



PAT MCCRORY
Governor

DONALD R. VAN DER VAART
Secretary

MEMORANDUM

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable Jimmy Dixon, Co-Chair
The Honorable Chuck McGrady, Co-Chair
The Honorable Trudy Wade, Co-Chair

JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS
The Honorable Phil Berger, Co-Chair
The Honorable Tim Moore, Co-Chair

FROM: Mollie Young, Director of Legislative Affairs, NCDEQ

SUBJECT: Risk Based Remediation Fund Annual Report

DATE: October 4, 2016

Pursuant to S.L. 2015-286, *“The Department shall report to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division on or before October 1 of each year on the amounts and sources of funds collected by year received pursuant to this Part, the amounts and sources of those funds paid into the Risk-Based Remediation Fund established under G.S. 130A-310.76A.”*

If you have any questions or need additional information, please contact me by phone at (919) 339-9433 or via e-mail at mollie.young@ncdenr.gov.

Cc: Don Van der Vaart, Secretary, NCDEQ
Tom Reeder, Assistant Secretary for Environment, NCDEQ
Michael Scott, Director of Waste Management, NCDEQ
Jeff Hudson, Legislative Analysis Division, NCGA
Lanier McRee, Fiscal Research Division, NCGA



**Annual Report to the
North Carolina General Assembly**

Risk-Based Remediation Fund

(July 1, 2015 to June 30, 2016)

Division of Waste Management



**NORTH CAROLINA
Department OF ENVIRONMENTAL QUALITY**

<http://portal.ncdenr.org>

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Executive Summary

This report to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, and the Fiscal Research Division, required on or before Oct. 1 of each year, includes the following required information:

1. The amounts and sources of funds collected by year to be paid into the Risk-Based Remediation Fund established under G.S. 130A-310.76A; Receipts are of two types:
 - a) An application fee, to be used to pay for administrative and operating expenses necessary to implement the statutes governing risk-based environmental remediation of sites, and,
 - b) An oversight fee, to be used to administer a system for the tracking of land-use restrictions recorded at sites that are remediated pursuant to the statute.
2. The number of acres of contamination for which funds have been received pursuant to the statute
3. An accounting of how the funds collected have been used by the Department to advance the purposes of the statute.

Fees received in fiscal 2015-16 from applicants for risk-based remedies totaled \$71,000. Of these receipts, \$70,500 were application fees, and \$500 were oversight fees.

Fees collected during the fiscal year were associated with three sites having a total of 18 acres of contamination.

Current Uses of the Fund

Fiscal 2015–16 expenditures of \$29,718 were for contractor modification of the Department's online risk assessment tool, designed to facilitate remediators' submittal of risk assessment calculations and required documentation, and to reduce review time by Department staff. Funds will be used for future periodic updates of the tool's underlying toxicological data, and to improve and maintain the tool.

Part of the application fee receipts will be used for the ongoing training of the lead technical staff in each program that review risk-based remedy submittals. In some cases, the Department will need to employ outside contractor support, in order to facilitate the timely and comprehensive review of large, complex sites, and must maintain an adequate ongoing balance in the Risk-Based Remediation Fund in order to meet that eventual need.

Fee receipts will support periodic inspections of properties with approved cleanup remedies and further ensure that conditions of those agreements are adhered to.

The Department is in the process of making remedy locations and linked file records available to the public in an easily usable GIS-based format in order to provide a necessary and cost-effective way to provide awareness and further protect communities from inadvertent exposure to contaminants, and to protect and advise future prospective purchasers. Risk-Based Remediation Fund receipts will be needed to support the information technology infrastructure, if not the staff time, needed to administer and maintain this GIS system and its supporting databases.

The Amounts and Sources of Funds Collected

The Risk Based Remediation Fund (Fund), administered by the N.C. Division of Waste Management, was created in 2011, and its uses further modified in 2015, by the General Assembly. N.C.G.S. § 130A-310.76 requires that a person who undertakes remediation of environmental contamination under site-specific remediation standards, as provided in G.S. 130A-310.68, pay two fees to the N.C. Department of Environmental Quality's Risk-Based Remediation Fund:

One of the fees, an application fee, is to be used to pay for administrative and operating expenses necessary to implement the statute, including the full cost of the Department's activities associated with any human health or ecological risk assessments, groundwater modeling, financial assurance matters, or community outreach. The application fee is not to exceed \$5,000 for each acre or portion of an acre of contamination, and is not to exceed \$100,000 for a given site. The Department shall take the following factors into account when calculating a reduced application fee:

- The size of the site subject to a proposed remedial action plan.
- Whether groundwater contamination from the site has migrated, or is likely to migrate, to off-site properties.
- The complexity of the work to be conducted at a site.
- The resources that the Department will need to evaluate and oversee the work at a site, particularly in those cases where the work is to be performed by a Registered Environmental Consultant in accordance with the provisions of G.S. 130A-310.75.
- The resources the Department will need to monitor a site after completion of remediation.

The second fee for oversight is to be used to establish, administer and maintain a system for tracking land-use restrictions recorded at sites that are remediated pursuant to the statute. This fee, set at \$500 per contaminated acre, is not subject to modification, but is not to exceed \$25,000 for a given site.

Fees received into the Fund since its inception in 2012 are summarized in Table 1, below, and described in more detail in Appendix 1. The Fund has been non-interest-bearing since 2015.

Table 1. Risk Based Remediation Fund - Receipts and Expenditures 2012 -2016

| | # Sites | Contaminated Acres | Application Fee | Oversight Fee | Total Fees |
|-------------------------------|----------|--------------------|---------------------|-----------------|---------------------|
| 2012-2013 | 3 | 15 | 67,500.00 | n.a. | \$67,500.00 |
| 2013-2014 | 1 | 1 | 4,500.00 | n.a. | \$4,500.00 |
| 2014-2015 | 0 | 0 | 0.00 | n.a. | \$0.00 |
| 2015-2016 | 4 | 18 | 70,500.00 | 500.00 | \$71,000.00 |
| Pre-2015 Interest | | | | | \$543.87 |
| Totals | 8 | 34 | 143,043.87 | 500.00 | \$143,543.87 |
| 2015-2016 Expenditures | | | 29,718.00 | 0.00 | \$29,718.00 |
| Current Fund Balances | | | \$113,325.87 | \$500.00 | \$113,825.87 |

FY 2015-16 Expenditures

FY 2015-2016 Expenditures

Fiscal 2015-16 expenditures of \$29,718 were for contractor modification of the Department's online risk assessment tool, designed to facilitate remediators' performance and submittal of risk assessment calculations and their required documentation, and to reduce review time by Department staff. Funds will be used for future periodic updates of the tool's underlying toxicological data, and to improve and maintain the tool.

Appendix 1. Risk-Based Remediation Sites - Fees and Remedy Progress

| Program | Site | # Sites | Contaminated Acres | Date Admin. Fee Paid | Administrative Fee | Oversight Fee | Total Fees | Date Oversight Fee Paid | Date Remedy Submitted | Date Remedy Approved | Date NFA |
|---------|---|----------|--------------------|----------------------|--------------------|---------------|------------------|-------------------------|---|----------------------|-----------|
| RCRA | Schneider Electric (Knightdale) | X | 1 | 10/17/2012 | \$4,500 | \$0 | \$4,500 | NA | 5/1/2012 7/22/2013 8/14/2014 5/5/2015 | 5/1/15 | 5/12/2015 |
| REC | Holding Pond for Wastes/USS NCD045920279 NAVASSA, BRUNSWICK CO. | X | 13 | 11/30/2012 | \$58,500 | \$0 | \$58,500 | NA | 11/5/12 1/15/15 rev. 1 2/11/16 RTC 7/15/16 | | |
| RCRA | Daimler Truck (Cleveland County) | X | 1 | 4/18/2013 | \$4,500 | \$0 | \$4,500 | NA | 2/26/2013 4/8/2014 11/25/2014 | | |
| REC | Prestige Labels NONCD0001143 BURGAW, PENDER CO. | X | 1 | 1/30/2014 | \$4,500 | \$0 | \$4,500 | NA | 11/27/13 | | |
| REC | Coffing Hoists NONCD0001187 WADESBORO, ANSON CO. | X | 2 | 8/15/2015 | \$9,000 | \$0 | \$9,000 | NA | 8/27/15 12/11/15 rev 1 4/29/16 rev 2 5/31/16 | | |
| RCRA | AB Carter (Gastonia) | X | 5 | 8/17/2015 | \$22,500 | \$0 | \$22,500 | NA | 8/3/2015 9/24/2015 | 5/17/16 | 6/10/2016 |
| REC | MOEN – Sanford NONCD0002090 SANFORD, LEE CO. | X | 10 | 2/20/2016 | \$37,500 | \$0 | \$37,500 | | 9/4/13 2/15/16 rev 1 | | |
| REC | Fontaine Fifth Wheel (NashCo) NONCD0001730 | X | 1 | 3/3/2016 | \$1,500 | \$500 | \$2,000 | 3/4/16 | 2/15/16 | | |
| | Totals | 8 | 34 | | \$142,500 | \$500 | \$143,000 | | | | |