

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 2012

Short Title: Regulate Certain Coal-Ash Structural Fill. (Public)

Sponsors: Representatives Harrison, Luebke, Fisher, Insko (Primary Sponsors);
M. Alexander, Bordsen, Gill, Jackson, Mackey, Martin, Mobley, Rapp, Weiss,
and Whilden.

Referred to: Environment and Natural Resources, if favorable, Public Utilities, if favorable,
Finance.

May 26, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE PERMITS FOR CERTAIN SOLID WASTE DISPOSAL SITES FOR
3 THE REUSE OF COMBUSTION PRODUCTS AND FOR CERTAIN SOLID WASTE
4 DISPOSAL SITES FOR STRUCTURAL FILL AND TO ESTABLISH PERMIT FEES
5 FOR THESE DISPOSAL SITES, IN ORDER TO ADEQUATELY PROTECT THE
6 PUBLIC HEALTH AND THE ENVIRONMENT.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 130A-290(a) reads as rewritten:

9 **"§ 130A-290. Definitions.**

10 (a) Unless a different meaning is required by the context, the following definitions shall
11 apply throughout this Article:

12 ...

13 (2c) "Combustion products landfill" means a facility or unit for the disposal or
14 reuse of combustion products, where the landfill is located at the same
15 facility with the coal-fired generating unit or units producing the combustion
16 products, and where the landfill is located wholly or partly on top of a
17 facility that is, or was, being used for the disposal or storage of such
18 combustion products, including, but not limited to, landfills, wet and dry ash
19 ponds, and structural fill facilities-products.

20 ...

21 (6a) "Fully encapsulated" means encased or enclosed in such way as to prevent
22 the leaching of coal combustion residual constituents, including, but not
23 limited to, antimony, arsenic, barium, beryllium, cadmium, chromium, lead,
24 mercury, nickel, selenium, silver, and thallium, in trace amounts or
25 otherwise.

26 ...

27 (41) "Storage" means the containment of solid waste, either on a temporary basis
28 or for a period of years, in a manner which does not constitute disposal.

29 (41a) "Structural fill" means an engineered fill with a projected beneficial end use
30 that is constructed using coal combustion by-products properly placed and
31 compacted.

32 (41a)(41b) "Subsidiary" has the same meaning as in 17 Code of Federal Regulations
33 § 240.12b-2 (1 April 1996 Edition).

34 (41b)(41c) "Tire-derived fuel" means a form of fuel derived from scrap tires.



1"

2 **SECTION 2.** G.S. 130A-294(a) reads as rewritten:

3 "(a) The Department is authorized and directed to engage in research, conduct
4 investigations and surveys, make inspections and establish a statewide solid waste management
5 program. In establishing a program, the Department shall have authority to:

6 (1) Develop a comprehensive program for implementation of safe and sanitary
7 practices for management of solid waste;

8 ...

9 (4) a. Develop a permit system governing the establishment and operation
10 of solid waste management facilities. A solid waste disposal site for
11 the reuse of combustion products shall be subject to the permit
12 requirement of this section unless the end product is fully
13 encapsulated. A solid waste disposal site for structural fill shall be
14 subject to the permit requirement of this section unless the structural
15 fill is fully encapsulated. A solid waste disposal site for the reuse of
16 combustion products is prohibited when the end product is not fully
17 encapsulated. A solid waste disposal site for structural fill is
18 prohibited when the structural fill is not fully encapsulated. A landfill
19 with a disposal area of 1/2 acre or less for the on-site disposal of land
20 clearing and inert debris is exempt from the permit requirement of
21 this section and shall be governed by G.S. 130A-301.1. The
22 Department shall not approve an application for a new permit, the
23 renewal of a permit, or a substantial amendment to a permit for a
24 sanitary landfill, excluding demolition landfills as defined in the rules
25 of the Commission, except as provided in subdivisions (3) and (4) of
26 subsection (b1) of this section. No permit shall be granted for a solid
27 waste management facility having discharges that are point sources
28 until the Department has referred the complete plans and
29 specifications to the Environmental Management Commission and
30 has received advice in writing that the plans and specifications are
31 approved in accordance with the provisions of G.S. 143-215.1. If the
32 applicant is a unit of local government, and has not submitted a solid
33 waste management plan that has been approved by the Department
34 pursuant to G.S. 130A-309.09A(b), the Department may deny a
35 permit for a sanitary landfill or a facility that disposes of solid waste
36 by incineration, unless the Commission has not adopted rules
37 pursuant to G.S. 130A-309.29 for local solid waste management
38 plans. In any case where the Department denies a permit for a solid
39 waste management facility, it shall state in writing the reason for
40 denial and shall also state its estimate of the changes in the
41 applicant's proposed activities or plans that will be required for the
42 applicant to obtain a permit.

43"

44 **SECTION 3.** G.S. 130A-295.8(c) reads as rewritten:

45 "(c) An applicant for a permit shall pay an application fee upon submission of an
46 application according to the following schedule:

47 ...

48 (37) Disposal Site for Reuse of Combustion Products or for Structural Fill
49 consistent with G.S. 130A-294(a), accepting less than 100,000 tons/year of
50 combustion products, New Permit – \$25,000.

- 1 (38) Disposal Site for Reuse of Combustion Products or for Structural Fill
2 consistent with G.S. 130A-294(a), accepting less than 100,000 tons/year of
3 combustion products, Amendment – \$15,000.
- 4 (39) Disposal Site for Reuse of Combustion Products or for Structural Fill
5 consistent with G.S. 130A-294(a), accepting less than 100,000 tons/year of
6 combustion products, Modification – \$1,500.
- 7 (40) Disposal Site for Reuse of Combustion Products or for Structural Fill
8 consistent with G.S. 130A-294(a), accepting 100,000 tons/year or more of
9 combustion products, New Permit – \$50,000.
- 10 (41) Disposal Site for Reuse of Combustion Products or for Structural Fill
11 consistent with G.S. 130A-294(a), accepting 100,000 tons/year or more of
12 combustion products, Amendment – \$30,000.
- 13 (42) Disposal Site for Reuse of Combustion Products or for Structural Fill
14 consistent with G.S. 130A-294(a), accepting 100,000 tons/year or more of
15 combustion products, Modification – \$3,000."

16 **SECTION 4.** G.S. 130A-295.8(d) reads as rewritten:

17 "(d) A permitted solid waste management facility shall pay an annual permit fee on or
18 before 1 August of each year according to the following schedule:

19 ...

20 (13) Disposal Site for Reuse of Combustion Products or for Structural Fill
21 consistent with G.S. 130A-294(a) – \$3,500."

22 **SECTION 5.** This act becomes effective January 1, 2011, and applies to
23 combustion products that are reused or disposed of on or after that date.