

Withdrawn



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 71

AMENDMENT NO. A3
(to be filled in by
Principal Clerk)

S71-ARI-73 [v.3]

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Amends Title [NO]
Second Edition

Date _____, 2016

Representative Torbett

1 moves to amend the bill on page 11, line 36,
2 by rewriting that line to read:

3
4 "SECTION 2.(h) G.S. 130A-309.215 reads as rewritten:
5 "**§ 130A-309.215. Variance authority.**

6 (a) In recognition of the complexity and magnitude of the issues surrounding the
7 management of coal combustion residuals and coal combustion residuals surface impoundments,
8 the General Assembly authorizes the Commission to grant a variance to extend any deadline for
9 closure of an impoundment established under G.S. 130A-309.214 in conformance with the
10 requirements of this ~~section~~ section, if the variance is for the purpose of allowing adequate time
11 for full excavation of an impoundment and the coal combustion residuals excavated will be used
12 beneficially and fully encapsulated in a product. To request such a variance the owner of an
13 impoundment shall, no earlier than two years prior to the applicable deadline, submit an
14 application in a form acceptable to the Department which shall include, at a minimum, all of the
15 following information: identification of the site, applicable requirements, and applicable deadlines
16 for which a variance is sought, documentation concerning the beneficial use project for which the
17 coal ash residuals excavated are to be used, and any other ~~the~~ site-specific circumstances that
18 support the need for the variance. The owner of the impoundment shall also provide detailed
19 information that demonstrates (i) the owner has substantially complied with all other requirements
20 and deadlines established by this Part; (ii) the owner has made good faith efforts to comply with
21 the applicable deadline for closure of the impoundment; and (iii) that compliance with the deadline
22 cannot be achieved by application of best available technology found to be economically
23 reasonable at the time and would produce serious hardship without equal or greater benefits to the
24 public. As soon as practicable, but no later than 60 days from receipt of an application, the
25 Secretary shall evaluate the information submitted in conjunction with the application, and any
26 other information the Secretary deems relevant, to determine whether the information supports
27 issuance of a variance. After such evaluation, if the Secretary finds that the information supports
28 issuance of a variance from the deadline, the Secretary shall issue a proposed variance. Within 10
29 days after a proposed variance has been issued, the Secretary shall issue a written declaration,
30 including findings of fact, documenting the proposed variance. The Department shall provide for
31 public participation on the proposed variance in the manner provided by G.S. 130A-309.214(b)
32 and shall take the public input received through the process into account in its decision concerning



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1 the proposed variance. Within 30 days of the receipt of all public input received, the Department
2 shall submit a proposed variance to the Coal Ash Management Commission. The Commission
3 shall evaluate all information submitted in accordance with this section and any other information
4 the Commission deems relevant. The Commission shall only approve a variance if it determines
5 that the variance is for the purpose of allowing adequate time for full excavation of an
6 impoundment and the coal combustion residuals excavated will be used beneficially and fully
7 encapsulated in a product, and that compliance with the deadline cannot be achieved by
8 application of best available technology found to be economically reasonable at the time and
9 would produce serious hardship without equal or greater benefits to the public. The Commission
10 shall issue its determination in writing, including findings in support of its determination. If the
11 Commission fails to act on a variance request within 60 days of receipt, the variance shall be
12 deemed denied. Parties aggrieved by a final decision of the Commission pursuant to this
13 subsection may appeal the decision as provided under Article 3 of Chapter 150B of the General
14 Statutes.

15 (b) A variance granted pursuant to this section shall not extend a deadline for closure of an
16 impoundment more than three years beyond the date applicable to the impoundment as provided
17 under G.S. 130A-309.214.

18 (c) No more than one variance may be granted pursuant to this section per impoundment."
19 **SECTION 2.(i)** This section is effective when it becomes law. "

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____