

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1225

Short Title: Solid Waste Revisions.

(Public)

Sponsors: Representatives Hackney; and Redwine.

Referred to: Infrastructure.

April 12, 1989

A BILL TO BE ENTITLED
AN ACT TO SUBSTANTIALLY REVISE SOLID WASTE MANAGEMENT IN
NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-290 reads as rewritten:

"§ 130A-290. Definitions.

The following definitions shall apply throughout this Article:

(0a) 'Biohazardous waste' means any solid waste or liquid waste which may present a threat of infection to humans. The term includes nonliquid human tissue and body parts; laboratory and veterinary waste which contain human disease causing agents; used disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Secretary represent a significant risk of infection to persons outside the generating facility.

(0b) 'Biohazardous waste generator' means a facility or person that produces or generates biohazardous waste. The term includes hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians' offices, laboratories, veterinary clinics, and funeral homes.

(0c) 'Biological waste' means solid waste that causes or has the capability of causing disease or infection and includes biohazardous waste, diseased or dead animals, and other waste capable of transmitting pathogens to humans or animals.

- 1 (0d) 'Clean debris' means any solid waste which is virtually inert, not a
2 pollution threat to groundwater or surface waters, is not a fire
3 hazard, and is likely to retain its physical and chemical structure
4 under expected conditions of disposal or use. The term includes
5 uncontaminated concrete, including embedded pipe or steel, brick,
6 glass, ceramics, and other waste designated by the Department.
- 7 (0e) 'Closure' means the cessation of operation of a solid waste
8 management facility and the act of securing the facility so that it will
9 pose no significant threat to human health or the environment.
- 10 (1) 'Comprehensive hazardous waste treatment facility' means a facility
11 designated as the by the Governor's Waste Management Board,
12 meeting the following criteria:
- 13 a. It is a commercial facility that accepts hazardous waste from the
14 general public for treatment;
- 15 b. It has the capacity and capability to treat and dispose of
16 hazardous waste on at least an intrastate regional basis; and
- 17 c. Its location will substantially facilitate treatment of hazardous
18 waste for the State of North Carolina.
- 19 (1a) 'Disposal' means the discharge, deposit, injection, dumping, spilling,
20 leaking or placing of any solid waste into or on any land so that the
21 solid waste or any constituent part of the solid waste may enter the
22 environment or be emitted into the air or discharged into any waters,
23 including groundwaters.
- 24 (1b) 'Commercial' when applied to a hazardous waste facility, means a
25 hazardous waste facility that accepts hazardous waste from the
26 general public or from another person for a fee.
- 27 (1c) 'Construction and demolition debris' means materials generally
28 considered to be not water soluble and nonhazardous in nature,
29 including steel, glass, brick, concrete, or asphalt roofing material,
30 pipe, gypsum wallboard, and lumber, from the construction or
31 destruction of a structure as part of a construction or demolition
32 project, and including rocks, soils, tree remains, trees, and other
33 vegetative matter which normally results from land clearing or land
34 development operations for a construction project. Mixing of
35 construction and demolition debris with other types of solid waste,
36 including material from a construction or demolition site which is
37 not from the actual construction or destruction of a structure, will
38 cause it to be classified as other than construction and demolition
39 debris.
- 40 (2) 'Federal act' means the Resource Conservation and Recovery Act of
41 1976, P.L. 94-580, as amended.
- 42 (3) 'Garbage' means all putrescible wastes, including animal offal and
43 carcasses, and recognizable industrial by-products, but excluding
44 sewage and human waste.

- 1 (4) 'Hazardous waste' means a solid waste, or combination of solid
2 wastes, which because of its quantity, concentration or physical,
3 chemical or infectious characteristics may:
4 a. Cause or significantly contribute to an increase in mortality or
5 an increase in serious irreversible or incapacitating reversible
6 illness; or
7 b. Pose a substantial present or potential hazard to human health
8 or the environment when improperly treated, stored,
9 transported, disposed of or otherwise managed.
- 10 (5) 'Hazardous waste facility' means a facility for the storage,
11 collection, processing, treatment, recycling, recovery or disposal of
12 hazardous waste.
- 13 (6) 'Hazardous waste generation' means the act or process of producing
14 hazardous waste.
- 15 (7) 'Hazardous waste landfill facility' means any facility or any portion
16 of a facility for disposal of hazardous waste on or in land in
17 accordance with rules adopted under this Article.
- 18 (7a) 'Hazardous waste long-term storage facility' means a facility as
19 defined in G.S. 143B-470.2(5).
- 20 (7b) 'Hazardous waste management program' means the program and
21 activities within the Department pursuant to Part 2 of this Article,
22 for hazardous waste management.
- 23 (8) 'Hazardous waste management' means the systematic control of the
24 collection, source separation, storage, transportation, processing,
25 treatment, recovery and disposal of hazardous wastes.
- 26 (8a) 'Hazardous waste treatment facility' means a facility as defined in
27 G.S. 143B-470.2(3).
- 28 (8b) 'Landfill' means a disposal facility or part of a disposal facility
29 where waste is placed in or on land and which is not a land treatment
30 facility, a surface impoundment, an injection well, a hazardous waste
31 long-term storage facility or a surface storage facility.
- 32 (8c) 'Long-term retrievable storage' means storage in closed containers in
33 facilities (either above or below ground) with (i) adequate lights, (ii)
34 impervious cement floors, (iii) strong visible shelves or platforms,
35 (iv) passageways to allow inspection at any time, (v) adequate
36 ventilation if underground or in closed buildings, (vi) protection
37 from the weather, (vii) accessible to monitoring with signs on both
38 individual containers and sections of storage facilities, and (viii)
39 adequate safety and security precautions for facility personnel,
40 inspectors and invited or permitted members of the community.
- 41 (9) 'Manifest' means the ~~form~~ record keeping system used for
42 identifying the quantity, composition, concentration, and the origin,
43 routing and destination of hazardous waste during its transportation

- 1 from the point of generation to the point of disposal, treatment or
2 storage.
- 3 (10) 'Natural resources' means all materials which have useful physical
4 or chemical properties which exist, unused, in nature.
- 5 (11) 'Open dump' means a solid waste disposal site which is not a
6 sanitary landfill.
- 7 (12) 'Person' means an individual, corporation, company, association,
8 partnership, unit of local government, State agency, federal agency
9 or other legal entity.
- 10 (12a) 'Processing' means any technique designed to change the physical,
11 chemical, or biological character or composition of any solid waste
12 so as to render it safe for transport; amenable to recovery, storage or
13 recycling; safe for disposal; or reduced in volume or concentration.
- 14 (12b) 'Recovered materials' means those materials which have known
15 recycling potential, can be feasibly recycled, and have been diverted
16 or removed from the solid waste stream for sale, use, or reuse by
17 separation, collection, or processing.
- 18 (12c) 'Recyclable material' means those materials which are capable of
19 being recycled and which would otherwise be processed or disposed
20 of as solid waste.
- 21 (13) 'Recycling' means ~~the~~ any process by which ~~recovered~~
22 resources are transformed into new products so that the original products
23 lose their identity solid waste, or materials which would otherwise
24 become solid waste, are collected, separated, or processed; and
25 reused or returned to use in the form of raw materials or products.
- 26 (14) 'Refuse' means all nonputrescible waste.
- 27 (15) 'Resource recovery' means the process of obtaining material or
28 energy resources from discarded solid waste which no longer has
29 any useful life in its present form and preparing the solid waste for
30 recycling.
- 31 (15a) 'Reuse' means a process by which resources are reused or rendered
32 usable.
- 33 (16) 'Sanitary landfill' means a facility for disposal of solid waste on land
34 in a sanitary manner in accordance with the rules concerning
35 sanitary landfills adopted under this Article.
- 36 (16a) 'Septage' means solid waste that is a fluid mixture of untreated and
37 partially treated sewage solids, liquids and sludge of human or
38 domestic origin which is removed from a septic tank system.
- 39 (16b) 'Septage management firm' means a person engaged in the business
40 of pumping, transporting, storing, treating or disposing septage. The
41 term does not include public or community sanitary sewage systems
42 that treat or dispose septage.
- 43 (17) 'Sludge' means any solid, semisolid or liquid waste generated from a
44 municipal, commercial, institutional or industrial wastewater

- 1 treatment plant, water supply treatment plant or air pollution control
2 facility, or any other waste having similar characteristics and effects.
- 3 (18) 'Solid waste' means any hazardous or nonhazardous garbage, refuse
4 or sludge from a waste treatment plant, water supply treatment plant
5 or air pollution control facility, domestic sewage and sludges
6 generated by the treatment thereof in sanitary sewage collection,
7 treatment and disposal systems, and other material that is either
8 discarded or is being accumulated, stored or treated prior to being
9 discarded, or has served its original intended use and is generally
10 discarded, including solid, liquid, semisolid or contained gaseous
11 material resulting from industrial, institutional, commercial and
12 agricultural operations, and from community activities. The term
13 does not include:
- 14 a. Fecal waste from fowls and animals other than humans;
 - 15 b. Solid or dissolved material in:
 - 16 1. Domestic sewage and sludges generated by treatment
17 thereof in sanitary sewage collection, treatment and
18 disposal systems which are designed to discharge
19 effluents to the surface waters;
 - 20 2. Irrigation return flows; and
 - 21 3. Wastewater discharges and the sludges incidental to and
22 generated by treatment which are point sources subject
23 to permits granted under Section 402 of the Federal
24 Water Pollution Control Act, as amended (P.L. 92-500),
25 and permits granted under G.S. 143-215.1 by the
26 Environmental Management Commission. However, any
27 sludges that meet the criteria for hazardous waste under
28 the Federal Resource Conservation and Recovery Act
29 (P.L. 94-580), as amended, shall also be a solid waste for
30 the purposes of this Article;
 - 31 c. Oils and other liquid hydrocarbons controlled under Article
32 21A of Chapter 143 of the General Statutes. However, any oils
33 or other liquid hydrocarbons that meet the criteria for hazardous
34 waste under the Federal Resource Conservation and Recovery
35 Act (P.L. 94-580), as amended, shall also be a solid waste for
36 the purposes of this Article;
 - 37 d. Any source, special nuclear or byproduct material as defined by
38 the Atomic Energy Act of 1954, as amended (42 U.S.C. §
39 2011).
 - 40 e. Mining refuse covered by the North Carolina Mining Act, G.S.
41 74-46 through 74-68 and regulated by the North Carolina
42 Mining Commission (as defined under G.S. 143B- 290).
43 However, any specific mining waste that meets the criteria for
44 hazardous waste under the Federal Resource Conservation and

1 Recovery Act (P.L. 94-580), as amended, shall also be a solid
2 waste for the purposes of this Article.

3 (19) 'Solid waste disposal site' means any place at which solid wastes are
4 disposed of by incineration, sanitary landfill or any other method.

5 (20) 'Solid waste generation' means the act or process of producing solid
6 waste.

7 (21) 'Solid waste management' means purposeful, systematic control of
8 the generation, storage, collection, transport, separation, treatment,
9 processing, recycling, recovery and disposal of solid waste.

10 (22) 'Solid waste management facility' means land, personnel and
11 equipment used in the management of solid waste.

12 (22a) 'Special wastes' means solid wastes that can require special handling
13 and management, including white goods, whole tires, used oil,
14 mattresses, furniture, lead-acid batteries, and biological wastes.

15 (23) 'Storage' means the containment of solid waste, either on a
16 temporary basis or for a period of years, in a manner which does not
17 constitute disposal.

18 (24) 'Treatment' means any method, technique or process, including
19 neutralization, designed to change the physical, chemical or
20 biological character or composition of any solid waste to neutralize
21 the waste or to render the waste nonhazardous, safer for transport,
22 amenable for recovery, amenable for storage or reduced in volume.
23 The term includes any activity or processing designed to change the
24 physical form or chemical composition of solid waste to render it
25 nonhazardous.

26 (25) 'Unit of local government' means a county, city, town or
27 incorporated village.

28 (26) 'White goods' includes inoperative and discarded refrigerators,
29 ranges, water heaters, freezers, and other similar domestic and
30 commercial large appliances.

31 (27) 'Yard trash' means vegetative matter resulting from landscaping
32 maintenance and land-clearing operations."

33 Sec. 2. Part 2 of Article 9 of Chapter 130A of the General Statutes is
34 amended by adding three sections to read:

35 **"§ 130A-290.5. Findings, purpose.**

36 (a) The General Assembly finds that:

37 (1) Inefficient and improper methods of managing solid waste create
38 hazards to public health, cause pollution of air and water resources,
39 constitute a waste of natural resources, have an adverse effect on
40 land values, and create public nuisances.

41 (2) Problems of solid waste management have become a matter
42 statewide in scope and necessitate State action to assist local
43 governments in improving methods and processes to promote more
44 efficient methods of solid waste collection and disposal.

- 1 (3) The continuing technological progress and improvements in methods
2 of manufacture, packaging, and marketing of consumer products
3 have resulted in an ever-mounting increase of the mass of material
4 discarded by the purchasers of the products, thereby necessitating a
5 statewide approach to assisting local governments around the State
6 with their solid waste management programs.
- 7 (4) The economic growth and population growth of our State have
8 required increased industrial production together with related
9 commercial and agricultural operations to meet our needs, which
10 have resulted in a rising tide of unwanted and discarded materials.
- 11 (5) The failure or inability to economically recover material and energy
12 resources from solid waste results in the unnecessary waste and
13 depletion of our natural resources; such that, maximum resource
14 recovery from solid waste and maximum recycling and reuse of the
15 resources must be considered goals of the State.
- 16 (6) Certain solid waste, due to its quantity; concentration; or physical,
17 chemical, biological, or infectious characteristics; is exceptionally
18 hazardous to human health, safety, and to the environment; such that
19 exceptional attention to the transportation, disposal, storage, and
20 treatment of the waste is necessary to protect human health, safety,
21 and welfare; and to protect the environment.
- 22 (7) This Part should be integrated with other State regulations and laws
23 and applicable federal law.
- 24 (b) It is the purpose of this Part to:
- 25 (1) Regulate in the most economically feasible, cost-effective, and
26 environmentally safe manner the storage, collection, transport,
27 separation, processing, recycling, and disposal of solid waste in
28 order to protect the public health, safety, and welfare; enhance the
29 environment for the people of this State; and recover resources
30 which have the potential for further usefulness.
- 31 (2) Establish and maintain a cooperative State program of planning,
32 technical assistance, and financial assistance for solid waste
33 management.
- 34 (3) Require counties and municipalities to adequately plan and provide
35 efficient, environmentally acceptable solid waste management
36 programs; and require counties to plan for proper hazardous waste
37 management.
- 38 (4) Require review of the design, and issue permits for the construction,
39 operation, and closure of solid waste management facilities.
- 40 (5) Promote the application of resource recovery systems that preserve
41 and enhance the quality of air, water, and land resources.
- 42 (6) Ensure that exceptionally hazardous solid waste is transported,
43 disposed of, stored, and treated in a manner adequate to protect
44 human health, safety, and welfare; and the environment.

- 1 (7) Promote the reduction, recycling, reuse, or treatment of solid waste,
2 specifically including hazardous waste, in lieu of disposal of the
3 waste.
- 4 (8) Promote methods and technology for the treatment, disposal, and
5 transportation of hazardous waste which are practical, cost-effective,
6 and economically feasible.
- 7 (9) Encourage counties and municipalities to utilize all means
8 reasonably available to promote efficient and proper methods of
9 managing solid waste and to promote the economical recovery of
10 material and energy resources from solid waste, including
11 contracting with persons to provide or operate resource recovery
12 services or facilities on behalf of the county or municipality.
- 13 (10) Promote the education of the general public and the training of solid
14 waste professionals to reduce the production of solid waste, to
15 ensure proper disposal of solid waste, and to encourage recycling.
- 16 (11) Encourage the development of waste reduction and recycling as a
17 means of managing solid waste, conserving resources, and supplying
18 energy through planning, grants, technical assistance, and other
19 incentives.
- 20 (12) Encourage the development of the State's recycling industry by
21 promoting the successful development of markets for recycled items
22 and by promoting the acceleration and advancement of the
23 technology used in manufacturing processes that use recycled items.
- 24 (13) Give the State a leadership role in recycling efforts by granting a
25 preference in State purchasing to products with recycled content.
- 26 (14) Require counties to develop and implement recycling programs so
27 that valuable materials may be returned to productive use, energy
28 and natural resources conserved, and the useful life of solid waste
29 management facilities extended.
- 30 (15) Ensure that biohazardous waste is transported, stored, treated, and
31 disposed of in a manner sufficient to protect human health, safety,
32 and welfare; and the environment.
- 33 (16) Require counties, municipalities, and State agencies to determine the
34 full cost of providing storage, collection, transport, separation,
35 processing, recycling, and disposal of solid waste in an
36 environmentally safe manner; and encourage counties,
37 municipalities, and State agencies to contract with private persons
38 for any or all the services in order to assure that the services are
39 provided in the most cost-effective manner.

40 **"§ 130A-290.6. State solid waste management goals.**

41 In order to accomplish the purposes of this Part, the following State solid waste
42 management goals are established:

- 43 (1) By 1995, to reduce the volume of solid waste requiring disposal in
44 landfills by 30 percent of the 1989 volume;

1 (2) By 1995, to implement in all counties a countywide solid waste
2 collection system to discourage littering and the illegal dumping of
3 solid waste.

4 (3) To initiate programs to develop or expand recyclable material
5 markets, especially those involving plastics, metals, paper, and glass.

6 **"§ 130A-290.7. Waste that are regulated; certain exclusions.**

7 (a) Notwithstanding other provisions of this Article, the following waste shall be
8 regulated pursuant to this Part:

9 (1) Biohazardous waste and biological waste; and

10 (2) Ash generated by a solid waste management facility from the
11 burning of solid waste.

12 (b) Ash generated by a solid waste management facility from the burning of solid
13 waste shall be disposed of in a properly designed solid waste disposal area that complies
14 with standards developed by the Department for the disposal of the ash. Rule making
15 shall be initiated and at least one public hearing held by February 1, 1990. The
16 Department shall work with solid waste management facilities which burn solid waste
17 to identify and develop methods for recycling and reusing incinerator ash or treated ash.

18 (c) Recovered materials may not be subject to the provisions of this Article
19 when:

20 (1) A majority of the recovered materials at a facility are demonstrated
21 to be sold, used, or reused within one year;

22 (2) The recovered materials or the products or by-products of operations
23 that process recovered materials are not discharged, deposited,
24 injected, dumped, spilled, leaked, or placed into or upon any land or
25 water so that the products or by-products or any constituent thereof
26 may enter other lands or be emitted into the air or discharged into
27 any waters including groundwaters, or otherwise enter the
28 environment or pose a threat to public health and safety; and

29 (3) The recovered materials are not hazardous waste and have not been
30 recovered from solid waste which is defined as hazardous waste
31 under G.S. 130A-290."

32 Sec. 3. Part 2 of Article 9 of Chapter 130A of the General Statutes is
33 amended by adding a section to read:

34 **"§ 130A-291.1. Additional powers and duties of the Department.**

35 In addition to other powers and duties set forth in this Part, the Department shall:

36 (1) Develop and implement, in consultation with units of local
37 government, a State solid waste management program and update
38 the program at least every three years. In developing rules to
39 implement the State solid waste management program, the
40 Department shall hold public hearings around the State and shall
41 give notice of these public hearings to all units of local government
42 and regional planning agencies.

- 1 (2) Provide technical assistance to counties, municipalities, and other
2 persons, and cooperate with appropriate federal agencies and private
3 organizations in carrying out the provisions of this Part.
- 4 (3) Promote the planning and application of recycling and resource
5 recovery systems which preserve and enhance the quality of the air,
6 water, and other natural resources of the State and assist in and
7 encourage, where appropriate, the development of regional solid
8 waste management facilities.
- 9 (4) Use private industry or The University of North Carolina through
10 contractual arrangements for implementation of some or all of the
11 requirements of the State solid waste management program and for
12 the other activities as may be considered necessary, desirable, or
13 convenient.
- 14 (5) Encourage recycling and resource recovery as a source of energy
15 and materials.
- 16 (6) Assist in and encourage, as much as possible, the development,
17 within the State, of industries and commercial enterprises which are
18 based upon resource recovery, recycling, and reuse of solid waste.
- 19 (7) Charge reasonable fees for any services it performs pursuant to this
20 Part, provided user fees shall apply uniformly within each
21 municipality or county to all users who are provided with solid waste
22 management services.
- 23 (8) Adopt, repeal, or amend rules to implement, administer, and enforce
24 this Part, including requirements for the classification, construction,
25 operation, maintenance, and closure of solid waste management
26 facilities. When classifying solid waste management facilities, the
27 Department shall consider the hydrogeology of the site for the
28 facility, the types of waste to be handled by the facility, and methods
29 used to control the types of waste to be handled by the facility, and
30 shall seek to minimize the adverse effects of solid waste
31 management on the environment.
- 32 (9) Conduct research, using The University of North Carolina, solid
33 waste professionals from units of local government, private
34 enterprise, and other organizations, on alternative, economically
35 feasible, cost-effective, and environmentally safe solid waste
36 management and landfill closure methods which protect the health,
37 safety, and welfare of the public and the environment and which
38 may assist in developing markets and providing economic benefits to
39 units of local government, the State, and its citizens; and solicit
40 public participation during the research process. The Department
41 shall incorporate such cost-effective landfill closure methods in the
42 appropriate Department rules as alternative closure requirements.
- 43 (10) Develop and implement, or contract for services to develop,
44 information on recovered materials markets and strategies for market

1 development and expansion for use of these materials. Additionally,
2 the Department shall maintain a directory of recycling businesses
3 operating in the State and shall serve as a coordinator to match
4 recovered materials with markets. This directory shall be made
5 available to the public.

6 (11) Manage a program of grants, using funds from the Solid Waste
7 Management Trust Fund and funds appropriated by the General
8 Assembly for solid waste management, for programs for recycling,
9 litter control, and special waste management, and for programs
10 which provide for the safe and proper management of solid waste.

11 (12) Increase public education and public awareness of solid and
12 hazardous waste issues by developing and promoting statewide
13 programs of litter control, recycling, volume reduction, and proper
14 methods of solid waste and hazardous waste management.

15 (13) By February 1, 1990, initiate rule making to address the
16 management of biohazardous waste and biological waste within the
17 State. Such rules shall address on-site and off-site incineration, and
18 shall regulate biohazardous waste from the point at which such
19 waste is transported from a facility that generates the waste, for the
20 purpose of off-site shipment for storage, treatment, or disposal, and
21 shall include provisions for the registering of transporters of
22 biohazardous waste."

23 Sec. 4. G.S. 130A-294(a) reads as rewritten:

24 "(a) The Department is authorized and directed to engage in research, conduct
25 investigations and surveys, make inspections and establish a statewide solid waste
26 management program. In establishing a program, the Department shall have authority
27 to:

28 (1) Develop a comprehensive program for implementation of safe and
29 sanitary practices for management of solid waste;

30 (2) Advise, consult, cooperate and contract with other State agencies,
31 units of local government, the federal government, industries and
32 individuals in the formulation and carrying out of a solid waste
33 management program;

34 (3) Develop and adopt rules to establish standards for qualification as a
35 waste 'recycling, reduction or resource recovering facility' or as
36 waste 'recycling, reduction or resource recovering equipment' for the
37 purpose of special tax classifications or treatment, and to certify as
38 qualifying those applicants which meet the established standards.
39 The standards shall be developed to qualify only those facilities and
40 equipment exclusively used in the actual waste recycling, reduction
41 or resource recovering process and shall exclude any incidental or
42 supportive facilities and equipment;

43 (4) Develop a permit system governing the establishment and operation
44 of solid waste management facilities. Prior to application for a

1 construction permit, an applicant shall designate to the Department
2 temporary backup disposal areas or processes for the facility.
3 Failure to designate temporary backup disposal areas or processes
4 shall result in a denial of the construction permit. Permits issued
5 under this section may include any permit conditions necessary to
6 achieve compliance with the recycling requirements of this Part. No
7 permit shall be granted for a sanitary landfill, excluding demolition
8 landfills as defined in the rules of the Commission for Health
9 Services, without the Department receiving the prior approval for
10 such permit from the county where it is to be located, except if it is
11 to be located within the corporate limits or extraterritorial
12 jurisdiction under Article 19 of Chapter 160A of the General
13 Statutes, of a city as defined in G.S. 160A-1(2), from the city where
14 it is to be located or whose jurisdiction it is in. No permit shall be
15 granted for a solid waste management facility having discharges
16 which are point sources until the Department has referred the
17 complete plans and specifications to the Environmental Management
18 Commission and has received advice in writing that the plans and
19 specifications are approved in accordance with the provisions of
20 G.S. 143-215.1. In any case where the Department denies a permit
21 for a solid waste management facility, it shall state in writing the
22 reason for denial and shall also state its estimate of the changes in
23 the applicant's proposed activities or plans which will be required for
24 the applicant to obtain a permit. The Department may refuse to issue
25 a permit to an applicant who by past conduct in this State has
26 repeatedly violated related statutes, rules, orders, or permit terms or
27 conditions relating to any solid waste management facility and who
28 is deemed by the Department to be responsible for the violations.
29 For the purpose of this subdivision, an applicant includes the owner
30 or operator of the facility, or, if the owner or operator is a business
31 entity, the parent of the subsidiary corporation, a partner, a corporate
32 officer or director, or a stockholder holding more than fifty percent
33 (50%) of the stock of the corporation.

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

- 42 (4a) No permit shall be granted for any public or private sanitary landfill to
43 receive solid non-radioactive waste generated outside the boundaries
44 of North Carolina to be deposited, unless such waste has previously

1 been inspected by the solid waste regulatory agency of that nation,
2 state or territory, characterized in detail as to its contents and certified
3 by that agency to be non-injurious to health and safety. The
4 Commission shall adopt rules to implement this subsection.

5 (5a) Designate a geographic area within which the collection,
6 transportation, storage and disposal of all solid waste generated within
7 said area shall be accomplished in accordance with a solid waste
8 management plan. Such designation may be made only after the
9 Department has received a request from the unit or units of local
10 government having jurisdiction within said geographic area that such
11 designation be made and after receipt by the Department of a solid
12 waste management plan which shall include:

- 13 a. The existing and projected population for such area;
- 14 b. The quantities of solid waste generated and estimated to be
15 generated in such area;
- 16 c. The availability of sanitary landfill sites and the environmental
17 impact of continued landfill of solid waste on surface and
18 subsurface waters;
- 19 d. The method of solid waste disposal to be utilized and the energy
20 or material which shall be recovered from the waste; and
- 21 e. Such other data that the Department may reasonably require.

22 (5b) Authorize units of local government to require by ordinance, that all
23 solid waste generated within the designated geographic area that is
24 placed in the waste stream for disposal be collected, transported, stored
25 and disposed of at a permitted solid waste management facility or
26 facilities serving such area. The provisions of such ordinance shall not
27 be construed to prohibit the source separation of materials from solid
28 waste prior to collection of such solid waste for disposal, or prohibit
29 collectors of solid waste from recycling materials or limit access to
30 such materials as an incident to collection of such solid waste;
31 provided such prohibitions do not authorize the construction and
32 operation of a resource recovery facility unless specifically permitted
33 pursuant to an approved solid waste management plan. If a private
34 solid waste landfill shall be substantially affected by such ordinance
35 then the unit of local government adopting the ordinance shall be
36 required to give the operator of the affected landfill at least two years
37 written notice prior to the effective date of the proposed ordinance.

38 (5c) Except for the authority to designate a geographic area to be serviced
39 by a solid waste management facility, delegate authority and
40 responsibility to units of local government to perform all or a portion
41 of a solid waste management program within the jurisdictional area of
42 the unit of local government; provided that no authority over or control
43 of the operations or properties of one local government shall be
44 delegated to any other local government.

- 1 (5d) Require that an annual report of the implementation of the solid waste
2 management plan within the designated geographic area be filed with
3 the Department.
- 4 (6) The Department is authorized to charge and collect fees from
5 operators of hazardous waste landfill facilities. The fees shall be used
6 to establish a fund sufficient for each individual facility to defray the
7 anticipated costs to the State for monitoring and care of the facility
8 after the termination of the period during which the facility operator is
9 required by applicable State and federal statutes, regulations or rules to
10 remain responsible for post-closure monitoring and care. In
11 establishing the fees, consideration shall be given to the size of the
12 facility, the nature of the hazardous waste and the projected life of the
13 facility.
- 14 (7) Establish and collect annual fees from generators and transporters of
15 hazardous waste, and from storage, treatment, and disposal facilities
16 regulated under this Article as provided in G.S. 130A-294.1."

17 Sec. 5. Part 2 of Article 9 of Chapter 130A of the General Statutes is
18 amended by adding the following sections to read:

19 **"§ 130A-294.1. Compost standards and applications.**

20 (a) In order to protect the State's land and water resources, compost produced,
21 utilized, or disposed of by the composting process at solid waste management facilities
22 in the State must meet criteria established by the Department.

23 (b) Within six months after the effective date of this section, the Department
24 shall initiate rule making to establish standards for the production of compost and shall
25 complete and promulgate those rules within 12 months after initiating the process of
26 rule making, including rules establishing:

27 (1) Requirements necessary to produce hygienically safe compost
28 products for varying applications.

29 (2) A classification scheme for compost based on:

30 a. The types of waste composted, including at least one type
31 containing only yard trash;

32 b. The maturity of the compost, including at least three degrees of
33 decomposition for fresh, semi-mature, and mature; and

34 c. The levels of organic and inorganic constituents in the compost.

35 This scheme shall address:

36 a. Methods for measurement of the compost maturity.

37 b. Particle sizes.

38 c. Moisture content.

39 d. Average levels of organic and inorganic constituents, including
40 heavy metals, for such classes of compost as the Department
41 establishes, and the analytical methods to determine those
42 levels.

43 (c) Within six months after the effective date of this section, the Department
44 shall initiate rule making to prescribe the allowable uses and application rates of

1 compost and shall complete and promulgate those rules within 12 months after initiating
2 the process of rule making, based on the following criteria:

3 (1) The total quantity of organic and inorganic constituents, including
4 heavy metals, allowed to be applied through the addition of compost to
5 the soil per acre per year.

6 (2) The allowable uses of compost based on maturity and type of compost.

7 (d) If compost is produced which does not meet the criteria prescribed by the
8 Department for agricultural and other use, the compost must be reprocessed or disposed
9 of in a manner approved by the Department, unless a different application is specifically
10 permitted by the Department.

11 **"§ 130A-294.2. Determination of cost for solid waste management; local solid**
12 **waste management fees.**

13 (a) Within one year of the effective date of this act or within one year after rules
14 are established by the Department, whichever occurs later, each county and each
15 municipality shall determine the full cost for solid waste management within the service
16 area of the county or municipality for the one-year period beginning on the effective
17 date of this act, and shall update the full cost every year thereafter. The Department
18 shall establish by rule the method for units of local government to use in calculating
19 full cost. Rule making shall be initiated and at least one public hearing shall be held by
20 March 1, 1991. In developing the rule, the Department shall examine the feasibility of
21 the use of an enterprise fund process by units of local government in operating their
22 solid waste management systems.

23 (b) Within one year from the effective date of this act, each municipality shall
24 establish a system to inform, no less than once a year, residential and nonresidential
25 users of solid waste management services within the municipality's service area of the
26 user's share, on an average or individual basis, of the full cost for solid waste
27 management as determined pursuant to subsection (a). Counties shall provide the
28 information required of municipalities only to residential and nonresidential users of
29 solid waste management services within the county's service area that are not served by
30 a municipality. Municipalities shall include costs charges to them or persons
31 contracting with them for disposal of solid waste in the full cost information provided to
32 residential and nonresidential users of solid waste management services. Counties and
33 municipalities are encouraged to operate their solid waste management systems through
34 use of an enterprise fund.

35 (c) For purposes of this section, 'service area' means the area in which the county
36 or municipality provides, directly or by contract, solid waste management services. The
37 provisions of this section shall not be construed to require a person operating under a
38 franchise agreement to collect or dispose of solid waste within the service area of a
39 county or municipality to make the calculations or to establish a system to provide the
40 information required under this section, unless such person agrees to do so as part of
41 such franchise agreement.

42 (d) In order to assist in achieving the municipal solid waste reduction goal and
43 the recycling provisions of G.S. 130A-294.4, a county or a municipality which owns or
44 operates a solid waste management facility may charge solid waste disposal fees which

1 may vary based on a number of factors, including the amount, characteristics, and form
2 of recyclable materials present in the solid waste that is brought to the county's or the
3 municipality's facility for processing or disposal.

4 (e) In addition to all other fees required or allowed by law, a county or a
5 municipality, at the discretion of its governing board, may impose a fee for the services
6 the county or municipality provides with regard to the collection, processing, or disposal
7 of solid waste, to be used for developing and implementing a recycling program.

8 (f) This section does not prohibit a county, municipality, or other person from
9 providing grants, loans, or other aid to low-income persons to pay part or all of the costs
10 of such persons' solid waste management services.

11 **"§ 130A-294.3. State solid waste management program.**

12 (a) The State solid waste management program shall:

13 (1) Provide guidelines for the orderly collection, transportation, storage,
14 separation, processing, recovery, recycling, and disposal of solid waste
15 throughout the State;

16 (2) Encourage coordinated local activity for solid waste management
17 within a common geographical area;

18 (3) Investigate the present status of solid waste management in the State
19 with positive proposals for local action to correct deficiencies in
20 present solid waste management processes;

21 (4) Provide planning, technical, and financial assistance to units of local
22 government and State agencies for reduction, recycling, reuse, and
23 processing of solid waste and for safe and environmentally sound solid
24 waste management and disposal;

25 (5) Assist in the development of solid waste reduction and recycling
26 programs to properly manage solid waste and conserve resources; and

27 (6) Provide for the education of the general public and the training of solid
28 waste management professionals to reduce the production of solid
29 waste, to ensure proper processing and disposal of solid waste, and to
30 encourage recycling and solid waste reduction.

31 (b) The State solid waste management program shall be initiated by the
32 Department by February 1, 1990, and the Department shall begin adoption of rules
33 necessary to implement the program by December 31, 1990. The program shall be
34 updated at least once every three years.

35 (c) The State solid waste management program shall include, at a minimum:

36 (1) Procedures and requirements to ensure cooperative efforts in solid
37 waste management by counties and municipalities and groups of
38 counties and municipalities where appropriate, including the
39 establishment of joint agencies pursuant to G.S. 160A-462.

40 (2) Provisions for the continuation of existing effective regional resource
41 recovery, recycling, and solid waste management facilities and
42 programs.

- 1 (3) Planning guidelines and technical assistance to counties and
2 municipalities to aid in meeting the municipal solid waste reduction
3 goals established in G.S. 130A-294.4(d).
- 4 (4) Planning guidelines and technical assistance to counties and
5 municipalities to assist the development and implementation of
6 recycling programs.
- 7 (5) Technical assistance to counties and municipalities in determining the
8 full cost for solid waste management as required in G.S. 130A-294.2.
- 9 (6) Planning guidelines and technical assistance to counties and
10 municipalities to assist the development and implementation of
11 programs for alternative disposal, processing, or recycling of the solid
12 wastes prohibited from disposal in landfills pursuant to G.S. 130A-
13 294.6(f) and for special wastes.
- 14 (7) A public education program, to be developed in cooperation with the
15 Department of Public Instruction, units of local government, other
16 State agencies, and business and industry organizations, to inform the
17 public of the need for and the benefits of recycling solid waste and
18 reducing the amounts of solid and hazardous waste generated and
19 disposed of in the State. The public education program shall be
20 implemented through public workshops and through the use of
21 brochures, reports, public service announcements, and other materials.
- 22 (d) The Department shall prepare by October 1, 1990, and every year thereafter, a
23 report on the status of solid waste management efforts in the State. The report shall
24 include, at a minimum:
- 25 (1) A comprehensive analysis, to be updated in each report, of solid waste
26 generation and disposal in the State projected for the 20-year period
27 beginning on January 1, 1990.
- 28 (2) The total amounts of solid waste generated, recycled, and disposed of
29 and the methods of solid waste recycling and disposal used during the
30 calendar year prior to the year in which the report is published.
- 31 (3) An evaluation of the development and implementation of local solid
32 waste management programs and county and municipal recycling
33 programs.
- 34 (4) An evaluation of the success of each county or group of counties in
35 meeting the municipal solid waste reduction goal established in G.S.
36 130A-294.4(d).
- 37 (5) Recommendations concerning existing and potential programs for
38 solid waste reduction and recycling that would be appropriate for units
39 of local government and State agencies to implement to meet the
40 requirements of this Part.
- 41 (6) An evaluation of the markets for recycled materials and the success of
42 State, local, and private industry efforts to enhance the markets for
43 such materials.

1 (7) Recommendations to the Governor and the General Assembly to
2 improve the management and recycling of solid waste in this State.

3 (e) The Department shall develop descriptive literature to inform units of local
4 government of their solid waste management responsibilities and opportunities. The
5 Department shall also hold at least one regional workshop in each council of
6 government region during fiscal year 1990-91 for the purpose of:

7 (1) Informing the public and the private sector of the provisions of this
8 Part; and

9 (2) Identifying solid waste management issues which may need to be
10 discussed by the 1991 General Assembly.

11 **"§ 130A-294.4. Local government solid waste responsibilities.**

12 (a) The governing board of a county has the responsibility and power to provide
13 for the operation of solid waste disposal facilities to meet the needs of all incorporated
14 and unincorporated areas of the county. Pursuant to this section and notwithstanding
15 any other provision of this Chapter, counties shall have the power and authority to adopt
16 ordinances governing the disposal of solid waste generated outside of the county at the
17 county's solid waste disposal facility. In accordance with this section, municipalities are
18 responsible for collecting and transporting solid waste from their jurisdictions to a solid
19 waste disposal facility operated by the municipality or the county or operated under a
20 contract with the county. Counties and municipalities may charge reasonable fees for
21 the handling and disposal of solid waste at their facilities. The fees charged to
22 municipalities without facilities at a solid waste management facility specified by the
23 county shall not be greater than the fees charged to other users of the facility except as
24 provided in G.S. 130A-294.2(d). Solid waste management fees collected on a
25 countywide basis shall be used to fund solid waste management services provided
26 countywide.

27 (b) Each county shall initiate a recyclable materials recycling program by July 1,
28 1990. Counties and municipalities are encouraged to form cooperative arrangements for
29 implementing recycling programs. The following requirements shall apply:

30 (1) Construction and demolition debris must be separated from the solid
31 waste stream and segregated in separate locations at a solid waste
32 disposal facility or other permitted site.

33 (2) At a minimum, a majority of the newspaper, aluminum cans, glass, and
34 plastic bottles must be separated from the solid waste stream prior to
35 final disposal at a solid waste disposal facility and must be offered for
36 recycling.

37 (3) Units of local government are encouraged to separate all plastics,
38 metal, and all grades of paper for recycling prior to final disposal and
39 are further encouraged to recycle yard trash and other mechanically
40 treated solid waste into compost available for agricultural and other
41 acceptable uses.

42 (c) Each county shall ensure, to the maximum extent possible, that municipalities
43 within its boundaries participate in the preparation and implementation of recycling and
44 solid waste management programs through joint agencies established pursuant to G.S.

1 160A-462 or other means provided by law. Nothing in a county's solid waste
2 management or recycling program shall affect the authority of a municipality to
3 franchise or otherwise provide for the collection of solid waste generated within the
4 boundaries of the municipality.

5 (d) A county's solid waste management and recycling programs shall be designed
6 to provide for sufficient reduction of the amount of solid waste generated within the
7 county and the municipalities within its boundaries in order to meet goals for the
8 reduction of municipal solid waste prior to the final disposal or incineration of the waste
9 at a solid waste disposal facility. The goals shall provide, at a minimum, that the
10 amount of municipal solid waste that would be disposed of in the absence of municipal
11 solid waste recycling efforts undertaken within the county and the municipalities within
12 its boundaries is reduced by at least thirty percent (30%) by the end of 1995. In
13 determining whether the municipal solid waste reduction goal established by this
14 subsection has been achieved, no more than one-half of the goal may be met with yard
15 trash, white goods, construction and demolition debris, and tires that are removed from
16 the total amount of municipal solid waste that would be disposed of in the absence of
17 municipal solid waste recycling efforts.

18 (e) As used in this section, 'municipal solid waste' includes any solid waste,
19 except for sludge, resulting from the operation of residential, commercial,
20 governmental, or institutional establishments that would normally be collected,
21 processed, and disposed of through a public or private solid waste management service.
22 The term includes yard trash, but does not include solid waste from industrial, mining,
23 or agricultural operations.

24 (f) The Department may reduce or modify the municipal solid waste reduction
25 goal that a county is required to attempt to achieve pursuant to subsection (d) if the
26 county demonstrates to the Department that:

27 (1) The achievement of the goal set forth in subsection (d) would have an
28 adverse effect on the financial obligations of a county that are directly
29 related to a waste-to-energy facility owned or operated by or on behalf
30 of the county; and

31 (2) The county cannot remove normally combustible materials from solid
32 waste that is to be processed at a waste-to-energy facility because of
33 the need to maintain a sufficient amount of solid waste to ensure the
34 financial viability of the facility. The goal shall not be waived entirely
35 and may only be reduced or modified to the extent necessary to
36 alleviate the adverse effects of achieving the goal on the financial
37 viability of a county's waste-to-energy facility. Nothing in this
38 subsection shall exempt a county from developing and implementing a
39 recycling program pursuant to this Part.

40 (g) In order to assess the progress in meeting the goal established in subsection
41 (d) of this section, each county shall, by October 1, 1990, and each year thereafter,
42 report to the Department its annual solid waste management program and recycling
43 activities. The report by the county must include:

44 (1) A description of its public education program on recycling;

- 1 (2) The amount of solid waste disposed of at solid waste disposal
2 facilities, by type of waste such as yard trash, white goods, clean
3 debris, tires, and unseparated solid waste;
- 4 (3) The amount and type of materials from the solid waste stream that
5 were recycled;
- 6 (4) The percentage of the population participating in various types of
7 recycling activities instituted;
- 8 (5) The percent reduction each year in municipal solid waste disposed of
9 at solid waste disposal facilities;
- 10 (6) A description of the recycling activities attempted, their success rates,
11 the perceived reasons for failure or success, and the recycling activities
12 which are ongoing and most successful; and
- 13 (7) In its first report, a description of any recycling activities implemented
14 prior to July 1, 1990.
- 15 (h) A county or municipality may enter into a written agreement with other
16 persons, including persons transporting solid waste, on the effective date of this act, to
17 undertake to fulfill some or all of the county's or municipality's responsibilities under
18 this section.
- 19 (i) In the development and implementation of a curbside recyclable materials
20 collection program, a county or municipality shall enter into negotiations with a
21 franchisee who is operating to exclusively collect solid waste within a service area of a
22 county or municipality to undertake curbside recyclable materials collection
23 responsibilities for a county or municipality. If the county or municipality and the
24 franchisee fail to reach an agreement within 60 days from the initiation of negotiations,
25 the county or municipality may solicit proposals from other persons to undertake
26 curbside recyclable materials collection responsibilities for the county or municipality
27 as it may require. Upon the determination of the lowest responsible proposals, the
28 county or municipality may undertake, or enter into a written agreement with the person
29 who submitted the lowest responsible proposal to undertake, the curbside recyclable
30 materials collection responsibilities for the county or municipality, notwithstanding the
31 exclusivity of the franchise agreement.
- 32 (j) In developing and implementing recycling programs, counties and
33 municipalities shall give consideration to the collection, marketing, and disposition of
34 recyclable materials by persons engaged in the business of recycling on the effective
35 date of this section, whether or not the persons were operating for profit. Counties and
36 municipalities are encouraged to use for-profit and nonprofit organizations in fulfilling
37 their responsibilities under this Part.
- 38 (k) A county and the municipalities within the county's boundaries may jointly
39 develop a recycling program, provided that the county and each municipality must enter
40 into a written agreement to jointly develop a recycling program. If a municipality does
41 not participate in jointly developing a recycling program with the county within which it
42 is located, the county may require the municipality to provide information on recycling
43 efforts undertaken within the boundaries of the municipality in order to determine
44 whether the goals for municipal solid waste reduction are being achieved.

1 (l) It is the policy of the State that a county and its municipalities may jointly
2 determine, through a joint agency established pursuant to G.S. 160A-462 or by
3 requesting the passage of special legislation, which local governmental agency shall
4 administer a solid waste management or recycling program.

5 (m) The county shall provide written notice to all municipalities within the county
6 when recycling program development begins and shall provide periodic written progress
7 reports to the municipalities concerning the preparation of the recycling program.

8 (n) Nothing in this section shall be construed to prevent the governing board of
9 any county or municipality from providing by ordinance or regulation for solid waste
10 management requirements which are stricter or more extensive than those imposed by
11 the State solid waste management program and rules, regulations, and orders issued to
12 implement the State program.

13 (o) Nothing in this Part or in any rule adopted by any agency shall be construed
14 to require any county or municipality to participate in any regional solid waste
15 management until the governing board of the county or municipality has determined
16 that participation in such a program is economically feasible for that county or
17 municipality. Nothing in this Part or in any special or local act or in any rule adopted
18 by any agency shall be construed to limit the authority of a municipality to regulate the
19 disposal of solid waste located within its boundaries or generated within its boundaries
20 so long as a facility for any such disposal has been approved by the Department, unless
21 the municipality is included within a solid waste management program created under a
22 joint agency or special or local act. If bonds had been issued to finance a solid waste
23 management program in reliance on State law granting to a county the responsibility for
24 the solid waste management program, nothing herein shall permit any governmental
25 agency to withdraw from the program if the agency's participation is necessary for the
26 financial feasibility of the project, so long as the bonds are outstanding.

27 (p) Nothing in this Part or in any rule adopted by any State agency pursuant to
28 this Part shall require any person to subscribe to any private solid waste collection
29 service.

30 (q) To effect the purposes of this Part, counties and municipalities are authorized,
31 in addition to other powers granted pursuant to this Part;

32 (1) To contract with persons to provide resource recovery services or
33 operate resource recovery facilities on behalf of the county or
34 municipality.

35 (2) To indemnify persons providing resource recovery services or
36 operating resource recovery facilities for liabilities or claims arising
37 out of the provision or operation of such services or facilities that are
38 not the result of the sole negligence of the persons providing the
39 services or operating the facilities.

40 (r) On and after July 1, 1990, each operator of a solid waste management facility
41 owned or operated by or on behalf of a county or municipality, except existing facilities
42 which will not be in use one year after the effective date of this section, shall weigh all
43 solid waste when it is received.

1 (s) In the event the power to manage solid waste has been granted to a special
2 district or other entity by special act or joint agency, any duty or responsibility or
3 penalty imposed under this Part on a county or municipality shall apply to such special
4 district or other entity to the extent of the grant of the duty or responsibility or
5 imposition of such penalty. To the same extent, such special district or other entity shall
6 be eligible for grants or other benefits provided pursuant to this Part.

7 (t) In addition to any other penalties provided by law, a unit of local government
8 that does not comply with the requirements of subsections (b) and (d) shall not be
9 eligible for grants from the Solid Waste Management Trust Fund, and the Department
10 may notify the State Treasurer to withhold payment of all or a portion of funds payable
11 to the unit of local government by the Department from the General Fund or by the
12 Department from any other State fund, to the extent not pledged to retire bonded
13 indebtedness, unless the unit of local government demonstrates that good faith efforts to
14 meet the requirements of subsections (b) and (d) have been made or that the funds are
15 being or will be used to finance the correction of a pollution control problem that spans
16 jurisdictional boundaries.

17 **"§ 130A-294.5. Procurement of products or materials with recycled content.**

18 (a) Any State agency or agency of a political subdivision of the State which is
19 using State funds, or any person contracting with any State agency with respect to work
20 performed under contract, is required to procure products or materials with recycled
21 content when those products or materials are available at reasonable prices. A decision
22 not to procure such items must be based on a determination that such procurement:

23 (1) Is not reasonably available within a reasonable period of time; or

24 (2) Fails to meet the performance standards set forth in the applicable
25 specifications or fails to meet the reasonable performance standards of
26 the agency.

27 (b) For the purposes of this section, 'recycled content' means materials that have
28 been recycled that are contained in the products or materials to be procured, including
29 paper, aluminum, glass, and composted material. The term does not include internally
30 generated scrap that is commonly used in industrial or manufacturing processes, or
31 waste or scrap purchased from another manufacturer who manufactures the same or a
32 closely related product.

33 **"§ 130A-294.6. Prohibited acts.**

34 (a) After January 1, 1990, no beverage shall be sold or offered for sale within the
35 State in a beverage container designed and constructed so that the container is opened
36 by detaching a metal ring or tab.

37 (b) After July 1, 1990, no container shall be sold or offered for sale within the
38 State that is connected to other containers by a separate holding device constructed of
39 plastic rings unless the rings are composed of material which is degradable within 120
40 days, or by any other device unless such device is composed of material which is
41 degradable within 120 days. Notice of degradability shall be embossed or otherwise
42 indicated on the holding device.

43 (c) After July 1, 1991, no person shall distribute, sell, or expose for sale in this
44 State any plastic container product unless the product has a molded label indicating the

1 plastic resin used to produce the plastic container product. The label must appear on the
2 bottom of the plastic container product and be clearly visible. This label must consist of
3 a number placed inside a triangle and letters placed below the triangle. All plastic
4 beverage containers and all nonsolid food liquid containers of less than 16 ounces and
5 all rigid plastic containers of less than 8 ounces shall not be required to be labeled under
6 this section. The numbers and letters shall be as follows:

- 7 (1) For polyethylene terephthalate, the letters 'PET' and the number 1.
- 8 (2) For high density polyethylene, the letters 'HDPE' and the number 2.
- 9 (3) For vinyl, the letter 'V' and the number 3.
- 10 (4) For low density polyethylene, the letters 'LDPE' and the number 4.
- 11 (5) For polypropylene, the letters 'PP' and the number 5.
- 12 (6) For polystyrene, the letters 'PS' and the number 6.
- 13 (7) For any other, including multilayer, the letters 'OTHER' and the
14 number 7.

15 (d) After January 1, 1991, no plastic bag shall be provided at any retail outlet to
16 any retail customer to use for the purpose of carrying items purchased by that customer
17 unless the bag is composed of material which is degradable within 120 days. Notice of
18 degradability shall be printed on each bag.

19 (e) No person shall:

- 20 (1) After October 1, 1991, distribute, sell, or expose for sale in this State,
21 any product packaged in a container or packing material manufactured
22 with fully halogenated chlorofluorocarbons (CFC). Producers of
23 containers or packing material manufactured with chlorofluorocarbons
24 (CFC) are urged to introduce alternative packaging materials which are
25 environmentally compatible.
- 26 (2) Distribute, sell, or offer for sale in this State any polystyrene foam or
27 plastic-coated paper product which is to be used in conjunction with
28 food for human consumption unless such product is composed of
29 material which is degradable within 12 months or less. This
30 requirement shall be effective one year after such products have been
31 certified as safe by the United States Food and Drug Administration
32 and are made available in commercial quantities. Determination of the
33 degradability of these products shall be made by the Secretary based
34 on a preponderance of evidence available from reputable private and
35 government research agencies. Businesses and industries that use
36 polystyrene foam and plastic-coated paper products that are not
37 degradable as required by this subdivision are encouraged to formulate
38 a three-year plan to research, test, and implement production
39 technologies that will allow the product to meet the degradability
40 requirements by January 1, 1993.

41 (f) In accordance with the following schedule, no person who knows or who
42 should know of the nature of the following solid waste shall dispose of this solid waste
43 in landfills:

1 (1) Lead-acid batteries, after January 1, 1991. Lead-acid batteries also
2 shall not be disposed of in any waste-to-energy facility after January 1,
3 1991. To encourage proper collection and recycling, all persons who
4 sell lead-acid batteries at retail shall accept used lead-acid batteries as
5 trade-ins for new lead-acid batteries.

6 (2) Used oil, after October 1, 1990.

7 (3) Yard trash, after January 1, 1993, except in unlined landfills classified
8 by Department rule. Yard trash that is source separated from solid
9 waste may be accepted at a solid waste disposal area where the area
10 provides and maintains separate yard trash composting facilities.

11 (4) White goods, after January 1, 1991.

12 Prior to the effective dates specified in this subsection, the Department shall identify
13 and assist in developing alternative disposal, processing, or recycling options for the
14 solid waste identified in this subsection.

15 (g) Fifty percent (50%) of the fines collected pursuant to Article 1 of this Chapter
16 for violations under this section shall be deposited into the Solid Waste Management
17 Trust Fund. The balance of fines collected shall be paid to the Department for the cost
18 of inspection and enforcement of the provisions of this section.

19 (h) For purposes of this section:

20 (1) 'Beverage' means soda water, carbonated natural or mineral water, or
21 other nonalcoholic carbonated drinks; soft drinks, whether or not
22 carbonated; beer, ale, or other malt drink of whatever alcoholic
23 content; or a mixed wine drink or mixed spirit drink.

24 (2) 'Beverage container' means an airtight container which at the time of
25 sale contains one gallon or less of a beverage, or the metric equivalent
26 of one gallon or less, and which is composed of metal, plastic, or glass
27 or a combination of these.

28 (3) 'Degradable' means is capable of decomposing to components other
29 than heavy metals or other toxic substances after exposure to bacteria,
30 light, or the outdoor elements.

31 (4) 'Retail outlet' means any establishment eighty percent (80%) or more
32 of the income of which is from retail sales. This term does not mean
33 any establishment whose primary purpose is to sell food prepared at
34 such establishment for immediate consumption.

35 **"§ 130A-294.7. Animal parts, fats, byproducts, waste products, vegetable oils**
36 **disposal.**

37 A commercial establishment that processes food products for human consumption
38 may not dispose of any animal parts, fats, byproducts, waste products, or vegetable oils,
39 liquid or solid, in a landfill unless approved by the Department. The Department may
40 establish by rule appropriate thresholds or amounts for these materials, as well as
41 additional subcategories of these materials that are exempt from this requirement. In
42 making a determination for exemption, the Department shall find that such an
43 exemption is not likely to be harmful to the public health, safety, or welfare.

44 **"§ 130A-294.8. Solid Waste Management Trust Fund.**

1 (a) The Solid Waste Management Trust Fund is created and is to be administered
2 by the Department of Human Resources for the purposes of:

- 3 (1) Funding solid waste activities of the Department, such as providing
4 technical assistance to units of local government, performing solid
5 waste regulatory and enforcement functions, preparing solid waste
6 documents, and implementing solid waste education programs;
7 (2) Making grants and awards to units of local government as provided in
8 this Part;
9 (3) Providing funding for demonstration projects as provided by this Part;
10 and
11 (4) Providing funding for research by The University of North Carolina
12 and independent nonprofit colleges and universities within the State
13 which are accredited by the Southern Association of Colleges and
14 Schools as provided by this Part.

15 (b) Moneys allocated to the Fund from waste tire fees shall be accounted for
16 separately within the Fund and shall be used in the following manner, in order of
17 priority:

- 18 (1) To pay Department administration costs for administering these funds
19 and programs.
20 (2) To provide funding for research and demonstration projects relating to
21 solving solid waste problems resulting from waste tires.
22 (3) To provide funds for removal of tires from an illegal waste tire site
23 when the site owner is financially incapable of complying with the
24 law.
25 (4) To provide grants to units of local government as provided in this Part.

26 **"§ 130A-294.9. Solid waste management grant program.**

27 (a) The Department shall develop a grant program to enable counties and
28 municipalities to operate solid waste management recycling and education programs to
29 carry out the purposes of this section. Counties and municipalities are encouraged to
30 form interlocal agreements to implement solid waste recycling and education programs.

31 (b) Twenty-five percent (25%) of the funds available for recycling and education
32 grants in subsections (d) and (e) shall be distributed as base portions of grants to
33 counties and to municipalities with populations over 50,000. The base portion of grants
34 shall be awarded in equal amounts to all applicants determined eligible by the
35 Department according to the provisions of this section.

36 (c) Seventy-five percent (75%) of the funds available for recycling and education
37 grants in subsections (d) and (e) shall be distributed as incentive portions of grants
38 based on the formula set forth in this subsection. Each county and each municipality
39 with a population of greater than 50,000 may apply for the incentive portions of
40 recycling and education grants individually and counties may apply individually or in
41 conjunction with other municipalities.

- 42 (1) The incentive portions of grants shall be available to municipalities
43 with populations greater than 50,000 applying individually on a fifty
44 percent (50%) matching basis. The incentive portion of grants shall be

1 available to counties with unincorporated population of greater than
2 30,000 applying individually or in combination with municipalities
3 within the county on a fifty percent (50%) matching basis, except for
4 such grant applications meeting the requirements of subdivision (3).
5 Counties with populations of 30,000 or less applying individually or in
6 combination with municipalities within the county shall not be
7 required to match incentive portions of grants.

8 (2) In all cases, the incentive portions of grants shall be distributed
9 proportionately, based on the total population of each county and the
10 municipalities within the counties applying jointly during a grant
11 period. Counties shall be credited only with the population of the
12 unincorporated areas, and municipalities shall be credited with their
13 total population.

14 (3) The incentive portion of grants shall be available without a required
15 match to counties with incorporated and unincorporated populations of
16 greater than 30,000, jointly applying with municipalities constituting at
17 least seventy-five percent (75%) of the total incorporated population
18 within the county; except that when a county has at least one
19 municipality within it that has a population exceeding twenty-five
20 percent (25%) of the incorporated population of the county, such
21 county shall not be required to match if municipalities constituting at
22 least seventy-five percent (75%) of the remaining incorporated
23 population of such county apply jointly with such county.

24 (4) Population of municipalities shall be determined by the most recent
25 population census determination.

26 (5) To effectuate the intent of this subsection, counties and municipalities
27 shall enter into interlocal agreements that determine how the grant
28 funds shall be used. These agreements shall be part of the joint grant
29 application.

30 (d) Solid waste recycling grants shall provide funding for capital costs and, if
31 justified, temporary operating subsidies to assist units of local government in recycling
32 paper, glass, plastic, construction and demolition debris, white goods, and metals and in
33 composting organic materials.

34 The Department shall consider the following factors in selecting recipients of
35 recycling program grants:

36 (1) The likelihood of project success.

37 (2) The availability of an appropriate site.

38 (3) A demonstration by the unit of local government that the materials to
39 be collected or processed, or both, are not presently being recovered to
40 the extent necessary to meet the goal established in G.S. 130A-
41 294.4(d), and would not be so recovered otherwise, but for the
42 proposed recycling or composting project.

43 (4) The business and accounting plans for the proposed project.

1 (5) The need for a new or expanded recycling program in the area to be
2 served, relative to the needs of other areas in the State.

3 (6) The likelihood that capacity at existing permitted solid waste
4 management facilities that serve the area would be served by the
5 proposed recycling program.

6 (7) The demonstrated municipal, community, or volunteer interest in
7 undertaking the recycling project.

8 The Department shall determine grant eligibility after receiving an application for a
9 recycling grant from a unit of local government. The Department may not approve a
10 grant unless the appropriate county or municipality provides sufficient data justifying
11 the proposed program.

12 (e) Solid waste education grants shall provide funds to units of local government
13 to promote recycling, volume reduction, the proper disposal of solid waste, and market
14 development for recyclable materials.

15 The Department shall consider the following factors in selecting recipients of solid
16 waste education grants:

17 (1) Whether the education program has measurable objectives.

18 (2) The type and extent of follow-up or evaluation.

19 (3) The level of commitment by local officials.

20 (4) The extent to which the unit of local government commits its own
21 financial resources to the education project.

22 (5) The extent to which selection of the project contributes to the
23 achievement of a balanced distribution of grants throughout the State.

24 The Department may not approve a grant unless a local recycling project is planned
25 or under way and the proposed education project directly promotes the use of that
26 project.

27 (f) Each eligible county or municipality, or any combination acting under an
28 interlocal agreement, which requests grants pursuant to this section shall include the
29 following items as part of the grant application:

30 (1) A description of the type and the weight of solid waste generated
31 within the county's or municipality's boundaries and the general type
32 and the weight of solid waste that will be generated within the county's
33 or municipality's boundaries in the 20-year period beginning on the
34 effective date of this section.

35 (2) An identification and description of the facilities where solid waste is
36 being disposed of or processed, the remaining available permitted
37 capacity of such facilities, any anticipated increases in the capacity of
38 such facilities.

39 (3) An analysis of the effect of current and planned recycling on solid
40 waste disposed.

41 (4) A description and evaluation of solid waste that could be recycled,
42 including:

43 a. The type and weight of solid waste that could be recycled,
44 giving consideration at a minimum to the following materials:

- 1 glass, aluminum, steel and bimetallic materials, office paper,
2 yard trash, newsprint, corrugated paper, and plastics.
- 3 b. The compatibility of recycling with other solid waste
4 processing or disposal methods, describing anticipated and
5 available markets for materials collected through recycling
6 programs, which markets ensure that those materials are
7 returned to use in the form of raw materials or products.
- 8 c. Estimated costs of and revenue from operating and maintaining
9 a recycling program.
- 10 d. An explanation of how anticipated solid waste reduction or
11 recycling will affect the type and size of any proposed solid
12 waste management facility.
- 13 (5) An explanation of how the recycling program relates to the future land
14 use elements; sanitary sewer, solid waste, drainage, potable water, and
15 natural groundwater aquifer recharge elements; intergovernmental
16 coordination elements; and capital improvements.
- 17 (6) A description of how the county's or municipality's existing recycling
18 programs will be continued. The continued programs shall be based
19 on the recycling program initiated under G.S. 130A-294.4(b) and, in
20 addition to yard trash, shall involve the recycling of at least the
21 materials required to be separated pursuant to G.S. 130A-294.4(b).
- 22 (7) The recycling program shall contain, at a minimum:
- 23 a. An explanation of the manner in which the recycling program
24 will be implemented.
- 25 b. A timetable for the continued development and implementation
26 of the recycling program.
- 27 c. Any contracts or agreements entered into or summaries of
28 contemplated agreements or contracts to develop and
29 implement the recycling program.
- 30 d. The estimated costs of the recycling program, including a
31 description of the estimated avoided costs of solid waste
32 disposal or processing resulting from the implementation of the
33 recycling program.
- 34 The recycling program shall serve as the primary means of meeting the
35 goals established for municipal solid waste reduction in G.S. 130A-
36 294.4(d).
- 37 (8) A description of a public education program for the recycling program.
- 38 (9) A description of a program for the management of special wastes.
- 39 The county or municipality shall work with the construction industry to plan for and
40 identify suitable construction and demolition debris disposal sites.
- 41 (g) Annual solid waste and recycling grants shall be available to counties with
42 populations of less than 30,000. The sum of twenty-five thousand dollars (\$25,000)
43 shall be available annually to each eligible county from the Solid Waste Management

1 Trust Fund through 1993. These grants shall be made by October 1 of each year to any
2 county applying to the Department prior to August 1 of any given year.

3 A county may use the grants authorized by this subsection for purchasing or
4 repairing solid waste weight scales, annual solid waste management program operating
5 costs, planning, construction, and maintenance of solid waste management facilities or
6 recycling facilities, solid waste management education for employees or the public, or
7 recycling demonstration projects. Counties which do not have operational weight scales
8 at solid waste disposal facilities operated by or for the counties must purchase or require
9 purchase of such scales, or repair or require repair of inoperable scales, prior to using
10 the annual grant for any other authorized uses unless the facility will be closed within
11 one year of the effective date of this section.

12 The Department shall release the grant money authorized by this subsection for
13 fiscal year 1990-91 regardless of whether rules have been developed to regulate the use
14 of these funds. However, the Department shall adopt such rules within nine months
15 after the effective date of this section to implement this annual grant program.

16 (h) The Department of Human Resources may reserve funds in the Solid Waste
17 Management Trust Fund for recycling awards to units of local government. These
18 awards shall be made one time only to eligible counties and municipalities to reward
19 those units of local government which exhibited an initiative to reduce the amount of
20 solid waste disposed of at solid waste management facilities and raise the level of
21 awareness of solid waste concerns among the public and private sectors.

22 These awards shall be equally divided among the eligible applicants. An eligible
23 applicant is a county or municipality which has instituted a recycling program for
24 recyclable materials that is operational on the effective date of this section and which:

25 (1) Covers at least three percent (3%) of the residential garbage customers
26 within the local jurisdiction and provides for the separation from
27 municipal solid waste, at the point of collection or at a time prior to
28 final disposal at a solid waste management facility, of at least two of
29 the following materials; newspaper, plastic, aluminum cans, or glass,
30 or

31 (2) Covers at least eight percent (8%) of the residential garbage customers
32 within the local jurisdiction and provides for the separation from
33 municipal solid waste, at the point of collection or at a time prior to
34 final disposal at a solid waste management facility, of one of the
35 following materials: newspaper, plastic, aluminum cans, or glass.

36 By September 1, 1990, the Department shall develop a form for use by units of local
37 government in applying for awards under this subsection. These forms shall be sent out
38 to units of local government, upon request, and shall be submitted to the Department by
39 January 1, 1991.

40 Awards made under this subsection may only be used by units of local government
41 to fund their recycling programs.

42 **§ 130A-294.10. Duties of State agencies.**

43 (a) It shall be the duty of each State agency, the judicial branch of State
44 government, and The University of North Carolina, by September 1, 1990, to:

- 1 (1) Establish a program in cooperation with the Department and the
2 Department of Administration, for the collection of all recyclable
3 aluminum and wastepaper materials generated in State offices
4 throughout the State, including, at a minimum, high-grade office paper
5 and corrugated paper.
- 6 (2) Provide procedures for collecting and storing recyclable materials,
7 containers for storing materials, and contractual or other arrangements
8 with buyers of the recyclable materials.
- 9 (3) Evaluate the amount of recyclable wastepaper material recycled and
10 make all necessary modifications to the recycling program to ensure
11 that all recyclable wastepaper materials are effectively and practicably
12 recycled.
- 13 (4) Establish and implement, in cooperation with the Department and the
14 Department of Administration, a solid waste reduction program for
15 materials used in the course of agency operations. The program shall
16 be designed and implemented to achieve maximum feasible reduction
17 of solid waste generated as a result of agency operations.

18 (b) The Department of Commerce shall assist and encourage the recycling
19 industry in the State. Assistance and encouragement of the recycling industry shall
20 include:

- 21 (1) Identifying and analyzing, in cooperation with the Department,
22 components of the State's recycling industry and present and potential
23 markets for recyclable materials in this State, other states, and foreign
24 countries;
- 25 (2) Providing information on the availability and benefits of using
26 recycled materials to businesses and industries in the State; and
- 27 (3) Distributing any material prepared in implementing this section to the
28 public, businesses, industries, units of local government, or other
29 organizations upon request.

30 By September 1, 1990, and every other year thereafter, the Department of Commerce
31 shall prepare a report assessing the recycling industry and recyclable materials markets
32 in the State.

33 (c) The Department of Commerce shall investigate the potential markets for
34 composted materials and shall submit its findings to the Department of Human
35 Resources for the waste registry informational program administered by the Department
36 in order to stimulate absorption of available composted materials into such markets.

37 On or before July 1, 1989, the Department of Commerce shall report to the General
38 Assembly its findings relative to:

- 39 (1) Potential markets for composted materials, including private and
40 public sector markets;
- 41 (2) The types of materials which may legally and effectively be used in a
42 successful composting operation; and
- 43 (3) The manner in which the composted materials should be marketed for
44 optimum use.

1 (4) All State agencies, including the Department of Transportation, and
2 the Department of Administration, and units of local government, are
3 required to procure compost products when they can be substituted for,
4 and cost no more than, regular soil amendment products, provided the
5 compost products meet all applicable State standards, specifications,
6 and regulations. This product preference shall apply to, but not be
7 limited to, the construction of highway projects, road rights-of-way,
8 highway planting projects, recultivation and erosion control programs,
9 and other projects.

10 (d) The Department of Public Instruction, in cooperation with The University of
11 North Carolina and the Department of Human Resources shall develop, distribute, and
12 encourage the use of guidelines for the collection of recyclable materials and for solid
13 waste reduction in the State system of education. At a minimum, the guidelines shall
14 address solid waste generated in administrative offices, classrooms, dormitories, and
15 cafeterias. The guidelines shall be developed by September 1, 1990.

16 In order to orient students and their families to the recycling of waste and to
17 encourage the participation of schools, communities, and families in recycling
18 programs, the school board of each school district in the State shall provide a program
19 of student instruction in the recycling of waste materials. The instruction shall be
20 provided at both the elementary and secondary levels of education.

21 The Department of Public Instruction is directed to develop, from funds appropriated
22 for environmental education, curriculum materials and resource guides for a recycling
23 awareness program for instruction at the elementary, middle, and high school levels.

24 **"§ 130A-294.11. Prohibited acts regarding used oil.**

25 (a) No person may:

- 26 (1) Collect, transport, store, recycle, use, or dispose of used oil in any
27 manner which endangers the public health or welfare.
28 (2) Discharge used oil into sewers, drainage systems, septic tanks, surface
29 or ground waters, watercourses, or marine waters.
30 (3) Mix or commingle used oil with solid waste that is to be disposed of in
31 landfills or directly dispose of used oil in landfills in the State unless
32 approved by the Department.
33 (4) Mix or commingle used oil with hazardous substances that make it
34 unsuitable for recycling or beneficial use.

35 Further, any person who unknowingly disposes into a landfill any used oil which has
36 not been properly segregated or separated from other solid wastes by the generator is
37 not guilty of a violation under this Part.

38 (b) Used oil shall not be used for road oiling, dust control, weed abatement, or
39 other similar uses that have the potential to release used oil into the environment.

40 (c) For the purpose of this section, G.S. 130A-294.12, and G.S. 130A-294.13,
41 unless the context requires otherwise:

- 42 (1) 'Public used oil collection center' means:

- 1 a. Automotive service facilities or governmentally sponsored
2 collection facilities, which in the course of business accept for
3 disposal small quantities of used oil from households; and
4 b. Facilities which store used oil in aboveground tanks, which are
5 approved by the Department, and which in the course of
6 business accept for disposal small quantities of used oil from
7 households.
- 8 (2) 'Reclaiming' means the use of methods, other than those used in
9 rerefining, to purify used oil primarily to remove insoluble
10 contaminants, making the oil suitable for further use; the methods may
11 include settling, heating, dehydration, filtration, or centrifuging.
- 12 (3) 'Recycling' means to prepare used oil for reuse as a petroleum product
13 by rerefining, reclaiming, reprocessing, or other means or to use used
14 oil in a manner that substitutes for a petroleum product made from new
15 oil.
- 16 (4) 'Rerefining' means the use of refining processes on used oil to produce
17 high-quality base stocks for lubricants or other petroleum products.
18 Rerefining may include distillation, hydrotreating, or treatments
19 employing acid, caustic, solvent, clay, or other chemicals, or other
20 physical treatments other than those used in reclaiming.
- 21 (5) 'Used oil' means any oil which has been refined from crude oil or
22 synthetic oil and, as a result of use, storage, or handling, has become
23 unsuitable for its original purpose due to the presence of impurities or
24 loss of original properties, but which may be suitable for further use
25 and is economically recyclable.
- 26 (6) 'Used oil recycling facility' means any facility that recycles more than
27 10,000 gallons of used oil annually.

28 **"§ 130A-294.12. Public education program regarding used oil collection and**
29 **recycling.**

30 The Department shall conduct a public education program to inform the public of
31 the needs for and benefits of collecting and recycling used oil and shall:

- 32 (1) Encourage persons who annually sell at retail, in containers for use off
33 the premises, more than 500 gallons of oil to provide the purchasers
34 with information on the locations of collection facilities and
35 information on proper disposal practices.
- 36 (2) Establish, maintain, and publicize a used oil information center that
37 disperses materials or information explaining local, State, and federal
38 laws and rules governing used oil and informing the public of places
39 and methods for proper disposal of used oil.
- 40 (3) Encourage the voluntary establishment of used oil collection and
41 recycling programs and provide technical assistance to persons who
42 organize such programs.
- 43 (4) Encourage the procurement of recycled automotive, industrial, and
44 fuel oils; and oils blended with recycled oils; for all State and local

1 government uses. Recycled oils procured under this section shall meet
2 equipment manufacturer's specifications. A five percent (5%) price
3 preference may be given in procuring these recycled products.

4 **"§ 130A-294.13. Registration of persons transporting, collecting, or recycling used**
5 **oil; fees; reports and records.**

6 (a) The following persons shall register annually with the Department pursuant to
7 rules of the Department on forms prescribed by it:

8 (1) Any person who transports over public highways more than 500
9 gallons of used oil annually.

10 (2) Any person who maintains a collection facility that receives more than
11 6,000 gallons of used oil annually. For purposes of registration, the
12 amount received does not include used oil delivered to collection
13 centers by individuals that change their own personal motor oil.

14 (3) Any facility that recycles more than 10,000 gallons of used oil
15 annually.

16 (b) An electric utility which generates during its operation used oil that is then
17 reclaimed, recycled, or rerefined by the electric utility for use in its operations is not
18 required to register or report pursuant to this section.

19 (c) An on-site burner which only burns a specification used oil generated by the
20 burner is not required to register or report pursuant to this section, provided that the
21 burning is done in compliance with any air permits issued by the Department of Natural
22 Resources and Community Development.

23 (d) The Department may prescribe a fee for the registration required by this
24 section in an amount which is sufficient to cover the cost of processing applications but
25 which does not exceed twenty-five dollars (\$25.00).

26 (e) The Department shall require each registered person to submit, no later than
27 July 1 of each year, a report which specifies the type and quantity of used oil
28 transported, collected, and recycled during the preceding calendar year.

29 (f) Each registered person who transports or recycles used oil shall maintain
30 records which identify:

31 (1) The source of the materials transported or recycled;

32 (2) The quantity of materials received;

33 (3) The date of receipt; and

34 (4) The destination or end use of the materials.

35 (g) The Department shall perform technical studies to sample used oil at facilities
36 of representative used oil transporters and at representative recycling facilities to
37 determine the incidence of contamination of used oil with hazardous, toxic, or other
38 harmful substances.

39 (h) Any person who fails to register with the Department as required by this
40 section is subject to a fine of three hundred dollars (\$300.00).

41 (i) The proceeds from the registration fees and fines imposed by this section
42 shall be deposited into the Solid Waste Management Trust Fund.

43 **"§ 130A-294.14. Regulation of used oil as hazardous waste.**

1 Nothing in this Part shall prohibit the Department from regulating used oil as a
2 hazardous waste in a manner consistent with section 241 of the Hazardous and Solid
3 Waste Amendments of 1984, Pub. L. No. 98-616.

4 **"§ 130A-294.15. Coordination with other State agencies.**

5 The Department of Transportation shall study the feasibility of using recycled oil
6 products in road construction activities and shall report to the President Pro Tempore of
7 the Senate and the Speaker of the House of Representatives annually, beginning January
8 1, 1990, on the results of its study.

9 **"§ 130A-294.16. Public used oil collection centers.**

10 (a) The Department shall encourage the voluntary establishment of public used
11 oil collection centers and recycling programs and provide technical assistance to
12 persons who organize such programs.

13 (b) All State agencies and businesses that change motor oil for the public are
14 encouraged to serve as public used oil collection centers.

15 (c) A public used oil collection center must:

16 (1) Notify the Department annually that it is accepting used oil from the
17 public; and

18 (2) Annually report quantities of used oil collected from the public.

19 (d) The Department of Natural Resources and Community Development shall
20 assist the Department in inspecting public used oil collection centers.

21 (e) No person may recover from the owner or operator of a used oil collection
22 center any costs of response actions resulting from a release of either used oil or a
23 hazardous substance against the owner or operator of a used oil collection center if such
24 used oil is:

25 (1) Not mixed with any hazardous substance by the owner or operator of
26 the used oil collection center;

27 (2) Not knowingly accepted with any hazardous substances contained
28 therein;

29 (3) Transported from the used oil collection center by a certified
30 transporter pursuant to G.S. 130A-294.19; and

31 (4) Stored in a used oil collection center that is in compliance with this
32 section.

33 This subsection applies only to that portion of the public used oil collection center
34 used for the collection of used oil and does not apply if the owner or operator is grossly
35 negligent in the operation of the public used oil collection center. Nothing in this
36 section shall affect or modify in any way the obligations or liability of any person under
37 any other provisions of State or federal law, including common law, for injury or
38 damage resulting from a release of used oil or hazardous substances. For the purpose of
39 this section, the owner or operator of a used oil collection center may presume that a
40 quantity of no more than five gallons of used oil accepted from any member of the
41 public is not mixed with a hazardous substance, provided that the owner or operator acts
42 in good faith.

43 **"§ 130A-294.17. Incentives program.**

1 (a) The Department is authorized to establish an incentives program for
2 individuals who change their own oil to encourage them to return their used oil to a used
3 oil collection center.

4 (b) The incentives used by the Department may involve the use of discount or
5 prize coupons, prize drawings, promotional giveaways, or other activities the
6 Department determines will promote collection, reuse, or proper disposal of used oil.

7 (c) The Department may contract with a promotion company to administer the
8 incentives program.

9 **"§ 130A-294.18. Grants to local governments.**

10 (a) The Department shall develop a grants program for units of local government
11 to encourage the collection, reuse, and proper disposal of used oil. No grant may be
12 made for any project unless the project is approved by the Department.

13 (b) The Department shall consider for grant assistance any unit of local
14 government project that uses one or more of the following programs or any activity that
15 the Department feels will reduce the improper disposal and reuse of used oil:

16 (1) Curbside pickup of used oil containers by a unit of local government
17 or its designee.

18 (2) Retrofitting of solid waste equipment to promote curbside pickup or
19 disposal of used oil at used oil collection centers designated by the unit
20 of local government.

21 (3) Establishment of publicly operated used oil collection centers at
22 landfills or other public places.

23 (4) Providing containers and other materials and supplies that the public
24 can utilize in an environmentally sound manner to store used oil for
25 pickup or return to a used oil collection center.

26 (5) Providing incentives for the establishment of privately operated public
27 used oil collection centers.

28 (c) Eligible projects shall be funded according to provisions established by the
29 Department; however, no grant may exceed twenty-five thousand dollars (\$25,000).

30 (d) The Department shall initiate rules on or before January 1, 1990, necessary to
31 carry out the purposes of this section.

32 **"§ 130A-294.19. Certification of used oil transporters.**

33 (a) Any person who transports over public highways after January 1, 1991, more
34 than 500 gallons annually of used oil must be a certified transporter.

35 (b) The Department shall develop a certification program for transporters of used
36 oil, and shall issue, deny, or revoke certifications authorizing the holder to transport
37 used oil. Certification requirements shall help assure that a used oil transporter is
38 familiar with appropriate rules and used oil management procedures.

39 (c) The Department shall adopt rules governing certification, which shall include
40 requirements for the following:

41 (1) Registration and annual reporting pursuant to G.S. 130A-294.13.

42 (2) Evidence of familiarity with applicable State laws and rules governing
43 used oil transportation.

1 (3) Proof of liability insurance or other means of financial responsibility
2 for any liability which may be incurred in the transport of used oil.

3 **"§ 130A-294.20. Permits for used oil recycling facilities.**

4 (a) Each person who intends to operate, modify, or close a used oil recycling
5 facility shall obtain an operation or closure permit from the Department prior to
6 operating, modifying, or closing the facility.

7 (b) By January 1, 1991, the Department shall develop a permitting system for
8 used oil recycling facilities after reviewing and considering the applicability of the
9 permit system for hazardous waste treatment, storage, or disposal facilities.

10 (c) Permits shall not be required under this section for the burning of used oil as
11 a fuel, provided:

12 (1) A valid air permit issued by the Department of Natural Resources and
13 Community Development is in effect for the facility; and

14 (2) The facility burns used oil in accordance with applicable United States
15 Environmental Protection Agency regulations, local government
16 regulations, and the requirements and conditions of its air permit.

17 (d) No permit is required under this section for the use of used oil for the
18 beneficiation or flotation of phosphate rock.

19 **"§ 130A-294.21. Training of operators of solid waste management facilities.**

20 (a) The Department of Human Resources shall establish qualifications for, and
21 encourage the development of training programs for, operators of landfills, coordinators
22 of local recycling programs, and other solid waste management facilities.

23 (b) The Department shall work with accredited community colleges, vocational
24 technical centers, State universities, and private institutions in developing educational
25 materials, courses of study, and other such information to be made available for persons
26 seeking to be trained as operators of solid waste management facilities.

27 (c) A person may not perform the duties of an operator of a solid waste
28 management facility after January 1, 1991, unless he has completed an operator training
29 course approved by the Department. An owner of a solid waste management facility
30 may not employ any person to perform the duties of an operator unless such person has
31 completed an approved solid waste management facility operator training course.

32 (d) The Department may adopt rules and minimum standards to effectuate the
33 provisions of this section and to ensure the safe, healthy, and lawful operation of solid
34 waste management facilities. The Department may establish, by rule, various
35 classifications for operators to address the need for differing levels of training required
36 to operate various types of solid waste management facilities due to different operating
37 requirements at the facilities.

38 (e) For purposes of this section, the term 'operator' means any person, including
39 the owner, who is principally engaged in, and is in charge of, the actual operation,
40 supervision, and maintenance of a solid waste management facility and includes the
41 person in charge of a shift or periods of operation during any part of the day.

42 **"§ 130A-294.22. Regulation of biohazardous waste.**

43 (a) It is the intent of the General Assembly to protect the public health by
44 establishing standards for the safe packaging, storage, treatment, and disposal of

1 biohazardous waste. The Department of Human Resources shall regulate the
2 packaging, storage, and treatment of biohazardous waste which occurs at facilities
3 where biohazardous waste is generated. The Department shall regulate:

4 (1) Biohazardous waste from the point at which the waste is transported
5 from the facility where it was generated;

6 (2) On-site and off-site incineration of biohazardous waste; and

7 (3) The off-site transport, storage, treatment or disposal.

8 (b) For the purposes of this section, the following definitions shall apply:

9 (1) 'Sharps' mean those biohazardous wastes which as a result of their
10 physical characteristics are capable of puncturing, lacerating, or
11 otherwise breaking the skin when handled.

12 (2) 'Treatment' means any process, including steam sterilization, chemical
13 treatment, and incineration, which changes the character or
14 composition of biohazardous waste so as to render it noninfectious.

15 (c) No later than March 1, 1990, the Department shall adopt rules necessary to
16 protect the health, safety, and welfare of the public and to carry out the purpose of this
17 section. Such rules shall address, but need not be limited to, the packaging of
18 biohazardous waste, including specific requirements for the safe packaging of sharps
19 and the segregation, storage, treatment, and disposal of biohazardous wastes at the
20 facilities in which such waste is generated.

21 **"§ 130A-294.23. State government recycling demonstration project.**

22 The Legislative Building, the Legislative Office Building, and the Office of the
23 Governor shall constitute the Capitol recycling demonstration area. The North Carolina
24 House of Representatives, the North Carolina Senate, the Office of the Governor, the
25 Secretary of State, and the offices of the General Assembly staff shall institute a
26 recycling program by January 1, 1990, for their respective offices in the Legislative
27 Building, the Legislative Office Building, and the State Capitol. Provisions shall be
28 made to collect and sell wastepaper and empty aluminum beverage cans generated by
29 employee activities in these offices. The collection and sale of such materials shall be
30 coordinated with the Department of Administration recycling activities to maximize the
31 efficiency and economy of this program. The Governor, the Speaker of the House of
32 Representatives, and the President of the Senate may authorize the use of proceeds from
33 recyclable material sales for employee benefits and other purposes, in order to provide
34 incentives to their respective employees for participation in the recycling program. The
35 proceeds may also be used to offset any costs of the recycling program.

36 **"§ 130A-294.24. Landfill escrow account.**

37 (a) As used in this section:

38 (1) 'Closure' means the ceasing of operation of a landfill and securing the
39 landfill so that it does not pose a significant threat to public health or
40 the environment and includes long-term monitoring and maintenance
41 of a landfill.

42 (2) 'Owner or operator' means, in addition to the usual meanings of the
43 term, any owner of record of any interest in land on which a landfill is
44 or has been sited, and any person or corporation which owns a

1 majority interest in any other corporation which is the owner or
2 operator of a landfill.

3 (3) 'Proceeds' means all funds collected and received by the Department,
4 including interest and penalties on delinquent fees.

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

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

12 (1) The revenue-producing mechanism must produce revenue at a rate
13 sufficient to generate funds to meet State and federal landfill closure
14 requirements.

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

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

38 (d) An owner or operator may establish proof of financial responsibility with the
39 Department in lieu of the requirements of subsection (c). This proof may include surety
40 bonds, certificates of deposit, securities, letter of credit, or other documents showing
41 that the owner or operator has sufficient financial resources to cover, at a minimum, the
42 costs of complying with landfill closure requirements. The owner or operator shall
43 estimate the costs to the satisfaction of the Department.

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

4 (f) The Department shall adopt rules to implement this section.

5 **"§ 130A-294.25. Waste tire requirements.**

6 (a) For purposes of this section:

7 (1) 'Motor vehicle' means an automobile, motorcycle, truck, trailer,
8 semitrailer, truck tractor and semitrailer combination, or any other
9 vehicle operated on the roads of this State, used to transport persons or
10 property, and propelled by power other than muscular power. The
11 term does not include traction engines, road rollers, vehicles that run
12 only upon a track, bicycles, mopeds, or farm tractors and trailers.

13 (2) 'Tire' means a continuous solid or pneumatic rubber covering
14 encircling the wheel of a motor vehicle.

15 (3) 'Waste tire' means a whole tire that is no longer suitable for its original
16 intended purpose due to wear, damage, or defect.

17 (4) 'Waste tire collection center' means a site where used or waste tires are
18 collected from the public prior to being offered for recycling and
19 where fewer than 1,000 tires are kept on the site on any given day.

20 (5) 'Waste tire processing facility' means a site where equipment is used
21 to cut, burn, or otherwise alter whole waste tires so that they are no
22 longer whole.

23 (6) 'Waste tire site' means a site at which 1,000 or more whole tires are
24 accumulated.

25 (b) The owner or operator of any waste tire site shall, within six months after the
26 effective date of this section, provide the Department with information concerning the
27 site's location, size, and the approximate number of waste tires that are accumulated at
28 the site and shall initiate steps to comply with subsection (c).

29 (c) On or after July 1, 1990:

30 (1) A person may not maintain a waste tire site unless the site is an
31 integral part of the person's permitted waste tire processing facility.

32 (2) It is unlawful for any person to dispose of waste tires in the State,
33 unless the waste tires are disposed of for processing, or collected for
34 processing, at a permitted solid waste disposal facility, a waste tire site
35 which is an integral part of a permitted waste tire processing facility, a
36 permitted waste tire processing facility, or a waste tire collection
37 center.

38 (3) Waste tires may not be deposited in a landfill as a method of ultimate
39 disposal.

40 (d) By January 1, 1990, the Department shall adopt rules to carry out the
41 provisions of this section and G.S. 130A-294.26 and G.S. 130A-294.27. Such rules
42 shall:

- 1 (1) Provide for the administration of a waste tire processing facility
2 permit, which may not exceed two hundred fifty dollars (\$250.00)
3 annually;
- 4 (2) Provide for the administration of waste tire collector and collection
5 center permits, which may not exceed two hundred fifty dollars
6 (\$250.00) annually;
- 7 (3) Set standards for waste tire processing facilities and associated waste
8 tire sites, waste tire collection centers, and waste tire collectors;
- 9 (4) Establish procedures for administering the waste tire grants program
10 and the issuing grants;
- 11 (5) Authorize the final disposal of waste tires at a permitted solid waste
12 disposal facility provided the tires have been cut into sufficiently small
13 parts to assure their proper disposal; and
- 14 (6) Allow waste tire material which has been cut into sufficiently small
15 parts to be used as daily cover material for a landfill.

16 (e) A permit is not required for:

- 17 (1) A tire retreading business where fewer than 1,000 waste tires are kept
18 on the business premises;
- 19 (2) A business that, in the ordinary course of business, removes tires from
20 motor vehicles if fewer than 1,000 of these tires are kept on the
21 business premises; or
- 22 (3) A retail tire-selling business which is serving as a waste tire collection
23 center if fewer than 1,000 waste tires are kept on the business
24 premises.

25 (f) The Department shall encourage the voluntary establishment of waste tire
26 collection centers at retail tire-selling businesses, waste tire processing facilities, and
27 solid waste disposal facilities, to be open to the public for the deposit of used and waste
28 tires. The Department is authorized to establish an incentives program for individuals to
29 encourage them to return their used or waste tires to a waste tire collection center. The
30 incentives used by the Department may involve the use of discount or prize coupons,
31 prize drawings, promotional giveaways, or other activities the Department determines
32 will promote collection, reuse, volume reduction, and proper disposal of used or waste
33 tires. The Department may contract with a promotion company to administer the
34 incentives program.

35 **"§ 130A-294.26. Waste tire fees.**

36 (a) For the privilege of engaging in business, a fee for each new motor vehicle
37 tire sold at retail is imposed on any person engaging in the business of making retail
38 sales of new motor vehicle tires within this State. For the period January 1, 1990,
39 through December 31, 1990, the fee shall be imposed at the rate of fifty cents (50¢) for
40 each new tire sold. Beginning January 1, 1991, and thereafter, the fee shall be imposed
41 at the rate of one dollar (\$1.00) for each new tire sold. The fee imposed shall be paid to
42 the Department of Revenue on or before the 20th day of the month following the
43 calendar quarter in which the sale occurs. The terms 'sold at retail' and 'retail sales' do
44 not include the sale of new motor vehicle tires to a person solely for the purpose of

1 resale, provided the subsequent retail sale in this State is subject to the fee. This fee
2 does not apply to recapped tires. Such fee shall be subject to general sales tax pursuant
3 to Chapter 105 of the General Statutes.

4 (b) The fee imposed by subsection (a) of this section shall be reported to the
5 Department of Revenue. The payment shall be accompanied by a form as prescribed by
6 the Department of Revenue. The proceeds of the waste tire fee, less administrative
7 costs, shall be transferred by the Department of Revenue into the waste tire account
8 within the Solid Waste Management Trust Fund. The amount deducted for the costs of
9 administration may not exceed three percent (3%) of the total revenues collected
10 pursuant to subsection (a) of this section, and shall be only those costs solely and
11 directly attributed to the fee.

12 (c) The Department of Revenue shall administer, collect, and enforce the fee
13 authorized under subsection (a) of this section pursuant to the same procedures used in
14 the administration, collection, and enforcement of the general State sales tax imposed
15 under Chapter 105 of the General Statutes, except as provided in this section. The
16 provisions of this section regarding the authority to audit and make assessments, the
17 keeping of books and records, and interest and penalties on delinquent fees shall apply.
18 The fee may not be included in the computation of estimated taxes pursuant to Article
19 4C of Chapter 105 of the General Statutes.

20 The Department of Revenue is authorized to employ persons and incur other
21 expenses for which funds are appropriated by the General Assembly. The Department
22 is empowered to adopt such rules and shall prescribe and publish any forms as may be
23 necessary to effectuate the purposes of this section. The Department is authorized to
24 establish audit procedures and to assess delinquent fees.

25 **"§ 130A-294.27. Waste tire grants.**

26 (a) The Department shall, by July 1, 1990, establish a program to make grants to
27 counties which desire, individually or collectively, to:

- 28 (1) Construct or operate, or contract for the construction or operation of, a
29 waste tire processing facility and equipment purchases;
- 30 (2) Contract for a waste tire processing facility service within or outside
31 the county or State;
- 32 (3) Remove or contract for the removal of waste tires from the county,
33 region, or State;
- 34 (4) Perform or contract for the performance of research designed to
35 facilitate waste tire recycling;
- 36 (5) Establishing waste tire collection centers at solid waste disposal
37 facilities or waste tire processing facilities; or
- 38 (6) Provide incentives for establishing privately operated waste tire
39 collection centers for the public.

40 (b) Each county shall be eligible for a pro rata share, based on population, of the
41 available funds in the waste tire account of the Solid Waste Management Trust Fund.
42 Counties may join together, pooling their financial resources, when utilizing their grants
43 for the purposes described in subsection (a) of this section.

1 (c) The Department shall provide technical assistance, upon request, to a county
2 or groups of counties desiring assistance in applying for waste tire grants or choosing a
3 method of waste tire management which would be an eligible use of the grant funds.

4 **"§ 130A-294.28. University research.**

5 (a) Research, training, and service activities related to solid and hazardous waste
6 management conducted by The University of North Carolina shall be coordinated by the
7 Board of Governors of The University of North Carolina through the Office of the
8 Chancellor. Proposals for research contracts and grants; public service assignments;
9 and responses to requests for information and technical assistance by the State and units
10 of local government, business, and industry shall be addressed by a formal process
11 involving an advisory board of university personnel appointed by the chancellor and
12 chaired and directed by an individual appointed by the chancellor. The Board of
13 Governors of The University of North Carolina shall consult with the Department of
14 Human Resources in developing the research programs and provide the Department
15 with a copy of the proposed research program for review and comment before the
16 research is undertaken. Research contracts shall be awarded to independent nonprofit
17 colleges and universities within the State which are accredited by the Southern
18 Association of Colleges and Schools on the same basis as those research contracts
19 awarded to The University of North Carolina. Research activities shall include the
20 following areas:

- 21 (1) Methods and processes for recycling solid and hazardous waste;
- 22 (2) Methods of treatment for detoxifying hazardous waste; and
- 23 (3) Technologies for disposing of solid and hazardous waste.

24 (b) The Board of Governors shall designate an institution or several institutions
25 within The University of North Carolina or independent nonprofit colleges and
26 universities identified in subsection (a) of this section to conduct a study of the effects
27 of commercial product packaging on the management of solid waste in the State. The
28 study shall involve:

- 29 (1) Evaluation of packaging which contains large concentrations of
30 chloride, such as packaging made with polyvinyl chloride.
- 31 (2) Evaluation of polystyrene packaging.
- 32 (3) Evaluation of packaging that introduces heavy metals into the waste
33 stream.
- 34 (4) Identification of unnecessary packaging.
- 35 (5) Identification of packaging that is nonrecyclable and
36 nonbiodegradable.

37 The study and, if necessary, recommendations for legislative action, shall be completed
38 by October 1, 1990, and shall be submitted to the Governor and the General Assembly.
39 In conducting the study, the designated institute or institutes shall consult with
40 businesses and industries, environmental interests, units of local government involved in
41 developing solid waste management or recycling programs, State agencies, other
42 institutions of The University of North Carolina, and independent nonprofit colleges and
43 universities identified in subsection (a) of this section."

1 Sec. 6. Article 3 of Chapter 143 of the General Statutes is amended by
2 adding a section to read:

3 **"§ 143-58.2. Procurement of products and materials with recycled content.**

4 (a) The Secretary of Administration, in cooperation with the Department of
5 Human Resources, shall review and revise existing procurement procedures and
6 specifications for the purchase of products and materials to eliminate any procedures
7 and specifications that explicitly discriminate against products and materials with
8 recycled content, except where such procedures and specifications are necessary to
9 protect the health, safety, and welfare of the people of this State.

10 (b) The Secretary shall review and revise its procurement procedures and
11 specifications for the purchase of products and materials to ensure, to the maximum
12 extent economically feasible, that it purchase products or materials that may be recycled
13 or reused when these products or materials are discarded. The Secretary shall complete
14 an initial review and revision by September 1, 1990.

15 (c) As part of the review and revision required in subsection (b), the Secretary
16 shall review the procurement provisions and specifications for the purchase of products
17 and materials to determine which products or materials with recycled content could be
18 procured by the Department or other agencies and the amount of recycled content that
19 can economically and technologically be contained in these products or materials. The
20 Department and other agencies shall use the amounts of recycled content determined by
21 the Secretary in issuing invitations to bid for contracts for the purchase of such products
22 or materials. The review shall be completed by September 1, 1990, and the amounts of
23 recycled content determined by the Secretary shall be used by the Department and other
24 agencies thereafter.

25 (d) Upon completion of the review required in subsection (c), the Department or
26 an agency shall require that a person who submits a bid for a contract for the purchase
27 of products or materials identified in subsection (c) of this section and who wishes to be
28 considered for the price preference described in subsection (e) of this section shall
29 certify, in writing, the percentage of recycled content in the product or material that is
30 subject to the bid. A person may certify that the product or material contains no
31 recycled content.

32 (e) Upon evaluation of bids for every public contract that involves the purchase
33 of products or materials identified in subsection (c), the Department or an agency shall
34 identify the lowest responsive bidder, and any other responsive bidders who have
35 certified that the products or materials contain at least the minimum percentage of
36 recycled content that is set forth in the invitation for the bids. In awarding a contract for
37 the purchase of products or material, the Department or an agency may allow up to a ten
38 percent (10%) price preference to a responsive bidder who has certified that the
39 products or materials contain at least the minimum percentage of recycled content. If
40 no bidders offer products or materials with the minimum prescribed recycled content,
41 the contract shall be awarded to the lowest bidder.

42 (f) For the purposes of this section, 'recycled content' means materials that have
43 been recycled that are contained in the products or materials to be procured. The term
44 does not include internally generated scrap that is commonly used in industrial or

1 manufacturing processes or waste of scrap purchased from another manufacturer who
2 manufactures the same or a closely related product.

3 (g) Any person who believes that a particular product or material with recycled
4 content may be beneficially used instead of another product or material may request the
5 Secretary to evaluate that product or material. The Secretary shall review each
6 reasonable proposal to determine its merit and, if he finds that the product or material
7 may be used beneficially, he may incorporate that product or material into the
8 procurement procedures.

9 (h) The Secretary shall review and revise the procedures and specifications on a
10 continuing basis to encourage the use of products and materials with recycled content
11 and shall, in developing new procedures and specifications, encourage the use of
12 products and materials with recycled content.

13 (i) All agencies shall cooperate with the Department in carrying out the
14 provisions of this section."

15 Sec. 7. Article 8 of Chapter 143 of the General Statutes is amended by
16 adding a section to read:

17 **"§ 143-135.6. Procurement of products and materials with recycled content.**

18 (a) The Secretary of Administration, in cooperation with the Department of
19 Human Resources, shall review and revise existing procurement procedures and
20 specifications for the purchase of products and materials to eliminate any procedures
21 and specifications that explicitly discriminate against products and materials with
22 recycled content, except where such procedures and specifications are necessary to
23 protect the health, safety, and welfare of the people of this State.

24 (b) The Secretary shall review and revise its procurement procedures and
25 specifications for the purchase of products and materials to ensure, to the maximum
26 extent economically feasible, that it purchases products of materials that may be
27 recycled or reused when these products or materials are discarded. The Secretary shall
28 complete an initial review and revision by September 1, 1990.

29 (c) As part of the review and revision required in subsection (b), the Secretary
30 shall review the procurement provisions and specifications for the purchase of products
31 and materials to determine which products or materials with recycled content could be
32 procured by the Department or other agencies and the amount of recycled content that
33 can economically and technologically be contained in such products or materials. The
34 Department and other agencies shall use the amounts of recycled content determined by
35 the Secretary in issuing invitations to bid for contracts for the purchase of such products
36 or materials. The review shall be completed by September 1, 1990, and the amounts of
37 recycled content determined by the Secretary shall be used by the Department and other
38 agencies thereafter.

39 (d) Upon completion of the review required in subsection (c), the division or an
40 agency shall require that a person who submits a bid for the contract for the purchase of
41 products or materials identified in subsection (c) of this section and who wishes to be
42 considered for the price preference described in subsection (e) of this section shall
43 certify, in writing, the percentage of recycled content in the product or material that is

1 subject to the bid. A person may certify that the product or material contains no
2 recycled content.

3 (e) Upon evaluation of bids for every public contract that involves the purchase
4 of products or materials identified in subsection (c), of this section the Department or an
5 agency shall identify the lowest responsive bidder, and any other responsive bidders
6 who have certified that the products or materials contain at least the minimum
7 percentage of recycled content that is set forth in the invitation for the bids. In awarding
8 a contract for the purchase of products or materials, the Department or an agency may
9 allow up to a 10 percent (10%) price preference to a responsive bidder who has certified
10 that the products or materials contain at least the minimum percentage of recycled
11 content. If no bidders offer products or materials with the minimum prescribed recycled
12 content, the contract shall be awarded to the lowest bidder.

13 (f) For the purposes of this section, 'recycled content' means materials that have
14 been recycled that are contained in the products or materials to be procured. The term
15 does not include internally generated scrap that is commonly used in industrial or
16 manufacturing processes or waste or scrap purchased from another manufacturer who
17 manufactures the same or a closely related product.

18 (g) Any person who believes that a particular product or material with recycled
19 content may be beneficially used instead of another product or material may request the
20 Secretary to evaluate that product or material. The Secretary shall review each
21 reasonable proposal to determine its merit and, if he finds that the product or material
22 may be used beneficially, he may incorporate that product or material into the
23 procurement procedures.

24 (h) The division shall review and revise its procedures and specifications on a
25 continuing basis to encourage the use of products and materials with recycled content
26 and shall, in developing new procedures and specifications, encourage the use of
27 products and materials with recycled content.

28 (i) All agencies shall cooperate with the Department in carrying out the
29 provisions of this section."

30 Sec. 8. Article 2 of Chapter 136 of the General Statutes is amended by
31 adding a section to read:

32 **"§ 136-285. Use of recyclable materials in construction.**

33 (a) It is the intent of the General Assembly that the Department of Transportation
34 continue to expand its current use of recovered materials in its construction programs.

35 (b) The General Assembly declares it to be in the public interest to find
36 alternative ways to use certain recyclable materials that currently are part of the solid
37 waste stream and that contribute to problems of declining space in landfills. To
38 determine the feasibility of using certain recyclable materials for paving materials, the
39 Department shall before January 1, 1991, undertake, as part of its currently scheduled
40 projects, demonstration projects using the following materials in road construction:

41 (1) Ground rubber from automobile tires in road resurfacing or subbase
42 materials for roads;

- 1 (2) Ash residue from coal combustion by-products for concrete and ash
2 residue from waste incineration facilities and oil combustion by-
3 products for subbase material;
- 4 (3) Recycled mixed-plastic material for guard rail posts or right-of-way
5 fence posts;
- 6 (4) Construction steel, including reinforcing rods and I-beams,
7 manufactured from scrap metals disposed of in the State; and
- 8 (5) Glass and glass aggregates.

9 Within one year after the conclusion of the demonstration projects the Department shall
10 report to the Governor and the General Assembly on the maximum percentage of each
11 recyclable material that can be effectively utilized in road construction projects.
12 Concurrent with the submission of the report, the Department shall review and modify
13 its standard road and bridge construction specifications to allow and encourage the use
14 of recyclable materials consistent with the findings of the demonstration projects.

15 (c) The Department shall contract for the investigation and evaluation of the use
16 of ground tire rubber as an additive to asphalt concrete and other alternatives which
17 would utilize waste tires. The development of the scope of services and technical
18 guidance and review of the work shall be a cooperative effort of the Planning and
19 Research Branch of the Department and The University of North Carolina. Activities
20 shall include:

- 21 (1) Determining the type and amount of ground tire rubber that would
22 provide acceptable properties in an asphalt concrete mix;
- 23 (2) Determining preprocessing requirements and the method of
24 incorporation of ground tire rubber in the asphalt concrete mix, and
25 identifying potential effects on pavement construction and
26 performance;
- 27 (3) Determining effects and procedures for the recycling of asphalt
28 concrete containing ground tire rubber;
- 29 (4) Determining the amount of ground tire rubber that may be used in road
30 construction and the expected cost of its use; and
- 31 (5) Identifying changes needed in Department and local government
32 specifications and procedures to allow for use of ground tire rubber
33 from waste tires in asphalt concrete pavements.

34 This evaluation shall be completed by March 1, 1990, and the Department shall report
35 its findings to the Governor and the General Assembly.

36 (d) The Department shall review and revise existing bid procedures and
37 specifications for the purchase or use of products and materials to eliminate any
38 procedures and specifications that explicitly discriminate against products and materials
39 with recycled content, except where the procedures and specifications are necessary to
40 protect the health, safety, and welfare of the people of this State.

41 (e) The Department shall review and revise its bid procedures and specifications
42 on a continuing basis to encourage the use of products and materials with recycled
43 content and shall, in developing new procedures and specifications, encourage the use
44 of products and materials with recycled content.

1 (f) All agencies shall cooperate with the Department in carrying out the
2 provisions of this section."

3 Sec. 9. G.S. 14-399.1 is repealed.

4 Sec. 10. G.S. 14-399 reads as rewritten:

5 "**§ 14-399. Littering.**

6 (a) No person, firm, organization, private corporation, or governing body, agents
7 or employees of any municipal corporation shall intentionally or recklessly throw,
8 scatter, spill or place or intentionally or recklessly cause to be blown, scattered, spilled,
9 thrown or placed or otherwise dispose of any litter upon any public property or private
10 property not owned by him within this State or in the waters of this State including, but
11 not limited to, any public highway, public park, beach, campground, forest land,
12 recreational area, trailer park, highway, road, street or alley except:

13 (1) When such property is designated by the State or political subdivision
14 thereof for the disposal of garbage and refuse, and such person is
15 authorized to use such property for such purpose; or

16 (2) Into a litter receptacle in such a manner that the litter will be prevented
17 from being carried away or deposited by the elements upon any part of
18 such private or public property or waters.

19 (b) When litter is so blown, scattered, spilled, thrown or placed from a vehicle or
20 watercraft, the operator thereof shall be presumed to have committed such offense. This
21 presumption, however, does not apply to a vehicle transporting agricultural products or
22 supplies when the litter from that vehicle is a nontoxic, biodegradable agricultural
23 product or supply.

24 (c) ~~As used in this section, the word 'litter' shall be defined as any rubbish, waste~~
25 ~~material, cans, refuse, garbage, trash, debris, dead animals or discarded materials of~~
26 ~~every kind and description; the word 'vehicle' shall be defined as in G.S. 20-4.01(49);~~
27 ~~and the word 'watercraft' shall be defined as any boat or vessel used for transport upon~~
28 ~~or across the water.~~

29 (d) ~~A violation of this section is a misdemeanor punishable by a fine of not less~~
30 ~~than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for the first~~
31 ~~offense. Any second or subsequent offense is punishable by a fine of not less than fifty~~
32 ~~dollars (\$50.00) nor more than three hundred dollars (\$300.00). In lieu of a fine or any~~
33 ~~portion thereof, or in addition to a fine, any violation of this section may also be~~
34 ~~punished by a term of community service.~~

35 (e) ~~Wildlife protectors, as defined in G.S. 113-128(9), are authorized to enforce~~
36 ~~the provisions of this section.~~

37 (c) Any person who dumps litter in violation of subsection (a) in an amount not
38 exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial
39 purposes is guilty of a noncriminal infraction, punishable by a civil penalty of no less
40 than fifty dollars (\$50.00) and no more than two hundred dollars (\$200.00). In addition,
41 the court may require the violator to pick up litter or perform other labor commensurate
42 with the offense committed.

43 (d) Any person who dumps litter in violation of subsection (a) in an amount
44 exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500

1 pounds in weight or 100 cubic feet in volume, and not for commercial purposes, is
2 guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) or
3 more than three hundred dollars (\$300.00). In addition, the court shall require the
4 violation to pick up litter or perform other community service commensurate with the
5 offense committed. Further, if the violation involves the use of a motor vehicle, upon a
6 finding of guilt, regardless of whether adjudication is withheld or of whether imposition
7 of sentence is withheld, deferred, or suspended, the court shall forward a record of the
8 finding to the Department of Transportation, Division of Motor Vehicles, which shall
9 record a penalty of three points on the violator's drivers license pursuant to the point
10 system established by G.S. 20-16.

11 (e) Any person who dumps litter in violation of subsection (a) in an amount
12 exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for
13 commercial purposes, or dumps litter which is a hazardous waste as defined in G.S.
14 130A-290 is guilty of a Class J felony. In addition, the court may order the violator to:

- 15 (1) Remove, or render harmless, the litter that he dumped in violation of
16 this section;
- 17 (2) Repair or restore property damaged by, or pay damages for any
18 damage arising out of, his dumping litter in violation of this section; or
- 19 (3) Perform community public service relating to the removal of litter
20 dumped in violation of this section or to the restoration of an area
21 polluted by litter dumped in violation of this section.

22 (f) A court may enjoin a violation of this section.

23 (g) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to
24 dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared
25 contraband and is subject to seizure and summary forfeiture to the State.

26 (h) If a person sustains damages arising out of a violation of this section that is
27 punishable as a felony, a court, in a civil action for such damages, shall order the person
28 to pay the injured party threefold the actual damages or two hundred dollars (\$200.00),
29 whichever amount is greater. In addition, the court shall order the person to pay the
30 injured party's court costs and attorney's fees. A final judgment rendered in a criminal
31 proceeding against a defendant under this section estops the defendant from asserting
32 any issue in a subsequent civil action under this subsection which he would be estopped
33 from asserting if such judgment were rendered in the civil action, unless the criminal
34 judgment was based upon a plea of no contest or **nolo contendere**.

35 (i) For the purpose of this section, if a person dumps litter from a commercial
36 vehicle, that person is presumed to have dumped the litter for commercial purposes.

37 (j) In the criminal trial of a person charged with violating this section, the State
38 does not have the burden of proving that the person did not have the right or authority to
39 dump the litter or that litter dumped on private property causes a public nuisance. The
40 defendant has the burden of proving that he had authority to dump the litter and that the
41 litter dumped does not cause a public nuisance.

42 (k) For the purpose of the section, unless the context requires otherwise:

1	Reckless driving	4
2	Hit and run, property damage only	4
3	Following too close	4
4	Driving on wrong side of road	4
5	Illegal passing	4
6	Running through stop sign	3
7	Speeding in excess of 55 miles per hour	3
8	Failing to yield right-of-way	3
9	Running through red light	3
10	No driver's license or license expired more than one year	3
11	Failure to stop for siren	3
12	Driving through safety zone	3
13	No liability insurance	3
14	Failure to report accident where such report is required	3
15	<u>Littering pursuant to G.S. 14-399 when the littering involves the use of a</u>	
16	<u>motor vehicle</u>	3
17	Speeding in a school zone in excess of the posted school zone speed limit	3
18	All other moving violations	2

19 The [above] provisions of this subsection shall only apply to violations and convictions
20 which take place within the State of North Carolina.

21 No points shall be assessed for conviction of the following offenses:

- 22 Overloads
- 23 Over length
- 24 Over width
- 25 Over height
- 26 Illegal parking
- 27 Carrying concealed weapon
- 28 Improper plates
- 29 Improper registration
- 30 Improper muffler
- 31 Public drunk within a vehicle
- 32 Possession of alcoholic beverages
- 33 Improper display of license plates or dealers' tags
- 34 Unlawful display of emblems and insignia
- 35 Failure to display current inspection certificate.

36 In case of the conviction of a licensee of two or more traffic offenses committed on a
37 single occasion, such licensee shall be assessed points for one offense only and if the
38 offenses involved have a different point value, such licensee shall be assessed for the
39 offense having the greater point value.

40 Upon the restoration of the license or driving privilege of such person whose license
41 or driving privilege has been suspended or revoked because of conviction for a traffic
42 offense, any points that might previously have been accumulated in the driver's record
43 shall be cancelled.

1 Whenever any licensee accumulates as many as seven points or accumulates as
2 many as four points during a three-year period immediately following reinstatement of
3 his license after a period of suspension or revocation, the Division may request the
4 licensee to attend a conference regarding such licensee's driving record. The Division
5 may also afford any licensee who has accumulated as many as seven points or any
6 licensee who has accumulated as many as four points within a three-year period
7 immediately following reinstatement of his license after a period of suspension or
8 revocation an opportunity to attend a driver improvement clinic operated by the
9 Division and, upon the successful completion of the course taken at the clinic, three
10 points shall be deducted from the licensee's conviction record; provided, that only one
11 deduction of points shall be made on behalf of any licensee within any five-year period.

12 When a license is suspended under the point system provided for herein, the first
13 such suspension shall be for not more than 60 days; the second such suspension shall
14 not exceed six months and any subsequent suspension shall not exceed one year.

15 Whenever the driver's license of any person is subject to suspension under this
16 subsection and at the same time also subject to suspension or revocation under other
17 provisions of laws, such suspensions or revocations shall run concurrently.

18 In the discretion of the Division, a period of probation not to exceed one year may
19 be substituted for suspension or for any unexpired period of suspension under
20 subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the
21 probation period shall result in a suspension for the unexpired remainder of the
22 suspension period. Any accumulation of three or more points under this subsection
23 during a period of probation shall constitute a violation of the condition of probation."

24 Sec. 12. Part 2 of Article 9 of Chapter 130A of the General Statutes, as
25 amended by Section 5 of this act, is amended by adding the following sections to read:

26 "**§ 130A-295.2. Waste newsprint disposal fees.**

27 (a) On and after January 1, 1990, a product waste disposal fee of ten cents (10¢)
28 per ton of newsprint consumed is imposed upon every producer or publisher within the
29 State. The waste disposal fee imposed by this section shall be collected from producers
30 or publishers based upon the total weight of newsprint actually consumed in their
31 publications.

32 (b) The product waste disposal fee imposed by this section shall be reported and
33 paid to the Department of Revenue quarterly. A credit of ten cents (10¢) per ton of
34 newsprint against the fee obligation may be taken by the producer or publisher for
35 overruns or similar products not actually circulated or delivered. The credit of ten cents
36 (10¢) per ton is also allowed against the fee obligation for each ton of recycled
37 newsprint used in publication of products. The payment shall be accompanied by a
38 form as prescribed by the Department of Revenue. The proceeds of the product waste
39 disposal fee collected pursuant to this section, less administrative costs, shall be
40 transferred to the Solid Waste Management Trust Fund.

41 For the purposes of this section, 'proceeds' of the fee shall mean all funds collected
42 and received by the Department pursuant to this section, including interest and penalties
43 on delinquent fees. The amount deducted for the costs of administration may not

1 exceed three percent (3%) of the total revenues collected pursuant to this section, and
2 shall be only for those costs solely and directly attributable to the fee.

3 The Department of Revenue shall administer, collect, and enforce the fee authorized
4 under this section pursuant to the same procedures used in the administration,
5 collection, and enforcement of the general State sales tax imposed under Chapter 105 of
6 the General Statutes, except as provided in this section. The provisions of this section
7 regarding the authority to audit and make assessments, keeping of books and records,
8 and interest and penalties on delinquent fees shall apply. The fees shall not be included
9 in the computation of estimated taxes pursuant to Article 4C of Chapter 105 of the
10 General Statutes.

11 The Department of Revenue, is authorized to employ persons and incur other
12 expenses for which funds are appropriated by the General Assembly. The Department
13 is empowered to adopt rules and shall prescribe and publish these forms as may be
14 necessary to effectuate the purposes of this section. The Department is authorized to
15 establish audit procedures and to assess delinquent fees.

16 (c) If the Department of Human Resources determines on October 1, 1993, by
17 the preponderance of evidence, that newsprint sold within the State is being recycled at
18 a rate of fifty percent (50%) or more of the quantity sold within the State, the product
19 waste disposal fee on newsprint shall be rescinded. If the Department determines on
20 that date, by a preponderance of evidence, that newsprint sold within the State is being
21 recycled at a rate of less than fifty percent (50%) of the quantity sold within the State,
22 the product waste disposal fee on newsprint shall be increased to fifty cents (50¢) per
23 ton and the credits authorized by subsection (b) shall be increased to fifty cents (50¢)
24 per ton, effective October 1, 1992. If the product waste disposal fee on newsprint is
25 increased on October 1, 1992, the provisions of subsections (d) and (e) shall also be
26 implemented effective on October 1, 1992.

27 (d) Any producer or publisher using newsprint in publications shall accept from a
28 person for recycling purposes reasonably clean newsprint previously produced,
29 published, or offered for sale by that producer or publisher. Publications accepted for
30 recycling shall be accepted at the place where they were produced or published or at
31 other convenient sites offered by the producers or publishers.

32 (e) The producer or publisher may claim a credit of twenty-five cents (25¢) per
33 ton of newsprint utilized in publications by its facility that have been returned and made
34 available for recycling. These claims shall be made quarterly to the Department of
35 Revenue and shall be accompanied by such documentation of the claim as the
36 Department of Revenue requires.

37 (f) In no event shall credits pursuant to this section exceed the fee obligation.

38 **"§ 130A-295.3. Advance disposal fee program.**

39 (a) The General Assembly finds that containers which are made from plastic,
40 glass, plastic-coated paper, aluminum, or other metals and which are improperly
41 discarded represent a significant solid waste problem in this State. Finding a solution to
42 litter problems involving containers has been challenging and difficult for the public and
43 private sectors. The General Assembly has determined that a program operated with the
44 established goals and implemented in phases is the most appropriate way to solve

1 problems of litter involving containers. This section is intended to create the necessary
2 infrastructure to help solve comprehensive solid waste management problems facing the
3 State in the future. If the recycling facilities and programs created under this act are not
4 adequate to meet the legislated recycling goals, additional mechanisms are provided to
5 be implemented in phases to help assure that litter problems involving containers are
6 solved and that the reduction of the solid waste stream can be accomplished.

7 (b) If the Department of Human Resources determines on October 1, 1993, by a
8 preponderance of evidence, that containers which are made of glass, plastic, plastic-
9 coated paper, aluminum, or other metals and which are sold in this State are not being
10 recycled at a sustained rate of fifty percent (50%) of the quantities that these individual
11 types of containers are sold within the State, the advance disposal fee program provided
12 for in subsection (c) shall be implemented. The requirements of this section that apply
13 to plastic containers shall apply individually to the categories of plastic containers
14 identified in G.S. 130A-294.6(h).

15 (c) If the Department makes the determination specified in subsection (b), there
16 shall be an advance disposal fee of one cent (1¢) per container charged by retail
17 establishments on those types of containers sold in the State.

18 The proceeds of the advance disposal fee collected pursuant to this section, less the
19 cost of administration, shall be reported and paid quarterly and shall be transferred into
20 a fund to be known as the Container Recycling Trust Fund within the Department of
21 Revenue.

22 For the purposes of this section, 'proceeds' of the fee shall mean all funds collected
23 and received by the Department of Revenue pursuant to this subsection, including
24 interest and penalties on delinquent fees. The amount deducted for the costs of
25 administration shall not exceed three percent (3%) of the total revenues collected
26 pursuant to this subsection, and shall be only those costs solely and directly attributable
27 to the fee. The Department of Revenue shall determine the amount which needs to be
28 reserved in the Container Recycling Trust Fund each quarter for refunds and
29 administrative costs. Any amount above that reserve shall be transferred quarterly to
30 the Solid Waste Management Trust Fund.

31 The Department of Revenue shall administer, collect, and enforce the fee authorized
32 under this subsection pursuant to the same procedures used in the administration,
33 collection, and enforcement of the general State sales tax imposed under Chapter 105 of
34 the General Statutes, except as provided in this section. The provisions of this section
35 regarding the authority to audit and make assessments, keeping of books and records,
36 and interest and penalties on delinquent fees shall apply. The fees shall not be included
37 in the computation of estimated taxes pursuant to Article 4C of Chapter 105 of the
38 General Statutes.

39 The Department of Revenue, is authorized to employ persons and incur other
40 expenses for which funds are appropriated by the General Assembly. The Department
41 is empowered to adopt such rules and shall prescribe and publish these forms as may be
42 necessary to effectuate the purposes of this section. The Department is authorized to
43 establish audit procedures and to assess delinquent fees.

1 (d) The Department of Human Resources shall adopt rules to accomplish the
2 following:

- 3 (1) Establishing reporting requirements necessary to obtain necessary
4 sales and recycling information to implement this Section and Section
5 20 of this act;
- 6 (2) Establishing the criteria to determine whether the fifty percent (50%)
7 recycling rate has been achieved; and
- 8 (3) Establishing the criteria for registration of public and private recycling
9 centers.

10 (e) Containers for which an advance disposal fee has been charged may be
11 returned to recycling centers which have registered with the Department, pursuant to
12 Department rule, for a refund on the advance disposal fee in addition to payment for the
13 market value of the product from which the container is made. Unclaimed moneys
14 which remain in the Container Recycling Trust Fund shall be allocated to support
15 container recycling programs as follows:

- 16 (1) For capital assistance grants, sixty percent (60%);
- 17 (2) For litter control, fifteen percent (15%);
- 18 (3) For promotion and education, ten percent (10%);
- 19 (4) For technical assistance, eight percent (8%);
- 20 (5) For research and development, five percent (5%); and
- 21 (6) For administration, two percent (2%).

22 No more than monthly, or at times determined by rule of the Department of Revenue,
23 operators of registered recycling centers may certify to the Department of Revenue, on
24 forms provided by the Department of Revenue, the amount of refunds of the advance
25 disposal fee which have been paid to purchasers and shall receive a refund from the
26 Container Recycling Trust Fund. The Department of Revenue shall establish audit
27 procedures for registered recycling center operators.

28 (f) If the Department of Human Resources determines by October 1, 1996, that
29 containers made of glass, plastic, plastic-coated paper, aluminum, or other metals, and
30 sold in the State are not being recycled at a rate of fifty percent (50%) of the quantities
31 that these individual types of containers are sold within the State, the advance disposal
32 fee program established in subsection (c) shall increase to two cents (2¢) per container
33 and the provisions of G.S. 130A-295.4 shall be implemented. These fees shall not apply
34 to those types of containers that are recycled at a rate of fifty percent (50%) or more.

35 (g) The provisions of this section and G.S. 130A-295.4 are repealed October 1,
36 1996, and shall be reviewed by the General Assembly prior to that date.

37 **"§ 130A-295.4. Containers; deposit; recycling and return.**

38 (a) Definitions. – As used in G.S. 130A-295.3 and this section:

- 39 (1) 'Container' means the individual, separate, and sealed glass, plastic,
40 plastic-coated paper, aluminum, or other metal can, bottle, or jar, not
41 less than five ounces in capacity; and in which the contents have been
42 sealed by the manufacturer.
- 43 (2) 'Consumer' means any person who purchases a container for
44 consumption of its contents with no intent to resell such container.

- 1 (3) 'Dealer' means any person in this State who engages in the sale of
2 containers to a consumer. The term includes an operator of a vending
3 machine containing containers. The term does not include a person
4 who sells or offers for sale containers, the contents of which are
5 consumed on the premises; nor a common carrier in the conduct of
6 interstate passenger service who sells, offers for sale, or distributes to
7 its passengers, containers, the contents of which are consumed on the
8 premises.
- 9 (4) 'Distributor' means any person who engages in the sale of containers
10 to a dealer in this State, including any manufacturer who engages in
11 such sales.
- 12 (5) 'Manufacturer' means any person bottling, canning, or otherwise
13 filling containers for sale to distributors or dealers.
- 14 (6) 'Nonrefillable container' means a container which is not intended to be
15 reused as a container by a manufacturer after being initially used by a
16 consumer.
- 17 (7) 'Refillable container' means a container which is intended to be reused
18 as a container at least five times by a manufacturer after being initially
19 used by a consumer.
- 20 (8) 'Redemption center' means a business other than a dealer or distributor
21 which offers to redeem any empty container for the amount of deposit.

22 (b) Refund value required. – Every container sold or offered for sale in this State
23 shall have a refund value established by the distributor of not less than five cents (5¢).
24 Each container shall have the refund value, and the words "North Carolina" clearly
25 indicated by embossing, by a stamp, or by a label or other device securely fixed to any
26 portion of the container other than the bottom. A dealer, redemption center, or
27 distributor may refuse to accept from a person any empty container which does not state
28 such information on the container. This subsection does not apply to containers sold by
29 a distributor for use by a common carrier in the conduct of interstate passenger service.

30 This subsection does apply to any refillable container having a brand name
31 permanently marked thereon which, on the effective date of this act, has a refund value
32 of not less than ten cents (10¢).

33 The requirements of this subsection relating to refund value shall not apply to those
34 types of containers that meet the requirements of recycling of G.S. 130A-295.3(b).

35 (c) Consumers, Dealers, Distributors, and Vending Machine Operators; Required
36 Practices. –

- 37 (1) Each consumer shall deposit with the dealer the refund value of each
38 container purchased from that dealer. However, no deposit shall be
39 required if the container is sold for consumption of the beverage on the
40 premises.
- 41 (2) Except as provided in subdivision (4), a dealer shall accept from any
42 consumer or other person not a dealer any empty, unbroken, and
43 reasonably clean container of the type, size, and brand sold by the

- 1 dealer within the past 60 days and shall pay in cash the refund value of
2 the returned container.
- 3 (3) A dealer shall inform consumers that containers are returnable by
4 placing a sign or shelf label, or both, in close proximity to any sales
5 display of containers. The sign or label shall indicate the amount of
6 deposit required for each container and indicate that the containers are
7 returnable. If a dealer participates in a redemption center, the location
8 of that redemption center shall be posted.
- 9 (4) A dealer may limit the total number of containers that he will accept
10 from any one consumer in any business day to 96 containers. The
11 dealer may refuse to accept containers for a period of not more than
12 three hours during any business day, provided that the hours during
13 which containers will not be accepted are conspicuously posted.
- 14 (5) Each operator of a vending machine which sells containers shall post a
15 conspicuous notice on the vending machine indicating that a refund is
16 available for each container purchased and indicating where and from
17 whom that refund may be obtained. This subdivision does not require
18 vending machine operators to provide refunds at the premises where
19 the vending machines are located.
- 20 (6) A distributor shall accept from a dealer any empty, unbroken, and
21 reasonably clean container of the type, size, and brand sold by the
22 distributor within the past 60 days and shall pay the dealer or his agent,
23 within 10 working days, the refund value of the container plus a
24 handling fee of at least twenty percent (20%) of the refund value of
25 each container.
- 26 (7) A distributor may refuse to accept from any person who is not a dealer
27 a quantity of fewer than 599 containers of the type, size, and brand
28 sold by the distributor.
- 29 (8) A distributor shall not be required to pay a manufacturer a deposit on a
30 nonrefillable container.
- 31 (9) Any person may establish a redemption center and may determine
32 what type, size, and brand of container shall be accepted. The
33 redemption center may contract with a dealer or a distributor to collect
34 and provide for the recycling of empty containers. The distributor
35 shall accept any empty, unbroken, and reasonably clean container of
36 the type, size, and brand sold by the distributor within the past 60 days
37 and shall pay to the redemption center, within 10 working days, the
38 refund value of the container, plus a handling fee of not less than
39 twenty percent (20%) of the refund values.
- 40 (d) Powers and Duties of Department. – The Department shall adopt rules
41 necessary to administer this section, including rules for the regulation of redemption
42 centers. The rules shall provide that State informational material, including travel
43 pamphlets and road maps, printed after December 31, 1996, shall contain information

1 related to this section. Such informational material shall contain a statement relating to
2 the deposit law, urging travelers to avoid littering.

3 (e) Educational Materials. – The Department of Public Instruction shall
4 incorporate information concerning this section into educational materials distributed to
5 primary and secondary schools within the State, urging an end to littering.

6 (f) Penalty. – Any person who violates any of the provisions of this section is
7 guilty of a misdemeanor.

8 (g) Effective Date. – This section shall become effective October 1, 1996."

9 Sec. 13. Part 4 of Article 5 of Chapter 105 of the General Statutes is amended
10 by adding a new section to read:

11 **"§ 105-164.21B. Solid Waste Management Trust Fund deposits.**

12 An amount equal to two-tenths of one percent (.2%) of the proceeds remitted
13 pursuant to this Part by a dealer shall be transferred into the Solid Waste Management
14 Trust Fund which is created in the State Treasury. For purposes of this section, the term
15 'proceeds' means all funds collected and received by the Department of Revenue,
16 including any interest and penalties."

17 Sec. 14. Division III of Article 5 of Chapter 105 of the General Statutes is
18 amended by adding a section to read:

19 **"§ 105-164.13B. Machinery and equipment for processing recyclable materials.**

20 (a) Industrial machinery and equipment purchased for use in manufacturing
21 facilities or plant units which manufacture, process, compound, or produce for sale
22 items of tangible personal property at fixed locations in this State and meeting the
23 following requirements are exempt from the tax imposed by this Chapter, to the extent
24 as follows:

- 25 (1) The machinery and equipment is integral to recycling, as defined in
26 G.S. 130A-290 and certified to the Department by the Department of
27 Human Resources;
28 (2) The machinery and equipment is expressly designed to utilize
29 recyclable materials in manufacturing, processing, compounding, or
30 producing for sale items of tangible personal property; and
31 (3) The machinery and equipment is directly used to increase the
32 consumption by the taxpayer at a single location of North Carolina-
33 source recyclable materials by not less than ten percent (10%) as
34 certified by the taxpayer. If the taxpayer is a corporation, this
35 requirement shall apply to all members of the affiliated group to which
36 it belongs, if any.

37 (b) The exemption provided in this section shall inure to the taxpayer by refunds
38 of previously paid taxes. Following the first full year in which the machinery and
39 equipment is in operation, the taxpayer shall apply to the Department for a refund of
40 sales taxes paid, providing information on sales tax paid, machinery and equipment
41 purchased and the use of North Carolina-source recyclable materials as the Department
42 may require. Upon the determination by the Department that all requirements for a
43 refund have been met, such refund shall be issued."

44 Sec. 15. This act shall become effective August 1, 1989.