

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**SENATE BILL 1492
Agriculture/Environment and Natural Resources Committee Substitute Adopted
7/23/07**

Short Title: Solid Waste Management Act of 2007. (Public)

Sponsors:

Referred to:

March 27, 2007

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) PROVIDE THAT SOLID WASTE MANAGEMENT PERMITS ARE
5 NOT TRANSFERABLE; (3) INCREASE THE PENALTIES THAT MAY BE
6 IMPOSED FOR SOLID WASTE VIOLATIONS; (4) REQUIRE THAT AN
7 APPLICANT FOR A PERMIT AND A PERMIT HOLDER ESTABLISH
8 FINANCIAL RESPONSIBILITY TO ENSURE THE AVAILABILITY OF
9 SUFFICIENT FUNDS FOR PROPER DESIGN, CONSTRUCTION, OPERATION,
10 MAINTENANCE, CLOSURE, AND POST-CLOSURE MONITORING AND
11 MAINTENANCE OF A SOLID WASTE MANAGEMENT FACILITY; (5)
12 REQUIRE THAT AN OWNER OR OPERATOR OF A SANITARY LANDFILL
13 ESTABLISH FINANCIAL ASSURANCE SUFFICIENT TO COVER A
14 MINIMUM OF THREE MILLION DOLLARS IN COSTS FOR POTENTIAL
15 ASSESSMENT AND CORRECTIVE ACTION AT THE FACILITY, IN
16 ADDITION TO OTHER FINANCIAL RESPONSIBILITY REQUIREMENTS; (6)
17 CLARIFY AND EXPAND THE SCOPE OF ENVIRONMENTAL COMPLIANCE
18 REVIEW REQUIREMENTS; (7) CLARIFY THAT A PARENT, SUBSIDIARY,
19 OR OTHER AFFILIATE OF THE APPLICANT OR PARENT, INCLUDING ANY
20 BUSINESS ENTITY OR JOINT VENTURER WITH A DIRECT OR INDIRECT
21 INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL
22 RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (8)
23 PROVIDE FOR SITING OF COMBUSTION PRODUCTS LANDFILLS IN
24 AREAS THAT HAVE BEEN FORMERLY USED FOR THE STORAGE OR
25 DISPOSAL OF COMBUSTION PRODUCTS FROM COAL-FIRED
26 GENERATING UNITS AT THE SAME FACILITY THAT GENERATED THE
27 COMBUSTION PRODUCTS, AND TECHNICAL REQUIREMENTS FOR
28 THESE LANDFILLS; (9) SPECIFY ADDITIONAL TECHNICAL

1 REQUIREMENTS FOR SOLID WASTE MANAGEMENT FACILITIES; (10)
2 REQUIRE THAT ALL APPLICANTS FOR PERMITS FOR SANITARY
3 LANDFILLS CONDUCT AN ENVIRONMENTAL IMPACT STUDY; (11)
4 REQUIRE THAT CERTAIN APPLICANTS FOR SOLID WASTE
5 MANAGEMENT FACILITY PERMITS CONDUCT A TRAFFIC STUDY; (12)
6 CLARIFY THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL
7 GOVERNMENT MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (13)
8 AUTHORIZE UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL
9 LIAISONS; (14) ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID
10 WASTE MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE
11 MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL
12 TAX TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE
13 IN LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL
14 SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO
15 PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF
16 PRE-1983 LANDFILLS AND FOR OTHER PURPOSES; (16) ESTABLISH A
17 COMPUTER EQUIPMENT MANAGEMENT PROGRAM; (17) DIRECT THE
18 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO
19 DEVELOP A PROPOSED RECYCLING PROGRAM FOR FLUORESCENT
20 LAMPS; (18) DIRECT THE ENVIRONMENT REVIEW COMMISSION TO
21 STUDY ISSUES RELATED TO THE FRANCHISE OF SOLID WASTE
22 MANAGEMENT FACILITIES BY UNITS OF LOCAL GOVERNMENT AND
23 THE TRANSPORTATION OF SOLID WASTE BY RAIL AND BARGE; AND
24 (19) MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL
25 CHANGES.

26 The General Assembly of North Carolina enacts:

27 **SECTION 1.(a)** G.S. 130A-294, as amended by S.L. 2007-107, reads as
28 rewritten:

29 "**§ 130A-294. Solid waste management program.**

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

- 34 (1) Develop a comprehensive program for implementation of safe and
35 sanitary practices for management of solid waste;
- 36 (2) Advise, consult, cooperate and contract with other State agencies, units
37 of local government, the federal government, industries and
38 individuals in the formulation and carrying out of a solid waste
39 management program;
- 40 (3) Develop and adopt rules to establish standards for qualification as a
41 "recycling, reduction or resource recovering facility" or as "recycling,
42 reduction or resource recovering equipment" for the purpose of special
43 tax classifications or treatment, and to certify as qualifying those
44 applicants which meet the established standards. The standards shall

1 be developed to qualify only those facilities and equipment exclusively
2 used in the actual waste recycling, reduction or resource recovering
3 process and shall exclude any incidental or supportive facilities and
4 equipment;

- 5 (4) a. Develop a permit system governing the establishment and
6 operation of solid waste management facilities. A landfill with a
7 disposal area of 1/2 acre or less for the on-site disposal of land
8 clearing and inert debris is exempt from the permit requirement
9 of this section and shall be governed by G.S. 130A-301.1. The
10 Department shall not approve an application for a new permit,
11 the renewal of a permit, or a substantial amendment to a permit
12 for a sanitary landfill, excluding demolition landfills as defined
13 in the rules of the Commission, except as provided in
14 subdivisions (3) and (4) of subsection (b1) of this section. No
15 permit shall be granted for a solid waste management facility
16 having discharges that are point sources until the Department
17 has referred the complete plans and specifications to the
18 Environmental Management Commission and has received
19 advice in writing that the plans and specifications are approved
20 in accordance with the provisions of G.S. 143-215.1. If the
21 applicant is a unit of local government, and has not submitted a
22 solid waste management plan that has been approved by the
23 Department pursuant to G.S. 130A-309.09A(b), the Department
24 may deny a permit for a sanitary landfill or a facility that
25 disposes of solid waste by incineration, unless the Commission
26 has not adopted rules pursuant to G.S. 130A-309.29 for local
27 solid waste management plans. In any case where the
28 Department denies a permit for a solid waste management
29 facility, it shall state in writing the reason for denial and shall
30 also state its estimate of the changes in the applicant's proposed
31 activities or plans that will be required for the applicant to
32 obtain a permit.

33 ~~b. The issuance of permits for sanitary landfills operated by local~~
34 ~~governments is exempt from the environmental impact~~
35 ~~statements required by Article 1 of Chapter 113A of the~~
36 ~~General Statutes, entitled the North Carolina Environmental~~
37 ~~Policy Act of 1971. All sanitary landfill permits issued to local~~
38 ~~governments prior to July 1, 1984, are hereby validated~~
39 ~~notwithstanding any failure to provide environmental impact~~
40 ~~statements pursuant to the North Carolina Environmental Policy~~
41 ~~Act of 1971;~~

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

- 1 1. Construction or operation of the proposed facility would
2 be inconsistent with or violate rules adopted by the
3 Commission.
- 4 2. Construction or operation of the proposed facility would
5 result in a violation of water quality standards adopted
6 by the Environmental Management Commission
7 pursuant to G.S. 143-214.1 for waters, as defined in
8 G.S. 143-213.
- 9 3. Construction or operation of the facility would result in
10 significant damage to ecological systems, natural
11 resources, cultural sites, recreation areas, or historic sites
12 of more than local significance. These areas include, but
13 are not limited to, national or State parks or forests;
14 wilderness areas; historic sites; recreation areas;
15 segments of the natural and scenic rivers system; wildlife
16 refuges, preserves and management areas; areas that
17 provide habitat for threatened or endangered species;
18 primary nursery areas and critical fisheries habitat
19 designated by the Marine Fisheries Commission; and
20 Outstanding Resource Waters designated by the
21 Environmental Management Commission.
- 22 4. Construction or operation of the proposed facility would
23 substantially limit or threaten access to or use of public
24 trust waters or public lands.
- 25 5. The proposed facility would be located in a natural
26 hazard area, including a floodplain, a landslide hazard
27 area, or an area subject to storm surge or excessive
28 seismic activity, such that the facility will present a risk
29 to public health or safety.
- 30 6. There is a practical alternative that would accomplish the
31 purposes of the proposed facility with less adverse
32 impact on public resources, considering engineering
33 requirements and economic costs.
- 34 7. The cumulative impacts of the proposed facility and
35 other facilities in the area of the proposed facility would
36 violate the criteria set forth in sub-sub-subdivisions 2.
37 through 5. of this sub-subdivision.
- 38 8. Construction or operation of the proposed facility would
39 be inconsistent with the State solid waste management
40 policy and goals as set out in G.S. 130A-309.04 and with
41 the State solid waste management plan developed as
42 provided in G.S. 130A-309.07.
- 43 9. The cumulative impact of the proposed facility, when
44 considered in relation to other similar impacts of

1 facilities located or proposed in the community, would
2 have a disproportionate adverse impact on a minority or
3 low-income community protected by Title VI of the
4 federal Civil Rights Act of 1964.

5 ~~(4a) No permit shall be granted for any public or private sanitary landfill to~~
6 ~~receive solid non-radioactive waste generated outside the boundaries~~
7 ~~of North Carolina to be deposited, unless such waste has previously~~
8 ~~been inspected by the solid waste regulatory agency of that nation,~~
9 ~~state or territory, characterized in detail as to its contents and certified~~
10 ~~by that agency to be non-injurious to health and safety. The~~
11 ~~Commission shall adopt rules to implement this subsection.~~

12 (5) Repealed by Session Laws 1983, c. 795, s. 3.

13 (5a) Designate a geographic area within which the collection,
14 transportation, storage and disposal of all solid waste generated within
15 said area shall be accomplished in accordance with a solid waste
16 management plan. Such designation may be made only after the
17 Department has received a request from the unit or units of local
18 government having jurisdiction within said geographic area that such
19 designation be made and after receipt by the Department of a solid
20 waste management plan which shall include:

- 21 a. The existing and projected population for such area;
- 22 b. The quantities of solid waste generated and estimated to be
23 generated in such area;
- 24 c. The availability of sanitary landfill sites and the environmental
25 impact of continued landfill of solid waste on surface and
26 subsurface waters;
- 27 d. The method of solid waste disposal to be utilized and the energy
28 or material which shall be recovered from the waste; and
- 29 e. Such other data that the Department may reasonably require.

30 (5b) Authorize units of local government to require by ordinance, that all
31 solid waste generated within the designated geographic area that is
32 placed in the waste stream for disposal be collected, transported, stored
33 and disposed of at a permitted solid waste management facility or
34 facilities serving such area. The provisions of such ordinance shall not
35 be construed to prohibit the source separation of materials from solid
36 waste prior to collection of such solid waste for disposal, or prohibit
37 collectors of solid waste from recycling materials or limit access to
38 such materials as an incident to collection of such solid waste;
39 provided such prohibitions do not authorize the construction and
40 operation of a resource recovery facility unless specifically permitted
41 pursuant to an approved solid waste management plan. If a private
42 solid waste landfill shall be substantially affected by such ordinance
43 then the unit of local government adopting the ordinance shall be

1 required to give the operator of the affected landfill at least two years
2 written notice prior to the effective date of the proposed ordinance.

3 (5c) Except for the authority to designate a geographic area to be serviced
4 by a solid waste management facility, delegate authority and
5 responsibility to units of local government to perform all or a portion
6 of a solid waste management program within the jurisdictional area of
7 the unit of local government; provided that no authority over or control
8 of the operations or properties of one local government shall be
9 delegated to any other local government.

10 (5d) Require that an annual report of the implementation of the solid waste
11 management plan within the designated geographic area be filed with
12 the Department.

13 (6) ~~The Department is authorized to charge~~ Charge and collect fees from
14 operators of hazardous waste disposal facilities. The fees shall be used
15 to establish a fund sufficient for each individual facility to defray the
16 anticipated costs to the State for monitoring and care of the facility
17 after the termination of the period during which the facility operator is
18 required by applicable State and federal statutes, regulations or rules to
19 remain responsible for post-closure monitoring and care. In
20 establishing the fees, consideration shall be given to the size of the
21 facility, the nature of the hazardous waste and the projected life of the
22 facility.

23 (7) Establish and collect annual fees from generators and transporters of
24 hazardous waste, and from storage, treatment, and disposal facilities
25 regulated under this Article as provided in G.S. 130A-294.1.

26 (a1) A permit for a solid waste management facility is not transferable.

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

40 ~~(b0) The Commission shall adopt rules for financial responsibility to ensure the~~
41 ~~availability of sufficient funds for closure and post-closure maintenance and monitoring~~
42 ~~at solid waste management facilities, and for any corrective action the Department may~~
43 ~~require during the active life of a facility or during the closure and post-closure periods.~~
44 ~~The rules may permit demonstration of financial responsibility through the use of a~~

1 ~~letter of credit, insurance, surety, trust agreement, financial test, or guarantee by~~
2 ~~corporate parents or third parties who can pass the financial test. The rules shall require~~
3 ~~that an owner or operator of a privately owned solid waste management facility~~
4 ~~demonstrate financial responsibility by a method or combinations of methods that will~~
5 ~~ensure that sufficient funds for closure, post-closure maintenance and monitoring, and~~
6 ~~any corrective action that the Department may require will be available during the~~
7 ~~active life of the facility, at closure, and for a period of not less than 30 years after~~
8 ~~closure even if the owner or operator becomes insolvent or ceases to reside, be~~
9 ~~incorporated, do business, or maintain assets in the State.~~

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

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

13 1. The population of the geographic area to be served by
14 the sanitary landfill;

15 2. The quantity of solid waste to be disposed of in the
16 sanitary landfill; or

17 3. The geographic area to be served by the sanitary landfill.

18 b. A change in the categories of solid waste to be disposed of in
19 the sanitary landfill or any other change to the application for a
20 permit or to the permit for a sanitary landfill that the
21 Commission or the Department determines to be substantial.

22 (2) A person who intends to apply for a new permit, the renewal of a
23 permit, or a substantial amendment to a permit for a sanitary landfill
24 shall obtain, prior to applying for a permit, a franchise for the
25 operation of the sanitary landfill from each local government having
26 jurisdiction over any part of the land on which the sanitary landfill and
27 its appurtenances are located or to be located. A local government may
28 adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A
29 franchise granted for a sanitary landfill shall include all of the
30 following:

31 a. A statement of the population to be served, including a
32 description of the geographic area.

33 b. A description of the volume and characteristics of the waste
34 stream.

35 c. A projection of the useful life of the sanitary landfill.

36 d. An explanation of how the franchise will be consistent with the
37 jurisdiction's solid waste management plan required under
38 G.S. 130A-309.09A, including provisions for waste reduction,
39 reuse, and recycling.

40 e. The procedures to be followed for governmental oversight and
41 regulation of the fees and rates to be charged by facilities
42 subject to the franchise for waste generated in the jurisdiction of
43 the franchising entity.

1 f. A facility plan for the sanitary landfill that shall include the
2 ~~exact~~—boundaries of the proposed facility, proposed
3 development of the facility site in five-year operational phases,
4 the boundaries of all waste disposal units, final elevations and
5 capacity of all waste disposal units, the amount of waste to be
6 received per day in tons, the total waste disposal capacity of the
7 sanitary landfill in tons, a description of environmental controls,
8 and a description of any other waste management activities to
9 be conducted at the facility. In addition, the facility plan shall
10 show the proposed location of soil borrow areas, leachate
11 facilities, and all other facilities and infrastructure, including
12 ingress and egress to the facility.

13 (2a) A local government may elect to award a preliminary franchise. If a
14 local government elects to award a preliminary franchise, the
15 preliminary franchise shall contain, at a minimum, all of the
16 information described in sub-subdivisions a. through e. of subdivision
17 (2) of this subsection plus a general description of the proposed
18 sanitary landfill, including the approximate number of acres required
19 for the proposed sanitary landfill and its appurtenances and a
20 description of any other solid waste management activities that are to
21 be conducted at the site.

22 (3) Prior to the award of a franchise for the construction or operation of a
23 sanitary landfill, the board of commissioners of the county or counties
24 in which the sanitary landfill is proposed to be located or is located or,
25 if the sanitary landfill is proposed to be located or is located in a city,
26 the governing board of the city shall conduct a public hearing. The
27 board of commissioners of the county or counties in which the sanitary
28 landfill is proposed to be located or is located or, if the sanitary landfill
29 is proposed to be located or is located in a city, the governing board of
30 the city shall provide at least 30 days' notice to the public of the public
31 hearing. The notice shall include a summary of all the information
32 required to be included in the franchise, and shall specify the
33 procedure to be followed at the public hearing. The applicant for the
34 franchise shall provide a copy of the application for the franchise that
35 includes all of the information required to be included in the franchise,
36 to the public library closest to the proposed sanitary landfill site to be
37 made available for inspection and copying by the public.

38 (4) An applicant for a new permit, the renewal of a permit, or a substantial
39 amendment to a permit for a sanitary landfill shall request each local
40 government having jurisdiction over any part of the land on which the
41 sanitary landfill and its appurtenances are located or to be located to
42 issue a determination as to whether the local government has in effect
43 a franchise, zoning, subdivision, or land-use planning ordinance
44 applicable to the sanitary landfill and whether the proposed sanitary

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

1 to limit any opportunity a local government may have to comment on a
2 permit application under any other law or rule. This subsection shall
3 not apply to any facility with respect to which local ordinances are
4 subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

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

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

- 17 (1) Is financially qualified to carry out the activity for which the permit is
18 required. An applicant for a permit and permit holders for solid waste
19 management facilities that are not hazardous waste facilities shall
20 establish financial responsibility as required by
21 ~~G.S. 130A-294(b0)~~ G.S. 130A-295.2. An applicant for a permit and
22 permit holders for hazardous waste facilities shall establish financial
23 responsibility as required by G.S. 130A-295.04.
- 24 (2) Has substantially complied with the requirements applicable to any
25 solid waste management activity in which the applicant applicant or
26 permit holder, or a parent, subsidiary, or other affiliate of the applicant,
27 permit holder, or parent, or a joint venturer with a direct or indirect
28 interest in the applicant, has previously engaged and has been in
29 substantial compliance with federal and state laws, regulations, and
30 rules for the protection of the environment. ~~environment~~ as provided in
31 G.S. 130A-295.3.

32 (b3) An applicant for a permit or a permit holder under this Article shall satisfy the
33 Department that the applicant has met the requirements of subsection (b2) of this
34 section before the Department is required to otherwise review the application. ~~In order~~
35 ~~to continue to hold a permit under this Article, a permittee must remain financially~~
36 ~~qualified and must provide any information requested by the Department to demonstrate~~
37 ~~that the permittee continues to be financially qualified.~~

38"

39 **SECTION 1.(b)** This section becomes effective 1 August 2007 and applies
40 to any application for a permit for a solid waste management facility that is pending on
41 that date.

42 **SECTION 2.(a)** G.S. 130A-18 reads as rewritten:

43 "**§ 130A-18. Injunction.**

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

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

11 **SECTION 2.(b)** This section becomes effective 1 August 2007 and applies
12 to violations that occur on or after that date.

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

14 "(a) The Secretary of Environment and Natural Resources may impose an
15 administrative penalty on a person who violates Article 9 of this Chapter, rules adopted
16 by the Commission pursuant to Article 9, or any term or condition of a permit or order
17 issued under Article 9. Each day of a continuing violation shall constitute a separate
18 violation. The penalty shall not exceed ~~five thousand dollars (\$5,000)~~ fifteen thousand
19 dollars (\$15,000) per day in the case of a violation involving nonhazardous waste. The
20 penalty shall not exceed ~~twenty-five thousand dollars (\$25,000)~~ thirty-two thousand five
21 hundred dollars (\$32,500) per day in the case of a first violation involving hazardous
22 waste as defined in G.S. 130A-290 or involving the disposal of medical waste as
23 defined in G.S. 130A-290 in or upon water in a manner that results in medical waste
24 entering waters or lands of the State; and shall not exceed fifty thousand dollars
25 (\$50,000) per day for a second or further violation involving the disposal of medical
26 waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical
27 waste entering waters or lands of the State. The penalty shall not exceed ~~twenty-five~~
28 ~~thousand dollars (\$25,000)~~ thirty-two thousand five hundred dollars (\$32,500) per day
29 for a violation involving a voluntary remedial action implemented pursuant to
30 G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b).
31 If a person fails to pay a civil penalty within 60 days after the final agency decision or
32 court order has been served on the violator, the Secretary of Environment and Natural
33 Resources shall request the Attorney General to institute a civil action in the superior
34 court of any county in which the violator resides or has his or its principal place of
35 business to recover the amount of the assessment. Such civil actions must be filed
36 within three years of the date the final agency decision or court order was served on the
37 violator."

38 **SECTION 3.(b)** This section becomes effective 1 August 2007 and applies
39 to violations that occur on or after that date.

40 **SECTION 4.(a)** G.S. 130A-22 is amended by adding a new subsection to
41 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 4.(b)** This section becomes effective 1 August 2007 and applies
4 to violations that occur on or after that date.

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

7 **"§ 130A-295.2. Financial responsibility requirements for applicants and permit**
8 **holders for solid waste management facilities.**

9 (a) As used in this section:

10 (1) 'Financial assurance' refers to the ability of an applicant or permit
11 holder to pay the costs of assessment and remediation in the event of a
12 release of pollutants from a facility, closure of the facility in
13 accordance with all applicable requirements, and post-closure
14 monitoring and maintenance of the facility.

15 (2) 'Financial qualification' refers to the ability of an applicant or permit
16 holder to pay the costs of proper design, construction, operation, and
17 maintenance of the facility.

18 (3) 'Financial responsibility' encompasses both financial assurance and
19 financial qualification.

20 (b) The Commission may adopt rules governing financial responsibility
21 requirements for applicants for permits and for permit holders to ensure the availability
22 of sufficient funds for the proper design, construction, operation, maintenance, closure,
23 and post-closure monitoring and maintenance of solid waste management facilities and
24 for any corrective action the Department may require during the active life of a facility
25 or during the closure and post-closure periods.

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

31 (d) The Department may, in its sole discretion, require an applicant for a permit
32 to construct a facility to demonstrate its financial qualification for the design,
33 construction, operation, and maintenance of a facility. The Department may require an
34 applicant for a permit for a solid waste management facility to provide cost estimates
35 for site investigation; land acquisition, including financing terms and land ownership;
36 design; construction of each five-year phase, if applicable; operation; maintenance;
37 closure, and post-closure monitoring and maintenance of the facility to the Department.
38 The Department may allow an applicant to demonstrate its financial qualifications for
39 only the first five-year phase of the facility. If the Department allows an applicant for a
40 permit to demonstrate its financial qualification for only the first five-year phase of the
41 facility, the Department shall require the applicant or permit holder to demonstrate its
42 financial qualification for each successive five-year phase of the facility when applying
43 for a permit to construct each successive phase of the facility.

1 (e) If the Department requires an applicant for a permit or a permit holder for a
2 solid waste management facility to demonstrate its financial qualification, the applicant
3 or permit holder shall provide an audited, certified financial statement. An applicant
4 who is required to demonstrate its financial qualification may do so through a
5 combination of cash deposits, insurance, and binding loan commitments from a
6 financial institution licensed to do business in the State and rated AAA by Standard &
7 Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent, subsidiary, or other
8 affiliate of the applicant or a permit holder, or a joint venturer with a direct or indirect
9 interest in the applicant or permit holder, are proposed to be used to demonstrate
10 financial qualification, then the party whose assets are to be used must be designated as
11 a joint permittee with the applicant on the permit for the facility.

12 (f) The applicant and permit holder for a solid waste management facility shall
13 establish financial assurance by a method or combination of methods that will ensure
14 that sufficient funds for closure, post-closure maintenance and monitoring, and any
15 corrective action that the Department may require will be available during the active life
16 of the facility, at closure, and for any post-closure period of time that the Department
17 may require even if the applicant or permit holder becomes insolvent or ceases to reside,
18 be incorporated, do business, or maintain assets in the State. Rules adopted by the
19 Commission may allow a business entity that is an applicant for a permit or a permit
20 holder to establish financial assurance through insurance, irrevocable letters of credit,
21 trusts, surety bonds, or any other financial device, or any combination of the foregoing
22 shown to provide protection equivalent to the financial protection that would be
23 provided by insurance if insurance were the only mechanism used. Assets used to meet
24 the financial assurance requirements of this section shall be in a form that will allow the
25 Department to readily access funds for the purposes set out in this section. Assets used
26 to meet financial assurance requirements of this section shall not be accessible to the
27 permit holder except as approved by the Department.

28 (g) In order to continue to hold a permit under this Article, a permit holder must
29 maintain financial responsibility and must provide any information requested by the
30 Department to establish that the permit holder continues to maintain financial
31 responsibility. A permit holder shall notify the Department of any significant change in
32 the: (i) identity of any person or structure of the business entity that holds the permit for
33 the facility; (ii) identity of any person or structure of the business entity that owns or
34 operates the facility; or (iii) assets of the permit holder, owner, or operator of the
35 facility. The permit holder shall notify the Department within 30 days of a significant
36 change. A change shall be considered significant if it has the potential to affect the
37 financial responsibility of the permit holder, owner, or operator, or if it would result in a
38 change in the identity of the permit holder, owner, or operator for purposes of either
39 financial responsibility or environmental compliance review. Based on its review of the
40 changes, the Department may require the permit holder to reestablish financial
41 responsibility and may modify or revoke a permit, or require issuance of a new permit.

42 (h) To meet the financial assurance requirements of this section, the owner or
43 operator of a sanitary landfill shall establish financial assurance sufficient to cover a
44 minimum of three million dollars (\$3,000,000) in costs for potential assessment and

1 corrective action at the facility. The Department may require financial assurance in a
2 higher amount and may increase the amount of financial assurance required of a permit
3 holder at any time based upon the types of waste disposed in the landfill, the projected
4 amount of waste to be disposed in the landfill, the location of the landfill, potential
5 receptors of releases from the landfill, and inflation. The financial assurance
6 requirements of this subsection are in addition to the other financial responsibility
7 requirements set out in this section.

8 (i) The Commission may adopt rules under which a unit of local government and
9 a solid waste management authority created pursuant to Article 22 of Chapter 153A of
10 the General Statutes may meet the financial responsibility requirements of this section
11 by either a local government financial test or a capital reserve fund requirement."

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

13 **"§ 130A-309.27. Landfill escrow account. Joint and several liability.**

14 (a) As used in this section:

15 (1) "Owner or operator" means, in addition to the usual meanings of the
16 term, any owner of record of any interest in land on which a landfill is
17 or has been sited, ~~and any person or corporation which business entity~~
18 that owns a majority interest in any other corporation which is the
19 owner or operator of a landfill. landfill, and any person designated as a
20 joint permittee pursuant to G.S. 130A-295.2(e).

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

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

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

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

33 ~~(2) The revenue shall be deposited in an interest bearing escrow account~~
34 ~~to be held and administered by the owner or operator. The owner or~~
35 ~~operator shall file with the Department an annual audit of the account.~~
36 ~~The audit shall be conducted by a certified public accountant and shall~~
37 ~~be filed no later than 31 December of each year. Failure to collect or~~
38 ~~report this revenue, except as allowed in subsection (d), is a~~
39 ~~noncriminal violation, punishable by a fine of not more than five~~
40 ~~thousand dollars (\$5,000) for each offense. The owner or operator may~~
41 ~~make expenditures from the account and its accumulated interest only~~
42 ~~for the purpose of landfill closure and, if such expenditures do not~~
43 ~~deplete the fund to the detriment of eventual closure, for planning and~~
44 ~~construction of resource recovery or landfill facilities. Any moneys~~

1 remaining in the account after paying for proper and complete closure,
2 as determined by the Department, shall, if the owner or operator does
3 not operate a landfill, be deposited by the owner or operator into the
4 general fund of the unit of local government.

5 (3) The revenue generated under this subsection and any accumulated
6 interest thereon may be applied to the payment of, or pledged as
7 security for, the payment of revenue bonds issued in whole or in part
8 for the purpose of complying with State and federal landfill closure
9 requirements. The application or pledge may be made directly in the
10 proceedings authorizing the bonds or in an agreement with an insurer
11 of bonds to assure the insurer of this additional security.

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

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

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

22 **SECTION 5.(c)** This section becomes effective 1 August 2007 and applies
23 to any application for a permit for a solid waste management facility that is pending on
24 that date. The provisions of G.S. 130A-295.2(h), as enacted by this section, apply to the
25 owner or operator of a sanitary landfill when the permit is next subject to renewal after
26 1 August 2009.

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

29 **"§ 130A-295.3. Environmental compliance review requirements for applicants and**
30 **permit holders.**

31 (a) For purposes of this section, "applicant" means an applicant for a permit and
32 a permit holder and includes the owner or operator of the facility, and, if the owner or
33 operator is a business entity, applicant also includes: (i) the parent, subsidiary, or other
34 affiliate of the applicant; (ii) a partner, officer, director, member, or manager of the
35 business entity, parent, subsidiary, or other affiliate of the applicant; and (iii) any person
36 with a direct or indirect interest in the applicant, other than a minority shareholder of a
37 publicly traded corporation who has no involvement in management or control of the
38 corporation or any of its parents, subsidiaries, or affiliates.

39 (b) The Department shall conduct an environmental compliance review of each
40 applicant for a new permit, permit renewal, and permit amendment under this Article.
41 The environmental compliance review shall evaluate the environmental compliance
42 history of the applicant for a period of five years prior to the date of the application and
43 may cover a longer period at the discretion of the Department. The environmental
44 compliance review of an applicant may include consideration of the environmental

1 compliance history of the parents, subsidiaries, or other affiliates of an applicant or
2 parent that is a business entity, including any business entity or joint venturer with a
3 direct or indirect interest in the applicant, and other facilities owned or operated by any
4 of them. The Department shall determine the scope of the review of the environmental
5 compliance history of the applicant, parents, subsidiaries, or other affiliates of the
6 applicant or parent, including any business entity or joint venturer with a direct or
7 indirect interest in the applicant, and of other facilities owned or operated by any of
8 them. An applicant for a permit shall provide environmental compliance history
9 information for each facility, business entity, joint venture, or other undertaking in
10 which any of the persons listed in this subsection is or has been an owner, operator,
11 officer, director, manager, member, or partner, or in which any of the persons listed in
12 this subsection has had a direct or indirect interest as requested by the Department.

13 (c) The Department shall determine the extent to which the applicant, or a parent,
14 subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or
15 indirect interest in the applicant, has substantially complied with the requirements
16 applicable to any activity in which any of these entities previously engaged, and has
17 substantially complied with federal and State laws, regulations, and rules for the
18 protection of the environment. The Department may deny an application for a permit if
19 the applicant has a history of significant or repeated violations of statutes, rules, orders,
20 or permit terms or conditions for the protection of the environment or for the
21 conservation of natural resources as evidenced by civil penalty assessments,
22 administrative or judicial compliance orders, or criminal penalties.

23 (d) A permit holder shall notify the Department of any significant change in its
24 environmental compliance history or other information required by G.S. 130-295.2(g).
25 The Department may reevaluate the environmental compliance history of a permit
26 holder and may modify or revoke a permit or require issuance of a new permit."

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

28 **SECTION 6.(c)** This section becomes effective 1 August 2007 and applies
29 to any application for a permit for a solid waste management facility that is pending on
30 that date.

31 **SECTION 7. (a)** G.S. 130A-290(a) is amended by adding three new
32 subdivisions to read:

33 "(2a) "Coal-fired generating unit" means a coal-fired generating unit, as
34 defined by 40 Code of Federal Regulations § 96.2 (1 July 2001
35 Edition), that is located in this State and has the capacity to generate
36 25 or more megawatts of electricity.

37 (2b) "Combustion products" means residuals, including fly ash, bottom ash,
38 boiler slag, mill rejects, and flue gas desulfurization residue produced
39 by a coal-fired generating unit.

40 (2c) "Combustion products landfill" means a facility or unit for the disposal
41 of combustion products, where the landfill is located at the same
42 facility with the coal-fired generating unit or units producing the
43 combustion products, and where the landfill is located wholly or partly
44 on top of a facility that is, or was, being used for the disposal or

1 storage of such combustion products, including, but not limited to,
2 landfills, wet and dry ash ponds, and structural fill facilities."

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

5 **"§ 130A-295.4. Combustion products landfills.**

6 (a) The definitions set out in G.S. 130A-290(a) apply to this section.

7 (b) The Department may permit a combustion products landfill to be constructed
8 partially or entirely within areas that have been formerly used for the storage or disposal
9 of combustion products at the same facility as the coal-fired generating unit that
10 generates the combustion products, provided the landfill is constructed with a bottom
11 liner system consisting of three components in accordance with this section. Of the
12 required three components, the upper two components shall consist of two separate
13 flexible membrane liners, with a leak detection system between the two liners. The third
14 component shall consist of a minimum of two feet of soil underneath the bottom of
15 those liners, with the soil having a maximum permeability of 1×10^{-7} centimeters per
16 second. The flexible membrane liners shall have a minimum thickness of thirty
17 one-thousandths of an inch (0.030"), except that liners consisting of high-density
18 polyethylene shall be at least sixty one-thousandths of an inch (0.060") thick. The lower
19 flexible membrane liner shall be installed in direct and uniform contact with the
20 compacted soil layer. The Department may approve an alternative to the soil component
21 of the composite liner system if the Department finds, based on modeling, that the
22 alternative liner system will provide an equivalent or greater degree of impermeability.

23 (c) An applicant for a permit for a combustion products landfill shall develop and
24 provide to the Department a response plan, which shall describe the circumstances
25 under which corrective measures are to be taken at the landfill in the event of the
26 detection of leaks in the leak detection system between the upper two liner components
27 at amounts exceeding an amount specified in the response plan (as expressed in average
28 gallons per day per acre of landfill, defined as an Action Leakage Rate). The response
29 plan shall also describe the remedial actions that the landfill is required to undertake in
30 response to detection of leakage in amounts in excess of the Action Leakage Rate. The
31 Department shall review the response plan as a part of the permit application for the
32 landfill. Compliance with performance of the landfill to prevent releases of waste to the
33 environment may be determined based on leakage rate rather than monitoring well data.

34 **SECTION 7.(c)** This section becomes effective 1 August 2007. Any permit
35 issued for a combustion products landfill as described in this subsection shall, for
36 purposes of this bill, be considered to have been permitted on property described in a
37 solid waste management facility permit that is in effect on 1 August 2007.

38 **SECTION 8.(a)** Part 2 of Article 9 of Chapter 130A of the General Statutes
39 is amended by adding a new section to read:

40 **"§ 130A-295.5. Traffic study required for certain solid waste management**
41 **facilities.**

42 (a) An applicant for a permit for a sanitary landfill or for a transfer station shall
43 conduct a traffic study of the impacts of the proposed facility. The Department shall
44 include as a condition of a permit for a sanitary landfill or for a transfer station a

1 requirement that the permit holder mitigate adverse impacts identified by the traffic
2 study. The study shall include all of the following at a minimum:

- 3 (1) Identification of routes from the nearest limited access highway used
4 to access the proposed facility.
- 5 (2) Daily and hourly traffic volumes that will result along each approach
6 route between the nearest limited access highway and the proposed
7 facility.
- 8 (3) A map identifying land uses located along the identified approach
9 routes, including, but not limited to, residential, commercial, industrial
10 development, and agricultural operations. The map shall identify
11 residences, schools, hospitals, nursing homes, and other significant
12 buildings that front the approach routes.
- 13 (4) Identification of locations on approach routes where road conditions
14 are inadequate to handle the increased traffic associated with the
15 proposed facility and a description of the mitigation measures
16 proposed by the applicant to address the conditions.
- 17 (5) A description of the potential adverse impacts of increased traffic
18 associated with the proposed facility and the mitigation measures
19 proposed by the applicant to address these impacts.
- 20 (6) An analysis of the impact of any increase in freight traffic on railroads
21 and waterways.

22 (b) An applicant for a permit for a sanitary landfill or for a transfer station may
23 satisfy the requirements of subsection (a) of this section by obtaining a certification
24 from the Division Engineer of the Department of Transportation that the proposed
25 facility will not have a substantial impact on highway traffic."

26 **SECTION 8.(b)** This section is effective 1 August 2007 and applies to any
27 application for a permit for a solid waste management facility that is pending on that
28 date. The section shall not apply to:

- 29 (1) An amendment, modification, or other change to a permit for a landfill
30 issued on or before 1 June 2006.
- 31 (2) A permit for a horizontal or vertical expansion of the landfill permitted
32 on or before 1 June 2006.
- 33 (3) A permit to construct a new landfill within the facility boundary
34 identified in the facility plan of a landfill permitted on or before 1 June
35 2006.
- 36 (4) A permit to operate a new landfill if a permit to construct the new
37 landfill was issued on or before 1 June 2006.
- 38 (5) A permit for a sanitary landfill used only to dispose of waste generated
39 by a coal-fired generating unit that is owned or operated by an
40 investor-owned utility subject to the requirements of
41 G.S. 143-215.107D.
- 42 (6) A permit for a sanitary landfill determined to be necessary by the
43 Secretary of Environment and Natural Resources in order to respond to
44 an imminent hazard to public health or a natural disaster.

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

3 **"§ 130A-295.6. Additional requirements for sanitary landfills.**

4 (a) The Department shall conduct a study of the environmental impacts of any
5 proposed sanitary landfill. The study shall meet all of the requirements set forth in
6 G.S. 113A-4 and rules adopted pursuant to G.S. 113A-4. If an environmental impact
7 statement is required, the Department shall publish notice of the draft environmental
8 impact statement and shall hold a public hearing in the county where the landfill will be
9 located no sooner than 30 days following the public notice. The Department shall
10 consider the study of environmental impacts and any mitigation measures proposed by
11 the applicant in deciding whether to issue or deny a permit. An applicant for a permit
12 for a sanitary landfill shall pay all costs incurred by the Department to comply with this
13 subsection including the costs of any special studies that may be required.

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

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

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

22 (c) A waste disposal unit of a sanitary landfill shall not be constructed within:

23 (1) A 100-year floodplain, except as authorized by variance granted under
24 G.S. 143-215.54A(b). This subdivision does not apply to land removed
25 from a 100-year floodplain designation pursuant to: (i) 44 Code of
26 Federal Regulations Part 72 (1 October 2006 Edition) as a result of
27 man-made alterations within the floodplain, such as the placement of
28 fill; modification of a channel; construction or modification of a
29 bridge, culvert, levee, or similar measure; or construction of single or
30 multiple residential or commercial structures on single or multiple lots;
31 and (ii) 44 Code of Federal Regulations Part 70 (1 October 2006
32 Edition) as a result of floodplain map correction made by a letter of
33 map amendment.

34 (2) A wetland.

35 (d) The Department shall not issue a permit to construct any waste disposal unit
36 of a landfill if at the time of the application for a permit any portion of the proposed
37 waste disposal unit would be located within:

38 (1) Five miles of the outermost boundary of a National Wildlife Refuge.

39 (2) One mile of the outermost boundary of a State gameland.

40 (3) Two miles of the outermost boundary of a component of the State
41 Parks System.

42 (e) A sanitary landfill for the disposal of construction and demolition debris
43 waste shall be constructed with a liner system that consists of a flexible membrane liner
44 over two feet of soil with a maximum permeability of 1×10^{-5} centimeters per second.

1 The flexible membrane liner shall have a minimum thickness of thirty one-thousandths
2 of an inch (0.030"), except that a liner that consists of high-density polyethylene shall
3 be at least sixty one-thousandths of an inch (0.060") thick. The flexible membrane liner
4 shall be installed in direct and uniform contact with the soil layer. The Department may
5 approve an alternative to the soil component of the liner system if the Department finds,
6 based on modeling, that the alternative liner system will provide an equivalent or greater
7 degree of impermeability.

8 (f) A sanitary landfill, other than a sanitary landfill for the disposal of
9 construction and demolition debris waste, shall be constructed so that the
10 post-settlement bottom elevation of the liner system, or the post-settlement bottom
11 elevation of the waste if no liner system is required, is a minimum of four feet above
12 both the seasonal high groundwater table and the bedrock datum plane contours. A
13 sanitary landfill for the disposal of construction and demolition debris waste shall be
14 constructed so that the post-settlement bottom elevation of the flexible membrane liner
15 component of the liner system is a minimum of four feet above both the seasonal high
16 groundwater table and the bedrock datum plane contours.

17 (g) A permit holder for a sanitary landfill shall develop and implement a waste
18 screening plan. The plan shall identify measures adequate to ensure compliance with
19 State laws and rules, and any applicable local ordinances that prohibit the disposal of
20 certain items in landfills. The plan shall address all sources of waste generation. The
21 plan is subject to approval by the Department.

22 (h) The following requirements apply to any sanitary landfill for which a liner is
23 required:

- 24 (1) A geomembrane base liner system shall be tested for leaks and damage
25 by methods approved by the Department that ensure that the entire
26 liner is evaluated.
- 27 (2) A leachate collection system shall be designed to return the head of the
28 liner to 30 centimeters or less within 72 hours. The design shall be
29 based on the precipitation that would fall on an empty cell of the
30 sanitary landfill as a result of a 25-year-24-hour storm event. The
31 leachate collection system shall maintain a head of less than 30
32 centimeters at all times during leachate recirculation. The Department
33 may require the operator to monitor the head of the liner to
34 demonstrate that the head is being maintained in accordance with this
35 subdivision and any applicable rules.
- 36 (3) All leachate collection lines shall be designed and constructed to
37 permanently allow cleaning and remote camera inspection. All
38 leachate collection lines shall be cleaned at least once a year, except
39 that the Department may allow leachate collection lines to be cleaned
40 once every two years if: (i) the facility has continuous flow
41 monitoring; and (ii) the permit holder demonstrates to the Department
42 that the leachate collection lines are clear and functional based on at
43 least three consecutive annual cleanings. Remote camera inspections
44 of the leachate collection lines shall occur upon completion of

1 construction, at least once every five years thereafter, and following
2 the clearing of blockages.

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

6 (i) The Department shall not issue a permit for a sanitary landfill that authorizes:

7 (1) A capacity of more than 55 million cubic yards of waste.

8 (2) A disposal area of more than 350 acres.

9 (3) A maximum height, including the cap and cover vegetation, of more
10 than 250 feet above the mean natural elevation of the disposal area."

11 **SECTION 9.(b)** This section is effective 1 August 2007 and applies to any
12 application for a permit for a solid waste management facility that is pending on that
13 date. To the extent that G.S. 130A-295.6, as enacted by this section, imposes
14 requirements that are more stringent than those in effect prior to 1 August 2007, the
15 more stringent requirements of those subsections do not apply to:

16 (1) An amendment, modification, or other change to a permit for a landfill
17 issued on or before 1 June 2006.

18 (2) A permit for a horizontal or vertical expansion of the landfill permitted
19 on or before 1 June 2006.

20 (3) A permit to construct a new landfill within the facility boundary
21 identified in the facility plan of a landfill permitted on or before 1 June
22 2006.

23 (4) A permit to operate a new landfill if a permit to construct the new
24 landfill was issued on or before 1 June 2006.

25 (5) A permit for a sanitary landfill used only to dispose of waste generated
26 by a coal-fired generating unit that is owned or operated by an
27 investor-owned utility subject to the requirements of
28 G.S. 143-215.107D.

29 (6) A permit for a sanitary landfill determined to be necessary by the
30 Secretary of Environment and Natural Resources in order to respond to
31 an imminent hazard to public health or a natural disaster.

32 **SECTION 10.(a)** G.S. 153A-292(b) reads as rewritten:

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

35 The board of county commissioners may impose a fee for the use of a disposal
36 facility provided by the county. The fee for use may not exceed the cost of operating the
37 facility and may be imposed only on those who use the facility. The fee for use may
38 vary based on the amount, characteristics, and form of recyclable materials present in
39 solid waste brought to the facility for disposal. A county may not impose a fee for the
40 use of a disposal facility on a city located in the county or a contractor or resident of the
41 city unless the fee is based on a schedule that applies uniformly throughout the county.

42 The board of county commissioners may impose a fee for the availability of a
43 disposal facility provided by the county. A fee for availability may not exceed the cost
44 of providing the facility and may be imposed on all improved property in the county

1 that benefits from the availability of the facility. A county may not impose an
2 availability fee on property whose solid waste is collected by a county, a city, or a
3 private contractor for a fee if the fee imposed by a county, a city, or a private contractor
4 for the collection of solid waste includes a charge for the availability and use of a
5 disposal facility provided by the county. Property served by a private contractor who
6 disposes of solid waste collected from the property in a disposal facility provided by a
7 private contractor that provides the same services as those provided by the county
8 disposal facility is not considered to benefit from a disposal facility provided by the
9 county and is not subject to a fee imposed by the county for the availability of a disposal
10 facility provided by the county. To the extent that the services provided by the county
11 disposal facility differ from the services provided by the disposal facility provided by a
12 private contractor in the same county, the county may charge an availability fee to cover
13 the costs of the additional services provided by the county disposal facility.

14 In determining the costs of providing and operating a disposal facility, a county may
15 consider solid waste management costs incidental to a county's handling and disposal of
16 solid waste at its disposal facility, including the costs of the methods of solid waste
17 management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of
18 1989. A fee for the availability or use of a disposal facility may be based on the
19 combined costs of the different disposal facilities provided by the county."

20 **SECTION 10.(b)** G.S. 160A-314.1(a) reads as rewritten:

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

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

43 **SECTION 10.(c)** This section becomes effective 1 August 2007.

1 **SECTION 11.(a)** G.S. 153A-136 is amended by adding two new subsections
2 to read:

3 "(e) A county that has planning jurisdiction over any portion of the site of a
4 sanitary landfill may employ a local government landfill liaison. No person who is
5 responsible for any aspect of the management or operation of the landfill may serve as a
6 local government landfill liaison. A local government landfill liaison shall have a right
7 to enter public or private lands on which the landfill facility is located at reasonable
8 times to inspect the landfill operation in order to:

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

10 (2) Identify and notify the Department of suspected violations of
11 applicable federal or State laws, regulations, or rules.

12 (3) Identify and notify the Department of potentially hazardous conditions
13 at the facility.

14 (f) Entry pursuant to subsection (e) of this section shall not constitute a trespass
15 or taking of property."

16 **SECTION 11.(b)** Chapter 160A of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 160A-325. Local government landfill liaison.**

19 (a) A city that has planning jurisdiction over any portion of the site of a sanitary
20 landfill may employ a local government landfill liaison. No person who is responsible
21 for any aspect of the management or operation of the landfill may serve as a local
22 government landfill liaison. A local government landfill liaison shall have a right to
23 enter public or private lands on which the landfill facility is located at reasonable times
24 to inspect the landfill operation in order to:

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

26 (2) Identify and notify the Department of suspected violations of
27 applicable federal or State laws, regulations, or rules.

28 (3) Identify and notify the Department of potentially hazardous conditions
29 at the facility.

30 (b) Entry pursuant to this section shall not constitute a trespass or taking of
31 property."

32 **SECTION 11.(c)** This section becomes effective 1 August 2007.

33 **SECTION 12.** [Reserved.]

34 **SECTION 13.(a)** G.S. 130A-290(a), as amended by S.L. 2007-107, is
35 amended by renumbering subdivision (1a) as (1b), renumbering subdivision (1b) as
36 (1c), renumbering subdivision (1c) as (1d), and by adding a new subdivision to read:

37 "(1a) 'Business entity' has the same meaning as in G.S. 55-1-40(2a)."

38 **SECTION 13.(b)** G.S. 130A-290(a), as amended by S.L. 2007-107, is
39 amended by renumbering subdivision (21a) as (21b) and by adding a new subdivision to
40 read:

41 "(21a) 'Pre-1983 landfill' means any land area, whether publicly or privately
42 owned, on which municipal solid waste disposal occurred prior to 1
43 January 1983 but not thereafter, but does not include any landfill used
44 primarily for the disposal of industrial solid waste."

1 **SECTION 13.(c)** This section becomes effective 1 August 2007.

2 **SECTION 14.(a)** Chapter 130A of the General Statutes is amended by
3 adding a new section to read:

4 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

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

9 (b) As used in this section:

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

11 a. An application for a permit for a solid waste management
12 facility that has not been previously permitted by the
13 Department. The term includes one site suitability review, the
14 initial permit to construct, and one permit to operate the
15 constructed portion of a phase included in the permit to
16 construct.

17 b. An application that proposes to expand the boundary of a
18 permitted waste management facility for the purpose of
19 expanding the permitted activity.

20 c. An application that includes a proposed expansion to the
21 boundary of a waste disposal unit within a permitted solid waste
22 management facility.

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

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

26 a. An application for a permit to construct and one permit to
27 operate for the second and subsequent phases of landfill
28 development described in the approved facility plan for a
29 permitted solid waste management facility.

30 b. An application for the five-year renewal of a permit for a
31 permitted solid waste management facility or for a permit
32 review of a permitted solid waste management facility.

33 c. Any application that proposes a change in ownership or
34 corporate structure of a permitted solid waste management
35 facility.

36 (3) 'Permit modification' means any of the following:

37 a. An application for any change to the plans approved in a permit
38 for a solid waste management facility that does not constitute a
39 'permit amendment' or a 'new permit'.

40 b. A second or subsequent permit to operate for a constructed
41 portion of a phase included in the permit to construct.

42 (c) An applicant for a permit shall pay an application fee upon submission of an
43 application according to the following schedule:

- 1 (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year
2 of solid waste, New Permit – \$25,000.
- 3 (2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year
4 of solid waste, Amendment – \$15,000.
- 5 (3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year
6 of solid waste, Modification – \$1,500.
- 7 (4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more
8 of solid waste, New Permit – \$50,000.
- 9 (5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more
10 of solid waste, Amendment – \$30,000.
- 11 (6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more
12 of solid waste, Modification – \$3,000.
- 13 (7) Construction and Demolition Landfill accepting less than 100,000
14 tons/year of solid waste, New Permit – \$15,000.
- 15 (8) Construction and Demolition Landfill accepting less than 100,000
16 tons/year of solid waste, Amendment – \$9,000.
- 17 (9) Construction and Demolition Landfill accepting less than 100,000
18 tons/year of solid waste, Modification – \$1,500.
- 19 (10) Construction and Demolition Landfill accepting 100,000 tons/year or
20 more of solid waste, New Permit – \$30,000.
- 21 (11) Construction and Demolition Landfill accepting 100,000 tons/year or
22 more of solid waste, Amendment – \$18,500.
- 23 (12) Construction and Demolition Landfill accepting 100,000 tons/year or
24 more of solid waste, Modification – \$2,500.
- 25 (13) Industrial Landfill accepting less than 100,000 tons/year of solid
26 waste, New Permit – \$15,000.
- 27 (14) Industrial Landfill accepting less than 100,000 tons/year of solid
28 waste, Amendment – \$9,000.
- 29 (15) Industrial Landfill accepting less than 100,000 tons/year of solid
30 waste, Modification – \$1,500.
- 31 (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
32 New Permit – \$30,000.
- 33 (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
34 Amendment – \$18,500.
- 35 (18) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
36 Modification – \$2,500.
- 37 (19) Tire Monofill, New Permit – \$1,750.
- 38 (20) Tire Monofill, Amendment – \$1,250.
- 39 (21) Tire Monofill, Modification – \$500.
- 40 (22) Treatment and Processing, New Permit – \$1,750.
- 41 (23) Treatment and Processing, Amendment – \$1,250.
- 42 (24) Treatment and Processing, Modification – \$500.
- 43 (25) Transfer Station, New Permit – \$5,000.
- 44 (26) Transfer Station, Amendment – \$3,000.

- 1 (27) Transfer Station, Modification – \$500.
- 2 (28) Incinerator, New Permit – \$1,750.
- 3 (29) Incinerator, Amendment – \$1,250.
- 4 (30) Incinerator, Modification – \$500.
- 5 (31) Large Compost Facility, New Permit – \$1,750.
- 6 (32) Large Compost Facility, Amendment – \$1,250.
- 7 (33) Large Compost Facility, Modification – \$500.
- 8 (34) Land Clearing and Inert, New Permit – \$1,000.
- 9 (35) Land Clearing and Inert, Amendment – \$500.
- 10 (36) Land Clearing and Inert, Modification – \$250.

11 (d) A permitted solid waste management facility shall pay an annual permit fee
12 on or before 1 August of each year according to the following schedule:

- 13 (1) Municipal Solid Waste Landfill – \$3,500.
- 14 (2) Post-Closure Municipal Solid Waste Landfill – \$1,000.
- 15 (3) Construction and Demolition Landfill – \$2,750.
- 16 (4) Post-Closure Construction and Demolition Landfill – \$500.
- 17 (5) Industrial Landfill – \$2,750.
- 18 (6) Post Closure Industrial Landfill – \$500.
- 19 (7) Transfer Station – \$750.
- 20 (8) Treatment and Processing Facility – \$500.
- 21 (9) Tire Monofill – \$500.
- 22 (10) Incinerator – \$500.
- 23 (11) Large Compost Facility – \$500.
- 24 (12) Land Clearing and Inert Debris Landfill – \$500.

25 (e) The Department shall determine whether an application for a permit for a
26 solid waste management facility that is subject to a fee under this section is complete
27 within 90 days after the Department receives the application for the permit. A
28 determination of completeness means that the application includes all required
29 components but does not mean that the required components provide all of the
30 information that is required for the Department to make a decision on the application. If
31 the Department determines that an application is not complete, the Department shall
32 notify the applicant of the components needed to complete the application. An applicant
33 may submit additional information to the Department to cure the deficiencies in the
34 application. The Department shall make a final determination as to whether the
35 application is complete within the later of: (i) 90 days after the Department receives the
36 application for the permit less the number of days that the applicant uses to provide the
37 additional information; or (ii) 30 days after the Department receives the additional
38 information from the applicant. The Department shall issue a draft permit decision on an
39 application for a permit within one year after the Department determines that the
40 application is complete. The Department shall hold a public hearing and accept written
41 comment on the draft permit decision for a period of not less than 30 or more than 60
42 days after the Department issues a draft permit decision. The Department shall issue a
43 final permit decision on an application for a permit within 90 days after the comment
44 period on the draft permit decision closes. The Department and the applicant may

1 mutually agree to extend any time period under this subsection. If the Department fails
2 to act within any time period set out in this subsection, the applicant may treat the
3 failure to act as a denial of the permit and may challenge the denial as provided in
4 Chapter 150B of the General Statutes."

5 **SECTION 14.(b)** This section becomes effective on 1 August 2007 and
6 applies to any application for a permit for a solid waste management facility that is
7 pending on that date, except that during the period 1 August 2007 through 1 August
8 2008 the Department shall determine whether an application or a permit for a solid
9 waste management facility is complete within 270 days after the Department receives
10 the application for the permit.

11 **SECTION 15.(a)** Subchapter I of Chapter 105 of the General Statutes is
12 amended by adding a new Article to read:

13 "Article 5G.

14 "Solid Waste Disposal Tax.

15 **"§ 105-187.60. Definitions.**

16 The definitions set out in G.S. 105-164.3 and G.S. 130A-290 apply to this Article.

17 **"§ 105-187.61. Tax imposed.**

18 An excise tax is imposed on the disposal of municipal solid waste and construction
19 and demolition debris in any landfill permitted pursuant to Article 9 of Chapter 130A of
20 the General Statutes at a rate of one dollar and fifty cents (\$1.50) per ton of waste. An
21 excise tax is imposed on the transfer of municipal solid waste and construction and
22 demolition debris to a transfer station permitted pursuant to Article 9 of Chapter 130A
23 of the General Statutes for disposal outside the State at a rate of one dollar and fifty
24 cents (\$1.50) per ton of waste.

25 **"§ 105-187.62. Administration.**

26 The owner or operator of each landfill and transfer station permitted pursuant to
27 Article 9 of Chapter 130A of the General Statutes shall maintain scales designed to
28 determine waste tonnage that are approved by the Department of Agriculture and
29 Consumer Services. Each owner or operator shall record waste tonnage at the time the
30 waste is received on a form approved by the Department and shall calculate and record
31 the tax due under this Article for each calendar month on a form approved by the
32 Department. Each owner or operator shall report the number of tons of waste received
33 and pay the tax due for each calendar month to the Department no later than the
34 fifteenth day of the following calendar month.

35 **"§ 105-187.63. Use of tax proceeds.**

36 From the taxes received pursuant to this Article, the Secretary may retain the costs
37 of collection, not to exceed two hundred twenty-five thousand dollars (\$225,000) a year,
38 as reimbursement to the Department. The Secretary shall credit taxes received pursuant
39 to this Article, less the cost of collection, as follows:

40 (1) Sixty-seven percent (67%) to the Inactive Hazardous Sites Cleanup
41 Fund established by G.S. 130A-310.11.

42 (2) Thirty-three (33%) to the Solid Waste Management Trust Fund
43 established by G.S. 130A-309.12."

1 **SECTION 15.(b)** Part 2A of Article 9 of Chapter 130A of the General
2 Statutes is amended by adding a new section to read:

3 **"§ 130A-295.9. Solid waste disposal tax; use of proceeds.**

4 It is the intent that the proceeds of the solid waste disposal tax imposed by Article
5 5G of Chapter 105 of the General Statutes shall be used only for the following purposes:

- 6 (1) Funds credited pursuant to G.S. 105-187.63(1) to the Inactive
7 Hazardous Sites Cleanup Fund shall be used by the Department of
8 Environment and Natural Resources to fund the assessment and
9 remediation of pre-1983 landfills. Up to seven percent (7%) of the
10 proceeds of the tax under this subdivision may be used to fund staff to
11 administer contracts for the assessment and remediation of pre-1983
12 landfills.
- 13 (2) Funds credited pursuant to G.S. 105-187.63(2) to the Solid Waste
14 Management Trust Fund shall be used by the Department of
15 Environment and Natural Resources to fund grants to State agencies
16 and units of local government to initiate or enhance local recycling
17 programs. Up to seven percent (7%) of the net proceeds of the tax
18 under this subdivision may be used by the Department to administer
19 this Part."

20 **SECTION 15.(c)** G.S. 130A-310.6 is amended by adding four new
21 subsections to read:

22 "(c) The Secretary shall use funds allocated to the Department under
23 G.S. 130A-295.9(c)(1) to assess pre-1983 landfills, to determine the priority for
24 remediation of pre-1983 landfills, and to develop and implement a remedial action plan
25 for each pre-1983 landfill that requires remediation. Environmental and human health
26 risks posed by a pre-1983 landfill may be mitigated using a risk-based approach for
27 assessment and remediation.

28 (d) The Secretary shall not seek cost recovery for assessment and remedial action
29 performed under subsection (c) of this section at a pre-1983 landfill from any otherwise
30 potentially responsible party if the Secretary develops and implements a remedial action
31 plan for that pre-1983 landfill and if the potentially responsible party cooperates with
32 assessment of the site and implementation of control and mitigation measures at any site
33 which the potentially responsible party owns or over which the potentially responsible
34 party exercises control, including, but not limited to, granting access to the site,
35 allowing installation of monitoring wells, allowing installation and maintenance of
36 improvements to the landfill cap, allowing installation of security measures, agreeing to
37 record and implement land-use restrictions, and providing access to any records
38 regarding the pre-1983 landfill. The Secretary shall develop and implement remedial
39 action plans for pre-1983 landfills in the order of their priority determined as provided
40 in subsection (c) of this section. The Secretary shall not develop or implement a
41 remedial action plan for a pre-1983 landfill unless the Secretary determines that
42 sufficient funds will be available from the Inactive Hazardous Sites Cleanup Fund to
43 pay the costs of development and implementation of a remedial action plan for that
44 pre-1983 landfill.

1 (e) A unit of local government that voluntarily undertakes assessment or
2 remediation of a pre-1983 landfill may request that the Department reimburse the costs
3 of assessment of the pre-1983 landfill and implementation of measures necessary to
4 remediate the site to eliminate an imminent hazard. The Department shall provide
5 reimbursement under this subsection if the Department finds all of the following:

6 (1) The unit of local government undertakes assessment and remediation
7 under a plan approved by the Department.

8 (2) The unit of local government provides a certified accounting of costs
9 incurred for assessment and remediation.

10 (3) Each contract for assessment and remediation complies with the
11 requirements of Articles 3D and 8 of Chapter 143 of the General
12 Statutes.

13 (4) Remedial action is limited to measures necessary to abate the
14 imminent hazard.

15 (f) The Department may undertake any additional action necessary to remediate
16 a pre-1983 landfill based on the priority ranking of the site under subsection (c) of this
17 section."

18 **SECTION 15.(d)** G.S. 130A-310.11 reads as rewritten:

19 **"§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

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

27 (b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to
28 G.S. 130A-295.9 shall be used only as provided in G.S. 130A-309.295.9(c)."

29 **SECTION 15.(e)** This section becomes effective 1 July 2008.

30 **SECTION 16.(a)** The Commission for Health Services shall review rules
31 governing the design, construction, operation, maintenance, closure, and post-closure
32 monitoring and maintenance of solid waste management facilities to determine whether
33 changes are required to protect public health, safety, welfare, and the environment; to
34 improve the performance of solid waste management facilities; to take advantage of
35 technological advances in landfill design, construction, operation, maintenance, and
36 closure; and to provide additional protection to environmentally sensitive areas of the
37 State. The Commission shall adopt rules necessary to minimize impacts from solid
38 waste management facilities on public health, safety, welfare, and the environment.
39 These rules shall:

40 (1) Establish standards for the collection, control, and utilization or
41 destruction of landfill gasses at municipal solid waste landfills.

42 (2) Establish standards for the design, construction, operation,
43 maintenance, closure, and post-closure monitoring and maintenance of
44 bioreactor landfills.

1 (3) Establish criteria for development of bird and wildlife management
2 plans.

3 (4) Incorporate measures necessary to minimize impacts to natural,
4 historic, and cultural resources, including, but not limited to, wetlands,
5 critical fisheries habitat, parks, recreation areas, cultural and historic
6 sites, and potential water supplies.

7 **SECTION 16.(b)** This section is effective when it becomes law.

8 **SECTION 17.1.(a)** Article 9 of Chapter 130A of the General Statutes is
9 amended by adding a new Part to read:

10 "Part 2E. Discarded Computer Equipment Management.

11 **"§ 130A-309.90. Findings.**

12 The General Assembly makes the following findings:

13 (1) The computer equipment waste stream is growing rapidly in volume
14 and complexity and can introduce toxic materials into solid waste
15 landfills.

16 (2) It is in the best interests of the citizens of this State to have convenient,
17 simple, and free access to recycling services for discarded computer
18 equipment.

19 (3) Collection programs operated by local government and nonprofit
20 agencies are an efficient way to divert discarded computer equipment
21 from disposal and to provide recycling services to all citizens of this
22 State.

23 (4) The development of local and nonprofit collection programs is
24 hindered by the high costs of recycling and transporting discarded
25 computer equipment.

26 (5) No other system currently exists, either provided by electronics
27 manufacturers, retailers, or others, to adequately serve all citizens of
28 the State and to divert large quantities of discarded computer
29 equipment from disposal.

30 (6) Manufacturer responsibility is an effective way to ensure that
31 manufacturers of computer equipment take part in a solution to the
32 electronic waste problem.

33 (7) The recycling of discarded computer equipment recovers valuable
34 materials for reuse and will create jobs and expand the tax base of the
35 State.

36 **"§ 130A-309.91. Definitions.**

37 As used in this Part, the following definitions apply:

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

39 (2) Computer equipment. – Any desktop central processing unit, any
40 laptop computer, the monitor or video display unit for a computer
41 system and the keyboard, mice, and other peripheral equipment.
42 Computer equipment does not include a printing device such as a
43 printer, a scanner, a combination print-scanner-fax machine, or other
44 device designed to produce hard paper copies from a computer; an

1 automobile; a television; a household appliance; a large piece of
2 commercial or industrial equipment, such as commercial medical
3 equipment, that contains a cathode ray tube, a cathode ray tube device,
4 a flat panel display or similar video display device that is contained
5 within, and is not separate from, the larger piece of equipment, or other
6 medical devices as that term is defined under the federal Food, Drug,
7 and Cosmetic Act.

8 (3) Discarded computer equipment. – Computer equipment that is solid
9 waste.

10 (4) Discarded computer equipment collector. – A municipal or county
11 government, nonprofit agency, or retailer that accepts discarded
12 computer equipment from the public.

13 (5) Certified computer equipment recycling facility. – A business that
14 processes discarded computer equipment for reuse and recycling and
15 that meets a minimum set of operational and material handling
16 standards determined by the Department.

17 (6) Manufacturer. – A person who manufactures computer equipment sold
18 under its own brand or label; sells under its own brand or label
19 computer equipment produced by other suppliers; imports into the
20 United States computer equipment that was manufactured outside of
21 the United States; or owns a brand that it licenses to another person for
22 use on computer equipment. Manufacturer includes a business entity
23 that acquires another business entity that manufactures or has
24 manufactured computer equipment.

25 (7) Orphan discarded computer equipment. – Any discarded computer
26 equipment for which a manufacturer cannot be identified or for which
27 the manufacturer is no longer in business and has no successor in
28 interest.

29 (8) Retailer. – A person who sells computer equipment in the State to a
30 consumer. Retailer includes a manufacturer of computer equipment
31 that sells directly to a consumer through any means, including
32 transactions conducted through sales outlets, catalogs, the Internet, or
33 any similar electronic means, but does not include a person who sells
34 computer equipment to a distributor or retailer through a wholesale
35 transaction.

36 **"§ 130A-309.92. Responsibility for recycling discarded computer equipment.**

37 In addition to the specific requirements of this Part, discarded computer equipment
38 collectors, certified computer equipment recycling facilities, and manufacturers share
39 responsibility for the recycling of discarded computer equipment and the education of
40 citizens of the State as to recycling opportunities for discarded computer equipment.

41 **"§ 130A-309.93. Requirements for manufacturers.**

42 (a) Registration and Fee Required. – Each manufacturer of computer equipment,
43 before selling or offering for sale computer equipment in North Carolina, shall register
44 with the Department and, at the time of registration, shall pay an initial registration fee

1 of ten thousand dollars (\$10,000) to the Department. A computer equipment
2 manufacturer that has registered shall pay an annual renewal registration fee of one
3 thousand dollars (\$1,000) to the Department. The annual renewal registration fee shall
4 be paid each year no later than the first day of the month in which the initial registration
5 fee was paid. The proceeds of these fees shall be credited to the Computer Equipment
6 Management Account.

7 (b) Manufacturer Label Required. – A manufacturer shall not sell or offer to sell
8 computer equipment in this State unless a visible, permanent label clearly identifying
9 the manufacturer of that device is affixed to the equipment.

10 (c) Computer Equipment Recycling Plan. – Each manufacturer of computer
11 equipment shall develop and submit to the Department a plan for reuse or recycling of
12 discarded computer equipment in the State produced by the manufacturer. The
13 manufacturer shall submit a proposed plan to the Department within 120 days of
14 registration as required by subsection (a) of this section. The plan shall:

15 (1) Describe any direct take-back program to be implemented by the
16 manufacturer, including mail-back programs and collection events.

17 (2) Provide that the manufacturer will take responsibility for discarded
18 computer equipment it manufactured when the discarded computer
19 equipment is received by a certified computer equipment recycling
20 facility.

21 (3) Provide that the manufacturer will take responsibility for its
22 proportionate share of orphan discarded computer equipment received
23 by a certified computer equipment recycling facility.

24 (4) Describe the contractual arrangement between the manufacturer and
25 each certified computer equipment recycling facility under which the
26 certified computer equipment recycling facility processes discarded
27 computer equipment it manufactured for reuse and recycling and
28 invoices the manufacturer on a quarterly basis and under which the
29 manufacturer pays the invoices on a timely basis.

30 (5) Include a detailed description as to how the manufacturer will
31 implement and finance the plan.

32 (6) Describe the performance measures that will be used by the
33 manufacturer to document recovery and recycling rates for discarded
34 computer equipment.

35 (7) Include a public education plan on the laws governing the recycling
36 and reuse of discarded computer equipment under this Part and on the
37 methods available to consumers to comply with those requirements.

38 (d) Computer Equipment Recycling Plan Revision. – A manufacturer may
39 prepare a revised plan and submit it to the Department at any time as the manufacturer
40 considers appropriate in response to changed circumstances or needs. The Department
41 may require a manufacturer to revise or update a plan if the Department finds that the
42 plan is inadequate or out-of-date.

43 (e) Payment of Costs for Plan Implementation. – Each manufacturer is
44 responsible for all costs associated with the development and implementation of its

1 plan. A manufacturer shall not collect a charge for the management of discarded
2 computer equipment at the time the equipment is discarded.

3 (f) Payments to Certified Computer Equipment Recycling Facilities. – Each
4 manufacturer:

5 (1) Shall pay each certified computer equipment recycling facility the
6 reasonable costs of transportation of discarded computer equipment
7 from computer equipment collectors to certified computer equipment
8 recycling facilities, and the actual costs of recycling the discarded
9 computer equipment by a certified computer equipment recycling
10 facility.

11 (2) Shall pay each certified computer equipment recycling facility for the
12 manufacturer's pro rata share of orphan discarded computer equipment
13 from the previous calendar year, calculated as provided in
14 G.S. 130A-309.97 and paid on an annual basis.

15 (3) May provide information to the Department on any certified computer
16 equipment recycling facility whose cost charges are unreasonable for
17 consideration by the Department under G.S. 130A-309.95.

18 (g) Joint Computer Equipment Recycling Plans. – A manufacturer may fulfill the
19 requirements of this section by participation in a joint recycling plan with other
20 manufacturers. A joint plan shall meet the requirements of subsection (c) of this section.

21 (h) Annual Report. – Each manufacturer shall submit a report to the Department
22 by 1 February of each year that includes all of the following for the previous calendar
23 year:

24 (1) A description of the collection and recycling services used to recover
25 the manufacturer's products.

26 (2) The quantity and type of computer equipment sold by the
27 manufacturer to retail consumers in this State.

28 (3) The quantity and type of discarded computer equipment collected by
29 the manufacturer for recovery in this State for the preceding calendar
30 year.

31 (4) Any other information requested by the Department.

32 **"§ 130A-309.94. Requirements for discarded computer equipment collectors.**

33 Each discarded computer equipment collector shall ensure that discarded computer
34 equipment received by the collector is consolidated at central locations, properly stored,
35 and either held for pickup by a certified computer equipment recycling facility or
36 delivered to a certified computer equipment recycling facility.

37 **"§ 130A-309.95. Certification of computer equipment recycling facilities.**

38 (a) A manufacturer may include a computer equipment recycling facility in its
39 computer equipment recycling plan only if the computer equipment recycling facility
40 has been certified by the Department. A computer equipment recycling facility must be
41 certified by the Department in order to be eligible to invoice a manufacturer for the
42 costs of recycling discarded computer equipment.

43 (b) In order to become a certified computer equipment recycling facility, the
44 business entity that owns or operates the facility must apply to the Department for

1 certification. The Department shall certify computer equipment recycling facilities that
2 are located within the State or outside the State but within the United States or its
3 territorial possessions. The Department may certify a computer equipment recycling
4 facility if the Department finds all of the following:

- 5 (1) The business entity is in substantial compliance with all international,
6 federal, and State agreements, laws, regulations, and rules for the
7 protection of the environment, including those governing the export of
8 used products and materials.
- 9 (2) The business entity actively uses recognized recycling industry
10 auditing and certification programs to assess ongoing business and
11 environmental performance.
- 12 (3) The business entity has in place adequate policies and procedures to
13 inventory and account for materials as they are received, stored,
14 processed, and shipped.
- 15 (4) The business entity has implemented a plan for hazardous materials
16 identification and management.
- 17 (5) The business entity has implemented a plan for reporting and
18 responding to accidents, spills, fires, and explosions.
- 19 (6) The business entity has implemented an occupational health and safety
20 program that provides adequate protection for employees and for other
21 persons who enter the facility.
- 22 (7) The business entity and its suppliers and subcontractors do not use
23 prison labor to collect, process, or market discarded computer
24 equipment.
- 25 (8) The business entity does not export intact nonworking cathode ray
26 tubes either directly or indirectly.
- 27 (9) The business entity maintains in force general liability insurance or
28 equivalent corporate guarantees with limits of not less than one million
29 dollars (\$1,000,000) per occurrence and not less than ten million
30 dollars (\$10,000,000) in the aggregate.
- 31 (10) The business entity has a plan for the disruption or cessation of
32 operations that provides for the completion of all work in progress;
33 closure of the facility in compliance with all applicable federal and
34 State laws, regulations, and rules, including the removal of all
35 hazardous materials; and full payment of all costs of compliance with
36 this subdivision.

37 (c) Each applicant for certification shall provide its schedule of charges for
38 transporting and recycling of discarded computer equipment from computer equipment
39 collectors. Each applicant shall describe its experience and capacity to manage
40 discarded computer equipment and its system of inventory management and cost
41 accounting. The Department shall evaluate an applicant's schedule of charges in relation
42 to the applicant's experience and capacity to manage discarded computer equipment.
43 The Department shall consider an applicant's schedule of charges in relation to the
44 schedules of charges of other computer equipment recycling facilities and shall certify

1 the computer equipment recycling facility only if it determines that those charges are
2 just and reasonable.

3 (d) At the time the annual renewal fee is due under subsection (e) of this section,
4 each owner or operator of a certified computer equipment recycling facility shall
5 submit:

6 (1) Information sufficient to demonstrate continued compliance with the
7 requirements of this section.

8 (2) The information required by subsection (c) of this section.

9 (e) Each applicant for certification as a computer equipment recycling facility, at
10 the time of registration, shall pay an application fee of five thousand dollars (\$5,000) to
11 the Department and shall pay an annual renewal fee of two thousand five hundred
12 dollars (\$2,500) to the Department. The annual renewal fee shall be paid each year no
13 later than the first day of the month in which the application fee was paid. The proceeds
14 of these fees shall be credited to the Computer Equipment Management Account.

15 (f) Each computer equipment recycling facility is subject to inspection by the
16 Department at the time of an application for certification. Each certified computer
17 equipment recycling facility is subject to inspection by the Department at any time. The
18 Department may revoke the certification of a computer equipment recycling facility if
19 the Department finds that the facility fails to meet any of the requirements of this
20 section.

21 **"§ 130A-309.96. Requirements for certified computer equipment recycling**
22 **facilities.**

23 (a) Each certified computer equipment recycling facility shall maintain an
24 accounting and itemized inventory of the discarded computer equipment delivered to
25 the facility by quantity, type, and manufacturer. Discarded computer equipment that
26 cannot be inventoried by the identity of its manufacturer shall be inventoried as orphan
27 discarded computer equipment.

28 (b) Each certified computer equipment recycling facility shall work cooperatively
29 with manufacturers and shall enter into contractual arrangements with manufacturers
30 under which the certified computer equipment recycling facility processes discarded
31 computer equipment for reuse and recycling and invoices each manufacturer on a
32 quarterly basis and under which each manufacturer pays the invoices on a timely basis.

33 (c) Each certified computer equipment recycling facility shall submit a report to
34 the Department by 1 February of each year that includes all of the following for the
35 previous calendar year:

36 (1) The quantity, type, and manufacturer of discarded computer equipment
37 received by the facility.

38 (2) The quantity and types of materials recovered from discarded
39 computer equipment for reuse and recycling.

40 (3) The quantity and types of materials discarded as waste.

41 (4) Any other information requested by the Department.

42 **"§ 130A-309.97. Responsibilities of the Department.**

43 In addition to its other responsibilities under this Part, the Department shall:

- 1 (1) No later than 1 March of each year, based on the information supplied
2 by manufacturers pursuant G.S. 130A-309.93(i)(2), calculate the
3 market share of each manufacturer for the previous calendar year. The
4 market share of each manufacturer for the previous calendar year shall
5 be that manufacturer's pro rata share of the cost of management of
6 orphan discarded computer equipment waste by each certified
7 computer equipment recycling facility for the previous calendar year.
- 8 (2) No later than 15 March of each year, notify each manufacturer and
9 each certified computer equipment recycling facility of each
10 manufacturer's pro rata share of the cost of management of orphan
11 discarded computer equipment.
- 12 (3) Develop and maintain a current list of manufacturers that are in
13 compliance with the requirements of G.S. 130A-309.93 and provide
14 the current list to the Department of Administration each time that the
15 list is updated.
- 16 (4) Develop and maintain a list of certified computer equipment recycling
17 facilities and supply this list to each manufacturer registered under
18 G.S. 130A-309.93.
- 19 (5) Develop and implement a public education program on the laws
20 governing the recycling and reuse of discarded computer equipment
21 under this Part and on the methods available to consumers to comply
22 with those requirements. The Department shall make this information
23 available on the Internet and shall provide technical assistance to
24 manufacturers to meet the requirements of G.S. 130A-309.93(c)(7).
25 The Department shall also provide technical assistance to units of local
26 government on the establishment and operation of discarded computer
27 equipment collection centers and in the development and
28 implementation of local public education programs.
- 29 (6) Maintain the confidentiality of any information that is required to be
30 submitted by a manufacturer or certified computer equipment
31 recycling facility under this Part that is designated as a trade secret, as
32 defined in G.S. 66-152(3) and that is designated as confidential or as a
33 trade secret under G.S. 132-1.2.

34 **"§ 130A-309.98. Computer Equipment Management Account.**

35 The Computer Equipment Management Account is created as a nonreverting
36 account within the Department. Funds in the Account shall be used by the Department
37 to implement the provisions of this Part.

38 **"§ 130A-309.99. Enforcement.**

39 (a) This Part may be enforced as provided by Part 2 of Article 1 of this Chapter.

40 (b) If a manufacturer fails to pay the costs described in subdivisions (1) and (2)
41 of G.S.130A-309.93(f), the Department may recover the unpaid costs plus all expenses
42 of any action necessary to recover the unpaid costs from the manufacturer. The Attorney
43 General may commence a civil action against a manufacturer to recover the costs and

1 expenses described in this section, which are in addition to any fines and civil penalties
2 that may be imposed.

3 **"§ 130A-309.100. Annual report.**

4 No later than 1 April of each year, the Department shall submit a report on the
5 recycling of discarded computer equipment in the State under this Part to the
6 Environmental Review Commission. The report must include an evaluation of the
7 recycling rates in the State for discarded computer equipment, a discussion of
8 compliance and enforcement related to the requirements of this Part, and any
9 recommendations for any changes to the system of collection and recycling of discarded
10 computer equipment or other electronic devices."

11 **SECTION 17.1(b)** The Department shall include in the annual report for 1
12 April 2011, as required by G.S. 130A-309.100, as enacted by Section 17.1(a) of this act,
13 an analysis of the feasibility and advisability of deleting the exclusion of printing
14 devices from the definition of computer equipment as set out in G.S. 130A-309.91, as
15 enacted by Section 17.1(a) of this act.

16 **SECTION 17.2.** G.S. 130A-309.09A(b)(6) reads as rewritten:

17 "(6) Include an assessment of current programs and a description of
18 intended actions with respect to:

- 19 a. Education with the community and through the schools.
- 20 b. Management of special wastes.
- 21 c. Prevention of illegal disposal and management of litter.
- 22 d. Purchase of recycled materials and products manufactured with
23 recycled materials.
- 24 e. For each county and each municipality with a population in
25 excess of 25,000, collection of discarded computer equipment,
26 as defined in G.S. 130A-309.91."

27 **SECTION 17.3.** G.S. 130A-309.10(f) is amended by adding a new
28 subdivision to read:

29 "(14) Discarded computer equipment, as defined in G.S. 130A-309.91."

30 **SECTION 17.4.** G.S. 130A-309.10(f1) is amended by adding a new
31 subdivision to read:

32 "(7) Discarded computer equipment, as defined in G.S. 130A-309.91."

33 **SECTION 17.5.** Part 4 of Article 3D of Chapter 147 of the General Statutes
34 is amended by adding a new section to read:

35 **"§ 147-33.104. Purchase by State agencies and governmental entities of certain**
36 **computer equipment prohibited.**

37 (a) The exemptions set out in G.S. 147-33.80 do not apply to this section.

38 (b) No State agency, political subdivision of the State, or other public body shall
39 purchase computer equipment, as defined in G.S. 130A-309.91, from any manufacturer
40 determined not to be in compliance with the requirements of G.S. 130A-309.93 as
41 determined from the list provided by the Department of Environment and Natural
42 Resources pursuant to G.S. 130A-309.97(3).

43 (c) The Office of Information Technology Services shall make the list available
44 to political subdivisions of the State and other public bodies. A manufacturer that is not

1 in compliance with the requirements of G.S. 130A-309.93 shall not sell or offer for sale
2 computer equipment to the State, a political subdivision of the State, or other public
3 body."

4 **SECTION 17.6(a)** Part 2E of Article 9 of Chapter 130A of the General
5 Statutes, as enacted by Section 17.1(a) of this act, becomes effective as follows:

- 6 (1) G.S.130A-309.90 becomes effective 1 January 2008.
- 7 (2) G.S.130A-309.91 becomes effective 1 January 2008.
- 8 (3) G.S.130A-309.92 becomes effective 1 January 2008.
- 9 (4) G.S.130A-309.93(a) becomes effective 1 January 2008.
- 10 (5) G.S.130A-309.93(b) becomes effective 1 January 2008.
- 11 (6) G.S.130A-309.93(c) becomes effective 1 October 2008.
- 12 (7) G.S.130A-309.93(d) becomes effective 1 October 2008.
- 13 (8) G.S.130A-309.93(e) becomes effective 1 January 2008.
- 14 (9) G.S.130A-309.93(f) becomes effective 1 January 2009.
- 15 (10) G.S.130A-309.93(g) becomes effective 1 January 2008.
- 16 (11) G.S.130A-309.93(h) becomes effective 1 February 2010.
- 17 (12) G.S.130A-309.94 becomes effective 1 January 2009.
- 18 (13) G.S.130A-309.95 becomes effective 1 January 2008.
- 19 (14) G.S.130A-309.96(a) becomes effective 1 January 2009.
- 20 (15) G.S.130A-309.96(b) becomes effective 1 January 2008.
- 21 (16) G.S.130A-309.96(c) becomes effective 1 February 2010.
- 22 (17) G.S.130A-309.97(1) becomes effective 1 January 2010.
- 23 (18) G.S.130A-309.97(2) becomes effective 1 January 2010.
- 24 (19) G.S.130A-309.97(3) becomes effective 1 January 2008.
- 25 (20) G.S.130A-309.97(4) becomes effective 1 January 2009.
- 26 (21) G.S.130A-309.97(5) becomes effective 1 January 2008.
- 27 (22) G.S.130A-309.97(6) becomes effective 1 January 2008.
- 28 (23) G.S.130A-309.98 becomes effective 1 January 2008.
- 29 (24) G.S.130A-309.99 becomes effective 1 January 2008.
- 30 (25) G.S.130A-309.100 becomes effective 1 April 2010.

31 **SECTION 17.6(b)** Section 17.2 of this act becomes effective 1 January
32 2008. Sections 17.3 and 17.4 become effective 1 January 2011. Section 17.5 of this act
33 becomes effective 1 July 2008. Subsection (b) of Section 17.1 of this act, Section 17.6
34 of this act and any other provision of this act for which an effective date is not specified
35 become effective 1 January 2008.

36 **SECTION 18.(a)** G.S. 130A-295.01(g), as enacted by Section 1.7 of S.L.
37 2007-107, is recodified as G.S. 130A-295.01(c).

38 **SECTION 18.(b)** G.S. 130A-295.01(c), as enacted by Section 1.3 of S.L.
39 2007-107, is recodified as G.S. 130A-295.01(d).

40 **SECTION 18.(c)** Subsections (d), (e), (f), and (g) of G.S. 130A-295.01, as
41 enacted by Section 1.4 of S.L. 2007-107, read as rewritten:

42 "~~(d)~~(e)

- 43 (1) Within 10 days of filing an application for a permit for a commercial
44 hazardous waste facility, the applicant shall notify every person who

1 resides or owns property located within one-fourth mile of any
2 property boundary of the facility that the application has been filed.
3 The notice shall be by mail to residents and by certified mail to
4 property owners, or by any other means approved by the Department,
5 shall be in a form approved by the Department, and shall include all of
6 the following:

7 ~~(1)~~a. The location of the facility.

8 ~~(2)~~b. A description of the facility.

9 ~~(3)~~c. The hazardous and nonhazardous wastes that are to be received
10 and processed at the facility.

11 ~~(4)~~d. A description of the emergency response plan for the facility.

12 ~~(e)~~(2) The permit holder for a commercial hazardous waste facility shall
13 publish a notice that includes the information set out in ~~subsection~~
14 ~~(d)~~subdivision (1) of this ~~section~~ subsection annually beginning one
15 year after the permit is issued. The notice shall be published in a form
16 and manner approved by the Department in a newspaper of general
17 circulation in the community where the facility is located.

18 ~~(f)~~(3) The permit holder for a commercial hazardous waste facility shall
19 provide the information set out in ~~subdivisions (1) through (4)~~
20 subdivision (1) of this subsection (d) of this section by mail to the
21 persons described in subdivision (1) of this subsection (d) of this
22 ~~section~~ at the midpoint of the period for which the permit is issued.

23 ~~(g)~~(4) Each commercial hazardous waste facility applicant and permit holder
24 shall provide documentation to demonstrate to the Department that the
25 requirements set out in ~~subsections (d) through (f) of this section~~
26 subdivisions (1), (2), and (3) of this subsection have been met."

27 **SECTION 18.(d)** G.S. 130A-295.01(e), as enacted by Section 1.5 of S.L.
28 2007-107, is recodified as G.S. 130A-295.01(f).

29 **SECTION 18.(e)** G.S. 130A-295.01(f), as enacted by Section 1.6 of S.L.
30 2007-107, is recodified as G.S. 130A-295.01(g).

31 **SECTION 18.(f)** Subdivisions (6) and (7) of subsection (f) of Section 4.1 of
32 S.L. 2007-107 read as rewritten:

33 "(6) Review the sprinkler requirements ~~for Hazardous Materials Facilities~~
34 ~~(Section 903.2.4) under Section 903.2.4~~ of the State Building Code for
35 facilities used to collect, store, process, treat, recycle, recover, or
36 dispose of hazardous substance, as defined in 29 Code of Federal
37 Regulations § 1910.120(a)(3) (1 July 2006 Edition), and determine
38 whether sprinkler design criteria and coverage should be amended.

39 (7) Review the fire alarm requirements ~~for Hazardous Materials Facilities~~
40 ~~(Section 907.2.5) under Section 903.2.4~~ of the State Building Code
41 and determine whether the ~~relevant~~ facilities used to collect, store,
42 process, treat, recycle, recover, or dispose of hazardous substance, as
43 defined in 29 Code of Federal Regulations § 1910.120(a)(3) (1 July
44 2006 Edition), should have a full fire alarm system or, in the

1 alternative, full staffing as recommended by the Department of
2 Environment and Natural Resources. If the Task Force determines that
3 relevant facilities should have full staffing, the Task Force shall
4 recommend the level of knowledge and training that should be
5 required of the staff."

6 **SECTION 19.** The Division of Waste Management and the Division of
7 Pollution Prevention and Environmental Assistance of the Department of Environment
8 and Natural Resources shall jointly develop a proposal for a recycling program for
9 fluorescent lamps. The program will be developed so as to ensure that substantially all
10 of the mercury contained in fluorescent lamps will be recovered so as to facilitate a
11 phaseout of incandescent lamps without damage to public health and the environment
12 from the increased use of mercury lamps as replacements for fluorescent lamps. The
13 Department of Environment and Natural Resources shall report its findings and
14 recommendations, including legislative proposals and cost estimates, to the
15 Environmental Review Commission on or before 1 March 2008.

16 **SECTION 20.** The Environmental Review Commission shall study issues
17 related to the franchise of solid waste management facilities by units of local
18 government. The Environmental Review Commission, with the assistance of the
19 Department of Justice, shall study issues related to the transportation of solid waste by
20 rail or barge, including the extent to which regulation of the transportation of solid
21 waste by rail or barge by state governments may be preempted by federal law. The
22 Environmental Review Commission shall report its findings and recommendations,
23 including any legislative proposals, to the 2008 Regular Session of the General
24 Assembly.

25 **SECTION 21.** If any section or provision of this act is declared
26 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
27 provision does not affect the validity of this act as a whole or any part of this act other
28 than the part declared to be unconstitutional or invalid.

29 **SECTION 22.** Except as otherwise provided in this act, this act is effective
30 when it becomes law.