

**GENERAL ASSEMBLY OF NORTH CAROLINA**



**Session 2007**

**Legislative Fiscal Note**

**BILL NUMBER:** Senate Bill 190 (First Edition)

**SHORT TITLE:** Haz. Materials Task Force Recommendations

**SPONSOR(S):** Senator Malone

	FISCAL IMPACT				
	Yes ( X )	No ( )	No Estimate Available ( )		
	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>
<b>REVENUES:</b>					
DENR	\$16,000	\$16,000	\$16,000	\$16,000	\$16,000
<b>EXPENDITURES:</b>					
DENR	\$775,000	\$125,000	\$125,000	\$125,000	\$125,000
CCPS	\$75,000	\$130,000	\$130,000	\$130,000	\$130,000
Haz. Materials Task Force	\$6,000				
DPH (DHHS)	\$181,334	\$97,572	\$0	\$0	\$0
<b>POSITIONS (cumulative):</b>					
DENR	2.0	2.0	2.0	2.0	2.0
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Department of Environment & Natural Resources; Department of Health and Human Services; University of North Carolina System; Department of Crime Control & Public Safety					
<b>EFFECTIVE DATE:</b> Financial assurance, offsite information, security, wind monitors, commission authorization to adopt rules, regulations relating to hazardous waste transfer facilities, and conforming changes become effective October 1, 2007. Database, public health model response plan, task force, and UNC disaster research provisions become effective July 1, 2007.					

**BILL SUMMARY:** Makes changes relating to hazardous waste facilities and requires studies, as described below.

**Regulation of Commercial Hazardous Waste Facilities**

- Amends Part 2 (Solid and Hazardous Waste Management) of Article 9 of GS Chapter 130A as follows: Enacts a new GS 130A-295.04 requiring commercial hazardous waste facilities to provide the Department of Environment and Natural Resources (DENR) financial assurance for the facility’s closure, post-closure monitoring, liability for accidents, clean up, and off-site screening for potential migration of contaminants.
- Amends GS 130A-295 to require hazardous waste facility permit applicants to get input on their contingency plans from local government and emergency response agencies and to verify that each local government and emergency response agency’s resources and equipment are available and adequate to respond to an emergency at the facility as laid out in the contingency plan.

- Amends GS 130A-295.01 (additional requirement for commercial hazardous waste treatment facilities) to require commercial hazardous waste facility operators to (1) maintain offsite copies of information on the waste at the facility and make them accessible to DENR, local governments, and emergency response agencies; (2) notify property owners and residents within one-fourth mile of a proposed facility after filing the application for the facility and at midpoint of the permit's term; (3) report to DENR annually on the changes during the previous year in sensitive land use or population density in the area around the facility (which, in turn DENR must consider when determining how frequently the facility must be inspected); (4) provide security and surveillance at the facility at all times; and (5) obtain and maintain wind monitors onsite. Further amends GS 130A-295.01 to (1) make commercial hazardous waste facility permits subject to renewal every five years and (2) authorize the Commission for Health Services to adopt rules.
- Amends GS 130A-295.05 to (1) authorize DENR to regulate hazardous waste transfer facilities; (2) require hazardous waste transporters to register with DENR each hazardous waste transfer facility they use; (3) establish procedures for issuing hazardous waste transfer facility identification numbers and for regulating the storage, consolidation, or commingling of hazardous waste; and (4) direct DENR to study the need for further regulation and permitting of these facilities.
- Amends GS 130A-293 to limit the authority of DENR to preempt local ordinances that place a condition or restriction on the management of hazardous waste or the siting of a hazardous waste facility. Makes conforming changes to GS 130A-290(a), GS 130A-294(c), GS 130A-295.01, and GS 130A-294.

#### **Other Hazardous Waste and Related Changes**

- Amends GS 166A-27 to allow State Medical Assistance Teams (SMATs) or the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services (Epidemiology Section) to hold a person causing the release of hazardous materials liable for costs incurred in responding to the incident.
- Enacts new GS 130A-20.01 allowing SMATs or the Epidemiology Section to hold the owner or operator of a hazardous waste facility liable for costs incurred in responding to the incident.
- Amends GS 132-1.5 to clarify that municipal 911 data has the same confidentiality as county 911 data and that data contained in a reverse 911 emergency notification system is confidential.
- Requires DENR to establish a hazardous chemicals inventory database containing data concerning sites listed in the Toxic Release Inventory and DENR's existing database of facilities for which DENR has environmental concerns. The database is to be maintained by the Division of Emergency Management (NCEM) of the Department of Crime Control and Public Safety (CCPS).
- Requires the Department of Health and Human Services to contract with an industrial hygienist for 18 months to develop a model plan for public health response to events with a potential for chemical, biological, or radiological contamination.

#### **Studies**

- Establishes an 11-member Regulation of Hazardous Materials Facilities Task Force to study issues related to the treatment, storage, and disposal of hazardous materials, waste, substances, and chemicals. The task force will also review the state fire and building codes. Requires the North Carolina building code council to amend the state building code to

implement any recommendations of the task force. The task force must report its findings by April 1, 2008, to the General Assembly, the Governor, the North Carolina Building Code Council, and the Environmental Review Commission.

- Directs the Department of Crime Control and Public Safety to study potential sources for permanent funding to support the State Medical Assistance Teams and report its findings to the Fiscal Research Division no later than January 1, 2008.
- Authorizes the UNC Board of Governors to establish a research program to assist in crisis management and communication systems to help better prepare campuses for disasters. Also authorizes the study of emission and transport of pollutants at fires at commercial hazardous waste facilities as well as the health and economic impacts of such fires.

## **ASSUMPTIONS AND METHODOLOGY:**

### **Regulation of Hazardous Materials Facilities Task Force**

For the purposes of this fiscal note, the following is assumed about the Hazardous Materials Task Force described in Section 4.1 of the bill:

- The Task Force will meet four times between September 1, 2007 and April 1, 2008. One additional meeting will be needed to present their report to the General Assembly for a total of five meeting days.
- Three members will come from the eastern part of the State, three from the western part, and three from the Piedmont. The additional two members are the Secretary of DENR and the Commissioner of Insurance for a total of 11 members.
- Meetings will be held at the Legislative Building or the Legislative Office Building in Raleigh or other state facilities incurring no costs for meeting space.

With these assumptions, it is estimated that the Task Force will cost \$6,000. The majority of costs incurred are travel and subsistence for the nine non-state employee members (\$5,780) with an allotment for the printing of the report (\$220).

### **Department of Environment and Natural Resources**

**Revenues:** Changing the permit time for commercial hazardous waste facilities from 10 years to 5 years will result in increased revenue to DENR due to more frequent permit payments. DENR estimates that the increase fee revenue will be approximately \$16,000 annually.

### **Expenditures:**

#### *Positions*

Sections 1.1, 1.2, 1.3, 1.4, 1.5, 1.7, 1.8, 1.9, 4.1, and 5.1 will require additional DENR staff time. DENR estimates two additional positions will be needed with funding of \$125,000 recurring. These positions are currently included as expansion items in the Governor's budget.

<b>Position Title</b>	<b>FTEs</b>	<b>Annual Salary</b>	<b>Fringe &amp; Insurance</b>	<b>Total Personnel Cost</b>	<b>Operating Expenses</b>	<b>Total Annual Cost</b>
Administrative Officer II	1.0	\$46,662	\$10,755	\$57,417	\$1,428	\$58,846
Environmental Chemist II	1.0	\$53,029	\$11,697	\$64,726	\$1,428	\$66,154

*Hazardous Chemical Inventory Database*

Section 5.1 requires that DENR establish a Tier II hazardous chemical inventory database and web-based access application. It is estimated that this system will cost \$650,000 -- \$544,627 for contracted services, \$42,000 for equipment, and \$63,373 for supplies, travel, and training.

**Department of Crime Control and Public Safety**

Section 4.2 of this bill directs NCEM to study sources of permanent funding for the State Medical Assistance Teams (SMATs). The cost to administer this study would mostly be related to the staff hours dedicated to the research and drafting of the study report. NCEM estimates that it will cost \$75,000 to administer this study.

Section 5.1 implies that DENR would share the responsibility of developing a hazardous materials database with NCEM. The database would be used to collect information from local governments about hazardous chemical inventories and facilities. NCEM would be responsible for the system's maintenance. DENR has provided estimates of \$650,000 for database development and \$130,000 for annual maintenance. NCEM has expressed concerns about the funding for this database because the bill does not identify a funding source to cover the costs associated with the development or maintenance of this database.

**UNC System**

SB 190 has no impact on the UNC system. G.S. 116-11(2) states that the UNC "Board of Governors shall be responsible for the general determination, control, supervision, management and governance of all affairs of the constituent institutions." G.S. 116-11(3) empowers the Board of Governors to "determine the functions, educational activities and academic programs of the constituent institutions." The Board of Governors already has the power to undertake the tasks recommended in Section 5.3 of the bill. There is no mandate in this bill that will require action on the part of the Board of Governors.

**Department of Health and Human Services**

***Division of Public Health***

Section 3.1 of this bill authorizes the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services to seek reimbursement for all reasonable deployment costs incurred when activated to respond to the release of hazardous material or hazardous waste into the environment. The Epidemiology Section has only responded to one incident at a hazardous waste facility. The total cost for this response was \$58,599 -- \$12,024 for staffing the public health command center with incident command staff and subject matter experts for a total

of 24 hours (3 days) and \$46,575 for evaluation and environmental sampling over 48 hours (6 days). This incident was in the Raleigh/Durham area and therefore travel was not required. An event outside this region would likely have a higher cost due to travel-related costs.

However, it is not possible to predict a fiscal impact of Section 3.1 of the bill to the Epidemiology Section. It is unknown how many incidents there may be in any given year. Additionally, it is unknown how much of the cost of responding to the event may be recovered, and how much of the recovered cost may be offset by increased legal fees for recovering the cost.

Section 5.2 directs the Occupational and Environmental Epidemiology Branch of the Division of Public Health of the Department of Health and Humans Services to develop a model plan for public health response to events with a potential for chemical, biological, or radiological contamination. It further directs the Branch to enter into an 18-month contract with an industrial hygienist to develop the plan. Based on discussions with three private companies that could provide an industrial hygienist, the Division of Public Health estimates that the cost of contracting with this individual would be \$181,334 in FY 2007-08 and \$97,572 in FY 2008-09. Detail on these costs is included in the chart below:

	<b>FY 2007-08 (Full Year)</b>	<b>FY 2008-09 (Half Year)</b>
Personnel and Support Costs	\$ 180,334	\$ 90,167
Travel Costs	\$ 1,000	\$ 1,405
Training Costs	\$ -	\$ 6,000
<b>Total Cost</b>	<b>\$ 181,334</b>	<b>\$ 97,572</b>

**State Medical Assistance Teams (SMATs)**

Section 3.1 of this bill authorizes State Medical Assistance Teams (SMAT) to seek reimbursement for all reasonable deployment costs incurred when activated to respond to the release of hazardous material or hazardous waste into the environment. The SMATs are not operated directly by the State of North Carolina.

A SMAT II team is a hospital based team of medical professionals established to provide patient decontamination, mass medical care, alternate care facilities, and mass medication distribution points. North Carolina currently has eight SMAT II teams, which are based at each of the sponsor hospitals. Their mission is to assist in hospitals, establish a forty bed alternate care facility, establish a mass immunization/medication distribution center and maintain operations for at least three days. A SMAT II team may be deployed by the host hospital locally, regionally or statewide, or nationally through the North Carolina Department of Emergency Management.

A SMAT III Team is an EMS or Fire Department based team that is designed to be the first line of response in support of local agencies in the event of a decontamination event or mass medical care event. There are currently twenty-nine SMAT III teams across the State. Their mission is to provide a first line of defense locally, assist at hospitals, or respond regionally or statewide at the request of the North Carolina Department of Emergency Management and provide local decontamination/medical treatment teams that can rapidly assist/start decontamination operations

on victims of chemical exposures or other incidents that would require decontamination. SMAT III teams can be activated to provide rapid victim decontamination and mass casualty medical care on a local, regional, or statewide level.

Using the SMAT response to an incident at a hazardous waste treatment facility, the Office of Emergency Medical Services in the Division of Facility Services has estimated that the cost of activating a SMAT II team is \$24,700 for labor and supplies. The estimated cost of activating a SMAT III team is \$5,000 for labor and supplies. Since SMATs are currently supported by hospitals and counties, recovered funds would be returned to the applicable hospital or county where the SMAT was activated.

However, it is not possible to predict a fiscal impact of Section 3.1 of the bill to the SMATs. It is unknown how many incidents there may be in any given year. Additionally, it is unknown how much of the cost of responding to the event may be recovered, and how much of the recovered cost may be offset by increased legal fees for recovering the cost.

**SOURCES OF DATA:** Department of Environment and Natural Resources; Department of Crime Control and Public Safety; Department of Health and Human Services, Division of Public Health and the Division of Facility Services

**TECHNICAL CONSIDERATIONS:**

Section 4.2 directs NCEM to study sources of permanent funding for the State Medical Assistance Teams (SMATs). This assignment seems to fall more in line with work done by DHHS- Office of Emergency Medical Services (OEMS). OEMS is the office responsible for the development and long term maintenance of emergency medical resources. The NCEM is capable of doing this study, but OEMS is known as the State's experts in this subject area. If OEMS is directed to complete this study, the cost of the study would not exceed the \$75,000 identified by the Office of Emergency Management.

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