



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

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Secretary

December 2, 2014

**MEMORANDUM**

TO: ENVIRONMENTAL REVIEW COMMISSION  
The Honorable Mike Hager, Co-Chair  
The Honorable Ruth Samuelson, Co-Chair  
The Honorable Brent Jackson, Co-Chair

FROM: Neal Robbins, Director of Legislative Affairs

SUBJECT: Study Report on Permits and Deadlines

DATE: December 2, 2014

Pursuant to S.L. 2014-122 section 13(b), the Department of Environment and Natural Resources shall review and make recommendations on all deadlines established under Part 2I of Article 9 of Chapter 130A of the General Statutes, as enacted by Section 3(a) of this act [the Coal Ash Management Act]. Please consider the attached as the formal submission this report.

If you have any questions or need additional information, please contact me by phone at (919) 707-8618 or via e-mail at [neal.robbs@ncdenr.gov](mailto:neal.robbs@ncdenr.gov).

cc: Mitch Gillespie, Assistant Secretary for Environment, NCDENR  
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# 2014 Study Report on Permits and Deadlines Required for Closure of Coal Combustion Residuals Surface Impoundments and other Activities Required by the Coal Ash Management Act

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Session Law 2014-122, Section 13(b)

December 1, 2014

**Submitted by:**

North Carolina Department of Environment and Natural Resources

## **I. Overview**

The purpose of this report is to fulfill the study requirements of Section 13(b) of the Coal Ash Management Act (the Act), Session Law 2014-122. This report reviews and makes recommendations on all deadlines established under Part 2I of Article 9 of Chapter 130A of the General Statutes. The Act requires, at a minimum, the Department shall identify all permits that may be required for closure requirements established under the Act and expected timeframes for issuance of these permits. The Department shall report the results of its study and any recommendations to the Environmental Review Commission by December 1, 2014.

Various permits and approvals are potentially required to close coal combustion residuals surface impoundments and complete other activities in accordance with Part 2I of Article 9 of Chapter 130A of the North Carolina General Statutes. Section II of this report describes the permits and approvals that may be required by the Department for closure of coal combustion residuals surface impoundments and the standard and expedited timeframes for those permits and approvals. Section III of this report describes how the expedited permitting provision of the Act will affect the review of permits and approvals and makes recommendations for expedited permitting under various programs. Section IV provides comments on other deadlines established in Part 2I of Article 9 of Chapter 130A and makes recommendations on those timeframes. Section V provides comments on deadlines established outside of Part 2I of Article 9 of Chapter 130A of the General Statutes.

## **II. Permits that may be required for Closure**

### **A. DIVISION OF WATER RESOURCES (DWR)**

Modification of a NPDES permit (including NPDES Stormwater Permits issued under the Division of Energy, Mineral, and Land Resources) – All coal combustion residuals surface impoundments in the state currently have a NPDES permit. Closure plans under Section 3(a) of the Act will require modifications to existing permits. Depending upon the most recent issuance of the permit, NPDES permit renewals may also be required. The modification or renewal of a NPDES permit and a NPDES stormwater permit can be a lengthy process depending on the need for a hearing, the volume and substance of public comments, and comments made by the United States Environmental Protection Agency (EPA). The Department has an existing memorandum of agreement with EPA that allows EPA a written comment period of up to 90 days on the draft permit with an extension of up to 90 additional days if substantial changes are made to the draft permit.<sup>1</sup>

Division staff estimates that under an expedited system of review, the timeframe for issuance of a NPDES permit modification to be 255 to 420 days. Staff uses the following breakdown to arrive at the estimated timeframe: up to 30 days for the Department to review for completeness; up to 60 days for the permittee to respond to an additional information request if needed;<sup>2</sup> 10 days for DWR to review additional information; 5 days to allow for notice to be published in newspaper; 45 days for the public

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<sup>1</sup> National Pollutant Discharge Elimination System Memorandum of Agreement between the State of North Carolina and the United States Environmental Protection Agency Region 4, available at <http://www.epa.gov/compliance/resources/policies/state/moa/nc-moa-npdes.pdf>.

<sup>2</sup> 15A NCAC 02H .0107(b).

comment period;<sup>3</sup> 90 days for the Division Director to act on the permit after receiving the Hearing Officer's report;<sup>4</sup> up to 90 days for EPA to comment or object (runs concurrent with public comment period); and an additional 90 days for EPA to comment if substantial changes are made to the draft permit.

Monitoring Wells – A permit is required for the construction of a monitoring well.<sup>5</sup> The statute requires that approval or rejection of an application for permission to construct a well will be issued in 15 days.

Wetlands: 401 Water Quality Certification or Isolated Wetlands Permit – Wetlands and waters in North Carolina are regulated by both state and federal laws. The Clean Water Act (CWA) prohibits the discharge of dredged or fill material into the waters of the United States unless a permit is issued by the United States Army Corps of Engineers (Corps) under § 404 of the CWA.<sup>6</sup> If a 404 permit is issued by the Corps, the state will issue a 401 Water Quality Certification that may add additional conditions to the 404 permit.<sup>7</sup> The timeframe for issuance of a 401 Water Quality Certification is 60 days for a nationwide permit and up to 6 months for an individual permit including a public hearing.

If activity causing impacts to wetlands or streams is outside the jurisdiction of the 404 program, an isolated wetlands permit may be required.<sup>8</sup> The timeframe for issuance of an isolated wetlands permit is 60 to 90 days.

It should also be noted that if any of these activities are in buffered basins, the activity may require Buffer Authorizations from DWR, local government, or a variance by the Environmental Management Commission depending on the specific buffer rule.<sup>9</sup>

## **B. DIVISION OF ENERGY, MINERAL, AND LAND RESOURCES (DEMLR)**

Erosion and Sediment Control (E&SC) Approvals – Approval for an erosion and sediment control plan is needed if development disturbs more than one acre.<sup>10</sup> The approvals are required by the Sedimentation Control Act which regulates all land-disturbing activities except agriculture and mining. For new land disturbing activities over once acre, DEMLR is required by statute to approve, approve with modifications, or deny the plan within 30 days. The statutory requirement for the review of revised plans is within 15 days of receipt of the revised plan.

With E&SC plan approvals, there is always an option of doing an express review for a site under DEMLR's existing express review program. Express reviews are dependent on staff availability and time, and deadlines are negotiated between the two parties. Based on current workloads, staff estimates a

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<sup>3</sup> 15A NCAC 02H .0109 (a) (1).

<sup>4</sup> 15A NCAC 02H .0112 (a).

<sup>5</sup> N.C.G.S. 87-88(a).

<sup>6</sup> 33 USC § 1344 (2013).

<sup>7</sup> 15A NCAC 02H 0.0500, *et seq.*

<sup>8</sup> 15A NCAC 0.1300, *et seq.*

<sup>9</sup> Neuse, 15A NCAC 02B .0233; Tar-Pam, 15A NCAC 02B .0259; Jordan, 15A NCAC 02B .0267; Catawba, 15A NCAC 02B .0243; Randleman, 15A NCAC 02B .0250; and Goose Creek; 15A NCAC 02B .0606-.0607.

<sup>10</sup> Sedimentation Control Act, N.C.G.S. 113A-50, *et seq.*

minimum of 5 to 7 working days turnaround once the applicant has made any corrections requested from the initial review.

State Post Construction Stormwater Approvals – Approval for stormwater controls is required for new development in areas that have post-construction requirements.<sup>11</sup> If this permit is applicable, it may be reviewed by DEMLR or by a local government with a stormwater program in place. For the state issued permits, the timeframe is 90 days from the receipt of a complete application.

Mining Permits – A mining permit modification will be required for any disposal of coal ash within an existing mine permit boundary.<sup>12</sup> Review of the application is a minimum of 45 days depending on additional information requirements. By statute, applications are reviewed within 60 days of receiving a complete application. If an applicant does not provide the required additional information on its application within 180 days of DEMLR's request for information, the applicant can request an extension for up to one year from the Division Director. Any further extensions must be granted by the Mining Committee of the Mining and Energy Commission.

Dam Safety Application Approvals – If the utility proposes to construct, repair, alter or remove a dam, it must file a statement 60 days before start of construction with the Director of DEMLR.<sup>13</sup> The Director must approve or deny the application within 60 days.<sup>14</sup>

### **C. DIVISION OF WASTE MANAGEMENT (DWM)**

Solid Waste Industrial Landfill Permit – A solid waste industrial landfill permit will be needed if the utility proposes construction of a new landfill or a conversion of a coal combustion residuals surface impoundment to a landfill.<sup>15</sup> The landfill permit process is defined in statute and includes hearings and public participation.<sup>16</sup> In accordance with the requirements of Chapter 130A, the applicant must complete an environmental impact statement and financial qualifications review.<sup>17</sup> The division anticipates that it would be able to meet its statutory requirements under GS 130A-309 in reviewing and preparing a draft permit for a new landfill or conversion of a surface impoundment to a landfill, including the expedited permit review in GS 130A-309.203.

A permit for a landfill is issued in two parts: initially a Permit to Construct (PTC) and then after construction, the applicant applies for a Permit to Operate (PTO).

Permitting of an industrial landfill is complex, with the majority of work occurring outside the timing and control of the Department. Preparation and planning for a landfill involves months, if not years of work by the applicant to evaluate current geologic and hydrogeologic conditions necessary for the engineering design. After the application is submitted, the agency review is conducted and the process

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<sup>11</sup> 15A NCAC 2H .1000, *et seq.*

<sup>12</sup> Mining Act of 1971, N.C.G.S. 74-46, *et seq.*

<sup>13</sup> Dam Safety Law of 1967, GS 143-215; 15A NCAC 02K .0200.

<sup>14</sup> 15A NCAC 02K .0201(k).

<sup>15</sup> NCGS 130A-294.

<sup>16</sup> NCGS 130A-295.8(e); NCGS 130A-309.203(b).

<sup>17</sup> NCGS 130A-294(b2); NCGS 130A-296(a).

continues as the environmental impact statement is prepared and public comment is gathered, both under GS 130A-294, as well as GS 130A-309.

Staff	Applicant		
	Completion of design and submittal of PTC application and EIS	6-12 months	
Receipt of comprehensive PTC application			18-36 months
Review and issuance of PTC- Process EIS		6-12 months	
	Construction concurrent with producing an PTO application	6-12 months	
Receipt and review of PTO information		1 month	

The timeframes above do not include time for additional planning delays or major technical challenges that may arise during the process.

Part 2I Permit (Solid Waste Structural Fill permit) – A new permit was created by section 3(a) of the Act. The Division estimates the timeline set out in GS 130A-309.203 is feasible: thirty days to determine completeness, 90 days to issue a draft permit, 120 days for public participation, public hearing and issuance of the final permit.

Additionally, the Act amended GS 130A-309.215 to require the submittal of information 60 days before initiation of a structural fill project. This implies that the plan implementation can start in 60 days even though a permit is required. Recommended language to clarify the statutory language is provided in Appendix A.

#### **D. DIVISION OF COASTAL MANAGEMENT (DCM)**

Coastal Area Management Act (CAMA) Permit – CAMA requires permits for development in Areas of Environmental Concern (AEC) in the 20 coastal counties.<sup>18</sup> In order for a permit to be required, development as defined in the statute<sup>19</sup> would have to take place in a designated AEC. For example the AECs around the Sutton Power Plant in Wilmington, NC (the only facility in the 20 coastal counties), are the Cape Fear River proper, the 75' estuarine shoreline on both sides of the river, as well as any delineated coastal wetlands.<sup>20</sup>

Excavating and filling in these AECs would require a permit from DCM. The permitting process requires DCM to coordinate with other state and federal agencies for their comments prior to issuing a permit decision.<sup>21</sup> By rule the Division has 75 days to act on an application and can take an additional 75 days

<sup>18</sup> NCGS 113A-100.

<sup>19</sup> NCGS 113A-103(5)(a); NCGS 113-229(a).

<sup>20</sup> NCGS 113-229(n)(3) and 15A NCAC 07H.0205

<sup>21</sup> NCGS 113A-120; NCGS 113-229(e)(1)-(5); 15A NCAC 07J.0207.

for a total of 150 days.<sup>22</sup> All CAMA Major permits require a public notice to be published in the local newspaper and a 20 day comment time frame.

With regard to an Express Permit, the approximate timeframe is 30 days for processing. The concern with using the Express process is that an agreement has to be reached with the Corps that will allow the Corps to comment back to DCM within the 30 day window. If the Corps determines that it needs to circulate the application to other federal review agencies for comments, that time frame can expand significantly. In a case where the Corps goes out for other federal agency comments, DCM generally tells the applicant the express process will not save time and the standard 75 to 100 day process is the best option.

### **III. Expedited Permitting Process**

#### **A. OVERVIEW AND AMBIGUITIES IN GS 130A-309.203**

Section 3(a) the Act amends the General Statutes to add GS 130A-309.203, Expedited Permit Review. The following is an overview of the subsections of the new expedited permit review process.

Subsection (a) of GS 130A-309.203 reads: “The Department shall act as expeditiously as practicable, but no later than the deadlines established under subsection (b) of this section, except in compliance with subsection (c) of this section, to issue all permits necessary to conduct activities required by this Part.”

Subsection (b) of GS 130A-309.203 sets out a timeline to issue permits. In summary, the timeline breaks down as follows: up to 30 days to determine an application is complete; if an application is not complete, up to 30 days minus the days the applicant takes to provide additional information or 10 days; up to 90 days to issue a draft permit once the permit application is complete; a period of not less than 30 days and not more than 60 days to accept public comment and hold a hearing; and 60 days to issue a final permit after the public comment period closes.

Broadly interpreted, “any permit necessary to conduct activities required by this Part,” may include all permits and approvals listed in Section II of this Report. The deadlines set out in subsection (b) of GS 130A-309.203 will be unworkable for some of those programs. For example, a NPDES permit involves a longer timeframe than provided by the statute to allow EPA to comment under the existing MOA that permits the state to administer the program.

There is also a question of whether permits and approvals which do not ordinarily hold a comment and hearing on a the draft permit would now be required to do so under GS 130A-309.203(b) if it is an activity necessary to conduct coal combustion residuals surface impoundment closure or permit structural fills under Part 21 of Article 9 of Chapter 130A of the General Statutes. This includes permits for monitoring wells, nationwide 401 water quality certifications, E&SC approvals, state post-construction stormwater approvals, and dam safety approvals. There is also an ambiguity as to whether a hearing will be required where it is ordinarily held at the discretion of the agency on permits including the NPDES, CAMA, and Mining Permits.

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<sup>22</sup> NCGS 113-229(e).

Subsection (c) of GS 130A -309.203 includes allowance of a waiver from the permit deadlines preventing the denial of permits due to lack of review time. Especially with initial permit applications for large structural fills<sup>23</sup> or novel designs such as conversion of impoundments-to-landfills,<sup>24</sup> this allowance will be used and will prevent unnecessary denial of permit applications.

Subsection (d) of GS 130A -309.203 requires the Department to issue a dewatering permit of a retired ash pond within 90 days of receiving a complete application. The EPA is currently considering whether dewatering should be considered a major modification of a permit subject to the same public process timelines as a NPDES permit renewal.

#### **B. RECOMMENDATIONS ON THE EXPEDITED PERMITTING PROCESS, GS 130A-309.203**

Notice and Hearing Provisions – The Department recommends that GS 130A-309.203(b) be clarified to state specifically which permits described above are subject to GS 130A-309.203.

NPDES Permit (including NPDES Stormwater Permits) – The Department recommends changing the timeline as follows: stagger the issuance of final permits due to the number of comments expected from the public and EPA based on perceived risk. Recommend a minimum of 60 days and maximum of 360 days to issue a final permit after the public hearing comment period. It should be noted that EPA may request an additional 90 days to comment if substantial changes are made to the draft permit after a public hearing. The Department recommends the timeline for modification of an NPDES permit for dewatering should be 255 to 420 days after receiving the application to allow the following timeline: up to 30 days for the Department to review the application for completeness; 60 days for the permittee to respond to an additional information request; 10 days for the Department to review additional information; 5 days to allow notice to be published in the newspaper; 45 day public comment period; and 90 days for the DWR Director to act on the permit after Hearing Officer's Report. It should be noted that EPA has up to 90 days to comment or object (runs concurrent with public comment period) and the EPA will have an additional 90 days to comment if substantial changes are made to the draft permit. The Hearing Officer should also have discretion to extend the comment period beyond the 45 day minimum depending on public interest. It should be acknowledged that deadlines, such as this one, that are associated with EPA approval and public notice are beyond the Department's control.

Mining Permits – The Department recommends a timeframe for issuing a mining permit for coal ash disposal of up to 240 days after receiving the application to allow for 60 days for initial review and 180 days for the approval process including the receipt of information requested by DEMLR from the applicant, review of information by DEMLR, possible additional request for clarification by DEMLR and response by applicant or final approval of the permit or permit modification.

Dam Safety Application Approvals – The Department recommends that an extension of the timeframe set out in rule which requires response to construction and repair applications in 60 days.<sup>25</sup> Due to current vacancies (two of DEMLR's three current application review engineers are vacant), the timeframe for review should be extended to 105 days as DEMLR will be responding to non-utility submittals as well. Once these two existing positions are filled and the new coal ash engineering

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<sup>23</sup> NCGS 130A-309.215(A)(2)

<sup>24</sup> NCGS 130A-309.212(a)(1)(A).

<sup>25</sup> 15A NCAC 2K .0201 (f).



position per the Act is filled, DEMLR should be able to process all applications within the 60 day time frame.

Solid Waste Industrial Landfill –The Department can process a solid waste industrial landfill permit application within the allotted timeframe outlined by GS 130A-309.203.

It should be noted that the pre-application EIS process, required for all landfills takes an estimated 6 to 10 months.<sup>26</sup> Its steps are as follows: 30 to 60 days for review by multiple agencies; up to 60 days for applicant response; 60 days for public review of the draft EIS; 60 days for applicant response; 30 days for final agencies' review; and 30 days for publication of the record of decision document.

Concurrent with the EIS, the Department has other required tasks including the Financial Qualifications and Compliance History Review required by statute,<sup>27</sup> a potential traffic study, special use permits and similar tasks required by GS 130A-294. The construction of a landfill generally takes six to twelve months, and 1 month to obtain a permit to operate.

Part 2I Permit (Solid Waste Structural Fill Permit) – The Department can process a solid waste structural fill permit application within the allotted timeframe outlined by GS 130A-309.203.

It should be noted that the structural fill elements of handling coal ash are expected to be addressed by the pending rules from the EPA due December 19, 2014. New regulations may affect North Carolina's requirements and processes for using coal ash as a mine reclamation material or structural fill.

#### **IV. Comments on other Deadlines**

##### **A. CORRECTIVE ACTION PLANS**

The Act requires the utility to submit a proposed Groundwater Corrective Action Plan (GW CAP) no later than 90 days from the submission of the Groundwater Assessment Report (GWAR), but not to exceed 180 days.<sup>28</sup> Once the GWAR is approved as complete, the GW CAP and public hearing process for classification will begin simultaneously. Once the final classification is rendered by the Coal Ash Management Commission (CAMC), the GW CAP will have already been submitted. The Department recommends if the proposed classification is not approved by CAMC, the owner of the impoundment shall be given 90 days to make any revisions necessary to the GW CAP.

##### **B. PROPOSED CLASSIFICATIONS**

After the public hearing and comment period on the proposed classification, the Act requires the Department to submit the proposed classification to CAMC within 30 days.<sup>29</sup> Due to an anticipated high volume of comments, the Department recommends this time frame be extended to 60 or 90 days to ensure full consideration of the public comments.

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<sup>26</sup> NC GS 130A-295.6(a).

<sup>27</sup> NCGS 130A-294(b2).

<sup>28</sup> NCGS 130A-309.209(b)(1).

<sup>29</sup> NCGS 130A-309.211(c).

### **C. CLOSURE OF HIGH RISK IMPOUNDMENTS**

The Act requires the utility submit closure plans for high risk impoundments by December 31, 2016 and closure of the impoundments by December 31, 2019.<sup>30</sup> It will not be possible in all cases to permit, construct landfills and move all the ash from the impoundments in three years. The landfill permit process is defined and includes hearings and public participation. The landfill is otherwise subject to the requirements of Chapter 130A including the completion of an environmental impact statement and financial qualifications review. An expected timeframe for the issuance of a solid waste industrial landfill permit for coal ash is 18 to 24 months which would leave limited time for excavation, drying and disposal of the ash. It is also important to note that there will likely be a strain on resources such as contractors, trucks, consultants, installation crews, possible material shortages and more which could impact the timelines listed above.

The Act includes allowance of a variance when the closure deadlines cannot be accomplished, possibly extending by as much as three years the removal of ash for closure or conversion to a landfill.<sup>31</sup>

### **D. PART 2I PERMITS (STRUCTURAL FILL)**

The Act creates a new permitting program for the construction of structural fills.<sup>32</sup> GS 130A-309.215(b) requires submittal of information 60 days before implementation of the plan. As mentioned in Section II of the Report, this implies that plan implementation can start in 60 days even though a permit is required. In addition, GS 130A-309.203 specifies timelines and procedures for all permits required by this Part 2I of Article 9 of Chapter 130A of the General Statutes. The Department recommends this timeline be clarified. Appendix A provides recommended statutory language to make this clarification.

## **V. Comments on Deadlines outside of Part 2I of Article 9 of Chapter 130A**

This report as required by the Act is limited to Part 2I of Article 9 of Chapter 130A of the General Statutes. The following considerations are outside the Part but included here as they may also be relevant to the recommendations made in this report.

### **A. GENERAL CONSIDERATIONS FOR NEW LANDFILLS**

The legislation does not address concerns of other agencies that may arise either before or during the permitting process. Examples of potential concerns include:

Infrastructure: There may be public infrastructure concerns expressed by the North Carolina Department of Transportation concerning transportation routes due to the potential increase in heavy truck traffic on highways and, at times, over rural roads and secondary roads not originally designed to handle such traffic. It may be necessary to install additional traffic lights and signals, stop signs, and other warning signs.

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<sup>30</sup> NCGS 130A-309.212(a)(1).

<sup>31</sup> NCGS 130A-309.213.

<sup>32</sup> NCGS 130A-215

Leachate Disposal: There will be a large volume of leachate generated and its proper disposal and treatment may also cause an increase in truck traffic to haul the leachate to treatment plants. The Publically Owned Treatment Works (POTWs) may need time make adjustments to handling the volume of leachate generated. Small POTWs may need to modify their permits to accommodate the specific industrial waste or to take the volumes of leachate that will be generated.

#### **B. STUDY REPORT – SECTION 4(D) OF THE ACT**

Section 4(d) of the Act requires the Department of Environment and Natural Resources and the Environmental Management Commission (EMC) to jointly study the use of coal combustion products as structural fill and additional opportunities for beneficial reuse. The study report is due to the Environmental Review Commission (ERC) no later than January 15, 2015. The study also requires that the agencies monitor the actions of the EPA regarding the use of coal combustion products.

The Chair of the EMC's ad hoc Committee on Beneficial Reuse has stated that the comprehensive requirements of this study may necessitate writing an interim report by the deadline and submitting the final report at a later date. At this time, the content of the anticipated draft EPA regulations on coal combustion products is unknown and analysis of those regulations may also require additional time.

#### **C. STUDY REPORT – SECTION 5(B) OF THE ACT**

Section 5(b) of the Act requires the Department to “evaluate each coal combustion residuals landfill currently operating in the State and, in particular, assess the risks to public health, safety, and welfare; the environment; and natural resources, of coal combustion residuals surface impoundments located beneath coal combustion residuals landfills to determine the advisability of continued operation of these landfills.” The report of findings and recommendations concerning the risk assessment of each of these sites and the advisability of continued operation of coal combustion residuals landfills is due to the ERC on January 15, 2015.

The Department is in the process of evaluating all coal combustions residuals landfills and will meet the deadline of January 15, 2015 with regard to the risk posed by these landfills. The risk assessment of coal combustion residuals surface impoundments located beneath landfills, however, will have to be delayed until further data is obtained. Risk assessments cannot be complete until the groundwater assessment and risk classification for each coal combustion residuals surface impoundments has been completed. The Department recommends that the findings and recommendations in the report on those impoundments beneath landfills be extended until January 15, 2016.

#### **D. EPA REGULATION OF COAL COMBUSTION RESIDUALS AND PRODUCTS**

The EPA is expected to release new regulations on coal combustion residuals and products in December of 2014. It is not yet known what effect pending federal regulation may have on the recommendations for timeframes in this report.

## Appendix A. Recommended Statutory Amendment to Part 21 Permit (Structural Fill)

### "§ 130A-309.214. Applicability.

The provisions of this Subpart shall apply to the siting, design, construction, operation, and closure of projects that utilize coal combustion products for structural fill.

### "§ 130A-309.215. Permit requirements for projects using coal combustion products for structural fill.

#### (a) Permit Requirements. –

(1) Projects using coal combustion products as structural fill involving the placement of less than 8,000 tons of coal combustion products per acre or less than 80,000 tons of coal combustion products in total per project, which proceed in compliance with the requirements of this section and rules adopted thereunder, are deemed permitted. Any person proposing such a project shall submit an application for a permit to the Department upon such form as the Department may prescribe, including, at a minimum, the information set forth in subdivision (1) of subsection (b) of this section. The application shall be submitted at least 60 days before initiation of a proposed project using coal combustion products as structural fill.

(2) No person shall commence or operate a project using coal combustion residuals as structural fill involving the placement of 8,000 or more tons of coal combustion products per acre or 80,000 or more tons of coal combustion products in total per project without first receiving an individual permit from the Department. Any person proposing such a project shall submit an application for a permit to the Department upon such form as the Department may prescribe, including, at a minimum, the information set forth in subdivisions (1) and (2) of subsection (b) of this section. The permit shall be processed in accordance with G.S.130A-309.203

(b) Information to Be Provided to the Department. – ~~At least 60 days before initiation of a proposed project using coal combustion products as structural fill, the~~ The person proposing the project shall submit all of the following information to the Department on a form as prescribed by the Department:

- (1) For projects involving placement of less than 8,000 tons of coal combustion products per acre or less than 80,000 tons of coal combustion products in total per project, the person shall provide, at a minimum, the following information:
- a. The description of the nature, purpose, and location of the project.