



HOUSE BILL 157: Amend Environmental Laws

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-1

Date:

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SUMMARY: *S.L. 2015-1 amends various environmental laws, including provisions that:*

- *Authorize the Governor to send an official from the Department of Environmental Quality (DEQ) (formerly the Department of Environment and Natural Resources (DENR)) to act on the Governor's behalf at meetings of the Interstate Mining Commission.*
- *Make changes to the statutes governing recycled and recovered materials.*
- *Make several technical corrections and clarifications to the Coal Ash Management Act of 2014.*
- *Change the name of the Ecosystem Enhancement Program within DEQ to the Division of Mitigation Services.*
- *Make various changes that pertain to the membership of the Energy Policy Council.*
- *Effective retroactively to July 2, 2012, clarify that the Environmental Management Commission is only required to adopt a rule on air toxics from drilling operations associated with oil and gas activities if it determines that the State's current air toxics program, and any applicable federal regulations adopted by the State by reference, are inadequate.*

Except as otherwise provided, this act became effective March 16, 2015.

BILL ANALYSIS:

Part I. Interstate Mining Compact Clarification

North Carolina, along with 21 other states, is a member of the Interstate Mining Compact Commission.

Section 1 authorizes the Governor to send an official from DEQ¹ to act on the Governor's behalf at meetings of the Commission.

Part II. Recycled and Recovered Materials

Section 2(a) excludes steel slag that is a product of the electric arc furnace steelmaking process from the definition of solid waste, provided that the slag is sold and distributed in the stream of commerce for consumption, use, or further processing into another desired commodity and is managed as an item of commercial value in a controlled manner and not as a discarded material or in a manner constituting disposal.

¹ Formerly the Department of Environment and Natural Resources (DENR).



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Section 2(b) clarifies requirements for "recovered materials" under the statutes governing the management of solid waste. Under current law, if a material qualifies as "recovered material," it is not subject to regulation as solid waste. The act amends the existing qualifications as follows:

- Provides that materials that are accumulated speculatively (as that term is defined under federal law) do not qualify as a recovered material, and are subject to regulation as solid waste.
- Requires that a recovered material must be managed as a valuable commodity in a manner consistent with the desired use or end use.
- Specifies that **75%** of the recovered material stored at a facility at the beginning of a calendar year must be removed from the facility through sale, use, or reuse by the end of the same year. Current law requires that a "**majority**" of the material be removed within the year period.
- Requires that operations that process recovered material be conducted in a manner to ensure that recovered material or by-products from processing of the material are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water, emitted into the air, otherwise enter the environment, or pose a threat to public health and safety.
- Requires that the recovered material must not contain significant concentrations of foreign constituents that render it unserviceable or inadequate for sale, or its intended use or reuse.

Section 2(c) adds provisions specifying that construction and demolition debris and garbage diverted from the waste stream or collected as source separated material are subject to solid waste permits for transfer, treatment, and processing in a permitted solid waste management facility.

Section 2(d) modernizes definitions included in the statutes governing management of discarded computer equipment and televisions.

Section 2(e) requires facilities that recover or recycle discarded computer equipment, televisions, or other electronic devices to register annually with DEQ.

Part III. Coal Ash Management Technical Corrections and Amendments

Clarify Implementing Agencies

The Coal Ash Management Act of 2014 is implemented by several different State agencies, including the Coal Ash Management Commission, the Environmental Management Commission, and the Utilities Commission.

Sections 3.1(a), (b), and (c); 3.6; and 3.7 amend several sections of the Coal Ash Management Act of 2014 to clarify which State agencies are responsible for implementing various provisions of the Act.

Technical Corrections

Section 3.2 corrects an incorrect statutory cross reference.

Section 3.3 repeals an unnecessary reporting deadline.

Structural Fill Moratorium Clarifications

The Coal Ash Management Act of 2014 placed a moratorium on the use of coal combustion products as structural fill until August 1, 2015, in order to allow DEQ, the Environmental Management Commission, and the General Assembly time to review and evaluate the use of coal combustion residuals as structural fill. The Act included two exceptions to the moratorium: structural fill projects that include many of the requirements for solid waste landfills and structural fill projects that are the base of a concrete or asphalt paved road.

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Section 3.4(a) makes a correction to the exceptions to the structural fill moratorium to clarify that all of the listed requirements apply.

Section 3.4(b) makes a technical correction to the effective date of the moratorium on the use of coal combustion products as structural fill.

Sections 3.4(a) and (b) are retroactively effective to September 20, 2014, and apply to the use of coal combustion products as structural fill contracted on or after that date.

Clarify Authority of Secretary of Environmental Quality

Section 3.5 clarifies that certain responsibilities related to corrective action are under the authority of the Secretary of Environmental Quality.

Part IV. Change Name of Ecosystem Enhancement Program to Division of Mitigation Services

The Ecosystem Enhancement Program is a program within DEQ that implements programs to protect and mitigate impacts to wetlands and streams.

Sections 4.1 through 4.7 change the name of the Ecosystem Enhancement Program to the Division of Mitigation Services.

Part V. Energy Policy Council Amendments

The Energy Policy Council is a State agency located within DEQ that was created to advise and make recommendations on increasing domestic energy exploration, development, and production within the State and region to promote economic growth and job creation to the Governor and the General Assembly.

Section 5 provides that the Secretary of Environmental Quality, the Secretary of Commerce, and the Lieutenant Governor may appoint designees to represent them on the Energy Policy Council. Section 5 also provides that a member of the Energy Policy Council will be automatically removed if he or she fails to attend three successive meetings without just cause and allows the Governor to remove any member of the Council for misfeasance, malfeasance, or nonfeasance.

Part VI. Clarify Rulemaking Directive

Section 6 clarifies that the Environmental Management Commission is only required to adopt a rule on air toxics from drilling operations if it determines that the State's current air toxics program, and any applicable federal regulations adopted by the State by reference, were inadequate. Current law provides that the Commission must adopt rules on regulation of air toxics from drilling operations.

EFFECTIVE DATE: Except as otherwise provided, this act became effective March 16, 2015.