

Overview and Progress Report on DEMLR Programs Involved in Coal Ash Management

Presented to the Environmental Review Commission
December 10, 2014

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DEMLR Overview

- Energy Section
 - Oil and Gas Regulatory Program
 - State Energy Program
 - Weatherization Assistance Program
- NC Geological Survey Section
- Land Quality Section
 - Stormwater Program
 - Dam Safety Program
 - Erosion and Sedimentation Program
 - Mining Program

Stormwater Programs

- Federal NPDES Stormwater Program Areas
(Administered by DENR under the Clean Water Act)
 - Industrial Stormwater Activities
 - 10 categories of facilities (based on SIC codes)
 - Coal ash facilities
 - Construction Stormwater Activities
 - 1 acre or more disturbed
 - Integrated with DEMLR's Erosion and Sediment Control Program
 - Municipal Separate Storm Sewer Systems (MS4) Entities
 - Designated by EPA and State as urbanized/developing areas
 - Includes local governments, military bases, universities

Stormwater Program

- State Stormwater Program Areas (State law and rules administered by DENR or by local governments)
 - Coastal Stormwater Management
 - 20 coastal counties
 - Protect sensitive estuary resource areas
 - Water Supply Watershed Protection
 - Protect drinking water supply sources
 - High Quality Waters/Outstanding Resource Waters
 - Protect unique water quality and natural resources
 - Post-Construction Stormwater (Phase II areas)
 - Practices in place for life of the project to treat runoff from built upon area
 - Other areas require continued coordination with DWR

Stormwater Program Activities Related to Coal Ash

- Ongoing meetings with DENR staff and Duke representatives on permitting issues (close coordination with DWR on stormwater vs. wastewater discharges)
- Industrial SW permit applications received and under review for 12 facilities:
 - Six in various stages of review and permit drafting
 - Four in initial stage of review
 - Two identified to have no industrial stormwater discharges (Weatherspoon and Lee)
 - Two in discussion for application development (Sutton and Roxboro)
- Staff have conducted permit review site visits at six facilities
- Responses to records requests and permit application information made available through DENR PIO/web page

Dam Safety Program

- Enabling legislation – NCGS 143-215.23 entitled “Dam Safety Law of 1967”
- Administrative rules – Title 15A, Subchapter 2K of the NC Administrative Code entitled “Dam Safety”
- There is no federal dam safety law or regulations – State program only
- Primary functions: inspections, review/issuance of construction and repair plans, compliance actions, emergency response

Dam Safety Program

- Jurisdictional Threshold:
 - Structural height of the dam
 - 25 feet or more (measured from highest point on the dam to the lowest point on the downstream toe)
 - Maximum impoundment capacity of the reservoir
 - 50 acre-feet (measured at the crest of the dam)
 - Hazard classification
 - If the dam is classified as high hazard (potential loss of life or serious damage), it is jurisdictional regardless of structural height and impoundment capacity
- Review/approve new construction and modifications/repairs to existing dams, including coal ash impoundment dams

Dam Safety Program Activities Related to Coal Ash

- No. of Active Notices of Deficiency (pipe repairs needed but not threatening to the structure): 20
- No. of repair/modification plans received to date (each ash pond dam has multiple repair/mod projects): 65
- No. of repair/mod plans reviewed to date: 6
- No. of Emergency Action Plans received (34 coal ash dams, 15 clear water dams): 49
- No. of EAPs reviewed to date (all coal ash dams): 34
- Current review staff: 2 FTEs (with 1 engineer and 1 admin in hiring process with coal ash funds)
- Expect to receive approx. 1,200 EAPs by March 1, 2015 per SL 2014-122
 - Partnering with DPS Division of Emergency Management in the review and approval of EAPs via EAP Development and Review Tool

Erosion and Sedimentation Control Program

- Enabling legislation - NCGS 113A-50 entitled “Sedimentation Pollution Control Act of 1973”
- Administrative rules – Title 15A, Subchapter 4 of the NC Administrative Code entitled “Sedimentation Control”
- There is no federal erosion and sedimentation control law or regulations – State only (but can be delegated to local governments)
- Primary functions: plan review, inspections, compliance/enforcement, technical assistance

Erosion and Sedimentation Control Program

- Regulate land disturbing activities over 1 acre
 - Includes review/approval of erosion and sedimentation control plans for coal ash management activities on the site and at potential offsite storage areas
 - Agricultural, mining and forestry activities are exempt
 - Local governments delegated program implementation
 - 53 local programs
 - Audited by DEMLR
 - NCDOT delegated program implementation for NCDOT contractors
 - DEMLR retains jurisdiction for review of NCDOT maintenance projects
 - Audited by DEMLR

Erosion and Sediment Control Program Activities Related to Coal Ash

- 19 E&SC plans approved related to land disturbing activities involving coal ash facilities since February 4, 2014:
 - ARO = 1
 - WIRO = 1
 - WARO = 0
 - FRO = 0
 - WSRO = 2
 - MRO = 13
 - RRO = 2

Mining Program

- Enabling legislation – NCGS 47-46 entitled “The Mining Act of 1971”
- Administrative rules – Title 15A, Subchapter 5 of the NC Administrative Code entitled “Mining: Mineral Resources”
- There is a federal coal mining law (SMCRA), but there is no coal mining in NC
- There is no federal non-coal mining law or regulations – State only
- Primary functions: plan review, inspections, compliance/enforcement, technical assistance

Mining Program Activities Related to Coal Ash

- Two existing, permitted mine sites have been identified for coal ash disposal as structural fills pursuant to SL 2014-122 requirements
 - Brickhaven No. 2 Mine Tract “A” in Chatham County
 - Colon Mine in Lee County
- Green Meadow, LLC/Charah, Inc. have requested permit transfer and modification of the reclamation plans of both mining permits to allow structural fills as reclamation
- Although mining permit transfers and modifications are handled by DEMLR and structural fill applications are handled by DWM, both Divisions are closely coordinating permit reviews

Questions?

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