

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 567

Short Title: Coal Ash/Prohibit Cost Rcvr./Proper Disposal. (Public)

Sponsors: Representatives Harrison, Clark, Reives, and Queen (Primary Sponsors).

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

Referred to: Energy and Public Utilities, if favorable, Environment, if favorable, Appropriations, Agriculture and Natural and Economic Resources, if favorable, Finance, if favorable, Rules, Calendar, and Operations of the House

April 4, 2019

A BILL TO BE ENTITLED

AN ACT TO (I) PROHIBIT AN ELECTRIC PUBLIC UTILITY FROM RECOVERING FROM RATEPAYERS ANY COSTS RELATED TO THE MANAGEMENT OF COAL COMBUSTION RESIDUALS AND UNLAWFUL DISCHARGES FROM COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS AND (II) REQUIRE EXCAVATION OF ALL COAL ASH PONDS AND DISPOSAL OF THE COAL ASH IN LINED LANDFILLS.

The General Assembly of North Carolina enacts:

PART I. PROHIBIT AN ELECTRIC PUBLIC UTILITY FROM RECOVERING FROM RATEPAYERS ANY COSTS RELATED TO THE MANAGEMENT OF COAL COMBUSTION RESIDUALS AND UNLAWFUL DISCHARGES FROM COAL COMBUSTION RESIDUALS SURFACE IMPOUNDMENTS

SECTION 1. G.S. 62-133.13 reads as rewritten:

"§ 62-133.13. Recovery of costs related to the management of coal combustion residuals and unlawful discharges from coal combustion residuals surface impoundments to the surface waters of the State.

~~The Commission shall not allow an electric public utility to recover from the retail electric customers of the State costs resulting from an unlawful discharge to the surface waters of the State from a coal combustion residuals surface impoundment, unless the Commission determines the discharge was due to an event of force majeure. For the purposes of this section, "coal combustion residuals surface impoundments" has the same meaning as in G.S. 130A-309.201. For the purposes of this section, "unlawful discharge" means a discharge that results in a violation of State or federal surface water quality standards.~~

(a) For the purposes of this section, "coal combustion residuals surface impoundment" has the same meaning as in G.S. 130A-309.201. For the purposes of this section, "costs related to unlawful discharges to the surface waters of the State" include any corrective actions required of the electric public utility under State or federal law.

(b) The Commission shall not allow an electric public utility to recover from the retail electric customers of the State any of the following costs:

(1) Costs incurred on or after January 1, 2014, that are related to the management of coal combustion residuals disposed of in coal combustion residuals surface



1 impoundments, including costs associated with complying with the provisions
2 of Part 2I of Article 9 of Chapter 130A of the General Statutes.

- 3 (2) Costs incurred on or after January 1, 2014, that are related to an unlawful
4 discharge to the surface waters of the State from a coal combustion residuals
5 surface impoundment, unless the Commission determines the discharge was
6 due to an event of force majeure."

8 PART II. CLOSURE OF PONDS

9 SECTION 2.(a) G.S. 130A-309.214 is repealed.

10 SECTION 2.(b) Part 2I Article 9 of Chapter 130A of the General Statutes is amended
11 by adding a new section to read:

12 "§ 130A-309.214A. Closure of coal combustion residual surface impoundments.

13 (a) Method of Closure. – All coal combustion residuals surface impoundments shall be
14 dewatered, and the owner of the impoundment shall remove all coal combustion residuals from
15 the impoundment, return the former impoundment to a nonerosive and stable condition, and
16 dispose the coal combustion residuals in a municipal solid waste landfill located on the same
17 property as the impoundment. Municipal solid waste landfills that receive coal combustion
18 residuals pursuant to this subsection shall comply with the siting and design requirements for
19 disposal sites established by Section .0503 of Subchapter B of Chapter 13 of Title 15A of the
20 North Carolina Administrative Code, except that in lieu of the liner requirement of that section
21 the landfill shall include a bottom liner system consisting of three components in accordance with
22 this subsection. Of the required three components of the liner system, the upper two components
23 shall consist of two separate flexible membrane liners, with a leak detection system between the
24 two liners. The third component shall consist of a minimum of 2 feet of soil underneath the
25 bottom of those liners, with the soil having a maximum permeability of 1×10^{-7} centimeters per
26 second. The flexible membrane liners shall have a minimum thickness of 0.030 inches, except
27 that liners consisting of high-density polyethylene shall be at least 0.060 inches thick. The lower
28 flexible membrane liner shall be installed in direct and uniform contact with the compacted soil
29 layer. The Department may approve an alternative to the soil component of the composite liner
30 system if the Department finds, based on modeling, that the alternative liner system will provide
31 an equivalent or greater degree of impermeability. The landfill shall otherwise comply with the
32 construction, closure, and post-closure requirements established by Section .1600 of Subchapter
33 B of Chapter 13 of Title 15A of the North Carolina Administrative Code and shall be subject to
34 all applicable requirements of this Chapter and all other applicable rules adopted thereunder.

35 (b) Schedule of Closure. – Impoundments classified pursuant to G.S. 130A-309.204 shall
36 be closed according to the following schedule:

- 37 (1) High-risk impoundments shall be closed as soon as practicable but no later
38 than August 1, 2019.
39 (2) Intermediate-risk impoundments shall be closed as soon as practicable but no
40 later than August 1, 2024.
41 (3) Low-risk impoundments shall be closed as soon as practicable but no later
42 than August 1, 2029."

44 PART III. EFFECTIVE DATE

45 SECTION 3. This act is effective when it becomes law.