

§ 143-215.94CC. Liability under this section; exceptions.

(a) Any responsible person shall be strictly liable, notwithstanding any language of limitation found in G.S. 143-215.89, for all cleanup and removal costs and all direct or indirect damages incurred within the territorial jurisdiction of the State by any injured party that arise out of, or are caused by any of the following:

- (1) The discharge, as defined in G.S. 143-215.77, of natural gas, oil, or drilling waste into or onto coastal fishing waters or offshore waters, from any of the following sources wherever located:
 - a. Any well or undersea site at which there is exploration for or extraction or recovery of natural gas or oil.
 - b. Any facility, oil rig, or oil platform at which there is exploration for, or extraction, recovery, processing, or storage of, natural gas or oil.
 - c. Any vessel in which natural gas, oil, or drilling waste is transported, processed or stored other than for purposes of fuel for the vessel carrying it.
 - d. Any pipeline in which natural gas, oil, or drilling waste is transported.
- (2) Any exploration in or upon coastal fishing waters.
- (3) Any technique or method used for cleanup and removal of any discharge of natural gas, oil, or drilling waste from any source listed in subdivision (1) of this subsection into or onto coastal fishing waters, including, but not limited to, chemical dispersants.

(b) A responsible person is not liable to an injured party under this section for any of the following:

- (1) Damages, other than costs of removal incurred by the State or a local government, caused solely by any act of war, hostilities, civil war, or insurrection or by an unanticipated grave natural disaster or other act of God of an exceptional, inevitable, and irresistible character, which could not have been prevented or avoided by the exercise of due care or foresight.
- (2) Damages caused solely by the negligence or intentional malfeasance of that injured party.
- (3) Damages caused solely by the criminal act of a third party other than the defendant or an agent or employee of the defendant. In any action arising under the provisions of this Article wherein this exception is raised as a defense to liability, the burden of proving that the alleged third-party intervention occurred in such a manner as to limit the liability of the person sought to be held liable shall be upon the person charged.
- (4) Natural seepage not caused by a responsible person.
- (5) Discharge of oil or natural gas from a private pleasure boat or commercial fishing vessel having a fuel capacity of less than 500 gallons.
- (6) Damages which arise out of, or are caused by, a discharge that is authorized by and in compliance with a State or federal permit.
- (7) Damages that could have been reasonably mitigated by the injured party in accordance with common law.

(c) A court of suitable jurisdiction in any action under this Part may award reasonable costs of the suit and attorneys' fees, and the costs of any necessary expert witnesses, to any prevailing plaintiff. The court may award reasonable costs of the suit and attorneys' fees to any prevailing defendant only if the court finds that the plaintiff commenced or prosecuted the suit

under this Part in bad faith or solely for purposes of harassing the defendant. (1989, c. 656, s. 5; c. 770, ss. 75.4, 75.5; 2010-179, s. 1(c).)