

Environmental Review Commission Meeting
Wednesday, February 7, 2024 at 1:00 PM
Room 643 Legislative Office Building

MINUTES

The Environmental Review Commission met at 1:05 PM on February 7, 2024 in room 643 of the Legislative Office Building. Three North Carolina Senators attended. Seven North Carolina House of Representatives members attended. Senators who attended were Senator Norman Sanderson, Senator Lisa Barnes, and Senator David Craven Jr. House of Representatives members who attended were Rep. Jimmy Dixon, Rep. Ted Davis Jr., Rep. Kyle Hall, Rep. Pricey Harrison, Rep. Charles Miller, Rep. James Roberson, and Rep. Karl Gillespie.

Senator Norman Sanderson presided.

Welcome and opening remarks were shared by Senator Sanderson.

Senator Sanderson recognized the Senate Sgt. At Arms: Rod Fuller, Sheree Hedrick, Matthew Lee, Mike Norton. Senator Sanderson recognized the House Sergeant at Arms: Theresa Ferguson, Warren Hawkins, Dean Marshbourne.

Chris Saunders, Commission Counsel, gave the Commission Charge.

Information concerning solid waste management in the State was shared with attendees.

Elizabeth S. Biser, Secretary of Environmental Quality at the Department of Environmental Quality, provided a presentation with an overview of related activities of the Department of Environmental Quality (DEQ.) A PowerPoint presentation with materials was provided to all members of the Commission and visually shared with all attendees.

Ed Mussler, Section Chief of the Division of Waste Management with DEQ, shared about current projected landfill capacity in the State. A PowerPoint presentation with materials was provided to all members of the Commission and visually shared with all attendees.

Rep. Harrison asked a question about landfills that are operating without liners and about abandoned landfills. She said that since they are banned and not still taking items they are in the cleanup list somewhere. Mr. Mussler said the requirement for liners went into place in 1993. There are 60 landfills that have groundwater monitoring but do not have liner systems. They do not take industrial waste and that is part of that capacity. Orphan landfills have a robust program within the Division of Waste Management that addresses pre regulatory landfills and orphan landfills and some of that is funded by Solid Waste Management Disposal Fee that was put into place in 2008 by the General Assembly. Rep. Harrison asked a follow up question about mercury thermostats and construction demolition landfills, and she was wondering if they are separated out. Mr. Mussler said there is a ban on those things and most mercury was coming out of auto shredders and there is a program through hazardous waste section that requires those to be removed. Large quantities of things like fluorescent lightbulbs are sent off for recycling. Many

local governments run household collection waste events that allow citizens to recycle things properly.

Rep. Dixon asked a question about the projected date for when the update will be ready for the Solid Waste Management Plan. Mr. Mussler said it should be ready in June. Rep. Dixon made a comment about solid waste collection and he sees no enforcement relative to plastics and cans. He wants to know if there are any statistics or data that make it to places. Mr. Mussler will provide an answer to this question in a little while. Rep. Dixon mentioned the solar panel disposal. He would hope that technology would improve and it would be beneficial to get rid of them when they are no longer productive. He believes that is an area that needs attention. He does not believe we are prepared to handle the current waste stream and attention needs to be given to it and the sooner the better. Rep. Dixon also asked about the maximum distance a truck can travel before the trip is no longer profitable and if Mr. Mussler said 90 miles. Mr. Mussler confirmed that 90 miles is the longest trip that's profitable and said a truck driver can only work so many hours a day and longer trips can be expensive. Rep. Dixon wants the committee to consider convening a meeting to discuss the ins and outs of permitting and to see if there are ways to expedite it because we are going to continue to produce trash and there is a problem with distribution. Mr. Mussler would welcome the opportunity to participate in the separate discussion.

Sen. Sanderson asked a question about how it is difficult to locate waste facilities. He wants to know what causes that. Mr. Mussler said siting of a landfill is difficult no matter what because of environmental regulations. Local governments have to give approval. You also have to move out into rural areas rather than the metropolitan areas and population affects the infrastructure projects. Sen. Sanderson wanted to know how long it takes to permit and build a landfill. Mr. Mussler said it can take a couple of years for the engineering, it can take 5 to 8 years total.

Sandy Skolochenko, Community Development Specialist of the Division of Environmental Assistance and Customer Service with DEQ, provided information concerning landfill-banned plastics (recyclable rigid plastic containers banned pursuant to G.S. 130A-309.10(f)(11.)) A PowerPoint presentation with materials was provided to all members of the Commission and visually shared with all attendees.

Rep. Roberson asked about the education piece and folks that are living in apartments and he wants to know if there is any data about those places ETJ's and single family houses outside of town limits. Ms. Skolochenko said there are private haulers that operate in the state, sometimes those people may go through a private company for recycling. When the population is dense enough, sometimes private companies fill that gap. Rep. Harrison asked a question about county recycling programs and said there are few and she was wondering if it is economically feasible in the rural counties. Ms. Skolochenko said that is correct, because when households are closer together it is easier and more economical. There are some areas of the state that do not have private company recycling services. Rep. Harrison asked how we are enforcing the ban for items that are not supposed to go in landfills. Ms. Skolochenko said that related to the areas that do not have curbside recycling service, they also cannot get curbside trash service. They want it to be easier for folks to comply with the bans. Secretary Biser said on the enforcement side, it comes down to a staffing issue because there are not enough people to sort through the items. Rep.

Harrison said she understands it is up to the individual. She also mentioned possibly offering more recycling bins. Rep. Dixon asked about biodegradable plastics. Secretary Biser said that there was a law passed a few years ago about biodegradable plastics and they want to make sure that new contaminants are not introduced. You can also look at alternatives to plastics. Rep. Dixon asked if it is easier to have paper trash rather than plastic trash. Secretary Biser said it depends on the application. There are developments being done to recycle coffee cups. Plastics and aluminum cans have the best infrastructure for recycling. Rep. Harrison asked about truth and labeling for plastics that are biodegradable and some containers have a lining and there is not a requirement that food containers be labeled. Secretary Biser said the Federal Trade Commission recently looked at the labeling. Rep. Harrison asked about the plastic bag ordinance ban that was passed on the Senate and House side and wanted to know if it is something that needs to be fixed. He said that we are in a good place right now. People are getting tax credits for recycling. Rep. Harrison said it is not in the statute yet. Jennifer McGinnis said the Senate did not take up the approved House change. Skylar Golan said it is correct and they have requested the change, but it has not been fixed at this time.

Edmund (“Eddie”) M. Ingle, Chief Executive Officer and Director of UNIFI, Inc., provided information concerning landfill-banned plastics (recyclable rigid plastic containers banned pursuant to G.S. 130A-309.10(f)(11.)) A PowerPoint presentation with materials was provided to all members of the Commission and visually shared with all attendees.

Rep. Dixon asked about economic recycling and said it is a good thing to do, but he was wondering how long it will take before the carbon neutral hoax will play out. Mr. Ingle said their core value is that they hate wasting and he is a bigger fan of recycling rather than biodegrading something. They want to discuss being useful and taking things and making them more useful. Rep. Dixon said that 45-50% of all biomass is carbon. Mr. Ingle is not a fan of carbon, there is a lot of misinformation but if you are transparent and doing the right thing then no one will complain. He believes UNIFI has created a great business and has created good jobs.

Trevor Johnson, President of the North Carolina Beverage Association, provided information concerning landfill-banned plastics (recyclable rigid plastic containers banned pursuant to G.S. 130A-309.10(f)(11.)) A PowerPoint presentation with materials was provided to all members of the Commission and visually shared with all attendees.

Rep. Harrison was wondering about the problem when people put plastic bags in the recycling bins. Secretary Biser mentioned tangles and said they can become problematic. She suggested going to tour a location where comingled recyclables are sorted out.

Information concerning utility-scale solar decommissioning was discussed and presented on.

Jennifer McGinnis, Commission Counsel, shared some information regarding utility-scale solar decommissioning. She discussed that HB 130 is the relevant law to discuss from June of 2023. Owners of all utility scale solar projects are required to decommission the projects no later than one year after the cessation of operations. It also required owners of some utility scale solar projects to establish financial assurance for decommissioning. Utility scale solar projects are those capable of generating 2 or more megawatts that is connected to and can deliver power to

the grid. A cessation of operations means that a project has not produced power for over a year. Decommissioning means that the project would be disconnected from the grid and the materials would be shipped to another project for reuse, or those components would go to a landfill if they are hazardous. There was also a requirement that the property in question would be restored as quickly as possible to its previous condition. Project owners would have to submit a decommissioning plan for approval. All of these requirements will become effective November 1, 2025, which gives DEQ time to do the rulemaking that is required and allows for time to create a decommissioning plan.

Senator Sanderson was wondering if any other state is ahead of us with this problem, specifically related to solar panels. Ms. McGinnis said DEQ did a study with other state analysis a few years ago but she does not recall a statewide decommissioning requirement would have been put into place. Rep. Dixon asked if we have addressed anything pertaining to what happens when the time comes for non-utility owned facilities declare bankruptcy. Ms. McGinnis said that the legislation from 2023 does take into account financial assurance for new facilities, and it will be required from companies that are filing CPCN's constructing after 2023. Those structured prior to the date will not have financial assurance requirements. Rep. Dixon asked if bonding is a consideration requiring financial assurance. Ms. McGinnis said bonding is one thing you typically see with financial assurance for landfills, including letter of credit. That is the kind of thing DEQ will spell out to satisfy financial assurance requirements. This legislation did not get into that level of detail.

Jessica Montie, Environmental Program Consultant with the Division of Waste Management with DEQ, shared information regarding utility-scale solar decommissioning and financial assurance. A PowerPoint presentation with materials was provided to all members of the Commission and visually shared with all attendees.

Rep. Dixon asked a question regarding the 2026 date, that they are banned from landfills, but does that apply to all solar facilities? Ms. Montie said that it applies to all modules and the 2023 Session law speaks to utility scale but the other legislation applies to all modules. Rep. Gillespie said in regards specifically to Powerhouse Facility that opened in 2023, are they rendering enough product out of the recycling to make it a profitable endeavor or are they charging to take solar panels in? Senator Sanderson said Powerhouse will be presenting soon to address this.

Brett C. Henderson, Vice President, and Steve Turk, Chief Financial Officer with Powerhouse Recycling, Inc. shared some information regarding utility-scale solar decommissioning. A PowerPoint presentation with materials was provided to all members of the Commission and visually shared with all attendees.

Rep. Dixon asked if there were any customers producing solar panels in the United States. Mr. Henderson said that the technology to use recycled solar panels in new solar panels has not yet matured, but there are projects underway to figure out how to do this with professors, labs, and chemists trying to get grants for this purpose.

Senator Sanderson offered a couple of minutes for anyone who wanted to provide further comments. There were no further questions or comments from the audience, staff, or from the committee. Senator Sanderson said this is important information for the committee.

The meeting adjourned at 3:15 PM.

Senator Norman Sanderson, Presiding

Diane Cook, Commission Clerk