

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**SENATE DRS85289-RIxf-9 (02/09)**

Short Title: Solid Waste Management Act of 2007.

(Public)

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Sponsors: Senators Clodfelter, and Albertson.

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Referred to:

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1                                   A BILL TO BE ENTITLED  
2 AN ACT TO: (1) CLARIFY THE CIRCUMSTANCES UNDER WHICH AN  
3 APPLICATION FOR A SOLID WASTE MANAGEMENT PERMIT MAY BE  
4 DENIED; (2) SPECIFY TECHNICAL REQUIREMENTS FOR SOLID WASTE  
5 CONTAINERS; (3) PROVIDE THAT SOLID WASTE MANAGEMENT  
6 PERMITS ARE NOT TRANSFERABLE; (4) INCREASE THE PENALTIES  
7 THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS; (5) REQUIRE  
8 THAT AN APPLICANT FOR A PERMIT AND A PERMIT HOLDER  
9 ESTABLISH FINANCIAL RESPONSIBILITY TO ENSURE THE  
10 AVAILABILITY OF SUFFICIENT FUNDS FOR PROPER DESIGN,  
11 CONSTRUCTION, OPERATION, MAINTENANCE, CLOSURE, AND  
12 POST-CLOSURE MONITORING AND MAINTENANCE OF A SOLID WASTE  
13 MANAGEMENT FACILITY; (6) REQUIRE THAT AN OWNER OR OPERATOR  
14 OF A SANITARY LANDFILL ESTABLISH FINANCIAL RESPONSIBILITY  
15 SUFFICIENT TO COVER A MINIMUM OF THREE MILLION DOLLARS IN  
16 COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT  
17 THE FACILITY, IN ADDITION TO OTHER FINANCIAL RESPONSIBILITY  
18 REQUIREMENTS; (7) CLARIFY AND EXPAND THE SCOPE OF  
19 ENVIRONMENTAL COMPLIANCE REVIEW REQUIREMENTS; (8) CLARIFY  
20 THAT A PARENT, SUBSIDIARY, OR OTHER AFFILIATE OF THE  
21 APPLICANT OR PARENT, INCLUDING ANY BUSINESS ENTITY OR JOINT  
22 VENTURER WITH A DIRECT OR INDIRECT FINANCIAL OR EQUITY  
23 INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL  
24 RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (9)  
25 SPECIFY ADDITIONAL TECHNICAL REQUIREMENTS FOR SOLID WASTE  
26 MANAGEMENT FACILITIES; (10) REQUIRE THAT ALL APPLICANTS FOR  
27 SOLID WASTE MANAGEMENT FACILITY PERMITS CONDUCT AN

1 ENVIRONMENTAL IMPACT STUDY AND TRAFFIC STUDY; (11) CLARIFY  
2 THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT  
3 MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (12) AUTHORIZE  
4 CERTAIN UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL  
5 LIAISONS; (13) PROVIDE FOR STATE-LEVEL REVIEW OF PROPOSED  
6 MULTI-JURISDICTIONAL SOLID WASTE MANAGEMENT FACILITIES; (14)  
7 ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID WASTE  
8 MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE  
9 MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL  
10 FEE TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE IN  
11 LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL  
12 SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO  
13 PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF  
14 ORPHAN LANDFILLS AND OTHER CONTAMINATED SITES; AND (16)  
15 MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL  
16 CHANGES.

17 The General Assembly of North Carolina enacts:

18 **SECTION 1.** G.S. 130A-294 reads as rewritten:

19 **"§ 130A-294. Solid waste management program.**

20 (a) The Department is authorized and directed to engage in research, conduct  
21 investigations and surveys, make inspections and establish a statewide solid waste  
22 management program. In establishing a program, the Department shall have authority  
23 to:

- 24 (1) Develop a comprehensive program for implementation of safe and  
25 sanitary practices for management of solid waste;
- 26 (2) Advise, consult, cooperate and contract with other State agencies, units  
27 of local government, the federal government, industries and  
28 individuals in the formulation and carrying out of a solid waste  
29 management program;
- 30 (3) Develop and adopt rules to establish standards for qualification as a  
31 "recycling, reduction or resource recovering facility" or as "recycling,  
32 reduction or resource recovering equipment" for the purpose of special  
33 tax classifications or treatment, and to certify as qualifying those  
34 applicants which meet the established standards. The standards shall  
35 be developed to qualify only those facilities and equipment exclusively  
36 used in the actual waste recycling, reduction or resource recovering  
37 process and shall exclude any incidental or supportive facilities and  
38 equipment;
- 39 (4) a. Develop a permit system governing the establishment and  
40 operation of solid waste management facilities. A landfill with a  
41 disposal area of 1/2 acre or less for the on-site disposal of land  
42 clearing and inert debris is exempt from the permit requirement  
43 of this section and shall be governed by G.S. 130A-301.1. The  
44 Department shall not approve an application for a new permit,

1 the renewal of a permit, or a substantial amendment to a permit  
2 for a sanitary landfill, excluding demolition landfills as defined  
3 in the rules of the Commission, except as provided in  
4 subdivisions (3) and (4) of subsection (b1) of this section. No  
5 permit shall be granted for a solid waste management facility  
6 having discharges that are point sources until the Department  
7 has referred the complete plans and specifications to the  
8 Environmental Management Commission and has received  
9 advice in writing that the plans and specifications are approved  
10 in accordance with the provisions of G.S. 143-215.1. If the  
11 applicant is a unit of local government, and has not submitted a  
12 solid waste management plan that has been approved by the  
13 Department pursuant to G.S. 130A-309.09A(b), the Department  
14 may deny a permit for a sanitary landfill or a facility that  
15 disposes of solid waste by incineration, unless the Commission  
16 has not adopted rules pursuant to G.S. 130A-309.29 for local  
17 solid waste management plans. In any case where the  
18 Department denies a permit for a solid waste management  
19 facility, it shall state in writing the reason for denial and shall  
20 also state its estimate of the changes in the applicant's proposed  
21 activities or plans that will be required for the applicant to  
22 obtain a permit.

23 ~~b. The issuance of permits for sanitary landfills operated by local~~  
24 ~~governments is exempt from the environmental impact~~  
25 ~~statements required by Article 1 of Chapter 113A of the~~  
26 ~~General Statutes, entitled the North Carolina Environmental~~  
27 ~~Policy Act of 1971. All sanitary landfill permits issued to local~~  
28 ~~governments prior to July 1, 1984, are hereby validated~~  
29 ~~notwithstanding any failure to provide environmental impact~~  
30 ~~statements pursuant to the North Carolina Environmental Policy~~  
31 ~~Act of 1971;~~

32 c. The Department shall deny an application for a permit for a  
33 solid waste management facility if the Department finds that:

- 34 1. Construction or operation of the proposed facility would  
35 be inconsistent with or violate rules adopted by the  
36 Commission.
- 37 2. Construction or operation of the proposed facility would  
38 result in a violation of water quality standards adopted  
39 by the Environmental Management Commission  
40 pursuant to G.S. 143-214.1 for waters, as defined in  
41 G.S. 143-213.
- 42 3. Construction or operation of the proposed facility would  
43 result in major or irreversible damage to important  
44 environmental, historic, cultural, scientific, or scenic

- 1 values, or natural systems or processes which are of  
2 more than local significance, or could unreasonably  
3 endanger life or property as a result of natural hazards, or  
4 could result in loss of continued long-range productivity  
5 in renewable resource areas.
- 6 4. Construction or operation of the proposed facility would  
7 limit or threaten access to or use of public trust waters.
- 8 5. The proposed facility would be located in a natural  
9 hazard area, including a floodplain or an area subject to  
10 excessive seismic activity, such that the facility will  
11 present a risk to public health or safety.
- 12 6. There is a practicable alternative that would accomplish  
13 the purposes of the proposed facility with less adverse  
14 impact on public resources, considering engineering  
15 requirements and economic costs.
- 16 7. The cumulative impacts of the proposed facility and  
17 other facilities in the area of the proposed facility would  
18 violate the criteria set forth in sub-sub-subdivisions (2)  
19 through (5) of this sub-subdivision.
- 20 (4a) ~~No permit shall be granted for any public or private sanitary landfill to~~  
21 ~~receive solid non-radioactive waste generated outside the boundaries~~  
22 ~~of North Carolina to be deposited, unless such waste has previously~~  
23 ~~been inspected by the solid waste regulatory agency of that nation,~~  
24 ~~state or territory, characterized in detail as to its contents and certified~~  
25 ~~by that agency to be non-injurious to health and safety. The~~  
26 ~~Commission shall adopt rules to implement this subsection.~~
- 27 (5) Repealed by Session Laws 1983, c. 795, s. 3.
- 28 (5a) Designate a geographic area within which the collection,  
29 transportation, storage and disposal of all solid waste generated within  
30 said area shall be accomplished in accordance with a solid waste  
31 management plan. Such designation may be made only after the  
32 Department has received a request from the unit or units of local  
33 government having jurisdiction within said geographic area that such  
34 designation be made and after receipt by the Department of a solid  
35 waste management plan which shall include:
- 36 a. The existing and projected population for such area;  
37 b. The quantities of solid waste generated and estimated to be  
38 generated in such area;  
39 c. The availability of sanitary landfill sites and the environmental  
40 impact of continued landfill of solid waste on surface and  
41 subsurface waters;  
42 d. The method of solid waste disposal to be utilized and the energy  
43 or material which shall be recovered from the waste; and  
44 e. Such other data that the Department may reasonably require.

- 1 (5b) Authorize units of local government to require by ordinance, that all  
2 solid waste generated within the designated geographic area that is  
3 placed in the waste stream for disposal be collected, transported, stored  
4 and disposed of at a permitted solid waste management facility or  
5 facilities serving such area. The provisions of such ordinance shall not  
6 be construed to prohibit the source separation of materials from solid  
7 waste prior to collection of such solid waste for disposal, or prohibit  
8 collectors of solid waste from recycling materials or limit access to  
9 such materials as an incident to collection of such solid waste;  
10 provided such prohibitions do not authorize the construction and  
11 operation of a resource recovery facility unless specifically permitted  
12 pursuant to an approved solid waste management plan. If a private  
13 solid waste landfill shall be substantially affected by such ordinance  
14 then the unit of local government adopting the ordinance shall be  
15 required to give the operator of the affected landfill at least two years  
16 written notice prior to the effective date of the proposed ordinance.
- 17 (5c) Except for the authority to designate a geographic area to be serviced  
18 by a solid waste management facility, delegate authority and  
19 responsibility to units of local government to perform all or a portion  
20 of a solid waste management program within the jurisdictional area of  
21 the unit of local government; provided that no authority over or control  
22 of the operations or properties of one local government shall be  
23 delegated to any other local government.
- 24 (5d) Require that an annual report of the implementation of the solid waste  
25 management plan within the designated geographic area be filed with  
26 the Department.
- 27 (6) ~~The Department is authorized to charge~~ Charge and collect fees from  
28 operators of hazardous waste disposal facilities. The fees shall be used  
29 to establish a fund sufficient for each individual facility to defray the  
30 anticipated costs to the State for monitoring and care of the facility  
31 after the termination of the period during which the facility operator is  
32 required by applicable State and federal statutes, regulations or rules to  
33 remain responsible for post-closure monitoring and care. In  
34 establishing the fees, consideration shall be given to the size of the  
35 facility, the nature of the hazardous waste and the projected life of the  
36 facility.
- 37 (7) Establish and collect annual fees from generators and transporters of  
38 hazardous waste, and from storage, treatment, and disposal facilities  
39 regulated under this Article as provided in G.S. 130A-294.1.
- 40 (8) Require that a container used to transport solid waste by railway or  
41 barge meet the following requirements:
- 42 a. The waste container shall be completely enclosed or covered  
43 and designed, constructed, loaded, operated, secured, and  
44 maintained so as to prevent the escape of wastes, liquids, and

1 odors, accidents during loading, transportation, unloading, and  
2 the loss or spillage of wastes and liquids in the event of an  
3 accident.

4 b. The waste container shall be certified as watertight when it is  
5 placed into service and at least once every six months thereafter  
6 while it remains in service. In order to be certified as watertight,  
7 a waste container shall:

8 1. Have a minimum internal head of 24 inches of water  
9 applied to the container in an upright position for at least  
10 15 minutes during which the container shall remain free  
11 from the escape of water.

12 2. Be visually inspected for damage on all sides, plus the  
13 top and bottom and must have no visible holes, gaps, or  
14 structural damage affecting the container's integrity or  
15 performance.

16 (9) Require that the owner of a container used to transport solid waste by  
17 railway or barge shall maintain a record of the tests of the container  
18 required by sub-subdivision b. of subdivision (8) of this subsection for  
19 three years, provide a copy of the record to any person who leases or  
20 handles the container, and make the record available to the Department  
21 for inspection.

22 (10) Require that a barge or railcar that is not containerized meet the  
23 requirements of subdivisions (8) and (9) of this subsection.

24 (a1) (1) The entry of liquids into a container used to transport solid waste by  
25 truck, railway, or barge while the waste is being transported, held, or  
26 stored, or in the event of an accident, is a violation of this Article.

27 (2) The escape, loss, or spillage of wastes or liquids from a container used  
28 to transport solid waste by truck, railway, or barge while the waste is  
29 being transported, held, or stored, or in the event of an accident, is a  
30 violation of this Article.

31 (3) The escape of odors from a container used to transport solid waste by  
32 truck, railway, or barge while the waste is being transported, held, or  
33 stored, or in the event of an accident, is a violation of this Article.

34 (a2) No permit shall be issued for any public or private sanitary landfill to receive  
35 solid nonradioactive waste generated outside the boundaries of the State for disposal in  
36 the State unless the waste has previously been inspected by the solid waste regulatory  
37 agency of that nation, state, or territory, characterized in detail as to its contents, and  
38 certified by that agency to be non-injurious to public health and safety. The Commission  
39 shall adopt rules to implement this subsection.

40 (a3) A permit for a solid waste management facility is not transferable.

41 (b) The Commission shall adopt and the Department shall enforce rules to  
42 implement a comprehensive statewide solid waste management program. The rules shall  
43 be consistent with applicable State and federal law; and shall be designed to protect the  
44 public health, safety, and welfare; preserve the environment; and provide for the

1 greatest possible conservation of cultural and natural resources. Rules for the  
2 establishment, location, operation, maintenance, use, discontinuance, recordation,  
3 post-closure care of solid waste management facilities also shall be based upon  
4 recognized public health practices and procedures, including applicable epidemiological  
5 research and studies; hydrogeological research and studies; sanitary engineering  
6 research and studies; and current technological development in equipment and methods.  
7 The rules shall not apply to the management of solid waste that is generated by an  
8 individual or individual family or household unit on the individual's property and is  
9 disposed of on the individual's property.

10 ~~The Commission shall adopt rules for financial responsibility to ensure the~~  
11 ~~availability of sufficient funds for closure and post-closure maintenance and monitoring~~  
12 ~~at solid waste management facilities, and for any corrective action the Department may~~  
13 ~~require during the active life of a facility or during the closure and post-closure periods.~~  
14 ~~The rules may permit demonstration of financial responsibility through the use of a~~  
15 ~~letter of credit, insurance, surety, trust agreement, financial test, or guarantee by~~  
16 ~~corporate parents or third parties who can pass the financial test. The rules shall require~~  
17 ~~that an owner or operator of a privately owned solid waste management facility~~  
18 ~~demonstrate financial responsibility by a method or combinations of methods that will~~  
19 ~~ensure that sufficient funds for closure, post-closure maintenance and monitoring, and~~  
20 ~~any corrective action that the Department may require will be available during the~~  
21 ~~active life of the facility, at closure, and for a period of not less than 30 years after~~  
22 ~~closure even if the owner or operator becomes insolvent or ceases to reside, be~~  
23 ~~incorporated, do business, or maintain assets in the State.~~

24 (b1) (1) For purposes of this subsection and subdivision (4) of subsection (a) of  
25 this section, a "substantial amendment" means either:

26 a. An increase of ten percent (10%) or more in:

- 27 1. The population of the geographic area to be served by  
28 the sanitary landfill;
- 29 2. The quantity of solid waste to be disposed of in the  
30 sanitary landfill; or
- 31 3. The geographic area to be served by the sanitary landfill.

32 b. A change in the categories of solid waste to be disposed of in  
33 the sanitary landfill or any other change to the application for a  
34 permit or to the permit for a sanitary landfill that the  
35 Commission or the Department determines to be substantial.

36 (2) A person who intends to apply for a new permit, the renewal of a  
37 permit, or a substantial amendment to a permit for a sanitary landfill  
38 shall obtain, prior to applying for a permit, a franchise for the  
39 operation of the sanitary landfill from each local government having  
40 jurisdiction over any part of the land on which the sanitary landfill and  
41 its appurtenances are located or to be located. A local government may  
42 adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A  
43 franchise granted for a sanitary landfill shall include all of the  
44 following:

- 1 a. A statement of the population to be served, including a  
2 description of the geographic area.
- 3 b. A description of the volume and characteristics of the waste  
4 stream.
- 5 c. A projection of the useful life of the sanitary landfill.
- 6 d. An explanation of how the franchise will be consistent with the  
7 jurisdiction's solid waste management plan required under  
8 G.S. 130A-309.09A, including provisions for waste reduction,  
9 reuse, and recycling.
- 10 e. The procedures to be followed for governmental oversight and  
11 regulation of the fees and rates to be charged by facilities  
12 subject to the franchise for waste generated in the jurisdiction of  
13 the franchising entity.
- 14 f. A facility plan for the sanitary landfill that shall include the  
15 exact boundaries of the proposed facility, proposed  
16 development of the facility site in five-year operational phases,  
17 the boundaries of all waste disposal units, final elevations and  
18 capacity of all waste disposal units, the amount of waste to be  
19 received per day in tons, the total waste disposal capacity of the  
20 sanitary landfill in tons, a description of environmental controls,  
21 and a description of any other waste management activities to  
22 be conducted at the facility. In addition, the facility plan shall  
23 show the location of soil borrow areas, leachate facilities, and  
24 all other facilities and infrastructure, including ingress and  
25 egress to the facility.
- 26 (2a) A local government may elect to award a preliminary franchise. If a  
27 local government elects to award a preliminary franchise, the  
28 preliminary franchise shall contain, at a minimum, all of the  
29 information described in sub-subdivisions a. through e. of subdivision  
30 (2) of this subsection plus a general description of the proposed  
31 sanitary landfill, including the approximate number of acres required  
32 for the proposed sanitary landfill and its appurtenances and a  
33 description of any other solid waste management activities that are to  
34 be conducted at the site.
- 35 (3) Prior to the award of a franchise for the construction or operation of a  
36 sanitary landfill, the board of commissioners of the county or counties  
37 in which the sanitary landfill is proposed to be located or is located or,  
38 if the sanitary landfill is proposed to be located or is located in a city,  
39 the governing board of the city shall conduct a public hearing. The  
40 board of commissioners of the county or counties in which the sanitary  
41 landfill is proposed to be located or is located or, if the sanitary landfill  
42 is proposed to be located or is located in a city, the governing board of  
43 the city shall provide at least 30 days' notice to the public of the public  
44 hearing. The notice shall include a summary of all the information



1 required to be included in the franchise, and shall specify the  
2 procedure to be followed at the public hearing. The applicant for the  
3 franchise shall provide a copy of the application for the franchise that  
4 includes all of the information required to be included in the franchise,  
5 to the public library closest to the proposed sanitary landfill site to be  
6 made available for inspection and copying by the public.

- 7 (4) An applicant for a new permit, the renewal of a permit, or a substantial  
8 amendment to a permit for a sanitary landfill shall request each local  
9 government having jurisdiction over any part of the land on which the  
10 sanitary landfill and its appurtenances are located or to be located to  
11 issue a determination as to whether the local government has in effect  
12 a franchise, zoning, subdivision, or land-use planning ordinance  
13 applicable to the sanitary landfill and whether the proposed sanitary  
14 landfill, or the existing sanitary landfill as it would be operated under  
15 the renewed or substantially amended permit, would be consistent with  
16 the applicable ordinances. The request to the local government shall be  
17 accompanied by a copy of the permit application and shall be delivered  
18 to the clerk of the local government personally or by certified mail. In  
19 order to serve as a basis for a determination that an application for a  
20 new permit, the renewal of a permit, or a substantial amendment to a  
21 permit for a sanitary landfill is consistent with a zoning, subdivision,  
22 or land-use planning ordinance, an ordinance or zoning classification  
23 applicable to the real property designated in the permit application  
24 shall have been in effect not less than 90 days prior to the date the  
25 request for a determination of consistency is delivered to the clerk of  
26 the local government. The determination shall be verified or supported  
27 by affidavit signed by the chief administrative officer, the chief  
28 administrative officer's designee, clerk, or other official designated by  
29 the local government to make the determination and, if the local  
30 government states that the sanitary landfill as it would be operated  
31 under the new, renewed, or substantially amended permit is  
32 inconsistent with a franchise, zoning, subdivision, or land-use planning  
33 ordinance, shall include a copy of the ordinance and the specific  
34 reasons for the determination of inconsistency. A copy of the  
35 determination shall be provided to the applicant when the  
36 determination is submitted to the Department. The Department shall  
37 not act upon an application for a permit under this section until it has  
38 received a determination from each local government requested to  
39 make a determination by the applicant; provided that if a local  
40 government fails to submit a determination to the Department as  
41 provided by this subsection within 15 days after receipt of the request,  
42 the Department shall proceed to consider the permit application  
43 without regard to a franchise, local zoning, subdivision, and land-use  
44 planning ordinances. Unless the local government makes a subsequent

1 determination of consistency with all ordinances cited in the  
2 determination or the sanitary landfill as it would be operated under the  
3 new, renewed, or substantially amended permit is determined by a  
4 court of competent jurisdiction to be consistent with the cited  
5 ordinances, the Department shall attach as a condition of the permit a  
6 requirement that the applicant, prior to construction or operation of the  
7 sanitary landfill under the permit, comply with all lawfully adopted  
8 local ordinances cited in the determination that apply to the sanitary  
9 landfill. This subsection shall not be construed to affect the validity of  
10 any lawfully adopted franchise, local zoning, subdivision, or land-use  
11 planning ordinance or to affect the responsibility of any person to  
12 comply with any lawfully adopted franchise, local zoning, subdivision,  
13 or land-use planning ordinance. This subsection shall not be construed  
14 to limit any opportunity a local government may have to comment on a  
15 permit application under any other law or rule. This subsection shall  
16 not apply to any facility with respect to which local ordinances are  
17 subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

18 (5) As used in this subdivision, "coal-fired generating unit" and  
19 "investor-owned public utility" have the same meaning as in  
20 G.S. 143-215.107D(a). Notwithstanding subdivisions (a)(4), (b1)(3),  
21 or (b1)(4) of this section, no franchise shall be required for a sanitary  
22 landfill used only to dispose of waste generated by a coal-fired  
23 generating unit that is owned or operated by an investor-owned utility  
24 subject to the requirements of G.S. 143-215.107D.

25 (b2) The Department may require an applicant for a permit under this Article to  
26 satisfy the Department that the applicant, and any parent, subsidiary, or other affiliate of  
27 the applicant or ~~parent~~ parent, including any joint venturer with a direct or indirect  
28 financial or equity interest in the applicant:

29 (1) ~~Is financially qualified to carry out the activity for which the permit is~~  
30 ~~required.~~ Has established financial responsibility as required by  
31 G.S. 130A-295.2.

32 (2) Has substantially complied with the requirements applicable to any  
33 solid waste management activity in which the applicant applicant, or a  
34 parent, subsidiary, or other affiliate of the applicant or parent, or a joint  
35 venturer with a direct or indirect financial or equity interest in the  
36 applicant, has previously engaged and has been in substantial  
37 compliance with federal and state laws, regulations, and rules for the  
38 protection of the environment.environment as provided in  
39 G.S. 130A-295.3.

40 (b3) An applicant for a permit under this Article shall satisfy the Department that  
41 the applicant has met the requirements of subsection (b2) of this section before the  
42 Department is required to otherwise review the application. ~~In order to continue to hold~~  
43 ~~a permit under this Article, a permittee must remain financially qualified and must~~

1 provide any information requested by the Department to demonstrate that the permittee  
2 continues to be financially qualified.

3 ..."

4 **SECTION 2.** G.S. 130A-18 reads as rewritten:

5 "**§ 130A-18. Injunction.**

6 (a) If a person shall violate any provision of this ~~Chapter or Chapter~~, the rules  
7 adopted by the Commission or rules adopted by a local board of health, or a condition  
8 or term of a permit or order issued under this Chapter, the Secretary or a local health  
9 director may institute an action for injunctive relief, irrespective of all other remedies at  
10 law, in the superior court of the county where the violation occurred or where a  
11 defendant resides.

12 (b) The Secretary of Environment and Natural Resources and a local health  
13 director shall have the same rights enumerated in subsection (a) of this section to  
14 enforce the provisions of Part 4 of Article 5 and Articles 8, 9, 10, 11, and 12 of this  
15 Chapter."

16 **SECTION 3.** G.S. 130A-22(a) reads as rewritten:

17 "(a) The Secretary of Environment and Natural Resources may impose an  
18 administrative penalty on a person who violates Article 9 of this Chapter, rules adopted  
19 by the Commission pursuant to Article 9, or any term or condition of a permit or order  
20 issued under Article 9. Each day of a continuing violation shall constitute a separate  
21 violation. The penalty shall not exceed ~~five thousand dollars (\$5,000)~~ ten thousand  
22 dollars (\$10,000) per day in the case of a violation involving nonhazardous waste. The  
23 penalty shall not exceed ~~twenty five thousand dollars (\$25,000)~~ thirty-two thousand five  
24 hundred dollars (\$32,500) per day in the case of a first violation involving hazardous  
25 waste as defined in G.S. 130A-290 or involving the disposal of medical waste as  
26 defined in G.S. 130A-290 in or upon water in a manner that results in medical waste  
27 entering waters or lands of the State; and shall not exceed fifty thousand dollars  
28 (\$50,000) per day for a second or further violation involving the disposal of medical  
29 waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical  
30 waste entering waters or lands of the State. The penalty shall not exceed ~~twenty five~~  
31 ~~thousand dollars (\$25,000)~~ thirty-two thousand five hundred dollars (\$32,500) per day  
32 for a violation involving a voluntary remedial action implemented pursuant to  
33 G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b).  
34 If a person fails to pay a civil penalty within 60 days after the final agency decision or  
35 court order has been served on the violator, the Secretary of Environment and Natural  
36 Resources shall request the Attorney General to institute a civil action in the superior  
37 court of any county in which the violator resides or has his or its principal place of  
38 business to recover the amount of the assessment. Such civil actions must be filed  
39 within three years of the date the final agency decision or court order was served on the  
40 violator."

41 **SECTION 4.** G.S. 130A-22 is amended by adding a new subsection to read:

42 "(j) The Secretary of Environment and Natural Resources may also assess the  
43 reasonable costs of any investigation, inspection, or monitoring associated with the

1 assessment of the civil penalty against any person who is assessed a civil penalty under  
2 this section."

3 **SECTION 5.(a)** Part 2 of Article 9 of Chapter 130A of the General Statutes  
4 is amended by adding a new section to read:

5 **"§ 130A-295.2. Financial responsibility requirements for applicants and permit**  
6 **holders.**

7 (a) The Commission shall adopt rules governing financial responsibility  
8 requirements for applicants for permits and for permit holders to ensure the availability  
9 of sufficient funds for the proper design, construction, operation, maintenance, closure,  
10 and post-closure monitoring and maintenance of solid waste management facilities and  
11 for any corrective action the Department may require during the active life of a facility  
12 or during the closure and post-closure periods.

13 (b) An applicant for a permit or a permit holder may establish financial  
14 responsibility through a cash deposit, insurance, binding letter of credit, binding loan  
15 commitment, surety, trust agreement, financial test, or guarantee by a corporate parent  
16 or third party that can pass the financial test. A business entity that established financial  
17 responsibility for an applicant for a permit or a permit holder must be rated AAA by  
18 Standard & Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent,  
19 subsidiary, or other affiliate of the applicant for a permit, permit holder, or a joint  
20 venturer with a direct or indirect financial or equity interest in the applicant or permit  
21 holder are proposed to be used to establish the financial responsibility of the applicant  
22 for a permit or permit holder, the party whose assets are to be used must be listed on the  
23 permit of the facility. Assets used to meet the financial responsibility requirements of  
24 this section shall be in a form that will allow the Department to readily access funds for  
25 the purposes set out in this section. Assets used to meet financial responsibility  
26 requirements of this section shall not be accessible to the permit holder except as  
27 approved by the Department.

28 (c) The owner or operator of a privately owned solid waste management facility  
29 shall provide an audited, certified financial statement and shall establish financial  
30 responsibility by a method or combination of methods that will ensure that sufficient  
31 funds for closure, post-closure maintenance and monitoring, and any corrective action  
32 that the Department may require will be available during the active life of the facility, at  
33 closure, and for a period of not less than 30 years after closure even if the owner or  
34 operator becomes insolvent or ceases to reside, be incorporated, do business, or  
35 maintain assets in the State.

36 (d) The Department may, in its discretion, require an applicant for a permit to  
37 construct a facility to establish financial responsibility for the proper design,  
38 construction, operation, maintenance, closure, and post-closure monitoring and  
39 maintenance of a facility to the first five-year phase of the facility. If the Department  
40 requires an applicant for a permit or a permit holder to establish financial responsibility  
41 for only the first five-year phase of the facility, the Department shall require the  
42 applicant for a permit or a permit holder to establish financial responsibility for each  
43 successive five-year phase of the facility when applying for a permit to construct each  
44 successive phase of the facility. The applicant shall provide cost estimates for site

1 investigation; land acquisition, including financing terms and land ownership; proper  
2 design, construction of each five-year phase, operation, maintenance, closure, and  
3 post-closure monitoring and maintenance of the facility.

4 (e) In order to continue to hold a permit under this Article, a permit holder must  
5 maintain financial responsibility and must provide any information requested by the  
6 Department to establish that the permit holder continues to maintain financial  
7 responsibility. A permit holder shall notify the Department of any significant change in  
8 the: (i) identity of any person or structure of the business entity that holds the permit for  
9 the facility; (ii) identity of any person or structure of the business entity that owns or  
10 operates the facility; or (iii) assets of the permit holder, owner, or operator of the  
11 facility. The permit holder shall notify the Department within 30 days of a significant  
12 change. A change shall be considered significant if it has the potential to affect the  
13 financial responsibility of the permit holder, owner, or operator, or if it would result in a  
14 change in the identity of the permit holder, owner, or operator for purposes of either  
15 financial responsibility or environmental compliance review. Based on its review of the  
16 changes, the Department may require the permit holder to reestablish financial  
17 responsibility and may modify or revoke a permit, or require issuance of a new permit.

18 (f) To meet the financial responsibility requirements of this section, the owner or  
19 operator of a sanitary landfill shall establish financial responsibility sufficient to cover a  
20 minimum of three million dollars (\$3,000,000) in costs for potential assessment and  
21 corrective action at the facility. The Department may require financial responsibility in  
22 a higher amount and may increase the amount of financial responsibility required of a  
23 permit holder at any time based upon the types of waste disposed in the landfill, the  
24 projected amount of waste to be disposed in the landfill, the location of the landfill,  
25 potential receptors of releases from the landfill, and inflation. The financial  
26 responsibility requirements of this subsection are in addition to the financial  
27 responsibility requirements set out in subsections (a) through (e) of this section."

28 **SECTION 5.(b)** G.S. 130A-309.27 reads as rewritten:

29 **"§ 130A-309.27. ~~Landfill escrow account.~~Joint and several liability.**

30 (a) As used in this section:

31 (1) "Owner or operator" means, in addition to the usual meanings of the  
32 term, any owner of record of any interest in land on which a landfill is  
33 or has been sited, and any person or ~~corporation~~ business entity  
34 that owns a majority interest in any other corporation which that is the  
35 owner or operator of a ~~landfill~~ landfill, except that a minority  
36 shareholder of a publicly traded corporation who has no involvement  
37 in management or control of the corporation or any of its subsidiaries  
38 or affiliates shall not be considered an owner or operator solely on the  
39 basis of his stock holdings.

40 (2) "Proceeds" means all funds collected and received by the Department,  
41 including interest and penalties on delinquent fees.

42 (b) Every owner or operator of a landfill is jointly and severally liable for the  
43 improper operation and closure of the landfill, as provided by law.

1       ~~(e) The owner or operator of a landfill shall establish a fee, or a surcharge on~~  
2 ~~existing fees or other appropriate revenue producing mechanism, to ensure the~~  
3 ~~availability of financial resources for the proper closure of the landfill. However, the~~  
4 ~~disposal of solid waste by persons on their own property is exempt from the provisions~~  
5 ~~of this section.~~

6           ~~(1) The revenue producing mechanism must produce revenue at a rate~~  
7 ~~sufficient to generate funds to meet State and federal landfill closure~~  
8 ~~requirements.~~

9           ~~(2) The revenue shall be deposited in an interest bearing escrow account~~  
10 ~~to be held and administered by the owner or operator. The owner or~~  
11 ~~operator shall file with the Department an annual audit of the account.~~  
12 ~~The audit shall be conducted by a certified public accountant and shall~~  
13 ~~be filed no later than 31 December of each year. Failure to collect or~~  
14 ~~report this revenue, except as allowed in subsection (d), is a~~  
15 ~~noncriminal violation, punishable by a fine of not more than five~~  
16 ~~thousand dollars (\$5,000) for each offense. The owner or operator may~~  
17 ~~make expenditures from the account and its accumulated interest only~~  
18 ~~for the purpose of landfill closure and, if such expenditures do not~~  
19 ~~deplete the fund to the detriment of eventual closure, for planning and~~  
20 ~~construction of resource recovery or landfill facilities. Any moneys~~  
21 ~~remaining in the account after paying for proper and complete closure,~~  
22 ~~as determined by the Department, shall, if the owner or operator does~~  
23 ~~not operate a landfill, be deposited by the owner or operator into the~~  
24 ~~general fund of the unit of local government.~~

25           ~~(3) The revenue generated under this subsection and any accumulated~~  
26 ~~interest thereon may be applied to the payment of, or pledged as~~  
27 ~~security for, the payment of revenue bonds issued in whole or in part~~  
28 ~~for the purpose of complying with State and federal landfill closure~~  
29 ~~requirements. The application or pledge may be made directly in the~~  
30 ~~proceedings authorizing the bonds or in an agreement with an insurer~~  
31 ~~of bonds to assure the insurer of this additional security.~~

32       ~~(d) An owner or operator may establish proof of financial responsibility with the~~  
33 ~~Department in lieu of the requirements of subsection (c). This proof may include surety~~  
34 ~~bonds, certificates of deposit, securities, letter of credit, corporate guarantee, or other~~  
35 ~~documents showing that the owner or operator has sufficient financial resources to~~  
36 ~~cover, at a minimum, the costs of complying with landfill closure requirements. The~~  
37 ~~owner or operator shall estimate the costs to the satisfaction of the Department.~~

38       ~~(e) This section does not repeal, limit, or abrogate any other law authorizing units~~  
39 ~~of local government to fix, levy, or charge rates, fees, or charges for the purpose of~~  
40 ~~complying with State and federal landfill closure requirements.~~

41       ~~(f) The Commission shall adopt rules to implement this section."~~

42       **SECTION 6.(a)** Part 2 of Article 9 of Chapter 130A of the General Statutes  
43 is amended by adding a new section to read:

1 **"§ 130A-295.3. Environmental compliance review requirements for applicants and**  
2 **permit holders.**

3 (a) The Department shall conduct an environmental compliance review of each  
4 applicant for a new permit, permit renewal, and permit amendment under this Article.  
5 The environmental compliance review shall evaluate the environmental compliance  
6 history of the applicant for a period of at least three years prior to the date of the  
7 application and may cover a longer period at the discretion of the Department. The  
8 environmental compliance review of an applicant may include consideration of the  
9 environmental compliance history of the parents, subsidiaries, or other affiliates of the  
10 applicant or parent, including any business entity or joint venturer with a direct or  
11 indirect financial or equity interest in the applicant, and other facilities owned or  
12 operated by any of them. The Department shall determine the scope of the review of the  
13 environmental compliance history of the applicant, parents, subsidiaries, or other  
14 affiliates of the applicant or parent, including any business entity or joint venturer with a  
15 direct or indirect financial or equity interest in the applicant, and of other facilities  
16 owned or operated by any of them. An applicant for a permit shall provide  
17 environmental compliance history information for each facility, business entity, joint  
18 venture, or other undertaking in which any of the persons listed in this subsection is or  
19 has been an owner, operator, officer, director, manager, member, or partner, or in which  
20 any of the persons listed in this subsection has had a direct or indirect financial or equity  
21 interest as requested by the Department. In its conduct of an environmental compliance  
22 review, the Department may consider the environmental compliance history of:

- 23 (1) Officers, directors, managers, members, and partners of the applicant  
24 for the permit.  
25 (2) All persons with a direct or indirect financial or equity interest in the  
26 applicant for the permit.  
27 (3) Officers, directors, managers, members, and partners in any business  
28 entity which has a direct or indirect financial or equity interest in the  
29 applicant for the permit.  
30 (4) Officers, directors, managers, members, and partners in any business  
31 entity which is a parent, subsidiary, or other affiliate of the applicant  
32 for the permit.

33 (b) The Department shall determine the extent to which the applicant, or a parent,  
34 subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or  
35 indirect financial or equity interest in the applicant, has substantially complied with the  
36 requirements applicable to any activity in which any of these entities previously  
37 engaged, and has substantially complied with federal and state laws, regulations, and  
38 rules for the protection of the environment. The Department may deny an application  
39 for a permit if the applicant has repeatedly violated related statutes, rules, orders, or  
40 permit terms or conditions for the protection of the environment or for the conservation  
41 of natural resources.

42 (c) For purposes of this section, an applicant for a permit includes the owner or  
43 operator of the facility, or, if the owner or operator is a business entity, the parent,  
44 subsidiary, or other affiliate of the applicant, a partner, officer, director, member,

1 manager, and any person with a direct or indirect financial or equity interest in the  
2 applicant, other than a minority shareholder of a publicly traded corporation who has no  
3 involvement in management or control of the corporation or any of its parents,  
4 subsidiaries, or affiliates."

5 **SECTION 6.(b)** G.S. 130A-309.06(b) is repealed.

6 **SECTION 7.** Part 2 of Article 9 of Chapter 130A of the General Statutes is  
7 amended by adding a new section to read:

8 **"§ 130A-295.4. Additional requirements for sanitary landfills.**

9 (a) An applicant for a permit to construct a sanitary landfill shall conduct a study  
10 of environmental impacts from the proposed facility as described in G.S. 113A-4 and  
11 rules adopted pursuant to G.S. 113A-4. In addition to information required under  
12 G.S. 113A-4, the study shall address the applicant's ability to ensure compliance with  
13 State laws and rules, and any applicable local ordinances, that prohibit the disposal of  
14 certain items in landfills, and an alternative sites analysis. The Department shall publish  
15 notice of the draft environmental impact statement and shall hold a public hearing in the  
16 county where the landfill will be located no sooner than 30 days following the public  
17 notice. The Department shall consider the study of environmental impacts and any  
18 mitigation measures proposed by the applicant in deciding whether to issue or deny a  
19 permit.

20 (b) An applicant for a permit to construct a sanitary landfill shall conduct a traffic  
21 study of the impacts of the proposed facility. The Department shall include as a  
22 condition of a permit for a sanitary landfill a requirement that the permit holder mitigate  
23 adverse impacts identified by the traffic study. The study shall include all of the  
24 following at a minimum:

- 25 (1) Identification of routes from the nearest limited access highway used  
26 to access the proposed facility.
- 27 (2) Daily and hourly traffic volumes that will result along each approach  
28 route between the nearest limited access highway and the proposed  
29 facility.
- 30 (3) A map identifying land uses located along the identified approach  
31 routes, including, but not limited to, residential, commercial, industrial  
32 development and agricultural operations. The map shall identify  
33 residences, schools, hospitals, nursing homes, and other significant  
34 buildings that front the approach routes.
- 35 (4) Identification of locations on approach routes where road conditions  
36 are inadequate to handle the increased traffic associated with the  
37 proposed facility and a description of the mitigation measures  
38 proposed by the applicant to address the conditions.
- 39 (5) A description of the potential adverse impacts of increased traffic  
40 associated with the proposed facility and the mitigation measures  
41 proposed by the applicant to address these impacts.

42 (c) The owner of a sanitary landfill shall employ a project engineer to inspect the  
43 construction of disposal units within the sanitary landfill, landfill leachate handling  
44 facilities, and landfill appurtenances. The project engineer shall be licensed as a



1 professional engineer under Chapter 89C of the General Statutes. The project engineer  
2 shall be responsible for monitoring, documenting, and certifying that construction of the  
3 disposal units at the sanitary landfill, leachate handling facilities, and landfill  
4 appurtenances conforms to the plan approved by the Department as set out in the permit  
5 to construct and all applicable federal and State laws, regulations, and rules. The project  
6 engineer or the engineer's representative shall be at the site at all times during  
7 construction of the disposal units and leachate handling systems. Each certification shall  
8 bear the seal and signature of the project engineer and the date of certification.

9 (d) The Department shall require a buffer between any stream or wetland and the  
10 nearest waste disposal unit of a sanitary landfill of at least 200 feet. The Department  
11 may approve a buffer of less than 200 feet, but in no case less than 100 feet, if it finds  
12 all of the following:

13 (1) The proposed sanitary landfill or expansion of the sanitary landfill will  
14 serve a critical need in the community.

15 (2) There is no feasible alternative location that would allow siting or  
16 expansion of the sanitary landfill with 200 foot buffers.

17 (e) Notwithstanding G.S. 143-215.54A(b), a sanitary landfill shall not be sited  
18 within a 100-year floodplain or on land previously designated as a 100-year floodplain.

19 (f) A sanitary landfill shall be constructed with a composite liner system  
20 consisting of two components. The upper component shall consist of a flexible  
21 membrane liner and the lower component shall consist of a minimum of two feet of soil  
22 with a maximum permeability of  $1 \times 10^{-7}$  centimeters per second. The flexible  
23 membrane liner shall have a minimum thickness of 30 millimeters, except that liners  
24 consisting of high density polyethylene shall be at least 60 millimeters thick. The  
25 flexible membrane liner shall be installed in direct and uniform contact with the  
26 compacted soil layer. The Department may approve an alternative composite liner  
27 system if the Department finds, based on modeling, that the alternative system offers an  
28 equivalent or greater degree of impermeability.

29 (g) A sanitary landfill for the disposal of construction and demolition debris shall  
30 be constructed with a composite liner system consisting of two components. The upper  
31 component shall consist of a flexible membrane liner and the lower component shall  
32 consist of a minimum of two feet of compacted soil with a maximum permeability of  $1$   
33  $\times 10^{-7}$  centimeters per second. The liner shall be a minimum of 30 millimeters in  
34 thickness, except that a liner composed of high density polyethylene shall be a  
35 minimum of 60 millimeters in thickness. The liner shall be installed in direct and  
36 uniform contact with the compacted soil layer. The Department may approve an  
37 alternate liner system if the Department finds, based on modeling, that the alternate liner  
38 system will provide equivalent or greater impermeability.

39 (h) A sanitary landfill shall be constructed so that the post-settlement bottom  
40 elevation of the liner system, or the post-settlement bottom elevation of the waste if no  
41 liner system is required, is a minimum of five feet above the seasonal high groundwater  
42 table and the bedrock datum plane contours.

43 (i) A permit holder for a sanitary landfill shall develop and implement a waste  
44 screening plan. The plan shall identify measures adequate to ensure compliance with

1 State laws and rules, and any applicable local ordinances, that prohibit the disposal of  
2 certain items in landfills. The plan shall address all sources of waste generation. The  
3 plan is subject to approval by the Department.

4 (j) The following requirements apply to any sanitary landfill for which a liner is  
5 required:

6 (1) Any geomembrane base liner system shall be tested for leaks and  
7 damage by methods approved by the Department that ensure that the  
8 entire liner is evaluated.

9 (2) Any leachate collection system shall be designed to return the head of  
10 the liner to 30 centimeters or less within 72 hours after a  
11 25-year-24-hour storm event. The leachate collection system shall  
12 maintain a head of less than 30 centimeters at all times during leachate  
13 recirculation. The Department may require the operator to monitor the  
14 head of the liner to demonstrate that the head is being maintained in  
15 accordance with this subdivision and any applicable rules.

16 (3) Any leachate collection lines shall be designed and constructed to  
17 permanently allow remote camera inspection and cleaning. Any  
18 leachate lines shall be cleaned and remotely inspected by camera at  
19 least once a year. Documentation of the inspection and cleaning shall  
20 be included in the operating records of the facility and provided to the  
21 Department upon request.

22 (4) Any pipes used to transmit leachate shall provide dual containment  
23 outside of the disposal unit. The bottom liner of a sanitary landfill shall  
24 be constructed without pipe penetrations."

25 **SECTION 8.(a)** G.S. 153A-292(b) reads as rewritten:

26 "(b) The board of county commissioners may impose a fee for the collection of  
27 solid waste. The fee may not exceed the costs of collection.

28 The board of county commissioners may impose a fee for the use of a disposal  
29 facility provided by the county. The fee for use may not exceed the cost of operating the  
30 facility and may be imposed only on those who use the facility. The fee for use may  
31 vary based on the amount, characteristics, and form of recyclable materials present in  
32 solid waste brought to the facility for disposal. A county may not impose a fee for the  
33 use of a disposal facility on a city located in the county or a contractor or resident of the  
34 city unless the fee is based on a schedule that applies uniformly throughout the county.

35 The board of county commissioners may impose a fee for the availability of a  
36 disposal facility provided by the county. A fee for availability may not exceed the cost  
37 of providing the facility and may be imposed on all improved property in the county  
38 that benefits from the availability of the facility. A county may not impose an  
39 availability fee on property whose solid waste is collected by a county, a city, or a  
40 private contractor for a fee if the fee imposed by a county, a city, or a private contractor  
41 for the collection of solid waste includes a charge for the availability and use of a  
42 disposal facility provided by the county. Property served by a private contractor who  
43 disposes of solid waste collected from the property in a disposal facility provided by a  
44 private contractor that provides the same services as those provided by the county

1 disposal facility is not considered to benefit from a disposal facility provided by the  
2 county and is not subject to a fee imposed by the county for the availability of a disposal  
3 facility provided by the county. To the extent that the services provided by the county  
4 disposal facility differ from the services provided by the disposal facility provided by a  
5 private contractor, the county may charge an availability fee to cover the costs of the  
6 additional services provided by the county disposal facility.

7 In determining the costs of providing and operating a disposal facility, a county may  
8 consider solid waste management costs incidental to a county's handling and disposal of  
9 solid waste at its disposal facility, including the costs of the methods of solid waste  
10 management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of  
11 1989. A fee for the availability or use of a disposal facility may be based on the  
12 combined costs of the different disposal facilities provided by the county."

13 **SECTION 8.(b)** G.S. 160A-314.1(a) reads as rewritten:

14 "(a) In addition to a fee that a city may impose for collecting solid waste or for  
15 using a disposal facility, a city may impose a fee for the availability of a disposal  
16 facility provided by the city. A fee for availability may not exceed the cost of providing  
17 the facility and may be imposed on all improved property in the city that benefits from  
18 the availability of the facility. A city may not impose an availability fee on property  
19 whose solid waste is collected by a county, a city, or a private contractor for a fee if the  
20 fee imposed by a county, a city, or a private contractor for the collection of solid waste  
21 includes a charge for the availability and use of a disposal facility provided by the city.  
22 Property served by a private contractor who disposes of solid waste collected from the  
23 property in a disposal facility provided by a private contractor that provides the same  
24 services as those provided by the city disposal facility is not considered to benefit from  
25 a disposal facility provided by the city and is not subject to a fee imposed by the city for  
26 the availability of a disposal facility provided by the city. To the extent that the services  
27 provided by the city disposal facility differ from the services provided by the disposal  
28 facility provided by a private contractor, the city may charge an availability fee to cover  
29 the costs of the additional services provided by the city disposal facility.

30 In determining the costs of providing and operating a disposal facility, a city may  
31 consider solid waste management costs incidental to a city's handling and disposal of  
32 solid waste at its disposal facility. A fee for the availability or use of a disposal facility  
33 may be based on the combined costs of the different disposal facilities provided by the  
34 city."

35 **SECTION 9.(a)** G.S. 153A-136 is amended by adding a new subsection to  
36 read:

37 "(e) A county that has planning jurisdiction over any portion of the site of a  
38 sanitary landfill with a service area that extends 100 miles or more in any direction from  
39 the permitted disposal area of the landfill may employ a local government landfill  
40 liaison. No person who is responsible for any aspect of the management or operation of  
41 the landfill may serve as a local government landfill liaison. A local government landfill  
42 liaison may enter the landfill facility at reasonable times and inspect the landfill  
43 operation to:

44 (1) Ensure that the facility meets all local requirements.

- 1           (2) Identify and notify the Department of suspected violations of  
2           applicable federal or State laws, regulations, or rules.  
3           (3) Identify and notify the Department of potentially hazardous conditions  
4           at the facility."

5           **SECTION 9.(b)** Chapter 160A of the General Statutes is amended by adding  
6 a new section to read:

7 **"§ 160A-325. Local government landfill liaison.**

8           A city that has planning jurisdiction over any portion of the site of a sanitary landfill  
9           with a service area that extends 100 miles or more in any direction from the permitted  
10           disposal area of the landfill may employ a local government landfill liaison. No person  
11           who is responsible for any aspect of the management or operation of the landfill may  
12           serve as a local government landfill liaison. A local government landfill liaison may  
13           enter the landfill facility at reasonable times and inspect the landfill operation to:

- 14           (1) Ensure that the facility meets all local requirements.  
15           (2) Identify and notify the Department of suspected violations of  
16           applicable federal or State laws, regulations, or rules.  
17           (3) Identify and notify the Department of potentially hazardous conditions  
18           at the facility."

19           **SECTION 10.** Part 2 of Article 9 of Chapter 130A of the General Statutes is  
20 amended by adding a new section to read:

21 **"§ 130A-295.5. State-level review of proposed multi-jurisdictional solid waste**  
22 **facilities.**

23           (a) There is hereby established the Commission on Multi-Jurisdictional Solid  
24 Waste Management Facilities. The Commission shall be composed of the Secretary of  
25 Environment and Natural Resources, the Secretary of Health and Human Services, and  
26 the Secretary of Commerce. The Secretary of Environment and Natural Resources shall  
27 be the chair of the Commission.

28           (b) If the service area for a solid waste management facility extends beyond the  
29 jurisdictional boundary of the county in which it is located, the Department shall not act  
30 upon an application for a permit, the renewal of a permit, or a substantial amendment to  
31 a permit for the facility under this Article until the Commission on Multi-Jurisdictional  
32 Solid Waste Management Facilities has approved the application as provided in this  
33 section. The Commission shall approve an application only if the Commission  
34 determines that:

- 35           (1) The proposed solid waste management facility is consistent with the  
36           State solid waste management policy and goals as set out in  
37           G.S. 130A-309.04 and with the State solid waste management plan  
38           developed as provided in G.S. 130A-309.07.  
39           (2) The local comprehensive solid waste management plan required by  
40           G.S. 130A-309.09A(b) of the unit or units of local government where  
41           the proposed solid waste management facility is located and the local  
42           comprehensive solid waste management plans of each North Carolina  
43           unit of local government that is located within the service area of the  
44           proposed facility is consistent with the State solid waste management

1 policy and goals as set out in G.S. 130A-309.04 and with the State  
2 solid waste management plan developed as provided in  
3 G.S. 130A-309.07.

4 (3) Adequate procedures are legally established for governmental  
5 oversight and regulation of the fees and rates to be charged by the  
6 facility.

7 (4) The proposed solid waste management facility does not have a  
8 disproportionate adverse impact on a minority or low-income  
9 community."

10 **SECTION 11.(a)** G.S. 130A-290(a) is amended by renumbering subdivision  
11 (1a) as (1b), renumbering subdivision (1b) as (1c), renumbering subdivision (1c) as  
12 (1d), and by adding a new subdivision to read:

13 "(1a) 'Business entity' has the same meaning as in G.S. 55-1-40(2a)."

14 **SECTION 11.(b)** G.S. 130A-290(a) is amended by renumbering subdivision  
15 (21a) as (21b) and by adding a new subdivision to read:

16 "(21a) 'Orphan landfill' means any landfill, whether publicly or privately  
17 owned, that received municipal solid waste from a unit of local  
18 government for disposal prior to 1 January 1983, that is no longer in  
19 operation, and for which assessment and remediation are needed in  
20 order to protect public health and the environment."

21 **SECTION 12.** Chapter 130A of the General Statutes is amended by adding a  
22 new section to read:

23 **"§ 130A-295.6. Fees applicable to permits for solid waste management facilities.**

24 (a) The Solid Waste Management Account is established as a nonreverting  
25 account within the Department. All fees collected under this section shall be credited to  
26 the Account and shall be used to support the solid waste management program  
27 established pursuant to G.S. 130A-294.

28 (b) As used in this section:

29 (1) 'New permit' means any of the following:

30 a. An application for a permit for a solid waste management  
31 facility that has not been previously permitted by the  
32 Department. The term includes one site suitability review, the  
33 initial permit to construct, and one permit to operate the  
34 constructed portion of a phase included in the permit to  
35 construct.

36 b. An application that proposes to expand the boundary of a  
37 permitted waste management facility for the purpose of  
38 expanding the permitted activity.

39 c. An application that includes a proposed expansion to the  
40 boundary of a waste disposal unit within a permitted solid waste  
41 management facility.

42 d. An application for a substantial amendment to a solid waste  
43 permit, as defined in G.S. 130A-294.

44 (2) 'Permit amendment' means any of the following:

- 1           a.    An application for a permit to construct and one permit to  
2           operate for the second and subsequent phases of landfill  
3           development described in the approved facility plan for a  
4           permitted solid waste management facility.
- 5           b.    An application for the five-year renewal of a permit for a  
6           permitted solid waste management facility or for a permit  
7           review of a permitted solid waste management facility.
- 8           c.    Any application that proposes a change in ownership or  
9           corporate structure of a permitted solid waste management  
10           facility.
- 11       (3)   'Permit modification' means any of the following:
- 12           a.    An application for any change to the plans approved in a permit  
13           for a solid waste management facility that does not constitute a  
14           'permit amendment' or a 'new permit'.
- 15           b.    A second or subsequent permit to operate for a constructed  
16           portion of a phase included in the permit to construct.
- 17       (c)   An applicant for a permit shall pay an application fee upon submission of an  
18       application according to the following schedule:
- 19           (1)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year  
20           of solid waste, New Permit – \$25,000.
- 21           (2)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year  
22           of solid waste, Amendment – \$15,000.
- 23           (3)   Municipal Solid Waste Landfill accepting less than 100,000 tons/year  
24           of solid waste, Modification – \$1,500.
- 25           (4)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more  
26           of solid waste, New Permit – \$50,000.
- 27           (5)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more  
28           of solid waste, Amendment – \$30,000.
- 29           (6)   Municipal Solid Waste Landfill accepting 100,000 tons/year or more  
30           of solid waste, Modification – \$3,000.
- 31           (7)   Construction and Demolition Landfill accepting less than 100,000  
32           tons/year of solid waste, New Permit – \$15,000.
- 33           (8)   Construction and Demolition Landfill accepting less than 100,000  
34           tons/year of solid waste, Amendment – \$9,000.
- 35           (9)   Construction and Demolition Landfill accepting less than 100,000  
36           tons/year of solid waste, Modification – \$1,500.
- 37           (10)   Construction and Demolition Landfill accepting 100,000 tons/year or  
38           more of solid waste, New Permit – \$30,000.
- 39           (11)   Construction and Demolition Landfill accepting 100,000 tons/year or  
40           more of solid waste, Amendment – \$18,500.
- 41           (12)   Construction and Demolition Landfill accepting 100,000 tons/year or  
42           more of solid waste, Modification – \$2,500.
- 43           (13)   Industrial Landfill accepting less than 100,000 tons/year of solid  
44           waste, New Permit – \$15,000.

- 1           (14) Industrial Landfill accepting less than 100,000 tons/year of solid  
2           waste, Amendment – \$9,000.
- 3           (15) Industrial Landfill accepting less than 100,000 tons/year of solid  
4           waste, Modification – \$1,500.
- 5           (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
6           New Permit – \$30,000.
- 7           (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
8           Amendment – \$18,500.
- 9           (18) Industrial Landfill accepting 100,000 tons/year or more of solid waste,  
10           Modification – \$2,500.
- 11           (19) Tire Monofill, New Permit – \$1,750.
- 12           (20) Tire Monofill, Amendment – \$1,250.
- 13           (21) Tire Monofill, Modification – \$500.
- 14           (22) Treatment and Processing, New Permit – \$1,750.
- 15           (23) Treatment and Processing, Amendment – \$1,250.
- 16           (24) Treatment and Processing, Modification – \$500.
- 17           (25) Transfer Station, New Permit – \$5,000.
- 18           (26) Transfer Station, Amendment – \$3,000.
- 19           (27) Transfer Station, Modification – \$500.
- 20           (28) Incinerator, New Permit – \$1,750.
- 21           (29) Incinerator, Amendment – \$1,250.
- 22           (30) Incinerator, Modification – \$500.
- 23           (31) Large Compost Facility, New Permit – \$1,750.
- 24           (32) Large Compost Facility, Amendment – \$1,250.
- 25           (33) Large Compost Facility, Modification – \$500.
- 26           (34) Land Clearing and Inert, New Permit – \$1,000.
- 27           (35) Land Clearing and Inert, Amendment – \$500.
- 28           (36) Land Clearing and Inert, Modification – \$250.
- 29           (d) A permitted solid waste management facility shall pay an annual permit fee  
30 on or before 1 August of each year according to the following schedule:
- 31           (1) Municipal Solid Waste Landfill – \$3,500.
- 32           (2) Post-Closure Municipal Solid Waste Landfill – \$1,000.
- 33           (3) Construction and Demolition Landfill – \$2,750.
- 34           (4) Post-Closure Construction and Demolition Landfill – \$500.
- 35           (5) Industrial Landfill – \$2,750.
- 36           (6) Post Closure Industrial Landfill – \$500.
- 37           (7) Transfer Station – \$750.
- 38           (8) Treatment and Processing Facility – \$500.
- 39           (9) Tire Monofill – \$500.
- 40           (10) Incinerator – \$500.
- 41           (11) Large Compost Facility – \$500.
- 42           (12) Land Clearing and Inert Debris Landfill – \$500."

43           **SECTION 13.(a)** Part 2A of Article 9 of Chapter 130A of the General  
44 Statutes is amended by adding a new section to read:

1 **"§ 130A-295.7. Solid waste disposal fee; use of proceeds.**

2 (a) Tax Imposed. – A tax of two dollars (\$2.00) per ton of waste is imposed on  
3 the disposal of municipal solid waste in any landfill permitted pursuant to this Part. A  
4 tax of two dollars (\$2.00) per ton of waste is imposed on the transfer of municipal solid  
5 waste to a transfer station permitted pursuant to this Part for disposal outside the State.

6 (b) Determination and Payment of Tax. – The owner or operator of each landfill  
7 and transfer station permitted pursuant to this Part shall maintain scales designed to  
8 determine waste tonnage that are approved by the Department of Agriculture and  
9 Consumer Services. Each owner or operator shall record waste tonnage at the time the  
10 waste is received on a form approved by the Department and shall calculate and record  
11 the tax due under this section for each calendar month on a form approved by the  
12 Department. Each owner or operator shall report the number of tons of waste received  
13 and pay the tax due for each calendar month to the Department no later than the  
14 fifteenth day of the following calendar month. The Department shall credit all taxes  
15 received pursuant to this section to the Inactive Hazardous Sites Cleanup Fund  
16 established by G.S. 130A-310.11.

17 (c) Use of Proceeds. – The Department shall use the proceeds of this tax imposed  
18 by this section for the following purposes:

19 (1) Assessment and remediation of orphan landfills and of inactive  
20 hazardous substance or waste disposal sites for which the State or a  
21 unit of local government is or may be responsible.

22 (2) Assessment and remediation of orphan landfills and of inactive  
23 hazardous substance or waste disposal sites for which a private party is  
24 or may be responsible if the private party cannot be identified or  
25 located or if the private party is unable or refuses to assume  
26 responsibility for the assessment or remediation.

27 (3) Up to fifteen percent (15%) of the proceeds may be used to fund staff  
28 to administer contracts for the assessment and remediation of orphan  
29 landfills and of inactive hazardous substance or waste disposal sites  
30 pursuant to subdivisions (1) and (2) of this subsection.

31 (4) Up to ten percent (10%) of the proceeds may be used for grants to  
32 units of local government to support redevelopment of brownfields.

33 (5) Up to ten percent (10%) of the proceeds may be used by the  
34 Department to provide the State's share of the cost of assessment and  
35 remediation of sites in the State that are listed on the federal National  
36 Priorities List sites."

37 **SECTION 13.(b)** G.S. 130A-310.6 is amended by adding a new subsection  
38 to read:

39 "(c) The Secretary shall develop and implement a remedial action plan for orphan  
40 landfills. Environmental and human health risks posed by an orphan landfill may be  
41 mitigated using a risk-based approach for assessment and remediation."

42 **SECTION 13.(c)** G.S. 130A-310.11 reads as rewritten:

43 **"§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**



1 (a) There is established under the control and direction of the Department the  
2 Inactive Hazardous Sites Cleanup Fund. This fund shall be a revolving fund consisting  
3 of any monies appropriated for such purpose by the General Assembly or available to it  
4 from grants, taxes, and other monies paid to it or recovered by or on behalf of the  
5 Department. The Inactive Hazardous Sites Cleanup Fund shall be treated as a  
6 nonreverting special trust fund and shall be credited with interest by the State Treasurer  
7 pursuant to G.S. 147-69.2 and G.S. 147-69.3.

8 (b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to  
9 G.S. 130A-295.6 shall be used only as provided in G.S. 130A-309.295.6(c)."

10 **SECTION 14.** The Commission for Health Services shall review rules  
11 governing the design, construction, operation, maintenance, closure, and post-closure  
12 monitoring and maintenance of solid waste management facilities to determine whether  
13 changes are required to protect public health, safety, welfare, and the environment; to  
14 improve the performance of solid waste management facilities; to take advantage of  
15 technological advances in landfill design, construction, operation, maintenance, and  
16 closure; and to provide additional protection to environmentally sensitive areas of the  
17 State. The Commission shall adopt rules necessary to minimize impacts from solid  
18 waste management facilities on public health, safety, welfare, and the environment.  
19 These rules shall:

- 20 (1) Establish standards for the collection, control, and utilization or  
21 destruction of landfill gasses at municipal solid waste landfills.
- 22 (2) Establish standards for the design, construction, operation,  
23 maintenance, closure, and post-closure monitoring and maintenance of  
24 bioreactor landfills.
- 25 (3) Establish criteria for development of bird and wildlife management  
26 plans.
- 27 (4) Incorporate measures necessary to minimize impacts to natural,  
28 historic, and cultural resources, including, but not limited to, wetlands,  
29 critical fisheries habitat, parks, recreation areas, cultural and historic  
30 sites, and potential water supplies.

31 **SECTION 15.** Sections 1, 6, 8, 9, 10, 11, 12, 13, 14, and 15 of this act  
32 become effective 1 August 2007. Sections 2, 3, and 4 of this act become effective 1  
33 December 2007 and apply to violations that occur on or after that date.

34 The repeal of G.S. 130A-294(a)(4)b. by Section 1 of this act applies to facilities for  
35 which an application for a permit is pending on 1 August 2007.

36 Section 5 of this act becomes effective on 1 August 2007 except that the  
37 requirements of subsections (b) and (f) of G.S. 130A-295.2, as enacted by Section 5,  
38 become effective on 1 February 2008 with respect to permit holders of permits that are  
39 in effect on 1 August 2007.

40 Section 7 of this act becomes effective on 1 August 2007 and applies to facilities for  
41 which a permit is issued on or after that date, including facilities for which an  
42 application for a permit is pending on that date. The requirements of  
43 G.S. 130A-295.4(i), as enacted by Section 7 of this act, become effective on 1 February  
44 2008 with respect to permit holders of permits that are in effect on 1 August 2007.