

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

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## ***Risk-Based Remediation Fund***

(July 1, 2016 to June 30, 2017)

### **Division of Waste Management**



**NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENTAL QUALITY**

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## Table of Contents

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Executive Summary	Page 1
The Amounts and Sources of Funds Collected	Page 2
FY 2016-17 Expenditures	Page 2
Anticipated Future Uses of the Application and Oversight Fee Receipts	Page 3
Table 1. Receipts and Expenditures 2012 -2017	Page 4
Table 2. Risk-Based Remediation Sites - Fees and Remedy Progress	Page 5

## **Executive Summary**

This report to the Joint Legislative Commission on Governmental Operations, Environmental Review Commission and Fiscal Research Division, is required on or before Oct. 1 of each year and 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 N.C. Department of Environmental Quality (DEQ) to advance the purposes of the statute.

Fees received in fiscal year 2016-17 from applicants for risk-based remedies totaled \$290,500. Of these receipts, \$235,000 were application fees and \$55,500 were oversight fees. Fees collected during the fiscal year were associated with five sites having a total of 170 acres of contamination.

### Risk-Based Remediation Fund Current and Anticipated Future Uses

Fiscal year 2016-17 expenditures, totaling \$39,554, were used for contractor development of the DEQ's online risk assessment tool, semiannual periodic updates of the tool's underlying toxicological data, and training staff and the public in the tool's use. The tool is designed to facilitate remediators' submittal of risk assessment calculations and required documentation, and reduce DEQ staff review time.

Expenditures of \$8,145 were for the partial salary of one technical staff member implementing GIS software to confirm and track annual certifications of owners' compliance with land use restrictions, and continuing operation and maintenance of engineering controls. In the future, fees will also support periodic inspections of properties with approved cleanup remedies.

Expenditures of \$12,905 were used for the partial salary of one lead staff member developing guidance documents and training the department's technical staff who review risk-based remedy submittals. An additional \$2,050 was used for expenses related to training the regulated community statewide.

The department has provided remedy locations and file records in an easy-to-use GIS-based format. This is a necessary and cost-effective way to provide awareness and protect communities from inadvertent exposure to contaminants and advise future prospective purchasers. The Risk-Based Remediation Fund receipts will support the information technology infrastructure and staff time needed to administer and maintain this GIS system and its supporting databases.

In some cases, the department will need to employ outside contractor support to facilitate the timely and comprehensive review of large, complex sites. It must maintain an adequate, ongoing balance in the Risk-Based Remediation Fund to meet this future need.

## **Amounts and Sources of Funds Collected**

The department's Risk-Based Remediation Fund (Fund), administered by DEQ's Division of Waste Management, was created in 2011 and its uses further modified in 2015 by the General Assembly. North Carolina General Statute § 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 Fund:

The first – an application fee – is to be used to pay for administrative and operating expenses 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 it 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; or
- The resources the department will need to monitor a site after completion of remediation.

The second, called an oversight fee, is required under the October 2015 modified statute. It is 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.

Fund receipts and expenditures since the Fund's inception in 2012 are summarized in Table 1, and receipts are shown in detail in Table 2. The Fund has been non-interest-bearing since 2015.

## **FY 2016-17 Expenditures**

Fiscal year 2016–17 expenditures of \$39,554 were used for contractor development of the department's online risk assessment tool, semiannual periodic updates, and training staff and the public in the tool's use. The tool is designed to facilitate remediators' submittal of risk assessment calculations and required documentation, and reduce departmental staff review time.

Expenditures of \$8,145 were for partial salary of one technical staff member implementing GIS software that tracks annual certifications of owners' compliance with land-use restrictions, and continuing operation and maintenance of engineering controls. In the future, fees will also support periodic inspections of properties with approved cleanup remedies to ensure the adherence of those agreement's conditions.

Expenditures of \$12,905 were used for partial salary of one lead staff member developing guidance documents and training the DEQ's technical staff who review risk-based remedy submittals. An additional \$2,050 was used for expenses related to training the regulated community statewide.

## **Anticipated Future Uses of the Application and Oversight Fee Receipts**

Departmental review requirements, particularly for remedies addressing contamination spanning multiple properties, often in residential or commercial areas not owned by the remediating party, can entail potential risks that are not easily predictable. Applicants' risk assessments and groundwater models will need to firmly demonstrate that contaminants left on site will not migrate in the future to places where they will adversely impact human health or the environment. The department has increased the responsibility, technical training and compensation of a number of its lead technical staff in preparation for broader use of risk-based remedies. A portion of the application fee receipts will be used for the ongoing training of the lead technical staff in each program reviewing risk-based remedy submittals.

In some cases, the department, in order to facilitate the timely and comprehensive review of large, complex sites, will need to employ outside contractor support. The need for such outside contractors may be infrequent, but one large review task would likely deplete the current Fund's total balance. The department will need to maintain an adequate ongoing balance in the Risk-Based Remediation Fund to respond if such an eventuality.

Upon approval of risk-based remedies, the department assumes a considerable part of the long-term oversight of permanent engineering and institutional controls needed to ensure that those remedies remain protective. Under its risk-based programs, the department requires annual certification by landowners that engineered barriers are being maintained, site-specific land use restrictions are being adhered; and deed instruments remain in effect through the property's sale or subdivision. The department will continue to apply some of its available resources, including part of the oversight fee receipts going forward, to conduct periodic inspections of properties with approved cleanup remedies and completed brownfields agreements to ensure that agreement conditions are met.

Tracking adherence to the restrictions in a comprehensive department-wide database provides a crucial supplement to land-use restriction documents held in local government tax records. The department is in the process of making remedy locations and linked file records publicly available in an easy-to-use GIS-based format to provide a necessary and cost-effective way to protect communities from inadvertent exposure to contaminants and advise future prospective purchasers. The Risk-Based Remediation Fund receipts will be needed to support the information technology infrastructure needed to administer and maintain this GIS system and its supporting databases.

**Table 1. Risk Based Remediation Fund – Summary of Receipts and Expenditures**

	# 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
2016-2017	5	170	\$235,000.00	\$55,500.00	\$290,500.00
Pre-2015 Interest					\$543.87
<b>Totals</b>	<b>13</b>	<b>204</b>	<b>\$377,500.00</b>	<b>\$56,000.00</b>	<b>\$434,043.87</b>
<b>Expenditures</b>					
2015-2016			\$29,718.00	\$0.00	\$29,718.00
2016-2017			\$62,654.23	\$0.00	\$62,654.23
07/01/2017 Fund Balances			\$285,127.77	\$56,000.00	\$341,671.64

**Table 2. Risk-Based Remediation Sites - Fees and Remedy Progress**

Program	Site	# Sites	Contaminated Acres	Date Admin. Fee Paid	Administrative Fee	Oversight Fee	Date Oversight Fee Paid	Date Remedy Submitted	Date Remedy Approved	Date NFA
RCRA	Schneider Electric (Knightdale)	X	1	10/17/12	\$4,500	\$0		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	11/30/12	\$58,500	\$0		11/5/12 1/15/15 rev. 1 2/11/16 RTC 7/15/16		
RCRA	Daimler Truck (Cleveland County)	X	1	4/18/13	\$4,500	\$0		2/26/2013 4/8/2014 11/25/2014	8/9/16	12/31/2016
REC	Prestige Labels NONCD0001143 BURGAW, PENDER CO.	X	1	1/30/14	\$4,500	\$0		11/27/13		
REC	Coffing Hoists NONCD0001187 WADESBORO, ANSON CO.	X	2	8/15/15	\$9,000	\$0		8/27/15 12/11/15 rev 1 4/29/16 rev 2 5/31/16	5/17/16	3/31/2017
RCRA	AB Carter (Gaston County)	X	5	8/17/15	\$22,500	\$0		8/3/2015 9/24/2015	5/17/16	6/10/2016
REC	MOEN – Sanford NONCD0002090 SANFORD, LEE CO.	X	10	2/20/16	\$37,500			9/4/13 2/15/16 rev 1		
REC	Fontaine Fifth Wheel NONCD0001730 (Nash County)	X	1	3/4/16	\$1,500	\$500	3/4/16	2/15/16	8/30/16	4/3/2017
REC	Reeves Bros. - Bailey Rd. Dump (Meck. Co.) NONCD0001201	X	18	7/22/16	\$27,000	\$4,500	7/22/16	2/24/16		
RCRA	Former Georgia Pacific Hardwood Mill Facility (Murfreesboro, Hertford County) NCD 980 559 967	X	1	7/26/2016	\$4,000	\$500	7/26/16	7/20/2016 11/2/2016 3/30/2017 4/10/2017	6/21/17	
RCRA	DuPont Brevard	X	100	8/19/16	\$100,000	\$25,000	8/19/16	9/23/16	12/15/16	
RCRA	YRC, Inc.	X	1	10/7/16	\$4,000	\$500	10/7/16	10/3/2016 12/15/2016 4/15/2017	6/30/17	7/28/2017
REC	Diamond Shamrock NCD057454670 CASTLE HAYNE, NEW HANOVER CO.	X	50	11/4/16	\$100,000	\$25,000	11/4/16	11/1/16		
	<b>TOTALS</b>	<b>13</b>	<b>204</b>		<b>\$377,500.00</b>	<b>\$56,000.00</b>			<b>8</b>	<b>6</b>