

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** Senate Bill 1329  
**SHORT TITLE:** Water Quality Fees/End CDE LUST Cleanups  
**SPONSOR(S):** Senators Odom and Horton

**FISCAL IMPACT**

**Part I (Water Quality Fees)**      Yes (x)    No ( )    No Estimate Available ( )  
**Part II (CDE LUST Cleanups)**  
**Commercial Fund**                    Yes ( )    No (x)    No Estimate Available ( )  
**Noncommercial Fund**                Yes (x)    No ( )    No Estimate Available ( )

**Millions**

	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
<b>REVENUES (Part I)</b>					
General Fund					
DENR Animal Systems	(.09)	(.25)	(.31)	(.34)	(.34)
Water & Air Quality Account (Permit Fees)					
Fees Change Non-Animal	.35	.70	.70	.70	.70
Fees Change Animal Systems	.14	.38	.46	.50	.50
Total W&A Acct.	.49	1.08	1.16	1.20	1.20
DENR Water System					
Contract Account	.04	.08	.08	.08	.08

**EXPENDITURES (Part I and II)**

DENR Special Funds					
Water & Air Quality Acct.	.49	1.08	1.16	1.20	1.20
Water System Contract Acct.	.04	.08	.08	.08	.08

Leaking Underground Storage

Trust Funds

Commercial Fund

No Fiscal Impact

Noncommercial Fund

Up to (\$2.9 million) for known releases as of December 31, 1997

Approx. (\$387,000) for releases reported annually after December 31, 1997

**PRINCIPAL DEPARTMENT(S) &**

**PROGRAM(S) AFFECTED:** Department of Environment and Natural Resources.

**EFFECTIVE DATE:** Part I (Water Quality Fees) is effective January 1, 1999; Part II (Cleanup of CDE LUST Impacts Not Required) is effective when the act becomes law.

**BILL SUMMARY:**

Part I of this bill revises the schedule of fees for water quality permits for non-animal facilities, animal waste management systems, and certification and training requirements. The new fee schedule is also being codified in the general statutes. The bill also provides that revenue generated by animal waste operations be credited to the Water and Air Quality Account, rather than the General Fund as required by current law.

Part II of this bill provides that the impact of a discharge or release from a leaking underground storage tank is a Class CDE impact unless classified as a Class AB impact and specifies the conditions for classification of a discharge or release as Class AB. Class AB impacts are considered to be high risk and typically involve a contaminated water supply well, the presence of petroleum vapor in a confined space, close proximity to a water supply well, violation of drinking water standards in treated surface water supply, or imminent threat to public health, public safety, or environment. This part also prohibits the Environmental Management Commission from requiring cleanup of releases having Class CDE impact, with certain listed exceptions, and prohibits DENR from paying for the cleanup of CDE impact releases, with certain listed exceptions.

#### **ASSUMPTIONS AND METHODOLOGY:**

##### **Part I Water Quality Fees**

Funding for programs administered by the Water Quality Section in the Department of Environment and Natural Resources (DENR) is provided through three sources: federal funds, state general fund appropriations, and permit fee receipts. In 1996 the Division of Water Quality projected a shortfall in water quality permit fee receipts. In response, the General Assembly appropriated \$1 million for the 1997-98 fiscal year in a special reserve fund to help offset any unrealized permit fee revenue and to allow for additional analysis of a variety of water quality funding issues. (Based on year to date actual collections, the Office of State Budget and Management does not expect the Division to draw funds from the reserve for the 1997-98 fiscal year). The Environmental Review Commission (ERC) created the Water Quality Funding Working Group comprising representatives of the regulated community to evaluate the state's water quality programs, funding sources and budgetary needs, as well as make recommendations to improve the current funding structure. Part I of this bill is a result of the working group's effort and is recommended by the ERC.

Focus on water quality funding needs has shifted from total budgetary requirements to determining an appropriate level of operating support, which includes data processing and communications, travel, supplies, equipment and other general operating expenses. The Water Quality Section's authorized budget, excluding pass-through grants and aid, for the 1997-98 fiscal year is approximately \$14.5 million. This aggregate amount is consistent with the Division's calculation of a "healthy budget." However, salary and fringes for personnel in the Water Quality Section account for over 80% of the total budget. According to the Division, additional operating support is needed by the Water Quality Section to carry out their statutory obligations. As such additional revenue resulting from fee increases proposed in this bill will be used primarily for operating expenses.

The differences in the current permit fees (at the maximum compliance level) and the permit fees proposed in the legislation are shown in the chart below. The number of facilities in each category was provided by the Division of Water Quality, and shows the number of each type of non-animal facility permitted in 1998. The Division assumes that the number of facilities in each non-animal category will remain relatively constant over time. The numbers given for animal waste management facilities represent the number of operations expected to be permitted annually, once all facilities are in the permitting system. The Division began permitting animal waste systems in January 1997 and plans to have all systems permitted by January 2002. The number of facilities, and the associated revenue streams, are then expected to remain relatively constant over time.

<b>Activity</b>	<b># of Facilities</b>	<b>Current Fees (compliance maximums)</b>	<b>Proposed Fees</b>
<b>Category A (subject to annual fees)</b>			
Major Individual NPDES Permits	250	\$1,125	\$2,865
Minor Individual NPDES Permits	1,470	600	715
Single Family Residences	1,095	48	50
Stormwater & Wastewater Discharge			
General Permits	3,000	80	80
Recycle Systems	170	300	300
Major Nondischarge Permits	301	1,000	1,090
Minor Nondischarge Permits	334	600	675
<b>Animal Waste Management</b>			
Animal Permits (Small Operations)	295	\$50	\$50
Animal Permits (Medium Operations)	2106	100	150
Animal Permits (Large Operations)	565	200	300
<b>Category B (subject to project and annual)</b>			
Major Consent Special Orders	15	0	\$500
Minor Consent Special Orders	65	0	250
	45	400	400
<b>Category C (application fees)</b>			
Sewer Extensions	1000	\$400	\$400
State Stormwater	450	385	420
Water Quality Certifications - Major	375	0	475
Water Quality Certifications - Minor	375	0	200
Petroleum Contaminated Soils	30	400	400

*Fee Change: Non-Animal Facilities:* The change in Water Quality permit fees will alter revenue to the Division of Water Quality beginning in FY 1998-99. Using the above permit fees, and excluding the animal facilities, the total revenue generated from fees addressed in the bill will be approximately \$1.8 million in 1998-99. (This represents 6 months of the fiscal year.

The annual total, as shown below, is \$3.6 million.). Because the statute sets the fees, and the number of facilities is constant, the revenue associated with non-animal facilities is expected to remain constant over time.

<b>Category</b>	<b>Revenue Under Bill</b>
<b>Category A</b> - Subject to Annual Fees (Does not include animal permits in this category).	\$2,666,590
<b>Category B</b> - Subject to Project and Annual Fees.	\$41,750
<b>Category C</b> - Application Fees.	<u>\$854,125</u>
<b>TOTAL NON-ANIMAL FEES</b>	<b>\$3,562,465</b>

In FY 1997-98 water quality permits are expected to generate \$2.8 million in revenues. The three year average revenue collected from water quality permits is \$2.9 million. This three year average is used as an approximation for future years. The Division believes that there will be no growth in non-animal permits in future years. Because of the effective date of the legislation, one-half of the three year average amount (\$1.45 million) is used to estimate the net revenue increase for FY 1998-99. As such, the net revenue gain associated with non-animal permits is estimated at \$350,000 in FY 1998-99, and \$700,000 in succeeding years. Under current law, non-animal system permit fees are placed in a special non-reverting Water and Air Quality Account within DENR.

*Fee Change: Animal Facilities:* The Division of Water Quality began permitting animal waste management facilities January 1997. The Division assumes that all animal waste systems will be “on line,” paying annual permit fees, by January 2002. As such, approximately 20% of the total number of facilities (and their revenue) will be added each year. Because the legislation instructs the Division to permit the largest facilities first, and larger operations are required to pay higher fees, revenue growth slows as additional facilities are phased in each year. This note assumes calendar year revenue additions will be as follows: 23% in 1997, 22% in 1998, 20% in 1999, 20% in 2000, and 15% in 2001. After January 2002 the revenue is expected to remain constant under both the current system and the bill. Once 100% of the animal facilities are permitted, the bill will result in \$161,800 of additional revenue, when compared to the existing fee structure. In the interim years an adjustment is made to convert the calendar year figures to fiscal year estimates. The bill requires these funds to be credited to the non-reverting Water and Air Quality Account.

<u>Actual</u>	<u>Current</u>	<u>Proposed</u>	<u>Change</u>
FY 1996-7	\$ 38,910	\$ 57,517	\$ 18,607
FY 1997-8	\$ 115,039	\$ 170,051	\$ 55,012
FY 1998-9	\$ 186,093	\$ 275,083	\$ 88,990
FY 1999-0	\$ 253,763	\$ 375,113	\$ 121,350
FY 2000-1	\$ 312,974	\$ 462,639	\$ 149,665
FY 2001-2	\$ 338,350	\$ 500,150	\$ 161,800
FY 2002-3	\$ 338,350	\$ 500,150	\$ 161,800

*Training and Certification:* Currently the Division of Water Quality offers a number of training and certification programs, and charges a fee for their efforts. The working group recommended that the fees associated with these training and certification activities be increased. The Division provided a 1998-99 estimate of the number of operators. The number of certification and training participants was then increased annually by the forecasted population growth rate (approximately 1%) to reflect expected growth in the program. The 1998-99 revenue projections for training and certification are as follows:

<b>Fee Type</b>	<b>Existing Fee</b>	<b>Current Revenue</b>	<b>Proposed Fee</b>	<b>Proposed Revenue</b>	<b>Change</b>
Examination Fees (non- animal)	\$75	\$237,300	\$85	\$268,940	\$31,640
Examination Fees (animal)	\$10	\$5,000	\$25	\$12,500	\$7,500
Renewal Fees (non-animal)	\$30	\$242,430	\$35	\$282,835	\$40,405
Renewal Fees (non-animal)	\$10	\$35,000	\$10	\$35,000	-
<b>TOTAL</b>		\$519,730		\$599,275	\$79,545

One-half of the \$79,545 is actually cited in the fiscal chart, as a result of the January effective date. These funds are credited to the non-reverting Water System Contract Account in the Department.

### **Part II CDE LUST Cleanups**

Through December 31, 1997 a total of 11,288 releases and discharges from underground storage tanks (USTs) were reported in North Carolina. Of these releases, 2,644 sites have been closed out (cleanup activities completed), leaving a total of 8,644 active sites.

Although the bill formalizes the requirement to classify the impact of known discharges or releases from underground storage tanks as either AB (high risk) or CDE (low risk), the Department of Environment and Natural Resources has used a substantially similar classification system to help prioritize cleanups since the inception of the Leaking Underground Storage Tank program in 1988.

Petroleum discharge incident data compiled by the Groundwater Section of the Division of Water Quality<sup>1</sup> indicates that 85% of all releases are at commercial sites and 15% at noncommercial sites. In addition, 75% of all sites are classified as CDE, and the remaining 25% classified as AB.

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<sup>1</sup> Effective July 1, 1998, the Underground Storage Tank program was transferred from the Division of Water Quality to the Division of Waste Management within the Department of Environment and Natural Resources.

The following table provides a breakdown of the classification of all active UST sites based on these program statistics:

**Summary of Active Sites as of Dec. 31, 1997**

	Commercial	Noncommercial	Total
Class AB Impact	1,837	324	2,161
Class CDE Impact	5,511	972	6,483
Total	7,348	1,296	8,644

According to the department, little or no action is usually taken at sites classified as CDE impact, other than minimal soil remediation, removal of free product and employment of preventive measures to avoid additional releases, unless the owner wants to pursue complete remediation and cleanup. As such, cleanup of CDE impact sites under the commercial fund typically costs less than the required deductible. Therefore, discontinuing cleanup at commercial sites classified as CDE, as required by the bill, is expected to have no impact on expenditures from the Commercial Leaking Underground Storage Tank Trust Fund.

The situation differs for cleanups under the noncommercial fund because owners are not required to pay a deductible. Based on historical noncommercial claims, the department estimates soil remediation costs an average of \$3,000 per site. Under current law, soil remediation expenditures from the Noncommercial Leaking Underground Storage Tank Trust Fund for the 972 sites currently classified as CDE impact would total \$2,916,000. Therefore, by limiting reimbursement to cleanups of sites classified as AB, the state can expect to reduce claims against the noncommercial fund by up to \$2.9 million, based solely on known discharges. Because the bill provides for payment from the fund for costs incurred prior to notification that a release is classified as CDE, \$2.9 million is the upper limit for any reduction in expenditures related to previously reported releases.

In addition the state can expect to further reduce the future liability of the noncommercial fund for discharges reported after December 31, 1997 that are classified as CDE. During the 1997 calendar year a total of 172 discharges from tanks classified as noncommercial were reported to DENR. The department expects 129, or 75%, of these sites to be classified as CDE impact. Under current law, reimbursement for the required soil remediation would total \$387,000 for these sites. Assuming reported discharges from noncommercial tanks are relatively unchanged each year, the state can expect to reduce future claims against the fund by approximately \$387,000 annually.

**TECHNICAL CONSIDERATIONS:**

**Part I Water Quality Fees:** Under current law revenue from animal waste system permits is credited to the General Fund. This bill revises the current practice by directing that the revenue be credited to the Water and Air Quality Account. This change will result in a revenue loss to the General Fund. The estimated reduction in General Fund revenue, as presented in this note, is based on the existing fee schedule, not the revised schedule being proposed. As mentioned

above, the Division assumes that future permit revenue will remain constant since they do not expect significant changes at the federal level. However, it should be noted that any change in federal regulations will have an impact on North Carolina water quality permit revenue. These federal changes, in past years, have created a positive growth trend in permit revenue.

**FISCAL RESEARCH DIVISION 733-4910**    **DATE:** July 23, 1998.  
**PREPARED BY:** Linda Millsaps and Mona Moon.

**APPROVED BY:** Tom Covington



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