

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

**H**

**1**

**HOUSE BILL 1079**

Short Title: Haz. Discharge/Risk-Based Corrective Action. (Public)

---

Sponsors: Representative Arnold.

---

Referred to: Environment and Natural Resources.

---

April 11, 2001

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE APPLICATION, AT THE OPTION OF THE RESPONSIBLE PARTY, OF RISK-BASED CORRECTIVE ACTION FOR THE CLEANUP AND RESTORATION OF CERTAIN HAZARDOUS DISCHARGES ON THE CONDITION THAT THE PROPERTY'S USE IS RESTRICTED AND THE RESTRICTION IS RECORDED BY THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-215.84(a1) reads as rewritten:

"(a1) The Commission shall not require collection or removal of a discharge or restoration of an affected area under subsection (a) of this section if the person having control over oil or other hazardous substances discharged in violation of this Article complies with rules governing the collection and removal of a discharge and the restoration of an affected area adopted by the Commission pursuant to G.S. ~~143-214.1~~ 143-214.1, G.S. 143-215.84A, or G.S. 143-215.94V. This subsection shall not be construed to affect the rights of any person under this Article or any other provision of law."

**SECTION 2.** Article 21A of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-215.84A. Optional risk-based standards for prohibited discharge cleanup.**

(a) Legislative findings and intent. –

(1) The General Assembly finds that:

- a. The goals of the oil pollution and hazardous substances control program are to protect human health and the environment.
- b. The sites at which prohibited discharges occur vary greatly in terms of complexity, soil types, hydrogeology, other physical and chemical characteristics, current and potential future uses of groundwater, and the degree of risk that each site may pose to human health and the environment.

- 1           c.   Risk-based corrective action is a process that recognizes this  
2           diversity and utilizes an approach where assessment and  
3           remediation activities are specifically tailored to the conditions  
4           and risks of a specific site and the risks of the particular  
5           hazardous substance discharged.  
6           d.   Risk-based corrective action gives the State flexibility in  
7           requiring different levels of cleanup based on scientific analysis  
8           of different site characteristics, and allowing no action or no  
9           further action at sites that pose little risk to human health or the  
10          environment.  
11          e.   A risk-based approach to the cleanup of environmental damage  
12          can adequately protect human health and the environment while  
13          preventing excessive or unproductive cleanup efforts, thereby  
14          assuring that limited resources are directed toward those sites  
15          that pose the greatest risk to human health and the environment.

16       (2)   The General Assembly intends:

- 17          a.   To direct the Commission to adopt rules that will provide for  
18          the risk-based assessment and cleanup of prohibited discharges.  
19          These rules are intended to combine groundwater standards that  
20          protect current and potential future uses of groundwater with  
21          risk-based analysis to determine the appropriate cleanup levels  
22          and actions.  
23          b.   That these rules apply, at the option of the owner, operator, or  
24          other responsible party, to prohibited discharges that are  
25          reported on or after the date the rules become effective in order  
26          to ascertain whether cleanup is necessary, and if so, the  
27          appropriate level of cleanup.  
28          c.   That these rules may be applied, at the option of the owner,  
29          operator, or other responsible party, to any prohibited discharge  
30          that has been reported at the time the rules become effective.  
31          d.   That these rules and decisions of the Commission and the  
32          Department in implementing these rules facilitate the  
33          completion of more cleanups in a shorter period of time.

34       (b)   The Commission shall adopt rules to establish a risk-based approach for the  
35       assessment, prioritization, and cleanup of prohibited discharges. The rules shall address,  
36       at a minimum, the circumstances where site-specific information should be considered,  
37       criteria for determining acceptable cleanup levels, and the acceptable level or range of  
38       levels of risk to human health and the environment.

39       (c)   The Commission may require an owner, operator, or other responsible party  
40       to provide information necessary to determine the degree of risk to human health and  
41       the environment that is posed by the prohibited discharge.

42       (d)   If the Commission concludes that a prohibited discharge poses a degree of  
43       risk to human health or the environment that is no greater than the acceptable level of  
44       risk established by the Commission, the Commission shall notify an owner, operator, or

1 other responsible party who provides the information required by subsection (c) of this  
2 section that no cleanup, further cleanup, or further action will be required.

3 (e) This section shall not be construed to limit the authority of the Commission to  
4 require investigation, initial response, and abatement of a prohibited discharge pending  
5 a determination by the Commission under subsection (d) of this section as to whether  
6 cleanup, further cleanup, or further action will be required.

7 (f) The Department shall determine whether the restrictions on the current and  
8 future uses of the real property under G.S. 143-215.84(f) and the deed recordation  
9 requirements of G.S. 143-215.85A apply to any prohibited discharge subject to cleanup  
10 under this section."

11 **SECTION 3.** This act is effective when it becomes law and applies to  
12 removals of discharges that are completed on or after that date in accordance with G.S.  
13 143-215.84, as amended by Section 1 of this act, or G.S. 143-215.84A, as enacted by  
14 Section 2 of this act.