



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 593: Amend Environmental Laws - 2

2015-2016 General Assembly

Committee: House Floor
Introduced by: Rep. McElraft
Analysis of: Second Edition

Date: April 22, 2015
Prepared by: Jennifer McGinnis
Staff Attorney

SUMMARY: *House Bill 593 would: clarify reimbursement eligibility for third-party claims from the Commercial or Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds; exempt certain wetlands mitigation activities from Sedimentation Pollution Control Act requirements; modify implementation of the Odor Control of Feed Ingredient Manufacturing Plants Rule; prohibit the requirement of mitigation for impacts to intermittent streams; direct the North Carolina Forest Service to study the dangers and risks to the State's forests resulting from the importation of firewood from other states; and direct the Department of Health and Human Services to create a streamlined and uniform process for approving new technologies for on-site wastewater treatment and dispersal.*

BILL ANALYSIS:

Section 1: The statutes currently allow the Commercial or Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds to be used for payment of compensation to third parties for bodily injury and property damage in excess of \$100,000 per occurrence, but there is little other guidance provided. There is, however a rule with more guidance, 15A NCAC 02P .0403, which provides:

- The term "third party bodily injury" means specific physical bodily injury proximately resulting from exposure, explosion, or fire caused by the presence of a petroleum release and which is incurred by a person other than the owner or operator, or employees or agents of an owner or operator.
- The term "third party property damage" means actual physical damage or damage due to specific loss of normal use of property owned by a person other than the owner or operator of an underground storage tank from which a release has occurred.

The bill would incorporate the limitations of the rule into the statutes, and make other conforming changes. These changes would be effective for claims for reimbursement pending, or submitted on or after that date.

Section 2: Under current law, sedimentation and erosion control plans approved by the Department of Environment and Natural Resources (DENR) or a local government are required for land-disturbing activities that affect more than 1 acre of land. There are several exemptions from these requirements, including activities related to agriculture and forestry. The bill would also exempt certain wetlands restoration activities.

Section 3: 15A NCAC 02D .0539 (Odor Control of Feed Ingredient Manufacturing Plants Rule) requires that various odor control measures be implemented at any facility that produces feed-grade animal proteins or feed-grade animal fats and oils. The Rule specifically provides that a person at such facilities shall not cause or permit any raw material to be handled, transported, or stored, or to undertake the preparation of any raw material without taking reasonable precautions to prevent odors from being

O. Walker Reagan
Director



Research Division
(919) 733-2578

* H 5 9 3 - S M R I - 1 0 E 2 - V 3 *

House Bill 593

Page 2

discharged. For the purpose of the Rule, raw material is considered in storage after it has been unloaded at a facility or after it has been located at the facility for at least 24 hours.

The bill would modify the implementation of the Rule to provide that:

- Raw material is considered in storage after it has been unloaded at a facility or after it has been located at the facility for at least 36 hours.
- A vehicle or container holding raw material, which has not been unloaded inside or parked inside an odor controlled area within the facility, must be unloaded for processing of the raw material prior to the expiration of the following time limits:
 - For feathers with only trace amounts of blood, such as those obtained from slaughtering houses that separate blood from offal and feathers, no later than 48 hours after being weighed upon arrival at the facility.
 - For used cooking oil in sealed tankers, no later than 96 hours after being weighed upon arrival at the facility.

Section 4: would provide that, except as required by federal law and notwithstanding any other provision of State law, DENR may not require mitigation for impacts to intermittent streams. An intermittent stream is a well-defined channel that has all of the following characteristics:

- It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.
- The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.
- It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

Section 5: would direct the North Carolina Forest Service (Service) to study the dangers and risks to the State's forests resulting from the importation of firewood from other states, including the threat of infestation from invasive species, pests, and disease. In addition, the Service is directed to examine restrictions that may be advisable to protect the State's forests from any risks identified, and consult with stakeholders in its study, including members of the Western North Carolina Public Lands Council, entomologists, and private foresters and landowners. The Service would be required to report its findings, including specific recommendations for legislative action, to the Environmental Review Commission (ERC) on or before December 1, 2015.

Section 6: would direct the On-Site Water Protection Branch (Branch) in the Division of Public Health of the Department of Health and Human Services to engage with stakeholders representing the wastewater system industry to develop streamlined and uniform approval processes for new technologies that are introduced for use in on-site wastewater treatment and dispersal in this State. This section would require the Branch and the stakeholders to suggest amendments to G.S. 130A-343, the current law that governs the approval of on-site subsurface wastewater systems. Findings and recommendations must be reported by DHHS to the ERC and the Joint Legislative Oversight Committee on Health and Human Services on or before February 1, 2016.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when it becomes law.