

§ 143-215.104J. (Expires January 1, 2032 – see notes) Decertification; termination of assessment agreements and remediation agreements.

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

- (1) The owner or operator of the facility, at any time subsequent to the certification of the facility, violates any of the minimum management requirements adopted by the Commission pursuant to G.S. 143-215.104D(b)(2).
- (2) In the case of dry-cleaning contamination on property that is owned by a petitioner, the petitioner fails to file a Notice of Dry-Cleaning Solvent Remediation, if required, as provided in G.S. 143-215.104M.
- (3) The potentially responsible persons who are parties to a dry-cleaning solvent assessment agreement are unable to reach an agreement with the Commission to enter into a dry-cleaning solvent remediation agreement within the time specified in the assessment agreement.
- (4) The payment of taxes assessed to the facility under Article 5D of Chapter 105 of the General Statutes is delinquent.
- (5) Repealed by Session Laws 2000, ch. 19, s. 3, effective on or after April 1, 1998.
- (6) The owner or operator fails to comply with all applicable requirements of this Part or fails to comply with all applicable requirements of an assessment agreement or remediation agreement.
- (7) The owner or operator of a facility for which an assessment or remediation activity is scheduled or in progress transfers the ownership or operation of the facility or abandoned site to another person without the prior consent of the Commission and the execution of a substitute assessment agreement or remediation agreement.
- (8) The standards applied to the dry-cleaning solvent contamination remediation or containment under the provisions of this Part and the dry-cleaning solvent remediation agreement will, or are likely to, cause the Department to fail to comply with the terms and conditions under which it operates and administers a remediation program by delegation or similar authorization from the United States or one of its departments or agencies, including the Environmental Protection Agency.
- (9) A petitioner fails to pay the Commission any amounts for which a petitioner is responsible pursuant to G.S. 143-215.104F.

(b) Prior to decertifying any facility or abandoned site or renegotiating or terminating any assessment agreement or remediation agreement, the Commission shall give the petitioners notice and opportunity for hearing. The Commission is not required to give the petitioners notice and opportunity for hearing when the Commission reasonably takes an emergency action to abate an imminent hazard caused by or arising from assessment or remediation activities at a contamination site whether the Commission issues a special order pursuant to G.S. 143-215.2 or takes other action.

(c) Decertification of any facility or abandoned site or renegotiation or termination of any assessment agreement or remediation agreement pursuant to this section shall not affect the rights of any petitioner, other than a petitioner whose violation of the provisions of subsection (a) of this section was the basis for the decertification, renegotiation, or termination and any parent,

subsidiary, or other affiliate of that petitioner. If the Commission decertifies a facility or abandoned site or terminates an assessment agreement or remediation agreement with any party to the agreement pursuant to subsection (a) of this section, the Commission shall use its best efforts to negotiate a substitute agreement with any remaining parties to the agreement. (1997-392, s. 1; 2000-19, s. 3; 2007-530, s. 7.)