

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007**

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**SENATE BILL 1936\***  
**Agriculture/Environment/Natural Resources Committee Substitute Adopted**  
**6/25/08**

Short Title: Underground Storage Tank Pgrm Amends-2008.

(Public)

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Sponsors:

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Referred to:

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May 22, 2008

A BILL TO BE ENTITLED

1 AN ACT (1) TO PROVIDE ADDITIONAL FUNDS FOR THE ASSESSMENT AND  
2 CLEANUP OF RELEASES AND DISCHARGES OF PETROLEUM FROM  
3 UNDERGROUND STORAGE TANKS BY INCREASING THE FEES PAID BY  
4 OWNERS AND OPERATORS OF COMMERCIAL UNDERGROUND  
5 STORAGE TANKS; (2) TO ESTABLISH LIMITATIONS ON THE TIME IN  
6 WHICH: THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
7 RESOURCES MUST MAKE AN ELIGIBILITY DETERMINATION, REQUESTS  
8 FOR PAYMENT OR REIMBURSEMENT MAY BE SUBMITTED TO THE  
9 DEPARTMENT, AND THE DEPARTMENT MAY TAKE ADMINISTRATIVE  
10 ACTION OR BRING A CIVIL ACTION TO RECOVER PAYMENTS THAT  
11 WERE NOT AUTHORIZED BY LAW, THAT WERE MADE ON THE BASIS OF  
12 FRAUDULENT INFORMATION, OR FOR OTHER REASONS; (3) TO  
13 CLARIFY FINANCIAL RESPONSIBILITY REQUIREMENTS; (4) TO REDUCE  
14 THE INCIDENCE OF LEAKS BY REQUIRING SECONDARY CONTAINMENT  
15 FOR ALL COMPONENTS OF REGULATED PETROLEUM UNDERGROUND  
16 STORAGE TANK SYSTEMS; (5) TO CLARIFY REQUIREMENTS FOR  
17 REGISTRATION OF COMMERCIAL TANKS; (6) TO PROVIDE FOR  
18 EXPEDITED ASSESSMENT AND CLEANUP OF RELEASES AND  
19 DISCHARGES FROM PETROLEUM UNDERGROUND STORAGE TANKS BY  
20 REQUIRING THE DEPARTMENT OF ENVIRONMENT AND NATURAL  
21 RESOURCES TO ESTABLISH A PILOT PROGRAM TO EVALUATE THE USE  
22 OF SITE-SPECIFIC CLEANUP STANDARDS; (7) TO PROVIDE FOR  
23 RECLASSIFICATION OF A SITE TO A LOWER RISK CLASSIFICATION;  
24 AND (8) TO PROVIDE FOR VARIOUS STUDIES AND REPORTS AS  
25 RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.  
26

27 The General Assembly of North Carolina enacts:

28 **SECTION 1.** G.S. 143-215.94C reads as rewritten:

1 "§ 143-215.94C. Commercial leaking petroleum underground storage tank  
2 cleanup fees.

3 (a) For purposes of this subsection, each compartment of a commercial  
4 underground storage tank that is designed to independently contain a petroleum product  
5 is a separate petroleum commercial underground storage tank. The owner or operator of  
6 a commercial petroleum underground storage tank shall pay to the Secretary for deposit  
7 into the Commercial Fund an annual operating fee of four hundred twenty dollars  
8 (\$420.00) ~~according to the following schedule:~~

9 (1) ~~For for each petroleum commercial underground storage tank, tank of~~  
10 ~~3,500 gallons or less capacity — two hundred dollars (\$200.00).~~

11 (2) ~~For each petroleum commercial underground storage tank of more~~  
12 ~~than 3,500 gallon capacity — three hundred dollars (\$300.00).~~

13 (b) The annual operating fee shall be determined on a calendar year basis. For  
14 petroleum commercial underground storage tanks in use on 1 January and remaining in  
15 use on or after 1 December of that year, the annual operating fee due for that year shall  
16 be as specified in subsection (a) of this section. For a petroleum commercial  
17 underground storage tank that is first placed in use-service in any year, the annual  
18 operating fee due for that year shall be determined by multiplying one-twelfth (1/12) of  
19 the amount specified in subsection (a) of this section by the number of months  
20 remaining in the calendar year. For a petroleum commercial underground storage tank  
21 that is permanently removed from use-service in any year, the annual operating fee due  
22 for that year shall be determined by multiplying one-twelfth (1/12) of the amount  
23 specified in subsection (a) of this section by the number of months in the calendar year  
24 preceding the permanent removal from use. In calculating the pro rata annual operating  
25 fee for a tank that is first placed in use or permanently removed during a calendar year  
26 under the preceding two sentences, a partial month shall count as a month, except that  
27 where a tank is permanently removed and replaced by another tank, the total of the  
28 annual operating fee for the tank that is removed and the replacement tank shall not  
29 exceed the annual operating fee for the replacement tank. The annual operating fee shall  
30 be due and payable on the first day of the month in accordance with a staggered  
31 schedule established by the Department. The Department shall implement a staggered  
32 schedule to the end that the total amount of fees to be collected by the Department is  
33 approximately the same each quarter. A person who owns or operates more than one  
34 petroleum commercial underground storage tank may request that the fee for all tanks  
35 be due at the same time. The fee for all commercial underground storage tanks located  
36 at the same facility shall be due at the same time. A person who owns or operates 12 or  
37 more commercial petroleum storage tanks may request that the total of all fees be paid  
38 in four equal payments to be due on the first day of each calendar quarter, provided that  
39 the fee for all commercial underground storage tanks located at the same facility shall  
40 be due at the same time.

41 (c) Beginning no later than sixty days before the first due date of the annual  
42 operating fee imposed by this section, any person who deposits a petroleum product in a  
43 commercial underground storage tank that would be subject to the annual operating fee  
44 shall, at least once in each calendar year during which such deposit of a petroleum

1 product is made, notify the owner or operator of the duty to pay the annual operating  
2 fee. The requirement to notify pursuant to this subsection does not constitute a duty  
3 owed by the person depositing a petroleum product in a commercial underground  
4 storage tank to the owner or operator and the person depositing a petroleum product in  
5 an underground storage tank shall not incur any liability to the owner or operator for  
6 failure to give notice of the duty to pay the operating fee.

7 (d) Repealed by Session Laws 1991, c. 538, s. 3.1.

8 (e) An owner or operator of a commercial underground storage tank who fails to  
9 pay an annual operating fee due under this section within 30 days of the date that the fee  
10 is due shall pay, in addition to the fee, a late penalty of five dollars (\$5.00) per day per  
11 commercial underground storage tank, up to a maximum equal to the annual operating  
12 fee due. The Department may waive a late penalty in whole or in part if:

- 13 (1) The late penalty was incurred because of the late payment or  
14 nonpayment of an annual operating fee by a previous owner or  
15 operator.
- 16 (2) The late penalty was incurred because of a billing error for which the  
17 Department is responsible.
- 18 (3) Where the late penalty was incurred because the annual operating fee  
19 was not paid by the owner or operator due to inadvertence or accident.
- 20 (4) Where payment of the late penalty will prevent the owner or operator  
21 from complying with any substantive law, rule, or regulation  
22 applicable to underground storage tanks and intended to prevent or  
23 mitigate discharges or releases or to facilitate the early detection of  
24 discharges or releases."

25 **SECTION 2.(a)** G.S. 143-215.94E is amended by adding two new  
26 subsections to read:

27 "(j) An owner, operator, or landowner shall request that the Department  
28 determine whether any of the costs of assessment and cleanup of a discharge or release  
29 from a petroleum underground storage tank are eligible to be paid or reimbursed from  
30 either the Commercial Fund or the Noncommercial Fund within one year after  
31 completion of any task that is eligible to be paid or reimbursed under  
32 G.S. 143-215.94B(b), 143-215.94B(b1), or 143-215.94D(b1).

33 (k) An owner, operator, or landowner shall request payment or reimbursement  
34 from the Commercial Fund or the Noncommercial Fund for the cost of a task within one  
35 year after the completion of the task. The Department shall deny any request for  
36 payment or reimbursement of the cost of any task that would otherwise be eligible to be  
37 paid or reimbursed if the request is not received within 12 months after the later of the  
38 date on which the:

- 39 (1) Department determines that the cost is eligible to be paid or  
40 reimbursed.
- 41 (2) Task is completed."

42 **SECTION 2.(b)** Notwithstanding G.S. 143-215.94E(k), as enacted by  
43 subsection (a) of this section, an owner, operator, or landowner shall request payment or  
44 reimbursement of the cost of any task completed prior to 1 January 2009 that is eligible

1 to be paid or reimbursed from the Commercial Fund or the Noncommercial Fund no  
2 later than 1 January 2010. The Department shall deny any request for payment or  
3 reimbursement of the cost of any task to which this subsection applies that is made after  
4 1 January 2010.

5 **SECTION 3.** G.S. 143-215.94G is amended by adding four new subsections  
6 to read:

7 "(g) If the Department paid or reimbursed costs that are not authorized to be paid  
8 or reimbursed under G.S. 143-215.94B or G.S. 143-215.94D as a result of a  
9 misrepresentation by an agent who acted on behalf of an owner, operator, or landowner,  
10 the Department shall first seek reimbursement, pursuant to subdivision (1) of subsection  
11 (d) of this section, from the agent of monies paid to or retained by the agent.

12 (h) The Department shall take administrative action to recover costs or bring a  
13 civil action pursuant to subdivision (1) of subsection (d) of this section to seek  
14 reimbursement of costs in accordance with the time limits set out in this subsection.

15 (1) The Department shall take administrative action to recover costs or  
16 bring a civil action to seek reimbursement of costs that are not  
17 authorized to be paid from the Commercial Fund under subdivisions  
18 (1), (2), or (3) of G.S. 143-215.94B(d) or from the Noncommercial  
19 Fund under subdivisions (1), (2), or (3) of G.S. 143-215.94D(d) within  
20 five years after payment.

21 (2) The Department shall take administrative action to recover costs or  
22 bring a civil action to seek reimbursement of costs other than those  
23 described in subdivision (1) of this subsection within three years after  
24 payment.

25 (3) Notwithstanding the time limits set out in subdivisions (1) and (2) of  
26 this subsection, the Department may take administrative action to  
27 recover costs or bring a civil action to seek reimbursement of costs  
28 paid as a result of fraud or misrepresentation at any time.

29 (i) An administrative action or civil action that is not commenced within the time  
30 allowed by subsection (h) of this section is barred.

31 (j) Except with the consent of the claimant, the Department may not withhold  
32 payment or reimbursement of costs that are authorized to be paid from the Commercial  
33 Fund or the Noncommercial Fund in order to recover any other costs that are in dispute  
34 unless the Department is authorized to withhold payment by a final decision of the  
35 Commission pursuant to G.S. 150B-36 or an order or final decision of a court."

36 **SECTION 4.** G.S. 143-215.94H reads as rewritten:

37 **"§ 143-215.94H. Financial responsibility.**

38 (a) The Department shall require each owner and operator of a petroleum  
39 underground storage tank who is required to demonstrate financial responsibility under  
40 rules promulgated by the United States Environmental Protection Agency pursuant to  
41 42 U.S.C. § 6991b(d) to maintain evidence of financial responsibility of not less than  
42 that is the lesser of:

43 (1) The full amount of the financial responsibility that an owner or  
44 operator is required to demonstrate under rules promulgated by the

1                    United States Environmental Protection Agency pursuant to 42 U.S.C.  
2                    § 6991b(d).

3            (2)    The amounts required to be paid for by the owner or operator pursuant  
4                    to G.S. 143-215.94E(b) per occurrence for costs described in  
5                    G.S. 143-215.94B(b) and ~~G.S. 143-215.94D(b1).~~  
6                    G.S. 143-215.94B(b1) if costs are eligible to be paid under those  
7                    subsections.

8            (b)    Financial responsibility may be established in accordance with rules adopted  
9                    by the Commission which shall provide that financial responsibility may be established  
10                    by either insurance, guarantee, surety bond, letter of credit, qualification as a  
11                    self-insurer, or any combination thereof. The compliance date schedule for  
12                    demonstrating financial responsibility shall conform to the schedule adopted by the  
13                    Environmental Protection Agency."

14                    **SECTION 5.** G.S. 143-215.94T reads as rewritten:

15            "**§ 143-215.94T. Adoption and implementation of regulatory program.**

16            (a)    The Commission shall adopt, and the Department shall implement and  
17                    enforce, rules relating to underground storage tanks as provided by  
18                    G.S. 143-215.3(a)(15) and ~~G.S. 143B-282(2)h.~~ G.S. 143B-282(a)(2)h. These rules shall  
19                    include standards and requirements applicable to both existing and new underground  
20                    storage tanks and tank systems, may include different standards and requirements based  
21                    on tank capacity, tank location, tank age, and other relevant factors, and shall include, at  
22                    a minimum, standards and requirements for:

- 23                    (1)    Design, construction, and installation, including monitoring systems.
- 24                    (2)    Notification to the Department, inspection, and registration.
- 25                    (3)    Recordation of tank location.
- 26                    (4)    Modification, retrofitting, and upgrading.
- 27                    (5)    General operating requirements.
- 28                    (6)    Release detection.
- 29                    (7)    Release reporting, investigation, and confirmation.
- 30                    (8)    Corrective action.
- 31                    (9)    Repair.
- 32                    (10)    Closure.
- 33                    (11)    Financial responsibility.
- 34                    (12)    Tank tightness testing procedures and certification of persons who  
35                    conduct tank tightness tests.
- 36                    (13)    Secondary containment for ~~non-tank~~ all components of petroleum  
37                    underground storage tank systems.

38            (b)    Rules adopted pursuant to subsection (a) of this section that apply only to  
39                    commercial underground storage tanks shall not apply to any:

- 40                    (1)    Farm or residential underground storage tank of 1,100 gallons or less  
41                    capacity used for storing motor fuel for noncommercial purposes.
- 42                    (2)    Underground storage tank of 1,100 gallons or less capacity used for  
43                    storing heating oil for consumptive use on the premises where stored.

1 (3) Underground storage tank of more than 1,100 gallon capacity used for  
2 storing heating oil for consumptive use on the premises where stored  
3 by four or fewer households.

4 (c) Rules adopted pursuant to subdivision (13) of subsection (a) of this section  
5 shall require secondary containment for all ~~not tank~~ components of underground storage  
6 tank systems, ~~including all piping and including,~~ but not limited to, tanks, piping,  
7 fittings, pump heads, and dispensers. Secondary containment requirements shall include  
8 standards for double wall ~~piping tanks, piping,~~ and fittings and for sump containment  
9 for pump heads and dispensers. The rules shall provide for ~~monthly~~ monitoring of  
10 double wall interstices and sump containments. The rules shall apply to any  
11 underground storage tank system that is installed on or after the date on which the rules  
12 become effective and to the replacement of any ~~not tank~~ component of an underground  
13 storage tank system on or after that date."

14 **SECTION 6.** G.S. 143-215.94U reads as rewritten:

15 "**§ 143-215.94U. Registration of petroleum commercial underground storage**  
16 **tanks; operation of petroleum underground storage tanks; operating**  
17 **permit required.**

18 (a) The owner or operator of each petroleum commercial underground storage  
19 tank shall annually obtain an operating permit from the Department for the facility at  
20 which the tank is located. The Department shall issue an operating permit only if the  
21 owner or ~~operator; operator~~ has done all of the following:

22 (1) ~~Has notified~~ Notified the Department of the existence of all tanks as  
23 required by 40 Code of Federal Regulations § 280.22 (1 July 1994  
24 Edition) or 42 U.S.C. § 6991a, if applicable, at the ~~facility;~~ facility.

25 (2) ~~Has paid~~ Paid all fees required under G.S. 143-215.94C for all  
26 commercial petroleum underground storage tanks located at the  
27 ~~facility;~~ facility.

28 (3) Complies with applicable release detection, spill and overflow  
29 protection, and corrosion protection requirements set out in rules  
30 adopted pursuant to this Chapter, notifies the Department of the  
31 method or combination of methods of leak detection, spill and overflow  
32 protection, and corrosion protection in use, and certifies to the  
33 Department that all applicable release detection, spill and overflow  
34 protection, and corrosion protection requirements are being met for all  
35 petroleum underground storage tanks located at the ~~facility;~~ facility.

36 (4) If applicable, complies with the Stage I vapor control requirements set  
37 out in 15A North Carolina Administrative Code 2D.0928, effective 1  
38 March 1991, notifies the Department of the method or combination of  
39 methods of vapor control in use, and certifies to the Department that  
40 all Stage I vapor control requirements are being met for all petroleum  
41 underground storage tanks located at the ~~facility; and~~ facility.

42 (5) ~~Has substantially~~ Substantially complied with the air quality,  
43 groundwater quality, and underground storage tank standards  
44 applicable to any activity in which the applicant has previously

1 engaged and has been in substantial compliance with federal and State  
2 laws, regulations, and rules for the protection of the environment. In  
3 determining substantial compliance, the compliance history of the  
4 owner or operator and any parent, subsidiary, or other affiliate of the  
5 owner, operator, or parent may be considered.

6 (6) Demonstrated financial responsibility as required by  
7 G.S. 143-215.94H.

8 (b) The operating permit shall be issued at the time the commercial underground  
9 storage annual tank operating fee required under G.S. 143-215.94C(a) is paid and shall  
10 be valid from the first day of the month in which the fee is due through the last day of  
11 the last month for which the fee is paid in accordance with the schedule established by  
12 the Department under G.S. 143-215.94C(b).

13 (c) No person shall place a petroleum product, and no owner or operator shall  
14 cause a petroleum product to be placed, into an underground storage tank at a facility  
15 for which the owner or operator does not hold a currently valid operating permit.

16 (d) The Department shall issue an operating permit certificate for each facility  
17 that meets the requirements of subsection (a) of this section. The operating permit  
18 certificate shall identify the number of tanks at the facility and shall conspicuously  
19 display the date on which the permit expires. Except for the owner or operator, no  
20 person shall be liable under subsection (c) of this section if an unexpired operating  
21 permit certificate is displayed at the facility, unless the person knows or has reason to  
22 know that the owner or operator does not hold a currently valid operating permit for the  
23 facility.

24 (e) The Department may revoke an operating permit only if the owner or  
25 operator fails to continuously meet the requirements set out in ~~subdivisions (1) through~~  
26 ~~(4) of~~ subsection (a) of this section. If the Department revokes an operating permit, the  
27 owner or operator of the facility for which the operating permit was issued shall  
28 immediately surrender the operating permit certificate to the Department, unless the  
29 revocation is stayed pursuant to G.S. 150B-33. An owner or operator may challenge a  
30 decision by the Department to deny or revoke an operating permit by filing a contested  
31 case under Article 3 of Chapter 150B of the General Statutes. The Secretary shall make  
32 the final agency decision regarding the revocation of a permit under this section."

33 **SECTION 7.(a)** The definitions set out in G.S. 143-215.94A apply to this  
34 section. As used in this section, "Department" means the Department of Environment  
35 and Natural Resources and, with respect to any power or duty assigned to the  
36 Environmental Management Commission under Article 21A of Chapter 143 of the  
37 General Statutes, includes the Environmental Management Commission. As used in  
38 this section, "site-specific cleanup standards" means standards developed using the  
39 methodology described in the Standard Guide for Risk-Based Corrective Action  
40 Applied at Petroleum Release Sites adopted by the American Society for Testing and  
41 Materials (ASTM) as E1739-95(2002).

42 **SECTION 7.(b)** The Department shall establish a pilot program to evaluate  
43 the use of site-specific cleanup standards for the cleanup of discharges or releases of  
44 petroleum from underground storage tanks as an alternative to the use of the risk-based

1 assessment and corrective action standards set out in 15A NCAC 2L .0400. The  
2 purpose of the pilot program is to determine the extent to which the use of site-specific  
3 standards would provide effective protection of public health, safety, and the  
4 environment in a cost-effective manner and at a lower overall cost as compared with the  
5 use of the risk-based standards set out in 15A NCAC 2L .0400. The pilot program shall  
6 apply only to discharges or releases that are classified as intermediate risk under 15A  
7 NCAC 2L .0400(d). The pilot program shall evaluate the use of site-specific standards  
8 in the cleanup of contamination that results from a discharge or release of petroleum  
9 from: (i) an underground storage tank; and (ii) an underground storage tank that is  
10 commingled with petroleum contamination from a source of contamination other than  
11 an underground storage tank, as provided in G.S. 143-215.94V(h).

12 **SECTION 7.(c)** Participation in the pilot program shall be at the election of  
13 the owner, operator, or landowner. To participate in the pilot program, an owner,  
14 operator, or landowner shall perform a site-specific risk assessment and submit the  
15 assessment to the Department. If the Department determines that the use of site-specific  
16 cleanup standards will provide effective protection of public health, safety, and the  
17 environment, the Department shall set site-specific soil and groundwater cleanup  
18 standards for the discharge or release. These site-specific standards shall apply in lieu of  
19 the risk-based assessment and corrective action standards set out in 15A NCAC 2L  
20 .0400.

21 **SECTION 7.(d)** If soil and groundwater contamination from a discharge or  
22 release is no greater than the site-specific soil and groundwater cleanup standards set by  
23 the Department, the Department shall notify an owner, operator, or landowner that no  
24 cleanup, further cleanup, or further action will be required. If soil and groundwater  
25 contamination from a discharge or release is greater than the site-specific soil and  
26 groundwater cleanup standards set by the Department, the owner, operator, or  
27 landowner shall submit a corrective action plan to achieve the standards. The  
28 Department may require the owner, operator, or landowner to evaluate the impact of the  
29 site-specific cleanup standards on public health, safety, and the environment through  
30 use of an appropriate model. The Department shall not set site-specific soil and  
31 groundwater cleanup standards for the discharge or release that allow for contamination  
32 in excess of unrestricted use standards, as defined in G.S. 143B-279.9, on any real  
33 property that is not subject to land-use restrictions under G.S. 143B-279.9 and  
34 recordation under G.S. 143B-279.11.

35 **SECTION 7.(e)** Except as provided in this section, the provisions of Part 2A  
36 and Part 2B of Article 21A of Chapter 143 of the General Statutes apply to this section.

37 **SECTION 7.(f)** The Department shall annually report to the Environmental  
38 Review Commission on the number of site-specific risk assessments submitted to the  
39 Department under the pilot program, the disposition of those submissions, and, for any  
40 submissions for which site-specific soil and groundwater cleanup standards are not set,  
41 the basis for the decision not to set site-specific cleanup standards. The report shall  
42 include a comparison of assessment and corrective action of discharges or releases  
43 under the pilot program to assessment and corrective action of intermediate risk  
44 discharges or releases pursuant to the risk-based assessment and corrective action



1 standards set out in 15A NCAC 2L .0400. The comparison shall include all of the  
2 following:

- 3 (1) The costs associated with investigation, assessment, initial response,  
4 abatement, analysis of risk, and development and implementation of a  
5 corrective action plan.
- 6 (2) The immediate and long-term impacts on public health, safety, and the  
7 environment.
- 8 (3) The need for and use of land-use restrictions as part of the corrective  
9 action plan.
- 10 (4) The extent to which corrective action addresses vapor intrusion.

11 **SECTION 7.(g)** The Department shall submit the first report required by  
12 subsection (f) of this section on or before 1 September 2009. The Department shall  
13 include in the report due on or before 1 September 2013 any recommendations,  
14 including legislative proposals, based on the findings of the pilot program.

15 **SECTION 8.(a)** The definitions set out in subsection (a) of Section 7 of this  
16 act apply to this section. It is the policy of the State that a discharge or release be  
17 reclassified as low-risk if, based on site-specific cleanup standards, investigation,  
18 assessment, initial response, abatement, risk-based corrective action, or other corrective  
19 action, the Department determines that the discharge or release poses no significant risk  
20 to human health or the environment. An owner, operator, or landowner may request  
21 that a discharge or release be reclassified to a lower risk classification. If the  
22 Department denies a request to reclassify a discharge or release to a lower risk  
23 classification, the owner, operator, or landowner may file a petition for a contested case  
24 hearing as provided in Article 3 of Chapter 150B of the General Statutes.

25 **SECTION 8.(b)** The Department shall report on or before 1 September of  
26 each year to the Environmental Review Commission on the number of sites for which  
27 reclassification was requested based on site-specific information and the disposition of  
28 each request. The Department shall submit the first report required by this section on or  
29 before 1 September 2009.

30 **SECTION 9.** The Department of Environment and Natural Resources shall  
31 establish a process to provide informal notice of any proposed policy change or rule  
32 interpretation that is not a rule, as defined in G.S. 150B-2, to interested parties. Except  
33 in a situation that requires immediate action, the Department shall receive and consider  
34 oral and written comment from interested parties before the Department implements the  
35 proposed policy change or rule interpretation. Except in a situation that requires  
36 immediate action, the Department shall provide written notice of a policy change or rule  
37 interpretation to interested parties at least 30 days prior to its implementation.

38 **SECTION 10.** The Department of Insurance, in consultation with the  
39 Petroleum Underground Storage Tank Funds Council and the Department of  
40 Environment and Natural Resources, shall provide guidance and technical assistance for  
41 the formation of an insurance pool pursuant to G.S. 143-215.94I to any responsible  
42 entity that requests assistance.

43 **SECTION 11.** Section 8 of S.L. 2001-442 reads as rewritten:

1       **"SECTION 8.** Sections 1 through 5 of this act become effective 1 October 2001.  
2 Sections 6, 7, and 8 of this act are effective when this act becomes law. Sections 1, 2, 3,  
3 4, 5, and 7 of this act expire 1 October ~~2006~~2011."

4               **SECTION 12.** Notwithstanding any provision of Part 2A of Article 21A of  
5 Chapter 143 of the General Statutes, the Department of Environment and Natural  
6 Resources shall annually use up to three million dollars (\$3,000,000) of the increase in  
7 receipts credited to the Commercial Fund as a result of the increase in the annual  
8 operating fee set out in G.S. 143-215.94C(a), as amended by Section 1 of this act, solely  
9 for the removal of free petroleum from groundwater as a first priority and shall use the  
10 balance of these receipts to address the other concerns raised in the letter from the  
11 United States Environmental Protection Agency Region 4 Administrator to the  
12 Secretary of Environment and Natural Resources dated 19 September 2006.

13               **SECTION 13.** Sections 4, 5, 9, 10, and 13 of this act are effective when this  
14 act becomes law. Sections 1, 3, 6, and 12 of this act become effective 1 January 2009.  
15 Section 2 of this act becomes effective 1 January 2009 and applies to determinations of  
16 eligibility and requests for payments made on or after that date. Sections 7 and 8 of this  
17 act are effective when it becomes law and expire 1 September 2014. Section 11 of this  
18 act is effective retroactively to 1 October 2006.