

**15A NCAC 02P .0402 CLEANUP COSTS**

(a) In determining whether costs expended by an owner, operator, or landowner are reasonable and necessary, the Department shall consider the following:

- (1) adequacy and cost-effectiveness of any work performed, and technical activity utilized by the owner, operator, or landowner in performing release response, site assessment, and corrective action;
- (2) industry rates of engineering, geological, or other environmental consulting firms providing similar services in the State as determined by the Department;
- (3) industry rental rates for any equipment, not to exceed the purchase price, as determined by the Department;
- (4) industry rates of any other service, labor, or expense; and
- (5) whether costs expended for corrective action were required by 15A NCAC 02L.

(b) Expenditures not eligible for reimbursement shall include the following:

- (1) costs that are not eligible to be reimbursed pursuant to G.S. 143-215.94B, and any costs associated with noncommercial underground storage tanks;
- (2) costs of the replacement of any underground storage tank, piping, fitting, or ancillary equipment required to operate and maintain a UST system;
- (3) costs incurred in preparation of any proposals by a provider of service for the purpose of soliciting or bidding for the opportunity to perform an environmental investigation or cleanup, even if that provider is selected to provide the service solicited;
- (4) interest of any kind;
- (5) expenses charged by the owner, operator, or landowner in the processing and management of a reimbursement application or subsequent claims;
- (6) attorney's fees;
- (7) penalties, fees, and fines assessed by any court or agency;
- (8) loss of profits, fees, and wages incurred by the owner, operator, or landowner;
- (9) costs for which pre-approval is required as set forth in G.S. 143-215.94E(e5)(1) and (2), and was not obtained;
- (10) any other expenses not specifically related to environmental cleanup, or implementation of a cost-effective environmental cleanup, or third-party bodily injury or property damage; and
- (11) for any task for which a maximum rate is established in the Reasonable Rate Document, costs in excess of that maximum rate shall not be eligible for reimbursement without prior written pre-approval by the Department.

(c) When preapproval of costs is required and is obtained from the Department, the preapproval is valid for one year from the date fully executed.

*History Note: Authority G.S. 143-215.3; 143-215.94B; 143-215.94E; 143-215.94L; 143-215.94T; 143-215.94V; 143B-282;  
Eff. February 1, 1993;  
Amended Eff. September 1, 1993;  
Temporary Amendment Eff. January 2, 1998; January 2, 1996;  
Amended Eff. October 29, 1998 (SB 1598);  
Temporary Amendment Eff. October 1, 1999;  
Amended Eff. August 1, 2000;  
Readopted Eff. October 1, 2022.*