

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

SESSION LAW 2007-107  
HOUSE BILL 36

AN ACT TO IMPROVE THE OVERSIGHT OF HAZARDOUS WASTE FACILITIES, AS RECOMMENDED BY THE GOVERNOR'S HAZARDOUS MATERIALS TASK FORCE.

The General Assembly of North Carolina enacts:

**PART I. REGULATORY RECOMMENDATIONS**

**REQUIRE APPLICANTS FOR PERMITS FOR COMMERCIAL HAZARDOUS WASTE FACILITIES TO DEMONSTRATE FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION AND FOR SCREENING FOR POTENTIAL OFF-SITE MIGRATION OF CONTAMINATION IN THE EVENT OF A RELEASE OF HAZARDOUS WASTE OR HAZARDOUS WASTE CONSTITUENTS INTO THE ENVIRONMENT**

**SECTION 1.1.(a)** Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

**"§ 130A-295.04. Financial responsibility requirements for applicants for a permit and permit holders for hazardous waste facilities.**

(a) In addition to any other financial responsibility requirements for solid waste management facilities under this Part, the applicant for a permit or a permit holder for a hazardous waste facility shall establish financial assurance that will ensure that sufficient funds are available for facility closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.

(b) To establish sufficient availability of funds under this section, the applicant for a permit or a permit holder for a hazardous waste facility may use insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing, shown to provide protection equivalent to the financial protection that would be provided by insurance if insurance were the only mechanism used.

(c) The applicant for a permit or a permit holder for a hazardous waste facility, and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent, shall be a guarantor of payment for closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences arising from the operation of the hazardous waste facility.

(d) In addition to any other financial assurance requirements for hazardous waste management facilities under this section, an applicant for a permit or a permit holder for a commercial hazardous waste facility shall establish financial assurance that will ensure that sufficient funds are available for corrective action and for off-site screening

for potential migration of contaminants in the event of a release of hazardous waste or hazardous waste constituents into the environment in an amount approved by the Department. The applicant for a permit or a permit holder may not use a financial test or captive insurance to establish financial assurance under this subsection.

(e) The Department may require an applicant for a permit for a hazardous waste facility to provide cost estimates for facility closure, post-closure maintenance and monitoring, and any corrective action that the Department may require to the Department. The Department may require an applicant for a permit for a commercial hazardous waste facility to provide cost estimates for off-site screening for potential migration of contaminants in the event of a release of hazardous waste or hazardous waste constituents into the environment.

(f) Assets used to meet the financial assurance requirements of this section shall be in a form that will allow the Department to readily access funds for the purposes set out in this section. Assets used to meet financial assurance requirements of this section shall not be accessible to the permit holder except as approved by the Department.

(g) The Department may provide a copy of any filing that an applicant for a permit or a permit holder for a hazardous waste facility submits to the Department to meet the financial responsibility requirements under this section to the State Treasurer. The State Treasurer shall review the filing and provide the Department with a written opinion as to the adequacy of the filing to meet the purposes of this section, including any recommended changes.

(h) In order to continue to hold a permit for a hazardous waste facility, a permit holder must maintain financial responsibility as required by this Part and must provide any information requested by the Department to establish that the permit holder continues to maintain financial responsibility.

(i) An applicant for a permit or a permit holder for a hazardous waste facility shall satisfy the Department that the applicant or permit holder has met the financial responsibility requirements of this Part before the Department is required to otherwise review the application.

(j) The Commission may adopt rules regarding financial responsibility in order to implement this section."

**SECTION 1.1.(b)** G.S. 130A-294(b) reads as rewritten:

"(b) The Commission shall adopt and the Department shall enforce rules to implement a comprehensive statewide solid waste management program. The rules shall be consistent with applicable State and federal law; and shall be designed to protect the public health, safety, and welfare; preserve the environment; and provide for the greatest possible conservation of cultural and natural resources. Rules for the establishment, location, operation, maintenance, use, discontinuance, recordation, post-closure care of solid waste management facilities also shall be based upon recognized public health practices and procedures, including applicable epidemiological research and studies; hydro geological research and studies; sanitary engineering research and studies; and current technological development in equipment and methods. The rules shall not apply to the management of solid waste that is generated by an individual or individual family or household unit on the individual's property and is disposed of on the individual's property.

(b0) The Commission shall adopt rules for financial responsibility to ensure the availability of sufficient funds for closure and post-closure maintenance and monitoring at solid waste management facilities, and for any corrective action the Department may require during the active life of a facility or during the closure and post-closure periods. The rules may permit demonstration of financial responsibility through the use of a letter of credit, insurance, surety, trust agreement, financial test, or guarantee by corporate parents or third parties who can pass the financial test. The rules shall require that an owner or operator of a privately owned solid waste management facility demonstrate financial responsibility by a method or combinations of methods that will ensure that sufficient funds for closure, post-closure maintenance and monitoring, and

any corrective action that the Department may require will be available during the active life of the facility, at closure, and for a period of not less than 30 years after closure even if the owner or operator becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State."

**SECTION 1.1.(c)** G.S. 130A-290(a) is amended by adding a new subdivision to read:

"(8a) 'Hazardous waste constituent' has the same meaning as in 40 Code of Federal Regulations § 260.10 (1 July 2006).'"

**SECTION 1.1.(d)** G.S. 130A-294(b2) reads as rewritten:

"(b2) The Department may require an applicant for a permit or a permit holder under this Article to satisfy the Department that the ~~applicant, applicant or permit holder,~~ and any parent, subsidiary, or other affiliate of the ~~applicant-applicant, permit holder, or parent;~~ parent, including any joint venturer with a direct or indirect interest in the applicant, permit holder, or parent:

(1) Is financially qualified to carry out the activity for which the permit is required. An applicant for a permit and permit holders for solid waste management facilities that are not hazardous waste facilities shall establish financial responsibility as required by G.S. 130A-294(b0). An applicant for a permit and permit holders for hazardous waste facilities shall establish financial responsibility as required by G.S. 130A-295.04.

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..."  
**SECTION 1.1.(e)** G.S. 130A-294(j) is repealed.

**SECTION 1.1.(f)** G.S. 130A-308(a) reads as rewritten:

"(a) Standards adopted under G.S. 130A-294(c) and a permit issued under G.S. 130A-294(c) shall require corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under G.S. 130A-294(c), regardless of the time at which waste was placed in such unit. Permits issued under G.S. 130A-294(c) which implement Section 3005 of RCRA (42 U.S.C. § 6925) shall contain schedules of compliance for ~~such~~ corrective action ~~(where such if corrective action cannot be completed prior to issuance of the permit)~~ ~~permit and assurances of financial responsibility~~ establishment of financial assurance for completing such corrective action. Notwithstanding any other provision of this section, this section shall apply only to units, facilities, and permits that are covered by Section 3004(u) of RCRA (42 U.S.C. § 6924(u)). Notwithstanding the foregoing, corrective action authorized elsewhere in this Chapter shall not be limited by this section."

**SECTION 1.1.(g)** The catch line of G.S. 130A-310.9 reads as rewritten:

"§ 130A-310.9. **Voluntary remedial actions; ~~maximum financial responsibility; limitation of liability; agreements; implementation and oversight by private engineering and consulting firms.~~**"

**SECTION 1.1.(h)** This section becomes effective 1 October 2007.

## **REQUIRE APPLICANTS FOR PERMITS FOR HAZARDOUS WASTE FACILITIES TO SEEK INPUT FROM LOCAL GOVERNMENT AND EMERGENCY RESPONSE AGENCIES ON THEIR CONTINGENCY PLANS FOR THE FACILITIES**

**SECTION 1.2.(a)** G.S. 130A-295 is amended by adding four new subsections to read:

"(d) At least 120 days prior to submitting an application, an applicant for a permit for a hazardous waste facility shall provide to the county in which the facility is located, to any municipality with planning jurisdiction over the site of the facility, and to all emergency response agencies that have a role under the contingency plan for the facility all of the following information:

- (1) Information on the nature and type of operations to occur at the facility.
- (2) Identification of the properties of the hazardous waste to be managed at the facility.
- (3) A copy of the draft contingency plan for the facility that includes the proposed role for each local government and each emergency response agency that received information under this subsection.
- (4) Information on the hazardous waste locations within the facility.

(e) Within 60 days of receiving the information, each local government and emergency response agency that receives information under subsection (d) of this section shall respond to the applicant in writing as to the adequacy of the contingency plan and the availability and adequacy of its resources and equipment to respond to an emergency at the facility that results in a release of hazardous waste or hazardous waste constituents into the environment according to the role set forth for the local government or emergency response agency under the contingency plan.

(f) An applicant for a permit for a hazardous waste facility shall include documentation that each local government and emergency response agency received the information required under subsection (d) of this section, the written responses the applicant received under subsection (e) of this section, and verification by each that its resources and equipment are available and adequate to respond to an emergency at the facility in accordance with its role as set forth in the contingency plan. If the applicant does not receive a timely verification from a local government or emergency response agency notified under subsection (d) of this section, the Department shall verify the adequacy of resources and equipment for emergency response during the course of review of the permit application, taking into account any contracts entered into by the applicant for such emergency response resources.

(g) At each two-year interval after a permit for a hazardous waste facility is issued, the permit holder shall verify that the resources and equipment of each local government and emergency response agency are available and adequate to respond to an emergency at the facility in accordance with its role as set forth in the contingency plan and shall submit this verification to the Department."

**SECTION 1.2.(b)** This section is effective when it becomes law and applies to applications pending on the date this section becomes effective. An applicant shall provide the information required under G.S. 130A-295(d), as enacted by this section, as it relates to an application pending on the date this section becomes effective within 30 days after this section becomes effective.

**REQUIRE OPERATORS OF COMMERCIAL HAZARDOUS WASTE FACILITIES TO MAINTAIN CERTAIN INFORMATION AT AN OFF-SITE LOCATION AND MAKE THESE ACCESSIBLE TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, LOCAL GOVERNMENT, AND EMERGENCY RESPONSE AGENCIES THAT HAVE A ROLE UNDER CONTINGENCY PLANS**

**SECTION 1.3.(a)** G.S. 130A-295.01 is amended by adding a new subsection to read:

"(c) The owner or operator of a commercial hazardous waste facility shall maintain a record of information at an off-site location that identifies the generators of the waste and the quantity, type, location, and hazards of the waste at the facility and shall make this information available in a form and manner to be determined by the Department, accessible to the Department, to the county in which the facility is located, to any municipality with planning jurisdiction over the site of the facility, and to emergency response agencies that have a role under the contingency plan for the facility."

**SECTION 1.3.(b)** This section becomes effective 1 October 2007.

**REQUIRE AN APPLICANT FOR A PERMIT FOR A COMMERCIAL HAZARDOUS WASTE FACILITY TO NOTIFY PERSONS WHO RESIDE OR OWN PROPERTY LOCATED WITHIN ONE-FOURTH MILE OF THE PROPOSED FACILITY THAT AN APPLICATION HAS BEEN FILED, REQUIRE PERMIT HOLDERS TO PROVIDE PERIODIC NOTICE TO THESE PERSONS THAT INCLUDES INFORMATION CONCERNING THE EMERGENCY RESPONSE PLAN FOR THE FACILITY, AND REQUIRE THAT DOCUMENTATION OF THESE NOTICES BE PROVIDED TO THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**SECTION 1.4.(a)** G.S. 130A-295.01 is amended by adding four new subsections to read:

"(d) Within 10 days of filing an application for a permit for a commercial hazardous waste facility, the applicant shall notify every person who resides or owns property located within one-fourth mile of any property boundary of the facility that the application has been filed. The notice shall be by mail to residents and by certified mail to property owners, or by any other means approved by the Department, shall be in a form approved by the Department, and shall include all of the following:

- (1) The location of the facility.
- (2) A description of the facility.
- (3) The hazardous and nonhazardous wastes that are to be received and processed at the facility.
- (4) A description of the emergency response plan for the facility.

(e) The permit holder for a commercial hazardous waste facility shall publish a notice that includes the information set out in subsection (d) of this section annually beginning one year after the permit is issued. The notice shall be published in a form and manner approved by the Department in a newspaper of general circulation in the community where the facility is located.

(f) The permit holder for a commercial hazardous waste facility shall provide the information set out in subdivisions (1) through (4) of subsection (d) of this section by mail to the persons described in subsection (d) of this section at the midpoint of the period for which the permit is issued.

(g) Each commercial hazardous waste facility applicant and permit holder shall provide documentation to demonstrate to the Department that the requirements set out in subsections (d) through (f) of this section have been met."

**SECTION 1.4.(b)** This section becomes effective 1 October 2007.

**REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO CONSIDER, WHEN DETERMINING THE FREQUENCY OF INSPECTIONS AT COMMERCIAL HAZARDOUS WASTE FACILITIES, CHANGES IN SENSITIVE LAND USE OR POPULATION DENSITY THAT OCCURRED DURING THE PREVIOUS YEAR IN THE AREA LOCATED WITHIN ONE-FOURTH MILE OF ANY PROPERTY BOUNDARY OF SUCH FACILITIES**

**SECTION 1.5.(a)** G.S. 130A-295.01 is amended by adding a new subsection to read:

"(e) No later than 31 January of each year, the owner or operator of a commercial hazardous waste facility shall report to the Department any increase or decrease in the number of sensitive land uses and any increase or decrease in estimated population density based on information provided by the local government that has planning jurisdiction over the site on which the facility is located that occurred during the previous calendar year in the area located within one-fourth mile of any property boundary of the facility. Changes shall be recorded in the operating record of the

facility. As used in this subsection, 'sensitive land use' includes residential housing, places of assembly, places of worship, schools, day care providers, and hospitals. Sensitive land use does not include retail businesses."

**SECTION 1.5.(b)** G.S. 130A-295.02(j) reads as rewritten:

"(j) For purposes of this subsection, special purpose commercial hazardous waste facilities include: a facility that manages limited quantities of hazardous waste; a facility that limits its hazardous waste management activities to reclamation or recycling, including energy or materials recovery or a facility that stores hazardous waste primarily for use at such facilities; or a facility that is determined to be low risk under rules adopted by the Commission pursuant to this subsection. The Commission shall adopt rules ~~establishing to determine whether a commercial hazardous waste facility is a special purpose commercial hazardous waste facility and to establish classifications of special purpose commercial hazardous waste facilities. reasonable times and frequencies for the presence of a resident inspector on less than a full-time basis at special purpose commercial hazardous waste facilities. Rules adopted pursuant to this subsection~~ The rules to determine whether a commercial hazardous waste facility is a special purpose commercial hazardous waste facility and to establish classifications of special purpose commercial hazardous waste facilities shall establish classifications of special purpose hazardous waste facilities be based on factors including, but not limited to, the size of the facility, the type of treatment or storage being performed, the nature and volume of waste being treated or stored, the uniformity, similarity, or lack of diversity of the waste streams, the predictability of the nature of the waste streams and their treatability, whether the facility utilizes automated monitoring or safety devices that adequately perform functions that would otherwise be performed by a resident inspector, the fact that reclamation or recycling is being performed at the facility, and the compliance history of the facility and its operator. ~~Special purpose commercial hazardous waste facilities shall be subject to inspection at all times during which the facility is in operation, undergoing any maintenance or repair, or undergoing any test or calibration. Based on the foregoing factors and any increase or decrease in the number of sensitive land uses over time or in estimated population density over time reported pursuant to G.S. 130A-295.01(e), rules~~ Rules adopted pursuant to this subsection shall establish times and frequencies for the presence of a resident inspector on less than a full-time basis at special purpose commercial hazardous waste facilities and specify a minimum number of additional inspections at special purpose hazardous waste facilities. Special purpose commercial hazardous waste facilities that utilize hazardous waste as a fuel source shall be inspected a minimum of 40 hours per week, unless compliance data for these facilities can be electronically monitored and recorded off-site by the Department. The Department, considering the benefits provided by electronic monitoring, shall determine the number of hours of on-site inspection required at these facilities. The Department shall maintain records of all inspections at special purpose commercial hazardous waste facilities. Such records shall contain sufficient detail and shall be arranged in a readily understandable format so as to facilitate determination at any time as to whether the special purpose commercial hazardous waste facility is in compliance with the requirements of this subsection and of rules adopted pursuant to this subsection. Notwithstanding any other provision of this section, special purpose commercial hazardous waste facilities shall be subject to inspection at all times during which the facility is in operation, undergoing any maintenance or repair, or undergoing any test or calibration."

**SECTION 1.5.(c)** This section is effective when it becomes law.

**REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO PROVIDE SECURITY AND SURVEILLANCE AT THE FACILITY 24 HOURS A DAY, SEVEN DAYS A WEEK IN ORDER TO MONITOR SITE CONDITIONS AND TO CONTROL ENTRY TO THE SITE OF THE FACILITY**

**SECTION 1.6.(a)** G.S. 130A-295.01 is amended by adding a new subsection to read:

"(f) The owner or operator of a commercial hazardous waste facility shall provide a security and surveillance system at the facility 24 hours a day, seven days a week in order to continuously monitor site conditions and to control entry. The security and surveillance system shall be capable of promptly detecting unauthorized access to the facility; monitoring conditions; identifying operator errors; and detecting any discharge that could directly or indirectly cause a fire, explosion, or release of hazardous waste or hazardous waste constituents into the environment or threaten human health. The requirements of this subsection may be satisfied either by employing trained facility personnel or by providing an electronic security and surveillance system which may include television, motion detectors, heat-sensing equipment, combustible gas monitors, or any combination of these, as approved by the Department."

**SECTION 1.6.(b)** This section becomes effective 1 October 2007.

### **REQUIRE PERMITS FOR COMMERCIAL HAZARDOUS WASTE FACILITIES TO BE SUBJECT TO RENEWAL AT LEAST EVERY FIVE YEARS**

**SECTION 1.7.(a)** G.S. 130A-295.01 is amended by adding a new subsection to read:

"(g) The Department shall not issue a permit for a commercial hazardous waste facility for a period of more than five years. A permit holder for a commercial hazardous waste facility who intends to apply for renewal of the permit shall submit an application for the renewal of the permit at least one year before the permit expires unless the Department approves a shorter period of time."

**SECTION 1.7.(b)** This section is effective when it becomes law.

### **AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO REGULATE FACILITIES AT WHICH HAZARDOUS WASTE IS STORED FOR MORE THAN 24 HOURS BUT LESS THAN 10 DAYS AND DIRECT THE DEPARTMENT TO STUDY THE NEED FOR FURTHER REGULATION OF THESE FACILITIES**

**SECTION 1.8.(a)** G.S. 130A-290(a) is amended by renumbering subdivision (13a) as (13b) and by adding a new subdivision to read:

"(13a) 'Hazardous waste transfer facility' means a facility or location where a hazardous waste transporter stores hazardous waste for a period of more than 24 hours but less than 10 days."

**SECTION 1.8.(b)** G.S. 130A-290(a)(9) reads as rewritten:

"(9) 'Hazardous waste facility' means a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. Hazardous waste facility does not include a hazardous waste transfer facility that meets the requirements of 40 Code of Federal Regulations § 263.12 (1 July 2006)."

**SECTION 1.8.(c)** Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

#### **"§ 130A-295.05. Hazardous waste transfer facilities.**

(a) The owner or operator of a hazardous waste transfer facility in North Carolina shall register the facility with the Department and shall obtain a hazardous waste transfer facility identification number for the facility. In order to obtain a hazardous waste transfer facility identification number for the facility, the owner or operator of the facility shall provide all of the following information to the Department at the time of registration:

(1) The location of the hazardous waste transfer facility.

(2) The name of the owner of the property on which the hazardous waste transfer facility is located.

(b) Except during transportation emergencies as determined by the Department, the temporary storage, consolidation, or commingling of hazardous waste may occur only at a hazardous waste transfer facility that has been issued a facility identification number by the Department.

(c) A hazardous waste transporter and the owner or operator of a hazardous waste transfer facility shall conduct all operations at any hazardous waste transfer facility in compliance with the requirements of 40 Code of Federal Regulations Part 263 (1 July 2006), 49 U.S.C. § 5101, et seq., and any laws, regulations, or rules enacted or adopted pursuant to these federal laws. Except as preempted under 49 U.S.C. § 5125, a hazardous waste transporter and the owner or operator of a hazardous waste transfer facility shall also conduct all operations at any hazardous waste transfer facility in compliance with all applicable State laws or rules.

(d) A hazardous waste transporter shall notify the Department, on a form prescribed by the Department, of every hazardous waste transfer facility in North Carolina that the transporter uses. A hazardous waste transporter shall retain all records that are required to be maintained for at least three years.

(e) The owner or operator of a hazardous waste transfer facility shall notify the Department, on a form prescribed by the Department, of every hazardous waste transporter that makes use of the facility. The owner or operator of a hazardous waste transfer facility shall retain all records that are required to be maintained for at least three years."

**SECTION 1.8.(d)** The Department of Environment and Natural Resources shall study the need for further regulation of hazardous waste transfer facilities, as defined in G.S. 130A-290(a)(13a), as enacted by subsection (a) of this section, including whether to require these facilities to obtain a permit under Part 2 of Article 9 of Chapter 130A of the General Statutes, pay permit fees, provide contingency plans, and demonstrate financial responsibility. The Department of Environment and Natural Resources shall report its findings and recommendations, including any legislative proposals, to the Environmental Review Commission on or before 15 February 2008.

**SECTION 1.8.(e)** This section becomes effective 1 October 2007.

## **REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO INSTALL AND MAINTAIN ON-SITE WIND MONITORS**

**SECTION 1.9.(a)** G.S. 130A-295.01 is amended by adding a new subsection to read:

"(h) The operator of a commercial hazardous waste facility shall install an on-site wind monitor approved by the Department. The wind monitor required shall be located so that the real-time wind direction can be determined from a remote location in the event of a release of hazardous waste or hazardous waste constituents into the environment."

**SECTION 1.9.(b)** This section becomes effective 1 October 2007.

**PROVIDE THAT A LOCAL ZONING OR LAND-USE ORDINANCE IS PRESUMED TO BE VALID AND ENFORCEABLE TO THE EXTENT THE ZONING OR LAND-USE ORDINANCE IMPOSES REQUIREMENTS, RESTRICTIONS, OR CONDITIONS THAT ARE GENERALLY APPLICABLE TO DEVELOPMENT; AND REQUIRE THE OFFICE OF THE GOVERNOR TO SEEK THE ADVICE OF LOCAL UNITS OF GOVERNMENT REGARDING THE ADEQUACY OF CURRENT CRITERIA THE SECRETARY MUST CONSIDER WHEN DECIDING WHETHER TO PREEMPT THESE LOCAL ORDINANCES**



**SECTION 1.10.(a)** G.S. 130A-293 reads as rewritten:

**"§ 130A-293. Local ordinances prohibiting hazardous waste facilities invalid; petition to preempt local ordinance.**

(a) It is the intent of the General Assembly to maintain a uniform system for the management of hazardous waste and to place limitations upon the exercise by all units of local government in North Carolina of the power to regulate the management of hazardous waste by means of special, local, or private acts or resolutions, ordinances, property restrictions, zoning regulations, or otherwise. Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ordinances, including but not limited to those imposing taxes, fees, or charges or regulating health, environment, or land use, any local ordinance that prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility that the Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be invalid to the extent necessary to effectuate the purposes of this Chapter. To this end, all provisions of special, local, or private acts or resolutions are repealed that:

- (1) Prohibit the transportation, treatment, storage, or disposal of hazardous waste within any county, city, or other political subdivision.
- (2) Prohibit the siting of a hazardous waste facility within any county, city, or other political subdivision.
- (3) Place any restriction or condition not placed by this Article 9 of ~~Chapter 130A of the General Statutes~~ upon the transportation, treatment, storage, or disposal of hazardous waste, or upon the siting of a hazardous waste facility within any county, city, or other political subdivision.
- (4) In any manner are in conflict or inconsistent with the provisions of this Article. ~~Article 9 of Chapter 130A of the General Statutes.~~

(a1) No special, local, or private acts or resolutions act or resolution enacted or taking effect hereafter may be construed to modify, amend, or repeal any portion of this Article 9 of ~~Chapter 130A of the General Statutes~~ unless it expressly provides for such by specific references to the appropriate section of this ~~Part~~ Article. Further to this end, all provisions of local ordinances, including those regulating land use, adopted by counties, municipalities, or other local authorities that prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility are invalidated to the extent preempted by the Secretary pursuant to this ~~Section~~ section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance, the operator of the proposed facility may petition the Secretary to review the matter. After receipt of a petition, the Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

(c) When a petition described in subsection (b) of this section has been filed with the Secretary, the Secretary shall hold a public hearing to consider the petition. The public hearing shall be held in the affected locality within 60 days after receipt of the petition by the Secretary. The Secretary shall give notice of the public hearing by:

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested notice. The Secretary shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address that appears on the mailing list maintained by the Board, in a post office or official

depository under the exclusive care and custody of the United States Postal Service.

(c1) Any interested person may appear before the Secretary at the hearing to offer testimony. In addition to testimony before the Secretary, any interested person may submit written evidence to the Secretary for the Secretary's consideration. At least 20 days shall be allowed for receipt of written comment following the hearing.

(d) A local zoning or land-use ordinance is presumed to be valid and enforceable to the extent the zoning or land-use ordinance imposes requirements, restrictions, or conditions that are generally applicable to development, including, but not limited to, setback, buffer, and stormwater requirements, unless the Secretary makes a finding of fact to the contrary. The Secretary shall determine whether or to what extent to preempt local ordinances so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Secretary shall preempt a local ordinance only if the Secretary makes all ~~five~~ of the following findings:

- (1) That there is a local ordinance that would prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility.
- (2) That the proposed facility is needed in order to establish adequate capability to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party and therefore serves the interests of the citizens of the State as a whole.
- (3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance.
- (4) That local citizens and elected officials have had adequate opportunity to participate in the siting process.
- (5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator has taken or consented to take reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with applicable local ordinances.

(d1) ~~If the Secretary does not make all five of the findings set out above, under subsection (d) of this section,~~ the Secretary shall not preempt the challenged local ordinance. The Secretary's decision shall be in writing and shall identify the evidence submitted to the Secretary plus any additional evidence used in arriving at the decision.

(e) The decision of the Secretary shall be final unless a party to the action files a written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by G.S. 7A-29 and this section, within 30 days of the date of the decision. The record on appeal shall consist of all materials and information submitted to or considered by the Secretary, the Secretary's written decision, a complete transcript of the hearing, all written material presented to the Secretary regarding the location of the facility, the specific findings required by subsection (d) of this section, and any minority positions on the specific findings required by subsection (d) of this section. The scope of judicial review shall be that the court may affirm the decision of the Secretary, or may remand the matter for further proceedings, or may reverse or modify the decision if the substantial rights of the parties may have been prejudiced because the agency findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional provisions;
- (2) In excess of the statutory authority or jurisdiction of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;

(5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or

(6) Arbitrary or capricious.

(e1) If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for the reversal or modification.

(f) In computing any period of time prescribed or allowed by this procedure, the provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

(g) Repealed by Session Laws 1989, c. 168, s. 13."

**SECTION 1.10.(b)** The Office of the Governor shall seek the advice of units of local government to determine if the criteria that the Secretary of Environment and Natural Resources considers in determining whether or to what extent to preempt local ordinances pursuant to G.S. 130A-293, as amended by subsection (a) of this section, should be further amended. The Office of the Governor shall report its findings and recommendations, including any legislative proposals to the Environmental Review Commission on or before 1 March 2008.

**SECTION 1.10.(c)** This section is effective when it becomes law.

## **PART II. CLARIFYING, CONFORMING, AND TECHNICAL CHANGES**

**SECTION 2.1.(a)** G.S. 130A-294(c) reads as rewritten:

"(c) The Commission shall adopt and the Department shall enforce rules ~~concerning governing~~ the management of hazardous waste. These rules shall establish a complete and integrated regulatory scheme in the area of hazardous waste ~~management management, implement this Part, and shall provide for:~~ shall:

(1) ~~Establishing~~ Establish criteria for hazardous waste, ~~identifying~~ identify the characteristics of hazardous ~~waste and listing~~ waste, and list particular hazardous ~~waste;~~ waste.

(1a) ~~Establishing~~ Establish criteria for hazardous constituents, ~~identifying~~ identify the characteristics of hazardous ~~constituents and listing~~ constituents, and list particular hazardous ~~constituents;~~ constituents.

(2) ~~Record keeping~~ Require record keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste ~~facilities;~~ facilities.

(3) ~~Proper~~ Require proper labeling of hazardous waste ~~containers;~~ containers.

(4) ~~Use of~~ Require use of appropriate containers for hazardous ~~waste;~~ waste.

(5) ~~A~~ Require maintenance of a manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been ~~issued;~~ issued.

(6) ~~Proper~~ Require proper transportation of hazardous ~~waste;~~ waste.

(7) ~~Treatment,~~ Develop treatment storage and disposal standards of performance and techniques to be used by hazardous waste ~~facilities;~~ facilities.

(8) ~~Location,~~ Develop standards regarding location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste disposal facility or polychlorinated biphenyl disposal facility shall be located within 25 miles of any other hazardous waste disposal facility or polychlorinated biphenyl disposal ~~facility;~~ facility.

(9) ~~Plans~~ Require plans to minimize unanticipated damage from treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste

- facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the ~~State~~; State.
- (10) ~~Proper~~ Require proper maintenance and operation of hazardous waste facilities, including requirements for ownership by any person or the State, require demonstration of financial responsibility (~~including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures through the use of a letter of credit, insurance, surety, trust agreement, financial test, or financial test and corporate guarantee~~), in accordance with this section and G.S. 130A-295.04, provide for training of personnel, and provide for continuity of operation and procedures for establishing and maintaining hazardous waste facilities; facilities.
  - (11) ~~Monitoring by~~ Require owners or operators of hazardous waste ~~facilities~~; facilities to monitor the facilities.
  - (12) ~~Inspection~~ Authorize or require inspection or copying of records required to be ~~kept~~; kept by owners or operators.
  - (13) ~~Obtaining and analyzing~~ Provide for collection and analysis of hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste ~~facilities~~; facilities.
  - (14) ~~A~~ Develop a permit system governing the establishment and operation of hazardous waste ~~facilities~~; facilities.
  - (15) ~~Additional~~ Develop additional requirements as necessary for the effective management of hazardous ~~waste~~; waste.
  - (16) ~~The~~ Require the operator of the hazardous waste disposal facility ~~shall~~ to maintain adequate insurance to cover foreseeable claims arising from the operation of the facility. The Department shall determine what constitutes an adequate amount of ~~insurance~~; insurance.
  - (17) ~~The~~ Require the bottom of a hazardous waste disposal facility ~~shall to~~ be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the ~~environment~~; and environment.
  - (18) ~~The~~ Require the operator of a hazardous waste disposal facility ~~shall to~~ make monthly reports to the board of county commissioners of the county in which the facility is located on the kinds and amounts of hazardous wastes in the facility."

**SECTION 2.1.(b)** G.S. 130A-295.01 reads as rewritten:

**"§ 130A-295.01. Additional requirement for commercial hazardous waste treatment facilities.**

- (a) As used in this section:
  - (1) "Commercial hazardous waste ~~treatment~~ facility" means any hazardous waste ~~treatment facility which~~ facility that accepts hazardous waste from the general public or from another person for a fee, but does not include any facility owned or operated by a generator of hazardous waste solely for his own use, and does not include any facility owned by the State or by any agency or subdivision thereof solely for the ~~treatment-management~~ of hazardous waste generated by agencies or subdivisions of the ~~State~~; State.
  - (2) "New", when used in connection with "facility", refers to a planned or proposed facility, or a facility ~~which that~~ which that has not been placed in operation, but does not include facilities ~~which that~~ which that have commenced operations as of ~~June 22, 1987~~, 22 June 1987, including facilities operated under interim ~~status~~; status.
  - (3) "Modified", when used in connection with "permit", means any change in any permit in force on or after ~~June 22, 1987~~, 22 June 1987 ~~which~~

that would either expand the scope of permitted operations, or extend the expiration date of the permit, or otherwise constitute a ~~major~~ Class 2 or Class 3 modification of the permit as defined in Title 40, Part 270.41 of the 40 Code of Federal Regulations § 270.41 (1 July 2006). (1 July 1986); and

- (4) "7Q10 conditions", when used in connection with "surface water," refers to the minimum average flow for a period of seven consecutive days that has an average occurrence of once in 10 years as referenced in 15 NCAC 2B .0206(a)(3) as adopted ~~February 1, 1~~ February 1976.

(b) No permit for any new commercial hazardous waste ~~treatment~~ facility shall be issued or become effective, and no permit for a commercial hazardous waste ~~treatment~~ facility shall be modified, until the applicant has satisfied the Department that such facility meets, in addition to all other applicable requirements, the following requirements:

- (1) The facility shall not discharge directly a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater at the point of discharge into the surface water under 7Q10 conditions.
- (2) The facility shall not discharge indirectly through a publicly owned treatment works (POTW) a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater, irrespective of any dilution occurring in a wastewater treatment plant, at the point of discharge into the surface water under 7Q10 conditions.

(c) through (h) (Reserved.)"

**SECTION 2.1.(c)** This section is effective when it becomes law.

### **PART III. RECOMMENDATIONS FOR OTHER STATUTORY CHANGES**

#### **AUTHORIZE STATE MEDICAL ASSISTANCE TEAMS AND THE EPIDEMIOLOGY SECTION OF THE DIVISION OF PUBLIC HEALTH OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SEEK REIMBURSEMENT FOR ALL REASONABLE DEPLOYMENT COSTS INCURRED IN RESPONSE TO THE RELEASE OF HAZARDOUS MATERIAL OR HAZARDOUS WASTE INTO THE ENVIRONMENT**

**SECTION 3.1.(a)** G.S. 166A-27 reads as rewritten:

**"§ 166A-27. Action for the recovery of costs of hazardous materials emergency response.**

(a) A person who causes the release of a hazardous material requiring the activation of a regional response team shall be liable for all reasonable costs incurred by the regional response team in responding to and mitigating the incident. The Secretary shall invoice the person liable for the hazardous materials release, and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred.

(b) A person who causes the release of a hazardous material that results in the activation of one or more State Medical Assistance Teams (SMATs) or the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services shall be liable for all reasonable costs incurred by each team or the Epidemiology Section that responds to or mitigates the incident. The Secretary of Health and Human Services shall invoice the person liable for the hazardous materials release and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred."

**SECTION 3.1.(b)** Article 1 of Chapter 130A of the General Statutes is amended by adding a new section to read:

**§ 130A-20.01. Action for the recovery of costs of hazardous materials emergency medical response.**

A person who causes the release of a hazardous material that results in the activation of one or more State Medical Assistance Teams (SMATs) or the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services shall be liable for all reasonable costs incurred by each team or the Epidemiology Section that responds to or mitigates the incident. The Secretary of Health and Human Services shall invoice the person liable for the hazardous materials release and, in the event of nonpayment, may institute an action to recover those costs in the superior court of the county in which the release occurred."

**SECTION 3.1.(c)** This section is effective when it becomes law and applies to civil actions filed on or after that date.

**CLARIFY THAT MUNICIPAL 911 DATA HAS THE SAME CONFIDENTIALITY AS COUNTY 911 DATA AND THAT DATA CONTAINED IN A REVERSE 911 EMERGENCY NOTIFICATION SYSTEM IS CONFIDENTIAL**

**SECTION 3.2.(a)** G.S. 132-1.5 reads as rewritten:

**§ 132-1.5. 911 database.**

Automatic number identification and automatic location identification information that consists of the name, address, and telephone numbers of telephone subscribers which subscribers, or the e-mail addresses of subscribers to an electronic emergency notification or reverse 911 system, that is contained in a county or municipal 911 database—database, or in a county or municipal telephonic or electronic emergency notification or reverse 911 system, is confidential and is not a public record as defined by Chapter 132 of the General Statutes if that information is required to be confidential by the agreement with the telephone company by which the information was obtained. Dissemination of the information contained in the 911—911, electronic emergency notification or reverse 911 system, or automatic number and automatic location database is prohibited except on a call-by-call basis only for the purpose of handling emergency calls or for training, and any permanent record of the information shall be secured by the public safety answering points and disposed of in a manner which will retain that security except as otherwise required by applicable law."

**SECTION 3.2.(b)** This section is effective when it becomes law.

**PART IV. STUDIES**

**ESTABLISH A TASK FORCE TO REVIEW THE STATE BUILDING CODE TO ENSURE THAT THE CODE ADDRESSES THE NEEDS AND SAFETY OF THE CITIZENS OF THE STATE WITH RESPECT TO THE REGULATION OF FACILITIES THAT STORE, TREAT, OR DISPOSE OF HAZARDOUS MATERIALS; TO MANDATE THE NORTH CAROLINA BUILDING CODE COUNCIL TO AMEND THE STATE BUILDING CODE TO IMPLEMENT ANY RECOMMENDATIONS OF THE TASK FORCE; AND TO ALLOW STATE AND LOCAL FIRE INSPECTORS TO IDENTIFY ALL RISKS ASSOCIATED WITH HAZARDOUS MATERIALS**

**SECTION 4.1.(a)** Task Force Established. – There is established the Regulation of Hazardous Materials Facilities Task Force.

**SECTION 4.1.(b)** Definitions. – As used in this section "hazardous material" means hazardous materials, as defined in G.S. 166A-21, hazardous waste, as

defined in G.S. 130A-290, hazardous substances, as defined in G.S. 143-215.77, and hazardous chemicals, as defined in G.S. 95-174.

**SECTION 4.1.(c) Membership.** – The Task Force shall consist of 15 members as follows:

- (1) The Secretary of Environment and Natural Resources or the Secretary's designee.
- (2) The Commissioner of Insurance or the Commissioner's designee.
- (3) Three persons appointed by the General Assembly upon recommendation of the Speaker of the House of Representatives, one of whom shall be a member of the North Carolina Association of Fire Marshals and one of whom shall be a fire marshal or inspector from the western region of the State.
- (4) Three persons appointed by the General Assembly upon recommendation of the President Pro Tempore of the Senate, one of whom shall be a member of the North Carolina Fire Chiefs Association and one of whom shall be a fire marshal or inspector from the eastern region of the State.
- (5) A member from one of the seven North Carolina Regional Response Teams for Hazardous Materials Response appointed by the Governor.
- (6) A fire marshal or inspector from the central region of the State appointed by the Governor.
- (7) Two members of the Building Code Council appointed by the Chair of the Council.
- (8) A person who is engaged in an industrial manufacturing process that uses hazardous chemicals, hazardous materials, or hazardous substances, or that generates hazardous waste appointed by the President of the Manufacturers and Chemical Industry Council of North Carolina.
- (9) An owner or operator of a commercial hazardous waste facility appointed by the Governor.
- (10) A member of the general public appointed by the Governor.

**SECTION 4.1.(d) Appointments.** – Appointments to the Task Force shall be made no later than 1 September 2007. A vacancy in the Task Force or as chair of the Task Force resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made.

**SECTION 4.1.(e) Chair; Quorum; Meetings.** – The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate one member to serve as cochair of the Task Force. The cochairs shall call the initial meeting of the Task Force on or before 1 October 2007. A majority of the members of the Task Force shall constitute a quorum. The Task Force may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

**SECTION 4.1.(f) Duties of Task Force.** – The Task Force shall study issues related to the treatment, storage, and disposal of hazardous materials and shall review all current fire code regulations regarding the commercial treatment, storage, and disposal of hazardous materials to ensure that the Code addresses the needs and safety of the citizens of the State. In particular, the Task Force shall:

- (1) Review the facts and issues related to the Environmental Quality Industrial Services facility fire in Apex, North Carolina, on 5 October 2006. The Task Force shall review the investigation report and determine whether the fire could have been prevented by additional, or more specific, State regulations.
- (2) Analyze all fire inspection or investigation reports of fires that have occurred at commercial facilities that treat, store, or dispose of

hazardous materials within the past 10 years and determine if there is a trend in violations.

- (3) Review the current State Building Code with respect to allowable hazardous materials quantities and determine if the State Building Code should be amended to provide for an additional classification of mixed waste or unidentifiable materials.
- (4) Analyze the current definitions of high hazard facilities and high hazardous Group H classifications in the State Building Code and determine whether commercial facilities that treat, store, or dispose of hazardous materials should be classified so that mixed wastes and unidentifiable materials can be easily identified.
- (5) Review the current annual fire inspection process at permitted commercial hazardous waste facilities, as defined in G.S. 130A-295.01, that are treatment, storage, and disposal facilities to determine how the annual fire inspection can be conducted in collaboration with the inspection and permitting process of the Department of Environment and Natural Resources.
- (6) Review the sprinkler requirements for Hazardous Materials Facilities (Section 903.2.4) of the State Building Code and determine whether sprinkler design criteria and coverage should be amended.
- (7) Review the fire alarm requirements for Hazardous Materials Facilities (Section 907.2.5) of the State Building Code and determine whether the relevant facilities should have a full fire alarm system or, in the alternative, full staffing as recommended by the Department of Environment and Natural Resources. If the Task Force determines that relevant facilities should have full staffing, the Task Force shall recommend the level of knowledge and training that should be required of the staff.
- (8) Determine when any rules recommended by the Task Force should become effective for existing commercial hazardous waste facilities.

**SECTION 4.1.(g)** Expenses of Members. – Members of the Task Force shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

**SECTION 4.1.(h)** Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer may assign professional and clerical staff and other services and supplies, as needed, for the Task Force to carry out its duties in an effective manner.

**SECTION 4.1.(i)** Cooperation by Government Agencies. – The Task Force may call upon any department, agency, institution, or officer of the State or any political subdivision thereof for facilities, data, or other assistance.

**SECTION 4.1.(j)** Report. – The Task Force shall submit a report of its findings and recommendations, including legislative proposals, to the 2008 Regular Session of the 2007 General Assembly, the Governor, the North Carolina Building Code Council, and the Environmental Review Commission on or before 1 April 2008. The Task Force shall terminate upon filing its report.

**SECTION 4.1.(k)** North Carolina Building Code Council to Adopt Rules. – The North Carolina Building Code Council shall adopt rules or amend the State Building Code to implement the recommendations of the Regulation of Hazardous Materials Facilities Task Force. In particular, the Building Code Council shall adopt rules or amend the State Building Code to require that hazardous materials are classified and identified in a manner that provides State and local inspectors with sufficient information to identify all potential risks to the citizens of the State.

**SECTION 4.1.(l)** This section becomes effective 1 July 2007.



## **STUDY POTENTIAL SOURCES OF PERMANENT FUNDING FOR THE STATE MEDICAL ASSISTANCE TEAMS**

**SECTION 4.2.(a)** The Department of Crime Control and Public Safety and the Department of Health and Human Services shall jointly identify and evaluate sources of permanent funding for State Medical Assistance Teams in light of the uncertain future availability of federal and local funding. The Department shall jointly report its findings and recommendations, including any legislative proposals, to the Fiscal Research Division on or before 1 January 2008.

**SECTION 4.2.(b)** This section is effective when it becomes law.

## **PART V. OTHER RECOMMENDATIONS**

### **REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO ESTABLISH A DIGITAL INFORMATION EXCHANGE SYSTEM FOR A HAZARDOUS CHEMICALS INVENTORY DATABASE**

**SECTION 5.1.(a)** The Division of Information Technology Services of the Department of Environment and Natural Resources, in collaboration with the Division of Emergency Management of the Department of Crime Control and Public Safety, shall establish a Tier II Hazardous Chemicals Inventory Database and Web-based access application that will accept uploads of Tier II data from local government systems acting as partners in the project and from the University of Texas at Dallas E-Plan repository until all Tier II hazardous chemical inventory is in the database. The database shall include data on sites listed in the planned Toxic Release Inventory exchange and the Department's existing Facilities Registry System. The Facilities Registry System is a database of facilities for which the Department has environmental concerns, including facilities that are subject to an environmental permit for water, air, waste, land quality, wetlands, public water supply, wastewater treatment, and other environmental permits. The database shall be connected via Web services to the North Carolina Exchange Node. The purposes of this database are to provide a one-stop, real-time information source for all hazardous and toxic materials release sites and all sites that are subject to an environmental permit in order to enhance the operational effectiveness of the Department of Environment and Natural Resources, the Division of Emergency Management of the Department of Crime Control and Public Safety, first responders and emergency management officials, local government officials, and any others with a role in emergency management or planning; to remove the burden of data reentry in multiple systems; to reduce the dependence on paper submissions for Tier II reporting; to extend the Network for the Exchange Node community; and to reuse information already deployed at the Department. The Tier II Hazardous Chemicals Inventory Database and Web-based access application shall be maintained by the Division of Emergency Management of the Department of Crime Control and Public Safety.

**SECTION 5.1.(b)** This section becomes effective 1 July 2007.

### **REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEVELOP A MODEL PLAN FOR PUBLIC HEALTH RESPONSE TO EVENTS WITH A POTENTIAL FOR CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL CONTAMINATION**

**SECTION 5.2.(a)** The Occupational and Environmental Epidemiology Branch of the Division of Public Health of the Department of Health and Human Services shall contract with an industrial hygienist who shall develop a model plan for public health response to events with a potential for chemical, biological, or radiological contamination. The plan shall address all stages of the contamination event. The

contract shall provide for the services of the industrial hygienist for up to 18 months. The contract shall require the industrial hygienist to:

- (1) Develop a model plan and a training program that provides for training in all North Carolina counties.
- (2) Analyze existing environmental data related to the hazardous waste facilities in the State, develop a statement of need for the integration of that data, and recommend any additional tests that may be needed, including tests to establish background levels of selected hazardous materials.
- (3) Initiate and facilitate a staff-level work group of federal, State, and local response personnel to provide continuity and to assist with the development of best practice response protocols.

**SECTION 5.2.(b)** This section becomes effective 1 July 2007.

**AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO ESTABLISH AN INSTITUTE FOR DISASTER STUDIES AND AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA TO STUDY THE EMISSION AND TRANSPORT OF POLLUTANTS AT FIRES AT COMMERCIAL HAZARDOUS WASTE FACILITIES AND THE HEALTH AND ECONOMIC IMPACTS OF SUCH FIRES**

**SECTION 5.3.(a)** The Board of Governors of The University of North Carolina may establish a multidisciplinary, interinstitutional, basic and applied research program that applies state-of-the-art concepts and technologies to address disaster research questions and to assist the campuses within The University of North Carolina to develop crisis management and crisis communications systems that will help individual campuses to better prepare in the event of a disaster.

**SECTION 5.3.(b)** The University of North Carolina may study the emission and transport of pollutants at fires at commercial hazardous waste facilities, as defined in G.S. 130A-295.01, and may study the human health and economic impacts of fires at commercial hazardous waste facilities.

**SECTION 5.3.(c)** This section becomes effective 1 July 2007.

**PART VI. MISCELLANEOUS PROVISIONS**

**EFFECT OF HEADINGS**

**SECTION 6.1.** The headings to the parts and sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

**SEVERABILITY CLAUSE**

**SECTION 6.2.** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**EFFECTIVE DATES**

**SECTION 6.3.** Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 21<sup>st</sup> day of June, 2007.

s/ Beverly E. Perdue  
President of the Senate

s/ Joe Hackney  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 2:46 p.m. this 26<sup>th</sup> day of June, 2007