

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1419*

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

Sponsors: Senator Kinnaird.

Referred to: Rules and Operations of the Senate.

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.

35"

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



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

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

6 ...

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

41 "

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

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

45 ...

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

49 (38) Disposal Site for Reuse of Combustion Products or for Structural Fill
 50 consistent with G.S. 130A-294(a), accepting less than 100,000 tons/year of
 51 combustion products, Amendment – \$15,000.

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

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

14 "(d) A permitted solid waste management facility shall pay an annual permit fee on or

15 before 1 August of each year according to the following schedule:

16 ...

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

19 **SECTION 5.** This act becomes effective January 1, 2011, and applies to

20 combustion products that are reused or disposed of on or after that date.