the
2 sum of carcinogenic risk posed by each contaminant present.

3 (9) For systemic toxicants, site-specific remediation standards shall
4 represent levels to which the human population, including sensitive
5 subgroups, may be exposed without any adverse health effect during a
6 lifetime or part of a lifetime. Site-specific remediation standards for
7 systemic toxicants shall incorporate an adequate margin of safety and
8 shall take into account cases where two or more systemic toxicants
9 affect the same organ or organ system.

10 (10) The site-specific remediation standards for each medium shall be
11 adequate to prevent adverse effects to the environment.

12 **"§ 143B-279.19. Remedial action plans.**

13 (a) A person who proposes to conduct remediation pursuant to this Part shall
14 develop and submit a proposed remedial action plan to the Department. A remedial
15 action plan shall provide for the protection of public health, safety, and welfare and the
16 environment. A proposed remedial action plan shall include a legal description of the
17 location of the site, a map showing the location of the site, a description of the
18 contaminants involved and their concentration in the media of the site, a description of
19 the intended future use of the site, and any proposed investigation and remediation.

20 (b) A remedial action plan shall:

21 (1) Identify immediate actions required to remove the source of
22 contamination and to address any imminent threat to public health,
23 safety, or welfare or the environment.

24 (2) Assess all contaminated areas, including types and levels of
25 contamination; the horizontal and vertical extent of contamination; and
26 the risk to public health, safety, and welfare and to the environment
27 posed by the contamination.

28 (3) Address contamination that moves from one medium to another in
29 order to prevent a violation of the remediation standards established
30 under G.S. 143B-279.18. A more stringent remediation standard may
31 be required for a particular medium to control impact on other media.

32 (4) Identify the current and anticipated future uses of property comprising
33 the contaminated area and address any concerns raised in public
34 comment on the proposed remedial action plan as to the proposed
35 future uses of the property.

36 (5) Identify the current and anticipated future uses of groundwater in the
37 contaminated area and address any concerns raised in public comment
38 on the proposed remedial action plan as to the future uses of
39 groundwater.

40 (6) Determine the appropriate method of remediation to achieve an
41 acceptable level or range of levels of risk.

42 (7) Specify any measures that may be necessary to prevent adverse effects
43 to the environment that may occur at levels of contamination that are
44 lower than the standard necessary to protect human health.

- 1 (8) Specify any measures that may be necessary to prevent any discharge
2 into surface waters or air emission in violation of applicable surface
3 water quality and air quality standards adopted by the Environmental
4 Management Commission during implementation of the remedial
5 action plan.
- 6 (9) Provide for attainment and maintenance of the remediation standards
7 established under G.S. 143B-279.18.
- 8 (10) Provide for methods and procedures to verify that the quantity,
9 concentration, range, or other measure of each contaminant remaining
10 at the contaminated area at the conclusion of active remediation meets
11 the remediation standards established for the site, that an acceptable
12 level of risk has been achieved, and that no further remediation is
13 required.
- 14 (11) Provide an appropriate level of oversight for implementation of the
15 proposed remedial action plan based on the nature and complexity of
16 the site and the proposed remedial actions.
- 17 (12) Provide for the imposition and recordation of land-use restrictions as
18 provided in G.S. 143B-279.9, 143B-279.11, 130A-310.3(f),
19 130A-310.8, 130A-310.35, 143-215.84(f), and 143-215.85(a) if the
20 remedial action plan allows contamination in excess of the greater of
21 unrestricted use standards or background standards to remain on any
22 real property or in groundwater that underlies any real property.
- 23 (13) Define the circumstances under which no further remediation is
24 required.
- 25 (c) A remedial action plan shall also include an analysis of each of the following
26 factors:
- 27 (1) Long-term risks and effectiveness of the proposed remediation
28 including an evaluation of:
- 29 a. The magnitude of risks remaining after completion of the
30 remediation.
- 31 b. The type, degree, frequency, and duration of any
32 post-remediation activity that may be required, including, but
33 not limited to, operation and maintenance, monitoring,
34 inspection, reports, and other activities necessary to protect
35 public health, safety, and welfare and the environment.
- 36 c. Potential for exposure of human and environmental receptors to
37 contaminants remaining at the site.
- 38 d. Long-term reliability of any engineering and voluntary
39 institutional controls, including repair, maintenance, or
40 replacement of components.
- 41 f. Time required to achieve remediation standards.
- 42 (2) Toxicity, mobility, or volume of contaminants, including the amount
43 of contaminants that will be removed, contained, treated, or destroyed;
44 the degree of expected reduction in toxicity, mobility, or volume; and

1 the type, quantity, toxicity, and mobility of contaminants that will
2 remain after implementation of the remedial action plan.

3 (3) Short-term risks and effectiveness of the remediation, including the
4 short-term risks that may be posed to the community, workers, or the
5 environment during implementation of the remedial action plan, and
6 the effectiveness and reliability of protective measures to address
7 short-term risks.

8 (4) The ease or difficulty of implementing the remedial action plan,
9 including commercially available remedial measures, expected
10 operational reliability, available capacity and location of needed
11 treatment, storage and disposal services for wastes, time to initiate
12 remediation, and approvals necessary to implement the remediation.

13 **"§ 143B-279.20. Notice of intent to remediate.**

14 At the time that a person who proposes a remedial action plan submits the plan to the
15 Department, the person shall send a notice of intent to remediate to all local
16 governments having taxing or land-use jurisdiction over the site. The notice shall
17 include all of the information required in G.S. 143B-279.19(a) and provide for a public
18 comment period of at least 30 days during which the municipality or county or any
19 citizen may submit comments to the applicant and to the Department. The Department
20 may conduct a public hearing on the proposed remedial action plan if there is significant
21 public interest. The person shall also publish a summary of the notice at least once in a
22 newspaper of general circulation in the county or counties where the site is located. The
23 person shall consider any information provided pertaining to current and future uses of
24 groundwater in the area of the site and any concerns expressed with respect to proposed
25 future uses of the site following remediation. The person shall provide a response to any
26 information or comments on the remediation standards or the proposed remedial action
27 plan that are received during the comment period. The person may modify the plan
28 based on information or comments received during the comment period.

29 **"§ 143B-279.21. Review and approval of proposed remedial action plans by the**
30 **Department.**

31 (a) The Department shall review and approve a proposed remedial action plan
32 consistent with the remediation standards set out in G.S. 143B-279.18 and the
33 procedures set out in this section. In its review of a proposed remedial action plan, the
34 Department shall:

35 (1) Determine whether the proposed remedial action plan meets the
36 requirements of G.S. 143B-279.19.

37 (2) Determine whether a risk-based approach to remediation is appropriate
38 for a particular contaminated area. In making this determination the
39 Department shall consider proximity of the contamination to water
40 supply wells or other receptors; current and anticipated future reliance
41 on the groundwater as a water supply; current and anticipated future
42 land use; environmental impacts; and the feasibility of remediation to
43 unrestricted use standards.

- 1 (3) Establish the acceptable level or range of levels of risk to public
2 health, safety, and welfare and to the environment.
- 3 (4) Establish, for each contaminant, the maximum allowable quantity,
4 concentration, range, or other measures of contamination that will
5 remain at the contaminated area at the conclusion of active
6 remediation.
- 7 (5) Consider the technical performance, effectiveness, and reliability of
8 the proposed remedial action plan in attaining and maintaining
9 compliance with applicable remediation standards.
- 10 (6) Consider the ability of the person who proposes to remediate the site to
11 implement the proposed remedial action plan within a reasonable time
12 and without jeopardizing public health, safety, or welfare or the
13 environment.
- 14 (7) Determine whether the proposed remedial action plan adequately
15 provides for the imposition and maintenance of engineering and
16 institutional controls and for sampling, monitoring, and reporting
17 requirements necessary to protect public health, safety, and welfare
18 and the environment.
- 19 (8) Approve the circumstances under which no further remediation is
20 required.

21 (b) The person who proposes a remedial action plan shall certify to the
22 Department that a notice of intent to remediate has been provided as required by
23 G.S. 143B-279.20.

24 (c) The person who proposes a remedial action plan has the burden of
25 demonstrating that the remedial action plan is protective of public health, safety, and
26 welfare and the environment and complies with the requirements of this Part. The
27 Department may require a person who proposes a remedial action plan to supply any
28 additional information necessary for the Department to approve or disapprove the plan.

29 (d) In making a determination on a proposed remedial action plan, the
30 Department shall consider the information provided by the person who proposes the
31 remedial action plan as well as information provided by local governments pursuant to
32 G.S. 143B-279.20. The Department shall disapprove a proposed remedial action plan
33 unless the Department finds that the plan is protective of public health, safety, and
34 welfare and the environment and complies with the requirements of this Part. The
35 Department shall approve or disapprove a proposed remedial action plan within 90 days
36 after a complete plan has been submitted for review. If the Department disapproves a
37 proposed remedial action plan, the person who submitted the plan may seek review as
38 provided in Article 3 of Chapter 150B of the General Statutes. If the Department fails to
39 approve or disapprove a proposed remedial action plan within 90 days after a complete
40 plan has been submitted, the person who submitted the plan may treat the plan as having
41 been disapproved.

42 **"§ 143B-279.22. Attainment of the remediation standard.**

43 (a) Compliance with the approved remediation standards is attained for a site or
44 portion of a site when a remedial action plan approved by the Department has been

1 implemented and applicable soil, groundwater, surface water, and air emission
2 standards have been attained. The remediation standards may be attained through a
3 combination of remediation activities that can include treatment, removal, engineering,
4 or institutional controls, except that the responsible person may not demonstrate
5 attainment of an unrestricted use standard or a background standard through the use of
6 institutional controls alone. When the remedial action plan has been fully implemented,
7 the responsible person shall submit a final report to the Department, with notice to the
8 local government with taxing and land-use jurisdiction, that demonstrates that the
9 remedial action plan has been fully implemented and that the remediation standards
10 have been attained. The final report shall be accompanied by a request that the
11 Department issue a release from further remediation.

12 (b) The responsible person has the burden of demonstrating that the remedial
13 action plan has been fully implemented and that the remediation standards have been
14 attained in compliance with the requirements of this Part. The Department may require a
15 person who implements the remedial action plan to supply any additional information
16 necessary for the Department to determine whether the remediation standards have been
17 attained.

18 (c) The Department shall review the final report, and, upon determining that the
19 responsible person has completed remediation to the approved remediation standard, the
20 Department shall issue a release from further remediation at the site. Once the
21 Department has issued a release, the Department may require additional remedial action
22 by the responsible party only upon finding that:

23 (1) Monitoring, testing, or analysis of the property subsequent to the
24 issuance of the release letter indicates that the remediation standards
25 and objectives were not achieved or are not being maintained.

26 (2) One or more of the conditions, restrictions, or limitations imposed on
27 the property as part of the remediation have been violated.

28 (3) Site monitoring or operation and maintenance activities that are
29 required as part of the remedial action plan or written determination of
30 completion for the property are not adequately funded or are not
31 adequately implemented.

32 (4) A hazardous substance release is discovered at the property that was
33 not the subject of the site investigation and remediation for which the
34 release letter was issued.

35 (5) A material change in the facts known to the Department at the time the
36 written determination of completion was issued, or new facts, cause
37 the Department to find that further assessment or remediation is
38 necessary to prevent a significant risk to human health and safety or to
39 the environment.

40 (6) The release letter was based on fraud, misrepresentation, or intentional
41 nondisclosure of information by the responsible person.

42 (d) The Department shall issue a final decision on a request for release from
43 further remediation within 90 days after receipt of a complete final report. Failure of the
44 Department to issue a final decision on release from further remediation within 90 days

1 after receipt of a complete final report may be treated as a denial of the request for
2 release from further remediation. The responsible person may seek review of a denial of
3 a request for a release from further remediation as provided in Article 3 of Chapter
4 150B of the General Statutes.

5 (e) Once the Department issues a release from further remediation at the site, any
6 person that changes the use of the property causing the level of risk to increase beyond
7 the acceptable risk range shall be required by the Department to undertake additional
8 remediation measures.

9 **"§ 143B-279.23. Compliance with other laws.**

10 This Part shall not be construed to limit the authority of the Department to require
11 investigation, initial response, or remediation of environmental contamination under any
12 other provision of State or federal law or to direct actions necessary to address an
13 imminent threat to public health, safety, or welfare or the environment. This Part shall
14 not be construed or implemented to alter the requirements of programs, including
15 permitting programs that regulate the handling of hazardous substances, or otherwise
16 impose requirements intended to prevent or mitigate the release or discharge of
17 contaminants to the environment.

18 **"§ 143B-279.24. Adoption of rules.**

19 The Secretary may adopt rules to implement this Part. This Part shall not be deemed
20 to modify the bases upon which the unrestricted use standards are adopted by the
21 Environmental Management Commission pursuant to Article 21 of Chapter 143 of the
22 General Statutes.

23 **"§ 143B-279.25: Reserved for future codification purposes.**

24 **"§ 143B-279.26: Reserved for future codification purposes.**

25 **"§ 143B-279.27. Construction of Part.**

26 No provision of this Part shall be construed to supersede or otherwise affect or
27 prevent the enforcement of any land-use or development regulation or ordinance
28 adopted by a city pursuant to Article 19 of Chapter 160A of the General Statutes or by a
29 county pursuant to Article 18 of Chapter 153A of the General Statutes. The use of the
30 site and any land-use restrictions imposed as part of a remedial action plan shall comply
31 with local land-use and development controls adopted by a city pursuant to Article 19 of
32 Chapter 160A of the General Statutes or by a county pursuant to Article 18 of Chapter
33 153A of the General Statutes."

34 **SECTION 2.** The Secretary of Environment and Natural Resources shall use
35 all reasonable efforts to obtain a written agreement from the United States
36 Environmental Protection Agency that Part 1A of Article 7 of Chapter 143B of the
37 General Statutes, as enacted by Section 1 of this act, and the rules adopted by the
38 Secretary pursuant to G.S. 143B-279.25 are consistent with the Comprehensive
39 Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, 94
40 Stat. 2767, 42 U.S.C. § 9601, et seq., as amended, and the Superfund Amendments and
41 Reauthorization Act of 1986, Pub. L. 99-499, 100 Stat. 1613, as amended.

42 **SECTION 3.** It is the intent of the General Assembly that a person who
43 intends to conduct a remediation pursuant to Part 1A of Article 7 of Chapter 143B of the
44 General Statutes, as enacted by Section 1 of this act, shall pay a remediation fee to the

1 State. The Environmental Review Commission shall study issues related to the
2 remediation fee, including the bases on which the remediation fee should be assessed,
3 the procedures to be used to determine the amount of the remediation fee, and for what
4 purposes remediation fees could and should be used. The Environmental Review
5 Commission shall report the results of its study, including any legislative proposals, to
6 the 2007 General Assembly. It is the intent of the General Assembly that the
7 procedures to set the amount of a remediation fee and the purposes for which
8 remediation fees may be used shall become law on or before 1 September 2007.

9 **SECTION 4.** On or before 1 October 2008, the Department of Environment
10 and Natural Resources shall report to the Environmental Review Commission as to the
11 steps the Secretary of Environment and Natural Resources and the Department have
12 taken to implement this act. The report shall include information on the adoption of
13 rules to implement Part 1A of Article 7 of Chapter 143B of the General Statutes, as
14 enacted by Section 1 of this act, the number of contaminated areas that have been
15 proposed for remediation under the rules, the number of contaminated areas that are
16 undergoing active remediation under the rules, the number of contaminated areas at
17 which remediation under the rules has been completed, the number of contaminated
18 areas that are known or believed to be appropriate for remediation under the rules, and
19 the number of contaminated areas for which the Department has determined that a
20 risk-based approach to remediation under the rules is not appropriate and the reasons for
21 each determination. On or before 1 October 2009, the Department shall undertake an
22 examination of the risk-based remediation procedures currently in place for remediation
23 programs administered by the Department that are not included in G.S. 143B-279.17, as
24 enacted by Section 1 of this act, and report to the Environmental Review Commission
25 on what actions would be necessary to make remediation under those programs
26 consistent with Part 1A of Article 7 of Chapter 143B of the General Statutes, as enacted
27 by Section 1 of this act. Those programs include the following:

- 28 (1) The Leaking Petroleum Underground Storage Tank Cleanup Act of
29 1988, G.S. 143-215.94A, et seq.
- 30 (2) The Brownfields Property Reuse Act of 1997, G.S. 130A-310.30, et
31 seq.
- 32 (3) The Dry-Cleaning Solvent Cleanup Act of 1997, G.S. 143-215.104A,
33 et seq.

34 **SECTION 5.** This act shall not be construed to obligate the General
35 Assembly to appropriate any funds to implement the provisions of this act. Every State
36 agency to which this act applies shall implement the provisions of this act from funds
37 otherwise appropriated or available to the agency.

38 **SECTION 6.** Section 1 of this act becomes effective 1 September 2007.
39 Sections 2 through 6 of this act are effective when the act becomes law.