

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1063*
Committee Substitute Favorable 4/24/01

Short Title: Pay for Performance/LUST Cleanups.

(Public)

Sponsors:

Referred to:

April 10, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE FOR PERFORMANCE-BASED CLEANUPS OF
3 DISCHARGES OR RELEASES OF PETROLEUM FROM UNDERGROUND
4 STORAGE TANKS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 143-215.94B is amended by adding a new subsection to
7 read:

8 "(f) On the first day of each fiscal quarter, the Department may allocate up to fifty
9 percent (50%) of the funds in the Commercial Fund that are not otherwise obligated for
10 performance-based cleanups as provided in this subsection. The Department may also
11 use any funds that are available from any other source and that are specifically intended
12 to be used for performance-based cleanups as provided in this section. Each
13 performance-based cleanup shall comply with the requirements of this Part and any
14 other provisions of law that govern the cleanup of environmental damage resulting from
15 the discharge or release of a petroleum product from a commercial underground storage
16 tank. The Department may contract for performance-based cleanups with licensed
17 professionals, including Professional Engineers, Professional Geologists, Registered
18 Environmental Consultants, and other professional consultants that the Department has
19 determined to be qualified to satisfactorily complete the work associated with a cleanup.
20 A performance-based contract shall provide that cleanup will be completed within the
21 time and for the cost stated in the contract. The Department shall select contractors for
22 performance-based cleanup through a competitive bidding process that is open to all
23 qualified professionals. The Department shall award a performance-based contract to
24 the qualified contractor who submits the lowest responsible bid."

25 **SECTION 2.** G.S. 143-215.94D is amended by adding a new subsection to
26 read:

27 "(f) On the first day of each fiscal quarter, the Department may allocate up to fifty
28 percent (50%) of the funds in the Noncommercial Fund that are not otherwise obligated
29 for performance-based cleanups as provided in this subsection. The Department may

1 also use any funds that are available from any other source and that are specifically
2 intended to be used for performance-based cleanups as provided in this section. Each
3 performance-based cleanup shall comply with the requirements of this Part and any
4 other provisions of law that govern the cleanup of environmental damage resulting from
5 the discharge or release of a petroleum product from a noncommercial underground
6 storage tank. The Department may contract for performance-based cleanups with
7 licensed professionals, including Professional Engineers, Professional Geologists,
8 Registered Environmental Consultants, and other professional consultants that the
9 Department has determined to be qualified to satisfactorily complete the work
10 associated with a cleanup. A performance-based contract shall provide that cleanup will
11 be completed within the time and for the cost stated in the contract. The Department
12 shall select contractors for performance-based cleanup through a competitive bidding
13 process that is open to all qualified professionals. The Department shall award a
14 performance-based contract to the qualified contractor who submits the lowest
15 responsible bid."

16 **SECTION 3.** G.S. 143-215.94G is amended by adding a new subsection to
17 read:

18 "(a3) The Department may implement the provisions of subsection (a) of this
19 section as provided in G.S. 143-215.95B(f) and G.S. 143-215.94D(f)."

20 **SECTION 4.** This act constitutes a recent act of the General Assembly
21 within the meaning of G.S. 150B-21.1. Notwithstanding G.S. 150B-21.1(a)(2) and 26
22 NCAC 2C.0102(11), the Environmental Management Commission may adopt
23 temporary rules to implement this act until 1 July 2002. Prior to the adoption of a
24 temporary rule under this section, the Secretary shall publish a notice of intent to adopt
25 a temporary rule in the North Carolina Register. The notice shall set out the text of the
26 proposed temporary rule and include the name of the person to whom questions and
27 written comment on the proposed temporary rule may be submitted. The Secretary shall
28 accept written comment on the proposed temporary rule for at least 30 days after the
29 notice of intent to adopt a temporary rule is published in the North Carolina Register.

30 **SECTION 5.** This act becomes effective 1 July 2001.