



HOUSE BILL 157: Amend Environmental Laws

2015-2016 General Assembly

Committee:	House Rules	Date:	March 11, 2015
Introduced by:	Reps. McElraft, Catlin	Prepared by:	Jeff Hudson
Analysis of:	Second Edition		Jennifer McGinnis Committee Counsel

SUMMARY: *House Bill 157 would amend various environmental laws.*

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 would authorize the Governor to send an official from the Department of Environment and Natural Resources (DENR) to act on the Governor's behalf at meetings of the Commission.

Part I. Recycled and Recovered Materials

Section 2(a) would exclude 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.

Section 2(b) would clarify 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 PCS would amend 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.



House Bill 157

Page 2

Section 2(c) would add 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) would modernize definitions included in the statutes governing management of discarded computer equipment and televisions.

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

Section 2(f) would allow moneys in the White Goods Management Account (consisting of revenues from a tax¹ imposed on new white goods²) to be used for the management of discarded electronic devices. Under current law, 72% of the net tax proceeds are distributed among the counties on a per capita basis, and counties are only permitted to use these funds to manage discarded white goods.

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 would 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 would correct an incorrect statutory cross reference.

Section 3.3 would repeal 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 DENR, 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.

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

Section 3.4(b) would make 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) would be 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 Environment and Natural Resources

¹ The rate of the privilege tax and the excise tax is three dollars (\$3.00) for each new white good sold.

² White goods include refrigerators, ranges, water heaters, freezers, unit air conditioners, washing machines, dishwashers, clothes dryers, and other similar domestic and commercial large appliances.

House Bill 157

Page 3

Section 3.5 would clarify that certain responsibilities related to corrective action are under the authority of the Secretary of Environment and Natural Resources.

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

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

Sections 4.1 through 4.7 would 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 DENR 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 would provide that the Secretary of Environment and Natural Resources, the Secretary of Commerce, and the Lieutenant Governor may appoint designees to represent them on the Energy Policy Council. Section 5 would also provide 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 would allow the Governor to remove any member of the Council for misfeasance, malfeasance, or nonfeasance.

Part VI. Clarify Rulemaking Directive

Section 6 would clarify that the Environmental Management Commission would only be required to adopt a rule on air toxics from drilling operations if it determined 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 would become effective when it becomes law.