

**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  
Finance Committee Substitute Adopted 7/25/07**

Short Title: Solid Waste Management Act of 2007.

(Public)

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Sponsors:

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Referred to:

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March 27, 2007

A BILL TO BE ENTITLED

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

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

27 The General Assembly of North Carolina enacts:

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

30 "**§ 130A-294. Solid waste management program.**

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

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

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

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

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

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

- 42 1. Construction or operation of the proposed facility would  
43 be inconsistent with or violate rules adopted by the  
44 Commission.

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



1 (5c) Except for the authority to designate a geographic area to be serviced  
2 by a solid waste management facility, delegate authority and  
3 responsibility to units of local government to perform all or a portion  
4 of a solid waste management program within the jurisdictional area of  
5 the unit of local government; provided that no authority over or control  
6 of the operations or properties of one local government shall be  
7 delegated to any other local government.

8 (5d) Require that an annual report of the implementation of the solid waste  
9 management plan within the designated geographic area be filed with  
10 the Department.

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

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

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

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

38 ~~(b0) The Commission shall adopt rules for financial responsibility to ensure the~~  
39 ~~availability of sufficient funds for closure and post closure maintenance and monitoring~~  
40 ~~at solid waste management facilities, and for any corrective action the Department may~~  
41 ~~require during the active life of a facility or during the closure and post closure periods.~~  
42 ~~The rules may permit demonstration of financial responsibility through the use of a~~  
43 ~~letter of credit, insurance, surety, trust agreement, financial test, or guarantee by~~  
44 ~~corporate parents or third parties who can pass the financial test. The rules shall require~~

1 ~~that an owner or operator of a privately owned solid waste management facility~~  
2 ~~demonstrate financial responsibility by a method or combinations of methods that will~~  
3 ~~ensure that sufficient funds for closure, post-closure maintenance and monitoring, and~~  
4 ~~any corrective action that the Department may require will be available during the~~  
5 ~~active life of the facility, at closure, and for a period of not less than 30 years after~~  
6 ~~closure even if the owner or operator becomes insolvent or ceases to reside, be~~  
7 ~~incorporated, do business, or maintain assets in the State.~~

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

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

- 11 1. The population of the geographic area to be served by  
12 the sanitary landfill;
- 13 2. The quantity of solid waste to be disposed of in the  
14 sanitary landfill; or
- 15 3. The geographic area to be served by the sanitary landfill.

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

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

- 29 a. A statement of the population to be served, including a  
30 description of the geographic area.
- 31 b. A description of the volume and characteristics of the waste  
32 stream.
- 33 c. A projection of the useful life of the sanitary landfill.
- 34 d. An explanation of how the franchise will be consistent with the  
35 jurisdiction's solid waste management plan required under  
36 G.S. 130A-309.09A, including provisions for waste reduction,  
37 reuse, and recycling.
- 38 e. The procedures to be followed for governmental oversight and  
39 regulation of the fees and rates to be charged by facilities  
40 subject to the franchise for waste generated in the jurisdiction of  
41 the franchising entity.
- 42 f. A facility plan for the sanitary landfill that shall include the  
43 ~~exact~~ boundaries of the proposed facility, proposed  
44 development of the facility site in five-year operational phases,

1 the boundaries of all waste disposal units, final elevations and  
2 capacity of all waste disposal units, the amount of waste to be  
3 received per day in tons, the total waste disposal capacity of the  
4 sanitary landfill in tons, a description of environmental controls,  
5 and a description of any other waste management activities to  
6 be conducted at the facility. In addition, the facility plan shall  
7 show the proposed location of soil borrow areas, leachate  
8 facilities, and all other facilities and infrastructure, including  
9 ingress and egress to the facility.

10 (2a) A local government may elect to award a preliminary franchise. If a  
11 local government elects to award a preliminary franchise, the  
12 preliminary franchise shall contain, at a minimum, all of the  
13 information described in sub-subdivisions a. through e. of subdivision  
14 (2) of this subsection plus a general description of the proposed  
15 sanitary landfill, including the approximate number of acres required  
16 for the proposed sanitary landfill and its appurtenances and a  
17 description of any other solid waste management activities that are to  
18 be conducted at the site.

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

35 (4) An applicant for a new permit, the renewal of a permit, or a substantial  
36 amendment to a permit for a sanitary landfill shall request each local  
37 government having jurisdiction over any part of the land on which the  
38 sanitary landfill and its appurtenances are located or to be located to  
39 issue a determination as to whether the local government has in effect  
40 a franchise, zoning, subdivision, or land-use planning ordinance  
41 applicable to the sanitary landfill and whether the proposed sanitary  
42 landfill, or the existing sanitary landfill as it would be operated under  
43 the renewed or substantially amended permit, would be consistent with  
44 the applicable ordinances. The request to the local government shall be



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

1 not apply to any facility with respect to which local ordinances are  
2 subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

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

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

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

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

36 ...."

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

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

41 "**§ 130A-18. Injunction.**

42 (a) If a person shall violate any provision of this ~~Chapter or Chapter,~~ the rules  
43 adopted by the Commission or rules adopted by a local board of health, or a condition  
44 or term of a permit or order issued under this Chapter, the Secretary or a local health

1 director may institute an action for injunctive relief, irrespective of all other remedies at  
2 law, in the superior court of the county where the violation occurred or where a  
3 defendant resides.

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

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

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

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

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

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

39 "(j) The Secretary of Environment and Natural Resources may also assess the  
40 reasonable costs of any investigation, inspection, or monitoring associated with the  
41 assessment of the civil penalty against any person who is assessed a civil penalty under  
42 this section."

43 **SECTION 4.(b)** This section becomes effective 1 August 2007 and applies  
44 to violations that occur on or after that date.

1           SECTION 5.(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-295.2. Financial responsibility requirements for applicants and permit**  
4 **holders for solid waste management facilities.**

5       (a) As used in this section:

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

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

14          (3) 'Financial responsibility' encompasses both financial assurance and  
15 financial qualification.

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

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

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

40       (e) If the Department requires an applicant for a permit or a permit holder for a  
41 solid waste management facility to demonstrate its financial qualification, the applicant  
42 or permit holder shall provide an audited, certified financial statement. An applicant  
43 who is required to demonstrate its financial qualification may do so through a  
44 combination of cash deposits, insurance, and binding loan commitments from a

1 financial institution licensed to do business in the State and rated AAA by Standard &  
2 Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent, subsidiary, or other  
3 affiliate of the applicant or a permit holder, or a joint venturer with a direct or indirect  
4 interest in the applicant or permit holder, are proposed to be used to demonstrate  
5 financial qualification, then the party whose assets are to be used must be designated as  
6 a joint permittee with the applicant on the permit for the facility.

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

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

37 (h) To meet the financial assurance requirements of this section, the owner or  
38 operator of a sanitary landfill shall establish financial assurance sufficient to cover a  
39 minimum of three million dollars (\$3,000,000) in costs for potential assessment and  
40 corrective action at the facility. The Department may require financial assurance in a  
41 higher amount and may increase the amount of financial assurance required of a permit  
42 holder at any time based upon the types of waste disposed in the landfill, the projected  
43 amount of waste to be disposed in the landfill, the location of the landfill, potential  
44 receptors of releases from the landfill, and inflation. The financial assurance

1 requirements of this subsection are in addition to the other financial responsibility  
2 requirements set out in this section.

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

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

8 **"§ 130A-309.27. Landfill escrow account. Joint and several liability.**

9 (a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

25           "**§ 130A-295.3. Environmental compliance review requirements for applicants and**  
26           **permit holders.**

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

35           (b) The Department shall conduct an environmental compliance review of each  
36           applicant for a new permit, permit renewal, and permit amendment under this Article.  
37           The environmental compliance review shall evaluate the environmental compliance  
38           history of the applicant for a period of five years prior to the date of the application and  
39           may cover a longer period at the discretion of the Department. The environmental  
40           compliance review of an applicant may include consideration of the environmental  
41           compliance history of the parents, subsidiaries, or other affiliates of an applicant or  
42           parent that is a business entity, including any business entity or joint venturer with a  
43           direct or indirect interest in the applicant, and other facilities owned or operated by any  
44           of them. The Department shall determine the scope of the review of the environmental

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

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

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

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

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

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

29 "(2a) "Coal-fired generating unit" means a coal-fired generating unit, as  
30 defined by 40 Code of Federal Regulations § 96.2 (1 July 2001  
31 Edition), that is located in this State and has the capacity to generate  
32 25 or more megawatts of electricity.

33 "(2b) "Combustion products" means residuals, including fly ash, bottom ash,  
34 boiler slag, mill rejects, and flue gas desulfurization residue produced  
35 by a coal-fired generating unit.

36 "(2c) "Combustion products landfill" means a facility or unit for the disposal  
37 of combustion products, where the landfill is located at the same  
38 facility with the coal-fired generating unit or units producing the  
39 combustion products, and where the landfill is located wholly or partly  
40 on top of a facility that is, or was, being used for the disposal or  
41 storage of such combustion products, including, but not limited to,  
42 landfills, wet and dry ash ponds, and structural fill facilities."

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



1 **"§ 130A-295.4. Combustion products landfills.**

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

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

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

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

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

37 **"§ 130A-295.5. Traffic study required for certain solid waste management**  
38 **facilities.**

39 (a) An applicant for a permit for a sanitary landfill or for a transfer station shall  
40 conduct a traffic study of the impacts of the proposed facility. The Department shall  
41 include as a condition of a permit for a sanitary landfill or for a transfer station a  
42 requirement that the permit holder mitigate adverse impacts identified by the traffic  
43 study. The study shall include all of the following at a minimum:

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

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

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

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

1 **§ 130A-295.6. Additional requirements for sanitary landfills.**

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

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

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

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

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

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

32 (2) A wetland.

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

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

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

38 (3) Two miles of the outermost boundary of a component of the State  
39 Parks System.

40 (e) A sanitary landfill for the disposal of construction and demolition debris  
41 waste shall be constructed with a liner system that consists of a flexible membrane liner  
42 over two feet of soil with a maximum permeability of  $1 \times 10^{-5}$  centimeters per second.  
43 The flexible membrane liner shall have a minimum thickness of thirty one-thousandths  
44 of an inch (0.030"), except that a liner that consists of high-density polyethylene shall

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

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

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

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

22 (1) A geomembrane base liner system shall be tested for leaks and damage  
23 by methods approved by the Department that ensure that the entire  
24 liner is evaluated.

25 (2) A leachate collection system shall be designed to return the head of the  
26 liner to 30 centimeters or less within 72 hours. The design shall be  
27 based on the precipitation that would fall on an empty cell of the  
28 sanitary landfill as a result of a 25-year-24-hour storm event. The  
29 leachate collection system shall maintain a head of less than 30  
30 centimeters at all times during leachate recirculation. The Department  
31 may require the operator to monitor the head of the liner to  
32 demonstrate that the head is being maintained in accordance with this  
33 subdivision and any applicable rules.

34 (3) All leachate collection lines shall be designed and constructed to  
35 permanently allow cleaning and remote camera inspection. All  
36 leachate collection lines shall be cleaned at least once a year, except  
37 that the Department may allow leachate collection lines to be cleaned  
38 once every two years if: (i) the facility has continuous flow  
39 monitoring; and (ii) the permit holder demonstrates to the Department  
40 that the leachate collection lines are clear and functional based on at  
41 least three consecutive annual cleanings. Remote camera inspections  
42 of the leachate collection lines shall occur upon completion of  
43 construction, at least once every five years thereafter, and following  
44 the clearing of blockages.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40           The board of county commissioners may impose a fee for the availability of a  
41           disposal facility provided by the county. A fee for availability may not exceed the cost  
42           of providing the facility and may be imposed on all improved property in the county  
43           that benefits from the availability of the facility. A county may not impose an  
44           availability fee on property whose solid waste is collected by a county, a city, or a

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

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

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

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

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

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

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

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

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

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

10          (3) Identify and notify the Department of potentially hazardous conditions  
11 at the facility.

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

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

16 **"§ 160A-325. Local government landfill liaison.**

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

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

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

26           (3) Identify and notify the Department of potentially hazardous conditions  
27 at the facility.

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

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

31       **SECTION 12.** [Reserved.]

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

35       "(1a) 'Business entity' has the same meaning as in G.S. 55-1-40(2a)."

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

39       "(21a) 'Pre-1983 landfill' means any land area, whether publicly or privately  
40 owned, on which municipal solid waste disposal occurred prior to 1  
41 January 1983 but not thereafter, but does not include any landfill used  
42 primarily for the disposal of industrial solid waste."

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

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

3 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

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

8       (b) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

43           (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year  
44 of solid waste, New Permit – \$25,000.



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

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

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

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

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

1 failure to act as a denial of the permit and may challenge the denial as provided in  
2 Chapter 150B of the General Statutes."

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

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

11 "Article 5G.

12 "Solid Waste Disposal Tax.

13 **"§ 105-187.60. Definitions.**

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

15 **"§ 105-187.61. Tax imposed.**

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

23 (b) Tax Liability. – The excise tax imposed by this section is due on municipal  
24 solid waste and construction and demolition debris received from third parties and on  
25 municipal solid waste and construction and demolition debris disposed of by the owner  
26 or operator. The tax is payable by the owner or operator of each landfill and transfer  
27 station permitted under Article 9 of Chapter 130A of the General Statutes.

28 **"§ 105-187.62. Administration.**

29 The owner or operator of each landfill and transfer station permitted pursuant to  
30 Article 9 of Chapter 130A of the General Statutes shall maintain scales designed to  
31 determine waste tonnage that are approved by the Department of Agriculture and  
32 Consumer Services. Each owner or operator shall record waste tonnage at the time the  
33 waste is received and maintain other records as required by the Secretary of Revenue.  
34 An owner or operator may add the amount of the solid waste disposal tax due to the  
35 charges made to a third party for disposal of municipal solid waste or construction and  
36 demolition debris. The tax imposed by this Article is payable and a return is due to be  
37 filed in the same manner as required under G.S. 105-164.16 for sales and use tax.

38 **"§ 105-187.63. Use of tax proceeds.**

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

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

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

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

5 **"§ 130A-295.9. Solid waste disposal tax; use of proceeds.**

6           It is the intent that the proceeds of the solid waste disposal tax imposed by Article  
7 5G of Chapter 105 of the General Statutes shall be used only for the following purposes:

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

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

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

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

1 pay the costs of development and implementation of a remedial action plan for that  
2 pre-1983 landfill.

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

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

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

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

15 (4) Remedial action is limited to measures necessary to abate the  
16 imminent hazard.

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

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

21 **"§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

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

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

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

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

42 (1) Establish standards for the collection, control, and utilization or  
43 destruction of landfill gases at municipal solid waste landfills.

- 1 (2) Establish standards for the design, construction, operation,  
2 maintenance, closure, and post-closure monitoring and maintenance of  
3 bioreactor landfills.
- 4 (3) Establish criteria for development of bird and wildlife management  
5 plans.
- 6 (4) Incorporate measures necessary to minimize impacts to natural,  
7 historic, and cultural resources, including, but not limited to, wetlands,  
8 critical fisheries habitats, parks, recreation areas, cultural and historic  
9 sites, and potential water supplies.

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

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

13 "Part 2E. Discarded Computer Equipment Management.

14 **"§ 130A-309.90. Findings.**

15 The General Assembly makes the following findings:

- 16 (1) The computer equipment waste stream is growing rapidly in volume  
17 and complexity and can introduce toxic materials into solid waste  
18 landfills.
- 19 (2) It is in the best interests of the citizens of this State to have convenient,  
20 simple, and free access to recycling services for discarded computer  
21 equipment.
- 22 (3) Collection programs operated by local government and nonprofit  
23 agencies are an efficient way to divert discarded computer equipment  
24 from disposal and to provide recycling services to all citizens of this  
25 State.
- 26 (4) The development of local and nonprofit collection programs is  
27 hindered by the high costs of recycling and transporting discarded  
28 computer equipment.
- 29 (5) No other system currently exists, either provided by electronics  
30 manufacturers, retailers, or others, to adequately serve all citizens of  
31 the State and to divert large quantities of discarded computer  
32 equipment from disposal.
- 33 (6) Manufacturer responsibility is an effective way to ensure that  
34 manufacturers of computer equipment take part in a solution to the  
35 electronic waste problem.
- 36 (7) The recycling of discarded computer equipment recovers valuable  
37 materials for reuse and will create jobs and expand the tax base of the  
38 State.

39 **"§ 130A-309.91. Definitions.**

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

- 41 (1) Business entity. – Defined in G.S. 55-1-40(2a).
- 42 (2) Computer equipment. – Any desktop central processing unit, any  
43 laptop computer, the monitor or video display unit for a computer  
44 system, and the keyboard, mice, and other peripheral equipment.

1           Computer equipment does not include a printing device such as a  
2           printer, a scanner, a combination print-scanner-fax machine, or other  
3           device designed to produce hard paper copies from a computer; an  
4           automobile; a television; a household appliance; a large piece of  
5           commercial or industrial equipment, such as commercial medical  
6           equipment, that contains a cathode ray tube, a cathode ray tube device,  
7           a flat panel display, or similar video display device that is contained  
8           within, and is not separate from, the larger piece of equipment, or other  
9           medical devices as that term is defined under the federal Food, Drug,  
10           and Cosmetic Act.

11           (3) Discarded computer equipment. – Computer equipment that is solid  
12           waste.

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

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

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

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

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

39           **"§ 130A-309.92. Responsibility for recycling discarded computer equipment.**

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

44           **"§ 130A-309.93. Requirements for manufacturers.**

1       (a) Registration and Fee Required. – Each manufacturer of computer equipment,  
2 before selling or offering for sale computer equipment in North Carolina, shall register  
3 with the Department and, at the time of registration, shall pay an initial registration fee  
4 of ten thousand dollars (\$10,000) to the Department. A computer equipment  
5 manufacturer that has registered shall pay an annual renewal registration fee of one  
6 thousand dollars (\$1,000) to the Department. The annual renewal registration fee shall  
7 be paid each year no later than the first day of the month in which the initial registration  
8 fee was paid. The proceeds of these fees shall be credited to the Computer Equipment  
9 Management Account. A manufacturer of computer equipment that sells 1,000 items of  
10 computer equipment or less per year is exempt from the requirement to pay the  
11 registration fee and the annual renewal fee imposed by this subsection.

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

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

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

22           (2) Provide that the manufacturer will take responsibility for discarded  
23 computer equipment it manufactured when the discarded computer  
24 equipment is received by a certified computer equipment recycling  
25 facility.

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

29           (4) Describe the contractual arrangement between the manufacturer and  
30 each certified computer equipment recycling facility under which the  
31 certified computer equipment recycling facility processes discarded  
32 computer equipment it manufactured for reuse and recycling and  
33 invoices the manufacturer on a quarterly basis and under which the  
34 manufacturer pays the invoices on a timely basis.

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

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

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

43       (d) Computer Equipment Recycling Plan Revision. – A manufacturer may  
44 prepare a revised plan and submit it to the Department at any time as the manufacturer



1 considers appropriate in response to changed circumstances or needs. The Department  
2 may require a manufacturer to revise or update a plan if the Department finds that the  
3 plan is inadequate or out-of-date.

4 (e) Payment of Costs for Plan Implementation. – Each manufacturer is  
5 responsible for all costs associated with the development and implementation of its  
6 plan. A manufacturer shall not collect a charge for the management of discarded  
7 computer equipment at the time the equipment is discarded.

8 (f) Payments to Certified Computer Equipment Recycling Facilities. – Each  
9 manufacturer:

10 (1) Shall pay each certified computer equipment recycling facility the  
11 reasonable costs of transportation of discarded computer equipment  
12 from computer equipment collectors to certified computer equipment  
13 recycling facilities and the actual costs of recycling the discarded  
14 computer equipment by a certified computer equipment recycling  
15 facility.

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

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

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

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

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

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

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

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

37 **"§ 130A-309.94. Requirements for discarded computer equipment collectors.**

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

42 **"§ 130A-309.95. Certification of computer equipment recycling facilities.**

43 (a) A manufacturer may include a computer equipment recycling facility in its  
44 computer equipment recycling plan only if the computer equipment recycling facility

1 has been certified by the Department. A computer equipment recycling facility must be  
2 certified by the Department in order to be eligible to invoice a manufacturer for the  
3 costs of recycling discarded computer equipment.

4 (b) In order to become a certified computer equipment recycling facility, the  
5 business entity that owns or operates the facility must apply to the Department for  
6 certification. The Department shall certify computer equipment recycling facilities that  
7 are located within the State or outside the State but within the United States or its  
8 territorial possessions. The Department may certify a computer equipment recycling  
9 facility if the Department finds all of the following:

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

42 (c) Each applicant for certification shall provide its schedule of charges for  
43 transporting and recycling of discarded computer equipment from computer equipment  
44 collectors. Each applicant shall describe its experience and capacity to manage

1 discarded computer equipment and its system of inventory management and cost  
2 accounting. The Department shall evaluate an applicant's schedule of charges in relation  
3 to the applicant's experience and capacity to manage discarded computer equipment.  
4 The Department shall consider an applicant's schedule of charges in relation to the  
5 schedules of charges of other computer equipment recycling facilities and shall certify  
6 the computer equipment recycling facility only if it determines that those charges are  
7 just and reasonable.

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

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

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

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

20 (f) Each computer equipment recycling facility is subject to inspection by the  
21 Department at the time of an application for certification. Each certified computer  
22 equipment recycling facility is subject to inspection by the Department at any time. The  
23 Department may revoke the certification of a computer equipment recycling facility if  
24 the Department finds that the facility fails to meet any of the requirements of this  
25 section.

26 **"§ 130A-309.96. Requirements for certified computer equipment recycling**  
27 **facilities.**

28 (a) Each certified computer equipment recycling facility shall maintain an  
29 accounting and itemized inventory of the discarded computer equipment delivered to  
30 the facility by quantity, type, and manufacturer. Discarded computer equipment that  
31 cannot be inventoried by the identity of its manufacturer shall be inventoried as orphan  
32 discarded computer equipment.

33 (b) Each certified computer equipment recycling facility shall work cooperatively  
34 with manufacturers and shall enter into contractual arrangements with manufacturers  
35 under which the certified computer equipment recycling facility processes discarded  
36 computer equipment for reuse and recycling and invoices each manufacturer on a  
37 quarterly basis and under which each manufacturer pays the invoices on a timely basis.

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

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

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

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

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

3 **"§ 130A-309.97. Responsibilities of the Department.**

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

5           (1) No later than 1 March of each year, based on the information supplied  
6 by manufacturers pursuant to G.S. 130A-309.93(h)(2), calculate the  
7 market share of each manufacturer for the previous calendar year. The  
8 market share of each manufacturer for the previous calendar year shall  
9 be that manufacturer's pro rata share of the cost of management of  
10 orphan discarded computer equipment waste by each certified  
11 computer equipment recycling facility for the previous calendar year.

12           (2) No later than 15 March of each year, notify each manufacturer and  
13 each certified computer equipment recycling facility of each  
14 manufacturer's pro rata share of the cost of management of orphan  
15 discarded computer equipment.

16           (3) Develop and maintain a current list of manufacturers that are in  
17 compliance with the requirements of G.S. 130A-309.93 and provide  
18 the current list to the Department of Administration each time that the  
19 list is updated.

20           (4) Develop and maintain a list of certified computer equipment recycling  
21 facilities and supply this list to each manufacturer registered under  
22 G.S. 130A-309.93.

23           (5) Develop and implement a public education program on the laws  
24 governing the recycling and reuse of discarded computer equipment  
25 under this Part and on the methods available to consumers to comply  
26 with those requirements. The Department shall make this information  
27 available on the Internet and shall provide technical assistance to  
28 manufacturers to meet the requirements of G.S. 130A-309.93(c)(7).  
29 The Department shall also provide technical assistance to units of local  
30 government on the establishment and operation of discarded computer  
31 equipment collection centers and in the development and  
32 implementation of local public education programs.

33           (6) Maintain the confidentiality of any information that is required to be  
34 submitted by a manufacturer or certified computer equipment  
35 recycling facility under this Part that is designated as a trade secret, as  
36 defined in G.S. 66-152(3) and that is designated as confidential or as a  
37 trade secret under G.S. 132-1.2.

38 **"§ 130A-309.98. Computer Equipment Management Account.**

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

42 **"§ 130A-309.99. Enforcement.**

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

1 (b) If a manufacturer fails to pay the costs described in subdivisions (1) and (2)  
2 of G.S.130A-309.93(f), the Department may recover the unpaid costs plus all expenses  
3 of any action necessary to recover the unpaid costs from the manufacturer. The Attorney  
4 General may commence a civil action against a manufacturer to recover the costs and  
5 expenses described in this section, which are in addition to any fines and civil penalties  
6 that may be imposed.

7 **"§ 130A-309.100. Annual report.**

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

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

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

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

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

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

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

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

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

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

39 **"§ 147-33.104. Purchase by State agencies and governmental entities of certain**  
40 **computer equipment prohibited.**

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

42 (b) No State agency, political subdivision of the State, or other public body shall  
43 purchase computer equipment, as defined in G.S. 130A-309.91, from any manufacturer  
44 determined not to be in compliance with the requirements of G.S. 130A-309.93 as

1 determined from the list provided by the Department of Environment and Natural  
2 Resources pursuant to G.S. 130A-309.97(3).

3 (c) The Office of Information Technology Services shall make the list available  
4 to political subdivisions of the State and other public bodies. A manufacturer that is not  
5 in compliance with the requirements of G.S. 130A-309.93 shall not sell or offer for sale  
6 computer equipment to the State, a political subdivision of the State, or other public  
7 body."

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

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

35 **SECTION 17.6.(b)** Section 17.2 of this act becomes effective 1 January  
36 2008. Sections 17.3 and 17.4 of this act become effective 1 January 2011. Section 17.5  
37 of this act becomes effective 1 July 2008. Subsection (b) of Section 17.1 of this act,  
38 Section 17.6 of this act, and any other provision of this act for which an effective date is  
39 not specified become effective 1 January 2008.

40 **SECTION 18.(a)** G.S. 130A-295.01(g), as enacted by Section 1.7 of S.L.  
41 2007-107, is recodified as G.S. 130A-295.01(c).

42 **SECTION 18.(b)** G.S. 130A-295.01(c), as enacted by Section 1.3 of S.L.  
43 2007-107, is recodified as G.S. 130A-295.01(d).

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

3       "~~(d)~~(e)

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

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

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

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

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

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

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

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

32       **SECTION 18.(d)** G.S. 130A-295.01(e), as enacted by Section 1.5 of S.L.  
33 2007-107, is recodified as G.S. 130A-295.01(f).

34       **SECTION 18.(e)** G.S. 130A-295.01(f), as enacted by Section 1.6 of S.L.  
35 2007-107, is recodified as G.S. 130A-295.01(g).

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

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

- 1           (7) Review the fire alarm requirements for ~~Hazardous Materials Facilities~~  
2           (~~Section 907.2.5~~) under Section 903.2.4 of the State Building Code  
3           and determine whether the ~~relevant~~ facilities used to collect, store,  
4           process, treat, recycle, recover, or dispose of hazardous substance, as  
5           defined in 29 Code of Federal Regulations § 1910.120(a)(3) (1 July  
6           2006 Edition), should have a full fire alarm system or, in the  
7           alternative, full staffing as recommended by the Department of  
8           Environment and Natural Resources. If the Task Force determines that  
9           relevant facilities should have full staffing, the Task Force shall  
10          recommend the level of knowledge and training that should be  
11          required of the staff."

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

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

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

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