

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 177

Short Title: DEQ Omnibus.-AB (Public)

Sponsors: Representatives K. Hall and Iler (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment, if favorable, Rules, Calendar, and Operations of the House

February 23, 2023

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING THE
DEPARTMENT OF ENVIRONMENTAL QUALITY, AS RECOMMENDED BY THE
DEPARTMENT OF ENVIRONMENTAL QUALITY.

The General Assembly of North Carolina enacts:

COAL COMBUSTION RESIDUAL REPORT REVISION

SECTION 1. G.S. 130A-309.204(a) reads as rewritten:

"(a) The Department shall submit ~~quarterly written reports~~ an annual report no later than October 1 to the Environmental Review Commission on its operations, activities, programs, and progress with respect to its obligations under this Part concerning all coal combustion residuals surface impoundments. This report may be combined with the report to members of the General Assembly required by subsection (b) of this section. At a minimum, the report shall include information concerning the status of assessment, corrective action, prioritization, and closure for each coal combustion residuals surface impoundment and information on costs connected therewith. The report shall include an executive summary of each annual Groundwater Protection and Restoration Report submitted to the Department by the operator of any coal combustion residuals surface impoundments pursuant to G.S. 130A-309.211(d) and a summary of all groundwater sampling, protection, and restoration activities related to the impoundment for the preceding year. The report shall also include an executive summary of each annual Surface Water Protection and Restoration Report submitted to the Department by the operator of any coal combustion residuals surface impoundments pursuant to G.S. 130A-309.212(e) and a summary of all surface water sampling, protection, and restoration activities related to the impoundment for the preceding year, including the status of the identification, assessment, and correction of unpermitted discharges from coal combustion residuals surface impoundments to the surface waters of the State. The Department shall supplement the written reports required by this subsection with additional written and oral reports as may be requested by the Environmental Review Commission. The Department shall submit the written reports required by this subsection whether or not the General Assembly is in session at the time the report is due."

SOLID WASTE BENEFICIAL REUSE CLARIFICATION

SECTION 2.(a) G.S. 130A-309.05 reads as rewritten:

"§ 130A-309.05. Regulated wastes; certain exclusions.

(a) Certain Wastes Regulated as Nonhazardous. – Notwithstanding other provisions of this Article, the following waste shall be regulated pursuant to this Part:



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1 (1) Medical waste; and
2 (2) Ash generated by a solid waste management facility from the burning of solid
3 waste.

4 (b) Management of Ash Generated From Burning of Solid Waste. – Ash generated by a
5 solid waste management facility from the burning of solid waste shall be disposed of in a properly
6 designed solid waste disposal area that complies with standards developed by the Department for
7 the disposal of the ash. The Department shall work with solid waste management facilities that
8 burn solid waste to identify and develop methods for recycling and reusing incinerator ash or
9 treated ash.

10 (c) Recovered Material. – Recovered material is not subject to ~~regulation as permitting~~
11 ~~requirements for solid waste under this Article. In order for a material that would otherwise be~~
12 ~~regulated as solid waste to qualify as a recovered material, the~~ The Department may require any
13 person who owns or has control over the material to demonstrate that the material meets the
14 requirements of this subsection. In order to protect public health and the environment, the
15 Commission subsection or may require the person to obtain a beneficial use determination from
16 the Department in accordance with subsection (d) of this section. The Department may adopt
17 rules to implement this subsection. Materials that are accumulated speculatively, as that term is
18 defined under 40 Code of Federal Regulations § 261 (July 1, 2014 Edition), shall not qualify as
19 a recovered material, and shall be subject to regulation as solid waste. In order to qualify as a
20 recovered material, the material. The material shall be managed as a valuable commodity in a
21 manner consistent with the desired use or end use, and all of the following conditions shall be
22 met:

- 23 (1) Seventy-five percent (75%), by weight or volume, of the recovered material
24 stored at a facility at the beginning of a calendar year commencing January 1,
25 shall be removed from the facility through sale, use, or reuse by December 31
26 of the same year.
- 27 (2) The recovered material or the products or by-products of operations that
28 process recovered material shall not be discharged, deposited, injected,
29 dumped, spilled, leaked, or placed into or upon any land or water so that the
30 products or by-products or any constituent thereof may enter other lands or be
31 emitted into the air or discharged into any waters including groundwaters, or
32 otherwise enter the environment or pose a threat to public health and safety.
33 Facilities that process recovered material shall be operated in a manner to
34 ensure compliance with this subdivision.
- 35 (3) The recovered material shall not be a hazardous waste or have been recovered
36 from a hazardous waste.
- 37 (4) The recovered material shall not contain significant concentrations of foreign
38 constituents that render it unserviceable or inadequate for sale, or its intended
39 use or reuse.

40 (d) Beneficial Use Determination. – For the purposes of preservation of landfill capacity,
41 economic development, energy savings, and reduction of greenhouse emissions, the Department
42 may determine whether nonhazardous solid waste may be used or reused for a particular site or
43 application as an alternative to disposal at a permitted solid waste management facility as set
44 forth in this subsection.

- 45 (1) A person seeking a beneficial use determination shall submit an application to
46 the Department. The Department, after a review of an application submitted
47 under this subsection, may take any of the following actions:
- 48 a. Authorize management of a specified type of nonhazardous solid
49 waste at a site other than a permitted solid waste management facility.

- 1 b. Issue a beneficial use determination with appropriate conditions for
2 use of specific types of solid waste in construction, land application,
3 or other projects and applications.
- 4 (2) An applicant for a determination under this subsection shall submit
5 information on forms prescribed by the Department and any additional
6 information required by the Department necessary for a determination under
7 this subsection. In its review of the application and additional information, the
8 Department shall also consider internal research or information submitted by
9 any person or entity concerning the potential hazard to public health or the
10 environment of any type of solid waste.
- 11 (3) The Department may require submittal of a demonstration that the solid waste
12 is being managed in a manner to protect public health or the environment and
13 may include any of the following as a part of an authorization under
14 subdivision (1) of this subsection:
- 15 a. Requirements for periodic testing of solid wastes.
- 16 b. Conditions to ensure that the product or by-products of a material
17 recovered or diverted for beneficial use shall not be discharged,
18 deposited, injected, dumped, spilled, leaked, or placed into or upon
19 any land or water so that the products or by-products or any
20 constituents thereof may enter other lands or be emitted into the air, or
21 discharged into any waters, including groundwaters, or otherwise enter
22 the environment or pose a threat to public health and safety.
- 23 (4) Approvals granted under this subsection are valid for no longer than five
24 years. Requests for renewal shall be made at least 60 days in advance of the
25 expiration date of the approval.
- 26 (5) The applicant for a determination under this subdivision shall submit to the
27 Department on an annual basis a report detailing the usage of material under
28 the approval and certifying compliance with this Article and any applicable
29 rules adopted under this Article.
- 30 (6) The Department may suspend or revoke an authorization and may modify an
31 authorization if it is determined that the activity is not in compliance with the
32 requirements of applicable laws or rules or if new information is provided to
33 the Department that impacts the determination of protection of public health
34 or the environment.
- 35 (7) The Department shall provide notice on its website of approved beneficial use
36 determinations.
- 37 (8) Facilities that manage source separated materials for the purpose of recycling
38 as defined in G.S. 130A-290 are not subject to the provisions of this
39 subsection.
- 40 (9) The Department may adopt rules implementing this subsection and
41 establishing application fees for a reuse determination under this subsection.
42 All fees collected under this subdivision shall be credited to the Solid Waste
43 Management Account established under G.S. 130A-295.8(a). In determining
44 the amount of the total application fee in rule, the Department shall have the
45 authority to establish separate fee amounts for annual fees for each year based
46 on the length of time for which the approval will be valid as requested by the
47 applicant."

48 **SECTION 2.(b)** This section becomes effective October 1, 2023.

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50 **CODIFY LASII IN WATER INFRASTRUCTURE FUND**

51 **SECTION 3.(a)** G.S. 159G-22 is amended by adding a new subsection to read:

1 "(g1) LASII Fund. – The Local Assistance for Stormwater Infrastructure Investments
2 (LASII) Fund created in Section 12.14 of S.L. 2021-180 is established as an account within the
3 Water Infrastructure Fund to provide grants to eligible entities for projects that will improve or
4 create infrastructure for controlling stormwater quantity and quality. For purposes of grants from
5 LASII under this subsection, an eligible entity is a city or county that (i) documents in a form
6 and manner as the Department may specify a stormwater quality or quantity issue and (ii)
7 demonstrates that it would experience a significant hardship raising the revenue necessary to
8 finance stormwater management activities within its jurisdiction based on income and
9 unemployment data, population trends, and any other data determined relevant by the
10 Department. A regional council of government created pursuant to Part 2 of Article 20 of Chapter
11 160A of the General Statutes or a nonprofit entity is also an eligible entity under this section if
12 the regional council of government or nonprofit entity partners with a city or county."

13 **SECTION 3.(b)** This section becomes effective October 1, 2023.

14 15 **REMOVE TIME LIMITS ON CERTAIN VUR GRANTS**

16 **SECTION 4.(a)** G.S. 159G-36(d)(2) reads as rewritten:

17 "(2) Grants for the purpose set forth in G.S. 159-32(d)(6) to any single local
18 government unit shall not ~~(i) exceed seven hundred fifty thousand dollars~~
19 ~~(\$750,000) in any fiscal year and (ii) be awarded for more than three~~
20 ~~consecutive fiscal years.~~"

21 **SECTION 4.(b)** This section becomes effective July 1, 2023.

22 23 **WATER/SEWER PROJECT TECHNICAL CORRECTIONS**

24 **SECTION 5.(a)** Subdivision 12.9(e)(25) of S.L. 2022-74 reads as rewritten:

25 "(25) One million dollars (\$1,000,000) to Harnett Regional Water to construct water
26 or sewer lines inside the Town of Erwin."

27 **SECTION 5.(b)** Subdivision 12.9(e)(86) of S.L. 2022-74 reads as rewritten:

28 "(86) Eight million dollars (\$8,000,000) to the Town of Walnut ~~Cove to be allocated~~
29 ~~as follows:~~Cove.

30 a. ~~Six million four hundred thousand dollars (\$6,400,000) to replace a~~
31 ~~transmission main.~~

32 b. ~~One million six hundred thousand dollars (\$1,600,000) to replace~~
33 ~~asbestos lines."~~

34 35 **ELIMINATE FAST-TRACK STORMWATER PERMIT OPTION**

36 **SECTION 6.(a)** G.S. 143-214.7B is repealed.

37 **SECTION 6.(b)** This section becomes effective July 1, 2023.

38 39 **EXTEND LIMIT ON INTERGOVERNMENTAL PERSONNEL ACT AGREEMENTS**

40 **SECTION 7.** G.S. 126-53 reads as rewritten:

41 "**§ 126-53. Authority to interchange employees.**

42 (a) Any division, department, agency, instrumentality, authority, or political subdivision
43 of the State of North Carolina is authorized to participate in a program of interchange of
44 employees with divisions, departments, agencies, instrumentalities, authorities, or political
45 subdivisions of the federal government, of another state, or of this State, as a sending agency or
46 a receiving agency.

47 (b) The period of individual assignment, detail, or leave of absence under an interchange
48 program ~~shall not exceed two years.~~may last up to two years and may be extended for an
49 additional two years if the sending agency and receiving agency agree.

50 "

1 **EFFECTIVE DATE**

2 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes
3 law.