

SECTION .0400 - REIMBURSEMENT PROCEDURE

15A NCAC 02P .0401 ELIGIBILITY OF OWNER OR OPERATOR

(a) Date of Release.

- (1) An owner, operator, or landowner of a commercial underground storage tank is not eligible for reimbursement of costs from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund related to releases which were discovered prior to June 30, 1988.
- (2) In the case of multiple releases that commingle into one plume, the deductible is established under the date of first release.
- (3) Only the currently approved eligible party, determined in accordance with Paragraphs (b) through (d) of this Rule, may be reimbursed from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.
- (4) After the Department has notified the eligible party that no further action is required for a discharge or release pursuant to 15A NCAC 02L, eligibility may be reapplied for by either the current owner, operator, or landowner or former eligible party as applicable and upon receiving eligibility, said party shall be credited for all prior reimbursable cleanup costs subject to G.S. 143-215.94E(j) and G.S. 143-215.94E(k).

(b) An owner or operator of a commercial underground storage tank is not eligible for reimbursement for costs related to releases if any annual operating fees due have not been paid in accordance with Rule .0301 of this Subchapter prior to discovery of a release from the tank. A previous owner or operator of a commercial underground storage tank may be eligible for reimbursement of costs for cleanup of a release discovered after he or she ceases owning or operating the underground storage tank if all fees due during his or her period of ownership and operation have been paid prior to discovery of the release. A landowner is eligible for reimbursement of costs without regard to the payment of fees as long as the property has not been transferred to circumvent liability in accordance with this Paragraph.

(c) An owner, operator, or landowner of a commercial underground storage tank is not eligible for reimbursement of any expenditures that are:

- (1) in excess of the amount determined reasonable in accordance with Rule .0402 of this Section;
- (2) not necessary in performing cleanup of environmental damage and in compensating third-parties for bodily injury and property damage; and
- (3) less than any deductible established for the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

(d) An owner, operator, or landowner of a commercial underground storage tank, who is eligible for reimbursement under the rules of this Section, may be reimbursed for eligible costs only after submittal of a written application of eligibility to the Department, on forms provided by the Department, which are located at 217 West Jones Street, Raleigh, NC 27603 and on the Department's website, and which includes information and documentation necessary to determine eligibility. An application of eligibility shall include:

- (1) contact information for the applicant, including contact name, address, phone number, and email address;
- (2) site information, including tenant information if applicable;
- (3) inventory of all tanks ever installed on the property;
- (4) release discovery and reporting information;
- (5) a disclosure of any past enforcement initiated against the applicant pursuant to G.S. 143-215.94W through 143-215.94Z;
- (6) a certification as required by G.S. 143-215.94E(f1);
- (7) scaled site map showing location of all tanks and releases;
- (8) tank upgrade information;
- (9) property deeds and bills of sale that verify that the applicant was the owner, operator, or landowner at the time of the release;
- (10) any UST Section inspection records; and
- (11) a notarized affidavit from the applicant verifying compliance with the rules of this Subchapter and with 15A NCAC 02N and 02O, G.S. 143-215.94A, 143-215.94B, 143-215.94C, and 143-215.94E.

(e) An owner or operator of a commercial underground storage tank shall not be eligible for reimbursement for costs related to releases if any of the conditions set forth in G.S. 143-215.94E(g)(1) apply.

(f) The release response and corrective action requirements of any rules of the Commission and of any statute administered by the Department shall not be construed as limited by, or contingent upon, any reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

*History Note: Authority G.S. 143-215.3; 143-215.94B; 143-215.94E; 143-215.94L; 143-215.94N; 143-215.94T; 143B-282;
Eff. February 1, 1993;
Amended Eff. September 1, 1993;
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