

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

BILL NUMBER: Senate Bill 954 (First Edition)

SHORT TITLE: Clarify Petroleum Cleanup Requirements

SPONSOR(S): Senator Odom

| FISCAL IMPACT | | | | | |
|--|--------------------------|--------------------------|----------------------------------|--------------------------|--------------------------|
| | Yes (X) | No () | No Estimate Available () | | |
| | <u>FY 2001-02</u> | <u>FY 2002-03</u> | <u>FY 2003-04</u> | <u>FY 2004-05</u> | <u>FY 2005-06</u> |
| REVENUES: | None | | | | |
| EXPENDITURES: | | | | | |
| Commercial and Noncommercial UST Trust Funds | \$4,536,000 | \$4,536,000 | \$4,536,000 | \$4,536,000 | \$4,536,000 |
| POSITIONS: | | | | | |
| PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Waste Management | | | | | |
| EFFECTIVE DATE: This act becomes effective October 1, 2001 and applies to any cleanup of a petroleum release from an underground storage tank pursuant to Part 2A of Article 21 A of Chapter 143 of the General Statutes unless the Department of Environment and Natural Resources has issued a noticed that no further action is required prior to October 1, 2001. | | | | | |

BILL SUMMARY: This bill clarifies the circumstances in which land use restrictions and recordation of those restrictions in the office of the register of deeds are required in connection with the cleanup of a release from a petroleum underground storage tank (UST) in order to protect the environment and public health, to ensure enforceability of restrictions, and to provide notice to subsequent owners of the property. Amends G.S. 143B-279.9 to require that a risk-based remedial action plan for cleanup of environmental damage resulting from a leaking underground storage tank that will not require that the site meet current soil and groundwater standards include an agreement by the responsible party to record approved land-use restrictions. Provides that the restrictions only apply to the real property on which the source of the contamination is located and any real property

on which contamination is located at the time the remedial action plan was approved. Enacts new G.S. 143B-279.10 providing for the details of recording such restrictions.¹

ASSUMPTIONS AND METHODOLOGY:

Background: In 1995, the General Assembly directed the Department of Environment and Natural Resources to adopt risk-based corrective action (RBAC) rules for the cleanup of releases from petroleum underground storage tanks. Risk-based correction action allows the State to tailor remediation activities to the conditions and risks associated with a specific site and to require different levels of cleanup based on those site-specific characteristics. Because these rules allow certain sites to be cleaned up to less than “pristine” standards depending on the current and future uses of the site, many risk-based cleanup approaches also require land use restrictions to be placed on the site. To provide notice of the contamination to subsequent owners of the property, deed recordation of the land-use restriction is also typically required. Currently, sites contaminated by leaking petroleum underground storage tanks are exempted from the land use restrictions and deed recordation requirements.

Bill Impact: This bill would require land use restrictions and deed recordation on all sites with a release from a petroleum underground storage tank that are cleaned up to risk-based standards. It limits the land use restrictions and the recordation of those restrictions to the real property on which the contamination is located at the time the remedial action plan was approved. If, during the course of remediation, the contamination plume is discovered to have spread to an adjacent property, the land use restrictions would not apply to the adjacent property.

This bill also requires that deed recordation become a reimbursable expense from the Commercial and Noncommercial Leaking Underground Storage Tank Cleanup Trust Funds. The actual cost to the Commercial and Noncommercial Trust Funds is dependent on the cost of surveys used to record the land use restrictions and the number of sites that are “closed out” each year and are subject to the deed recordation requirement. Based on its experience with the cost of surveys used for deed recordation in other hazardous waste programs, the Division of Waste Management estimates the cost to record land use restrictions in the UST program to be \$4,050. This cost is related to the extensive surveying completed in order to determine the extent of residual petroleum remaining on a site that has been closed out. Since January 1, 1998 when the risk-based rules went into effect, the Division of Waste Management has closed out an average of 1,120 risk-based sites annually. Based on these three years of actual experience, the Division estimates that the same number of sites will be closed out in each of next five years and all will require deed recordation. **This note assumes that all 1,120 tank owners will request reimbursement from the Trust Funds thereby increasing the amount disbursed from the Funds by a total of \$4,536,000 (\$4,050 x 1120 = \$4,536,000) annually.**

¹ *Daily Bulletin*, Institute of Government, UNC-CH, Vol. 2001, April 5, 2001.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: 733-4910

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DATE: April 24, 2001



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