

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 111

Environment & Natural Resources Committee Substitute Adopted 5/8/89

House Committee Substitute Favorable 7/20/89

House Committee Substitute #2 Favorable 7/27/89

Short Title: Solid Waste Revisions.

(Public)

Sponsors:

Referred to:

February 6, 1989

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE MANAGEMENT OF SOLID WASTE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-290 as amended by Section 11 of Chapter 168 of the 1989 Session Laws reads as rewritten:

"§ 130A-290. Definitions.

(a) Unless a different meaning is required by the context, the following definitions shall apply throughout this Article:

(1) 'CERCLA/SARA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601 et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended.

(1a) 'Closure' means the cessation of operation of a solid waste management facility and the act of securing the facility so that it will pose no significant threat to human health or the environment.

(2) 'Commercial' when applied to a hazardous waste facility, means a hazardous waste facility that accepts hazardous waste from the general public or from another person for a fee.

(2a) 'Construction' or 'demolition' when used in connection with 'waste' or 'debris' means solid waste resulting solely from construction.

- 1 remodeling, repair, or demolition operations on pavement, buildings,
2 or other structures, but does not include inert debris, land-clearing
3 debris or yard debris.
- 4 (2b) 'Designated local government' means a unit of local government
5 which holds a permit issued by the Department pursuant to G.S.
6 130A-291(b) to operate a solid waste management facility.
- 7 (3) 'Disposal' means the discharge, deposit, injection, dumping, spilling,
8 leaking or placing of any solid waste into or on any land or water so
9 that the solid waste or any constituent part of the solid waste may
10 enter the environment or be emitted into the air or discharged into
11 any waters, including groundwaters.
- 12 (4) 'Garbage' means all putrescible wastes, including animal offal and
13 carcasses, and recognizable industrial by-products, but excluding
14 sewage and human waste.
- 15 (5) 'Hazardous waste' means a solid waste, or combination of solid
16 wastes, which because of its quantity, concentration or physical,
17 chemical or infectious characteristics may:
- 18 a. Cause or significantly contribute to an increase in mortality or
19 an increase in serious irreversible or incapacitating reversible
20 illness; or
- 21 b. Pose a substantial present or potential hazard to human health
22 or the environment when improperly treated, stored,
23 transported, disposed of or otherwise managed.
- 24 (6) 'Hazardous waste facility' means a facility for the collection,
25 storage, processing, treatment, recycling, recovery, or disposal of
26 hazardous waste.
- 27 (7) 'Hazardous waste generation' means the act or process of producing
28 hazardous waste.
- 29 (8) 'Hazardous waste disposal facility' means any facility or any portion
30 of a facility for disposal of hazardous waste on or in land in
31 accordance with rules adopted under this Article.
- 32 (9) 'Hazardous waste management' means the systematic control of the
33 collection, source separation, storage, transportation, processing,
34 treatment, recovery and disposal of hazardous wastes.
- 35 (10) 'Hazardous waste management program' means the program and
36 activities within the Department pursuant to Part 2 of this Article, for
37 hazardous waste management.
- 38 (10a) 'Inert debris' means solid waste which consists solely of material
39 that is virtually inert and that is likely to retain its physical and
40 chemical structure under expected conditions of disposal.
- 41 (10b) 'Land-clearing debris' means solid waste which is generated solely
42 from land-clearing activities.
- 43 (11) 'Landfill' means a disposal facility or part of a disposal facility
44 where waste is placed in or on land and which is not a land treatment

- 1 facility, a surface impoundment, an injection well, a hazardous waste
2 long-term storage facility or a surface storage facility.
- 3 (12) 'Manifest' means the form used for identifying the quantity,
4 composition and the origin, routing and destination of hazardous
5 waste during its transportation from the point of generation to the
6 point of disposal, treatment or storage.
- 7 (12a) 'Medical waste' means any solid waste which is generated in the
8 diagnosis, treatment, or immunization of human beings or animals,
9 in research pertaining thereto, or in the production or testing of
10 biologicals, but does not include hazardous waste, radioactive waste,
11 household waste as defined in 40 Code of Federal Regulations §
12 261.4(b)(1) in effect on 1 July 1989, or those substances excluded
13 from the definition of 'solid waste' in this section.
- 14 (13) 'Natural resources' means all materials which have useful physical
15 or chemical properties which exist, unused, in nature.
- 16 (14) 'Open dump' means a solid waste disposal site which is not a
17 sanitary landfill.
- 18 (14a) 'Operator' means any person, including the owner, who is
19 principally engaged in, and is in charge of, the actual operation,
20 supervision, and maintenance of a solid waste management facility
21 and includes the person in charge of a shift or periods of operation
22 during any part of the day.
- 23 (15) 'Person' means an individual, corporation, company, association,
24 partnership, unit of local government, State agency, federal agency
25 or other legal entity.
- 26 (15a) 'Processing' means any technique designed to change the physical,
27 chemical, or biological character or composition of any solid waste so
28 as to render it safe for transport; amenable to recovery, storage or
29 recycling; safe for disposal; or reduced in volume or concentration.
- 30 (15b) 'Recovered materials' means those materials which have known
31 recycling potential, can be feasibly recycled, and have been diverted
32 or removed from the solid waste stream for sale, use, or reuse by
33 separation, collection, or processing.
- 34 (16) 'RCRA' means the Resource Conservation and Recovery Act of
35 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq., as
36 amended.
- 37 (16a) 'Recyclable material' means those materials which are capable of
38 being recycled and which would otherwise be processed or disposed
39 of as solid waste.
- 40 (17) 'Recycling' means ~~the~~ any process by which ~~recovered~~
41 resources are transformed into new products so that the original products
42 lose their identity ~~solid waste, or materials which would otherwise~~
43 become solid waste, are collected, separated, or processed, and
44 reused or returned to use in the form of raw materials or products.

- 1 (18) 'Refuse' means all nonputrescible waste.
- 2 (19) 'Resource recovery' means the process of obtaining material or
3 energy resources from discarded solid waste which no longer has
4 any useful life in its present form and preparing the solid waste for
5 recycling.
- 6 (20) 'Reuse' means a process by which resources are reused or rendered
7 usable.
- 8 (21) 'Sanitary landfill' means a facility for disposal of solid waste on land
9 in a sanitary manner in accordance with the rules concerning
10 sanitary landfills adopted under this Article.
- 11 (22) 'Septage' means solid waste that is a fluid mixture of untreated and
12 partially treated sewage solids, liquids and sludge of human or
13 domestic origin which is removed from a septic tank system.
- 14 (23) 'Septage management firm' means a person engaged in the business
15 of pumping, transporting, storing, treating or disposing septage. The
16 term does not include public or community sanitary sewage systems
17 that treat or dispose septage.
- 18 (24) 'Sludge' means any solid, semisolid or liquid waste generated from a
19 municipal, commercial, institutional or industrial wastewater
20 treatment plant, water supply treatment plant or air pollution control
21 facility, or any other waste having similar characteristics and effects.
- 22 (25) 'Solid waste' means any hazardous or nonhazardous garbage, refuse
23 or sludge from a waste treatment plant, water supply treatment plant
24 or air pollution control facility, domestic sewage and sludges
25 generated by the treatment thereof in sanitary sewage collection,
26 treatment and disposal systems, and other material that is either
27 discarded or is being accumulated, stored or treated prior to being
28 discarded, or has served its original intended use and is generally
29 discarded, including solid, liquid, semisolid or contained gaseous
30 material resulting from industrial, institutional, commercial and
31 agricultural operations, and from community activities. The term
32 does not include:
- 33 a. Fecal waste from fowls and animals other than humans;
- 34 b. Solid or dissolved material in:
- 35 1. Domestic sewage and sludges generated by treatment
36 thereof in sanitary sewage collection, treatment and
37 disposal systems which are designed to discharge
38 effluents to the surface waters;
- 39 2. Irrigation return flows; and
- 40 3. Wastewater discharges and the sludges incidental to and
41 generated by treatment which are point sources subject
42 to permits granted under Section 402 of the Water
43 Pollution Control Act, as amended (P.L. 92-500), and
44 permits granted under G.S. 143-215.1 by the

- 1 Environmental Management Commission. However, any
2 sludges that meet the criteria for hazardous waste under
3 RCRA shall also be a solid waste for the purposes of this
4 Article;
- 5 c. Oils and other liquid hydrocarbons controlled under Article
6 21A of Chapter 143 of the General Statutes. However, any oils
7 or other liquid hydrocarbons that meet the criteria for hazardous
8 waste under RCRA shall also be a solid waste for the purposes
9 of this Article;
- 10 d. Any source, special nuclear or byproduct material as defined by
11 the Atomic Energy Act of 1954, as amended (42 U.S.C. §
12 2011).
- 13 e. Mining refuse covered by the North Carolina Mining Act, G.S.
14 74-46 through 74-68 and regulated by the North Carolina
15 Mining Commission (as defined under G.S. 143B-290).
16 However, any specific mining waste that meets the criteria for
17 hazardous waste under RCRA shall also be a solid waste for the
18 purposes of this Article.
- 19 (26) 'Solid waste disposal site' means any place at which solid wastes are
20 disposed of by incineration, sanitary landfill or any other method.
- 21 (27) 'Solid waste generation' means the act or process of producing solid
22 waste.
- 23 (28) 'Solid waste management' means purposeful, systematic control of
24 the generation, storage, collection, transport, separation, treatment,
25 processing, recycling, recovery and disposal of solid waste.
- 26 (29) 'Solid waste management facility' means land, personnel and
27 equipment used in the management of solid waste.
- 28 (29a) 'Special wastes' means solid wastes that can require special handling
29 and management, including white goods, whole tires, used oil, lead-
30 acid batteries, and medical wastes.
- 31 (30) 'Storage' means the containment of solid waste, either on a
32 temporary basis or for a period of years, in a manner which does not
33 constitute disposal.
- 34 (31) 'Treatment' means any method, technique or process, including
35 neutralization, designed to change the physical, chemical or
36 biological character or composition of any hazardous waste so as to
37 neutralize such waste or so as to render such waste nonhazardous,
38 safer for transport, amenable for recovery, amenable for storage or
39 reduced in volume. 'Treatment' includes any activity or processing
40 designed to change the physical form or chemical composition of
41 hazardous waste so as to render it nonhazardous.
- 42 (32) 'Unit of local government' means a county, city, town or
43 incorporated village.

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

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

1 environmentally safe manner; and encourage counties,
2 municipalities, and State agencies to contract with private persons
3 for any or all the services in order to assure that the services are
4 provided in the most cost-effective manner.

5 **"§ 130A-309.04. State solid waste management policy and goals.**

6 (a) It is the policy of the State to promote methods of solid waste management
7 that are alternatives to disposal in landfills and to assist units of local government with
8 solid waste management. In furtherance of this State policy, there is established a
9 hierarchy of methods of managing solid waste, in descending order of preference:

10 (1) Waste volume reduction at the source;

11 (2) Recycling and reuse;

12 (3) Composting;

13 (4) Incineration with energy production;

14 (5) Incineration for volume reduction;

15 (6) Disposal in landfills.

16 (b) It is the policy of the State to encourage research into innovative solid waste
17 management methods and products and to encourage regional solid waste management
18 projects.

19 (c) It is the goal of this State that at least twenty-five percent (25%) of the total
20 waste stream be recycled by 1 January 1993.

21 (d) In furtherance of the State's solid waste management policy, each State
22 agency shall develop a solid waste management plan for any waste which it generates
23 which is consistent with the solid waste management policy of the State.

24 (e) Each county, either individually or in cooperation with others, shall, in
25 cooperation with its municipalities, develop a comprehensive county solid waste
26 management plan and submit the plan to the Department for approval. County solid
27 waste management plans shall be updated and submitted for approval at least once
28 every two years. A county solid waste management plan shall be consistent with the
29 State's comprehensive solid waste plan. In counties where a municipality operates the
30 major solid waste disposal facility, the comprehensive solid waste plan may be prepared
31 by the municipality, with the approval of the county and in cooperation with the other
32 municipalities. Each county's comprehensive solid waste management plan shall
33 include provisions which address the State's recycling goal. Each county's plan shall
34 take into consideration facilities and other resources for management of solid waste
35 which may be available through private enterprise. This section shall be construed to
36 encourage the involvement and participation of private enterprise in solid waste
37 management. The Department shall develop a form designed to elicit pertinent
38 information regarding a county's solid waste management plan. The Department shall
39 provide assistance in the preparation of county plans upon request.

40 **"§ 130A-309.05. Regulated wastes; certain exclusions.**

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

43 (1) Medical waste ; and

- 1 (2) Ash generated by a solid waste management facility from the
2 burning of solid waste.
- 3 (b) Ash generated by a solid waste management facility from the burning of solid
4 waste shall be disposed of in a properly designed solid waste disposal area that complies
5 with standards developed by the Department for the disposal of the ash. The
6 Department shall work with solid waste management facilities which burn solid waste
7 to identify and develop methods for recycling and reusing incinerator ash or treated ash.
- 8 (c) Recovered materials may not be subject to the provisions of this Part if:
- 9 (1) A majority of the recovered materials at a facility are sold, used, or
10 reused within one year;
- 11 (2) The recovered materials or the products or by-products of operations
12 that process recovered materials are not discharged, deposited,
13 injected, dumped, spilled, leaked, or placed into or upon any land or
14 water so that the products or by-products or any constituent thereof
15 may enter other lands or be emitted into the air or discharged into
16 any waters including groundwaters, or otherwise enter the
17 environment or pose a threat to public health and safety; and
- 18 (3) The recovered materials are not hazardous waste and have not been
19 recovered from solid waste which is defined as hazardous waste
20 under G.S. 130A-290.

21 **"§ 130A-309.06. Additional powers and duties of the Department.**

- 22 (a) In addition to other powers and duties set forth in this Part, the Department
23 shall:
- 24 (1) Develop a comprehensive solid waste management plan consistent
25 with this Part by 1 March 1991. The plan shall be developed in
26 consultation with units of local government and shall be updated at
27 least every three years. In developing the State solid waste
28 management plan, the Department shall hold public hearings around
29 the State and shall give notice of these public hearings to all units of
30 local government and regional planning agencies.
- 31 (2) Provide guidance for the orderly collection, transportation, storage,
32 separation, processing, recovery, recycling, and disposal of solid
33 waste throughout the State.
- 34 (3) Encourage coordinated local activity for solid waste management
35 within a common geographical area.
- 36 (4) Provide planning, technical, and financial assistance to units of local
37 government and State agencies for reduction, recycling, reuse, and
38 processing of solid waste and for safe and environmentally sound
39 solid waste management and disposal.
- 40 (5) Cooperate with appropriate federal agencies and private
41 organizations in carrying out the provisions of this Part.
- 42 (6) Promote and assist the development of solid waste reduction,
43 recycling, and resource recovery programs which preserve and

- 1 enhance the quality of the air, water, and other natural resources of
2 the State.
- 3 (7) Maintain a directory of recycling and resource recovery systems in
4 the State and provide assistance with matching recovered materials
5 with markets.
- 6 (8) Manage a program of grants for programs for recycling and special
7 waste management, and for programs which provide for the safe and
8 proper management of solid waste.
- 9 (9) Provide for the education of the general public and the training of
10 solid waste management professionals to reduce the production of
11 solid waste, to ensure proper processing and disposal of solid waste,
12 and to encourage recycling and solid waste reduction.
- 13 (10) Develop descriptive literature to inform units of local government of
14 their solid waste management responsibilities and opportunities.
- 15 (11) Conduct at least one workshop each year in each region served by a
16 council of governments.
- 17 (b) The Department may refuse to issue a permit to an applicant who by past
18 conduct in this State has repeatedly violated related statutes, rules, orders, or permit
19 terms or conditions relating to any solid waste management facility and who is deemed
20 by the Department to be responsible for the violations. For the purpose of this
21 subdivision, an applicant includes the owner or operator of the facility, or, if the owner
22 or operator is a business entity, the parent of the subsidiary corporation, a partner, a
23 corporate officer or director, or a stockholder holding more than fifty percent (50%) of
24 the stock of the corporation.
- 25 (c) The Department shall prepare by 1 March 1991, and every year thereafter, a
26 report on the status of solid waste management efforts in the State. The scope of the
27 report shall be determined by the resources available to the Department for its
28 preparation and, to the extent possible, shall include:
- 29 (1) A comprehensive analysis, to be updated in each report, of solid
30 waste generation and disposal in the State projected for the 20-year
31 period beginning on 1 July 1991.
- 32 (2) The total amounts of solid waste generated, recycled, and disposed
33 of and the methods of solid waste recycling and disposal used during
34 the calendar year prior to the year in which the report is published.
- 35 (3) An evaluation of the development and implementation of local solid
36 waste management programs and county and municipal recycling
37 programs.
- 38 (4) An evaluation of the success of each county or group of counties in
39 meeting the municipal solid waste reduction goal established in G.S.
40 130A-309.09(d).
- 41 (5) Recommendations concerning existing and potential programs for
42 solid waste reduction and recycling that would be appropriate for
43 units of local government and State agencies to implement to meet
44 the requirements of this Part.

1 (6) An evaluation of the markets for recycled materials and the success
2 of State, local, and private industry efforts to enhance the markets
3 for such materials.

4 (7) Recommendations to the Governor and the General Assembly to
5 improve the management and recycling of solid waste in the State.

6 **"§ 130A-309.07. State solid waste management plan.**

7 The State solid waste management plan shall include, at a minimum:

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

12 (2) Provisions for the continuation of existing effective regional
13 resource recovery, recycling, and solid waste management facilities
14 and programs.

15 (3) Planning guidance and technical assistance to counties and
16 municipalities to aid in meeting the municipal solid waste reduction
17 goals established in G.S. 130A-309.09(d).

18 (4) Planning guidance and technical assistance to counties and
19 municipalities to assist the development and implementation of
20 recycling programs.

21 (5) Technical assistance to counties and municipalities in determining
22 the full cost for solid waste management as required in G.S. 130A-
23 309.08.

24 (6) Planning guidance and technical assistance to counties and
25 municipalities to assist the development and implementation of
26 programs for alternative disposal, processing, or recycling of the
27 solid wastes prohibited from disposal in landfills pursuant to G.S.
28 130A-309.10 and for special wastes.

29 (7) A public education program, to be developed in cooperation with the
30 Department of Public Instruction, units of local government, other
31 State agencies, and business and industry organizations, to inform
32 the public of the need for and the benefits of recycling solid waste
33 and reducing the amounts of solid and hazardous waste generated
34 and disposed of in the State. The public education program shall be
35 implemented through public workshops and through the use of
36 brochures, reports, public service announcements, and other
37 materials.

38 **"§ 130A-309.08. Determination of cost for solid waste management; local solid**
39 **waste management fees.**

40 (a) Within one year of the effective date of this section or within one year after
41 rules are adopted by the Commission, whichever occurs later, each county and each
42 municipality shall determine the full cost for solid waste management within the service
43 area of the county or municipality for a one-year period as specified by rules adopted by
44 the Commission, and shall update the full cost determination every year thereafter. The

1 Commission shall establish by rule the method for units of local government to use in
2 calculating full cost. Rule making shall be initiated and at least one public hearing shall
3 be held by 1 March 1990. In developing the rule, the Commission shall examine the
4 feasibility of the use of an enterprise fund process by units of local government in
5 operating their solid waste management systems.

6 (b) Within one year after the completion of the cost determination required by
7 subsection (a) of this section, each municipality shall establish a system to inform, no
8 less than once a year, residential and nonresidential users of solid waste management
9 services within the municipality's service area of the user's share, on an average or
10 individual basis, of the full cost for solid waste management as determined pursuant to
11 subsection (a) of this section. Counties shall provide the information required of
12 municipalities only to residential and nonresidential users of solid waste management
13 services within the county's service area that are not served by a municipality.
14 Municipalities shall include costs charges to them or persons contracting with them for
15 disposal of solid waste in the full cost information provided to residential and
16 nonresidential users of solid waste management services. Counties and municipalities
17 are encouraged to operate their solid waste management systems through use of an
18 enterprise fund.

19 (c) For purposes of this section, 'service area' means the area in which the county
20 or municipality provides, directly or by contract, solid waste management services. The
21 provisions of this section shall not be construed to require a person operating under a
22 franchise contract or other agreement to collect or dispose of solid waste within the
23 service area of a county or municipality to make the calculations or to establish a system
24 to provide the information required under this section, unless such person agrees to do
25 so as part of such franchise contract or other agreement.

26 (d) In order to assist in achieving the municipal solid waste reduction goal and
27 the recycling provisions of G.S. 130A-309.09 a county or a municipality which owns or
28 operates a solid waste management facility may charge solid waste disposal fees which
29 may vary based on a number of factors, including the amount, characteristics, and form
30 of recyclable materials present in the solid waste that is brought to the county's or the
31 municipality's facility for processing or disposal.

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

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

39 **"§ 130A-309.09. Local government solid waste responsibilities.**

40 (a) The governing board of a designated local government shall provide for the
41 operation of solid waste disposal facilities to meet the needs of all incorporated and
42 unincorporated areas designated to be served by the facility. Pursuant to this section
43 and notwithstanding any other provision of this Chapter, designated local governments
44 may adopt ordinances governing the disposal in facilities which they operate of solid

1 waste generated outside of the area designated to be served by such facility. Such
2 ordinances shall not be construed to apply to privately operated disposal facilities
3 located within the boundaries of a designated local government. In accordance with this
4 section, municipalities are responsible for collecting and transporting solid waste from
5 their jurisdictions to a solid waste disposal facility operated by the municipality or
6 county, any other municipality or county, or by any other person. Counties and
7 municipalities may charge reasonable fees for the handling and disposal of solid waste
8 at their facilities. The fees charged to municipalities without facilities at a solid waste
9 management facility specified by the county shall not be greater than the fees charged to
10 other users of the facility except as provided in G.S. 130A-309.08(d). Solid waste
11 management fees collected on a countywide basis shall be used to fund solid waste
12 management services provided throughout the county.

13 (b) Each designated local government shall initiate a recyclable materials
14 recycling program by 1 July 1991. Counties and municipalities are encouraged to form
15 cooperative arrangements for implementing recycling programs. The following
16 requirements shall apply:

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

20 (2) At a minimum, a majority of marketable materials identified
21 pursuant to G.S. 130A-309.14(b) must be separated from the solid
22 waste stream prior to final disposal at a solid waste disposal facility
23 and must be offered for recycling if the separation and collection of
24 these materials is economically feasible and markets for such
25 materials exist in such proximity as to make transportation of such
26 materials to such markets economically feasible.

27 (3) Units of local government are encouraged to separate all plastics,
28 metal, and all grades of paper for recycling prior to final disposal
29 and are further encouraged to recycle yard trash and other
30 mechanically treated solid waste into compost available for
31 agricultural and other acceptable uses.

32 (c) Each designated local government shall ensure, to the maximum extent
33 possible, that municipalities within its boundaries participate in the preparation and
34 implementation of recycling and solid waste management programs through joint
35 agencies established pursuant to G.S. 160A-462 or other means provided by law.
36 Nothing in a county's solid waste management or recycling program shall affect the
37 authority of a municipality to franchise or otherwise provide for the collection of solid
38 waste generated within the boundaries of the municipality.

39 (d) A designated local government's solid waste management and recycling
40 program shall be designed to provide for sufficient reduction of the amount of solid
41 waste generated within the county and the municipalities within its boundaries in order
42 to meet goals for the reduction of municipal solid waste prior to the final disposal or
43 incineration of the waste at a solid waste disposal facility. The goals shall provide, at a
44 minimum, that the amount of municipal solid waste that would be disposed of in the

1 absence of municipal solid waste recycling efforts undertaken within the county and the
2 municipalities within its boundaries is reduced by at least twenty-five percent (25%) of
3 the total waste stream by 1 January 1993. In determining whether the municipal solid
4 waste reduction goal established by this subsection has been achieved, no more than
5 one-half of the goal may be met with yard trash, white goods, construction and
6 demolition debris, and tires that are removed from the total amount of municipal solid
7 waste that would be disposed of in the absence of municipal solid waste recycling
8 efforts.

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

15 (f) The Department may reduce or modify the municipal solid waste reduction
16 goal that a designated local government is required to attempt to achieve pursuant to
17 subsection (d) of this section if the designated local government demonstrates to the
18 Department that:

19 (1) The achievement of the goal set forth in subsection (d) would have
20 an adverse effect on the financial obligations of a designated local
21 government that are directly related to a waste-to-energy facility
22 owned or operated by or on behalf of the designated local
23 government; and

24 (2) The designated local government cannot remove normally
25 combustible materials from solid waste that is to be processed at a
26 waste-to-energy facility because of the need to maintain a sufficient
27 amount of solid waste to ensure the financial viability of the facility.
28 The goal shall not be waived entirely and may only be reduced or
29 modified to the extent necessary to alleviate the adverse effects of
30 achieving the goal on the financial viability of a designated local
31 government's waste-to-energy facility. Nothing in this subsection
32 shall exempt a designated local government from developing and
33 implementing a recycling program pursuant to this Part.

34 (g) In order to assess the progress in meeting the goal established in subsection
35 (d) of this section, each designated local government shall, by 1 October 1990, and each
36 year thereafter, report to the Department its annual solid waste management program
37 and recycling activities. The report by the designated local government must include:

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

39 (2) The amount of solid waste disposed of at solid waste disposal
40 facilities, by type of waste such as yard trash, white goods, clean
41 debris, tires, and unseparated solid waste;

42 (3) The amount and type of materials from the solid waste stream that
43 were recycled;

- 1 (4) The percentage of the population participating in various types of
2 recycling activities instituted;
- 3 (5) The percent reduction each year in municipal solid waste disposed of
4 at solid waste disposal facilities;
- 5 (6) A description of the recycling activities attempted, their success
6 rates, the perceived reasons for failure or success, and the recycling
7 activities which are ongoing and most successful; and
- 8 (7) In its first report, a description of any recycling activities
9 implemented prior to 1 July 1991.
- 10 (h) A county or municipality may enter into a written agreement with other
11 persons, including persons transporting solid waste, to undertake to fulfill some or all of
12 the county's or municipality's responsibilities under this section.
- 13 (i) In the development and implementation of a curbside recyclable materials
14 collection program, a county or municipality shall enter into negotiations with a
15 franchisee who is operating to exclusively collect solid waste within a service area of a
16 county or municipality to undertake curbside recyclable materials collection
17 responsibilities for a county or municipality. If the county or municipality and the
18 franchisee fail to reach an agreement within 60 days from the initiation of negotiations,
19 the county or municipality may solicit proposals from other persons to undertake
20 curbside recyclable materials collection responsibilities for the county or municipality
21 as it may require. Upon the determination of the lowest responsible proposals, the
22 county or municipality may undertake, or enter into a written agreement with the person
23 who submitted the lowest responsible proposal to undertake, the curbside recyclable
24 materials collection responsibilities for the county or municipality, notwithstanding the
25 exclusivity of any franchise agreement for the collection of solid waste within a service
26 area of the county or municipality.
- 27 (j) In developing and implementing recycling programs, counties and
28 municipalities shall give consideration to the collection, marketing, and disposition of
29 recyclable materials by persons engaged in the business of recycling on either a for-
30 profit or nonprofit basis. Counties and municipalities are encouraged to use for-profit
31 and nonprofit organizations in fulfilling their responsibilities under this Part.
- 32 (k) A county or county and the municipalities within the county's or counties'
33 boundaries may jointly develop a recycling program, provided that the county and each
34 municipality must enter into a written agreement to jointly develop a recycling program.
35 If a municipality does not participate in jointly developing a recycling program with the
36 county within which it is located, the county may require the municipality to provide
37 information on recycling efforts undertaken within the boundaries of the municipality in
38 order to determine whether the goals for municipal solid waste reduction are being
39 achieved.
- 40 (l) It is the policy of the State that a county or counties and its or their
41 municipalities may jointly determine, through a joint agency established pursuant to
42 G.S. 160A-462 or by requesting the passage of special legislation, which local
43 governmental agency shall administer a solid waste management or recycling program.

1 (m) The designated local government shall provide written notice to all units of
2 local government within the designated local government when recycling program
3 development begins and shall provide periodic written progress reports to the units of
4 local government concerning the preparation of the recycling program.

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

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

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

28 (q) To effect the purposes of this Part, counties and municipalities are authorized,
29 in addition to other powers granted pursuant to this Part:

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

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

38 (3) To contract with persons to provide solid waste disposal services or
39 operate solid waste disposal facilities on behalf of the county or
40 municipality.

41 (r) On and after 1 July 1991, each operator of a solid waste management facility
42 owned or operated by or on behalf of a county or municipality, except existing facilities
43 which will not be in use one year after the effective date of this section, shall weigh all
44 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-309.10. Prohibited acts relating to packaging; coded labeling of plastic**
18 **containers required; disposal of certain special wastes in landfills**
19 **prohibited.**

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

23 (b) After 1 July 1991, no person shall distribute, sell, or offer for sale in this State
24 any plastic container product unless the product has a molded label indicating the plastic
25 resin used to produce the plastic container product. The code shall consist of a number
26 placed within three triangulated arrows and letters placed below the triangulated arrows.
27 The three arrows shall form an equilateral triangle with the common point of each line
28 forming each angle of the triangle at the midpoint of each arrow and rounded with a
29 short radius. The arrowhead of each arrow shall be at the midpoint of each side of the
30 triangle with a short gap separating the arrowhead from the base of the adjacent arrow.
31 The triangle formed by the three arrows curved at their midpoints shall depict a
32 clockwise path around the code number. The label shall appear on the bottom of the
33 plastic container product and be clearly visible. Plastic beverage containers and
34 nonsolid food liquid containers of less than 16 ounces and rigid plastic containers of less
35 than 8 ounces are exempt from the requirements of this subsection. The numbers and
36 letters shall be as follows:

- 37 (1) For polyethylene terephthalate, the letters 'PETE' and the number 1.
- 38 (2) For high density polyethylene, the letters 'HDPE' and the number 2.
- 39 (3) For vinyl, the letter 'V' and the number 3.
- 40 (4) For low density polyethylene, the letters 'LDPE' and the number 4.
- 41 (5) For polypropylene, the letters 'PP' and the number 5.
- 42 (6) For polystyrene, the letters 'PS' and the number 6.
- 43 (7) For any other, including multi-material containers, the letters
44 'OTHER' and the number 7.

1 (c) After 1 January 1991, no plastic bag shall be provided at any retail outlet to
2 any retail customer to use for the purpose of carrying items purchased by that customer
3 unless the bag is composed of material which is recyclable. Notice of recyclability
4 shall be printed on each bag.

5 (d) No person shall:

6 (1) After 1 October 1991, distribute, sell, or offer for sale in this State,
7 any product packaged in a container or packing material
8 manufactured with fully halogenated chlorofluorocarbons (CFC).
9 Producers of containers or packing material manufactured with
10 chlorofluorocarbons (CFC) are urged to introduce alternative
11 packaging materials which are environmentally compatible.

12 (2) After 1 October 1991, distribute, sell, or offer for sale in this State
13 any polystyrene foam product which is to be used in conjunction
14 with food for human consumption unless such product is composed
15 of material which is recyclable.

16 (e) In accordance with the following schedule, no person shall knowingly
17 dispose of the following special wastes in landfills:

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

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

24 (3) Yard trash, after 1 January 1993, except in landfills classified for
25 such use under rules adopted by the Commission. Yard trash that is
26 source separated from solid waste may be accepted at a solid waste
27 disposal area where the area provides and maintains separate yard
28 trash composting facilities.

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

30 (f) Prior to the effective dates specified in this subsection, the Department shall
31 identify and assist in developing alternative disposal, processing, or recycling options
32 for the solid waste identified in this subsection.

33 **"§ 130A-309.11. Compost standards and applications.**

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

37 (b) Within six months after the effective date of this section, the Department
38 shall initiate rule making to establish standards for the production of compost. Rules
39 shall be adopted not later than 24 months after the initiation of rule making. Such rules
40 shall include:

41 (1) Requirements necessary to produce hygienically safe compost
42 products for varying applications.

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

- 1 a. The types of waste composted, including at least one type
2 containing only yard trash;
3 b. The maturity of the compost, including at least three degrees of
4 decomposition for fresh, semi-mature, and mature; and
5 c. The levels of organic and inorganic constituents in the compost.

6 (c) The compost classification scheme shall address:

7 (1) Methods for measurement of the compost maturity.

8 (2) Particle sizes.

9 (3) Moisture content.

10 (4) Average levels of organic and inorganic constituents, including
11 heavy metals, for such classes of compost as the Department
12 establishes, and the analytical methods to determine those levels.

13 (d) Within six months after the effective date of this section, the Department
14 shall initiate rule making to prescribe the allowable uses and application rates of
15 compost. Rules shall be adopted not later than 24 months after the initiation of rule
16 making. Such rules shall be based on the following criteria:

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

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

22 (e) If compost is produced which does not meet the criteria prescribed by the
23 Department for agricultural and other use, the compost must be reprocessed or disposed
24 of in a manner approved by the Department, unless a different application is specifically
25 permitted by the Department.

26 **"§ 130A-309.12. Solid Waste Management Trust Fund.**

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

29 (1) Funding activities of the Department to promote waste reduction and
30 recycling including but not limited to public education programs and
31 technical assistance to units of local government;

32 (2) Funding research on the solid waste stream in North Carolina;

33 (3) Funding activities related to the development of secondary materials
34 markets;

35 (4) Providing funding for demonstration projects as provided by this
36 Part; and

37 (5) Providing funding for research by The University of North Carolina
38 and independent nonprofit colleges and universities within the State
39 which are accredited by the Southern Association of Colleges and
40 Schools as provided by this Part.

41 (b) The Solid Waste Management Trust Fund shall consist of:

42 (1) Funds appropriated by the General Assembly;

43 (2) Contributions and grants from public or private sources;

1 (3) Ten percent (10%) of the proceeds of the scrap tire disposal fee
2 imposed pursuant to G.S. 130A-309.54 and G.S. 20-85.2; and

3 (4) Interest earned on the Solid Waste Management Loan Fund.

4 **"§ 130A-309.13. [Reserved]"**

5 **"§ 130A-309.14. Duties of State agencies."**

6 (a) It shall be the duty of each State agency, the General Assembly, the General
7 Court of Justice, and The University of North Carolina, by 1 January 1992, to:

8 (1) Establish a program in cooperation with the Department and the
9 Department of Administration, for the collection of all recyclable
10 aluminum and wastepaper materials generated in State offices
11 throughout the State, including, at a minimum, high-grade office
12 paper and corrugated paper.

13 (2) Provide procedures for collecting and storing recyclable materials,
14 containers for storing materials, and contractual or other
15 arrangements with buyers of the recyclable materials.

16 (3) Evaluate the amount of recyclable wastepaper material recycled and
17 make all necessary modifications to the recycling program to ensure
18 that all recyclable wastepaper materials are effectively and
19 practically recycled.

20 (4) Establish and implement, in cooperation with the Department and
21 the Department of Administration, a solid waste reduction program
22 for materials used in the course of agency operations. The program
23 shall be designed and implemented to achieve maximum feasible
24 reduction of solid waste generated as a result of agency operations.

25 (b) The Department of Commerce shall assist and encourage the recycling
26 industry in the State. Assistance and encouragement of the recycling industry shall
27 include:

28 (1) Identifying and analyzing, in cooperation with the Department,
29 components of the State's recycling industry and present and
30 potential markets for recyclable materials in this State, other states,
31 and foreign countries;

32 (2) Providing information on the availability and benefits of using
33 recycled materials to businesses and industries in the State; and

34 (3) Distributing any material prepared in implementing this section to
35 the public, businesses, industries, units of local government, or other
36 organizations upon request.

37 (c) By 1 March 1991, and every other year thereafter, the Department of
38 Commerce shall prepare a report assessing the recycling industry and recyclable
39 materials markets in the State.

40 (d) The Department of Commerce shall investigate the potential markets for
41 composted materials and shall submit its findings to the Department of Human
42 Resources for the waste registry informational program administered by the Department
43 in order to stimulate absorption of available composted materials into such markets.

1 (e) On or before 1 March 1991, the Department of Commerce shall report to the
2 General Assembly its findings relative to:

3 (1) Potential markets for composted materials, including private and
4 public sector markets;

5 (2) The types of materials which may legally and effectively be used in
6 a successful composting operation; and

7 (3) The manner in which the composted materials should be marketed
8 for optimum use.

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

16 (g) The Department of Public Instruction, in cooperation with The University of
17 North Carolina and the Department of Human Resources shall develop, distribute, and
18 encourage the use of guidelines for the collection of recyclable materials and for solid
19 waste reduction in the State system of education. At a minimum, the guidelines shall
20 address solid waste generated in administrative offices, classrooms, dormitories, and
21 cafeterias. The guidelines shall be developed by 1 January 1991.

22 (h) In order to orient students and their families to the recycling of waste and to
23 encourage the participation of schools, communities, and families in recycling
24 programs, the school board of each school district in the State shall provide a program
25 of student instruction in the recycling of waste materials. The instruction shall be
26 provided at both the elementary and secondary levels of education.

27 (i) The Department of Public Instruction is directed to develop, from funds
28 appropriated for environmental education, curriculum materials and resource guides for
29 a recycling awareness program for instruction at the elementary, middle, and high
30 school levels.

31 **"§ 130A-309.15. Prohibited acts regarding used oil.**

32 (a) No person may knowingly:

33 (1) Collect, transport, store, recycle, use, or dispose of used oil in any
34 manner which endangers the public health or welfare.

35 (2) Discharge used oil into sewers, drainage systems, septic tanks,
36 surface or ground waters, watercourses, or marine waters.

37 (3) Mix or commingle used oil with solid waste that is to be disposed of
38 in landfills or directly dispose of used oil in landfills in the State
39 unless approved by the Department.

40 (4) Mix or commingle used oil with hazardous substances that make it
41 unsuitable for recycling or beneficial use.

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

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

3 **"§ 130A-309.16. Public education program regarding used oil collection and**
4 **recycling.**

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

- 7 (1) Encourage persons who annually sell at retail, in containers for use
8 off the premises, more than 500 gallons of oil to provide the
9 purchasers with information on the locations of collection facilities
10 and information on proper disposal practices.
- 11 (2) Establish, maintain, and publicize a used oil information center that
12 disperses materials or information explaining local, State, and
13 federal laws and rules governing used oil and informing the public of
14 places and methods for proper disposal of used oil.
- 15 (3) Encourage the voluntary establishment of used oil collection and
16 recycling programs and provide technical assistance to persons who
17 organize such programs.
- 18 (4) Encourage the procurement of recycled automotive, industrial, and
19 fuel oils; and oils blended with recycled oils; for all State and local
20 government uses. Recycled oils procured under this section shall
21 meet equipment manufacturer's specifications. A five percent (5%)
22 price preference may be given in procuring these recycled products.

23 **"§ 130A-309.17. Registration of persons transporting, collecting, or recycling used**
24 **oil; fees; reports and records.**

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

- 27 (1) Any person who transports over public highways more than 500
28 gallons of used oil per week.
- 29 (2) Any person who maintains a collection facility that receives more
30 than 6,000 gallons of used oil annually. For purposes of registration,
31 the amount received does not include used oil delivered to collection
32 centers by individuals that change their own personal motor oil.
- 33 (3) Any facility that recycles more than 10,000 gallons of used oil
34 annually.

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

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

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

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

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

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

7 (2) The quantity of materials received;

8 (3) The date of receipt; and

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

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

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

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

18 **"§ 130A-309.18. Regulation of used oil as hazardous waste.**

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

22 **"§ 130A-309.19. Coordination with other State agencies.**

23 The Department of Transportation shall study the feasibility of using recycled oil
24 products in road construction activities and shall report to the President Pro Tempore of
25 the Senate and the Speaker of the House of Representatives annually, beginning 1
26 January 1991, on the results of its study.

27 **"§ 130A-309.20. Public used oil collection centers.**

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

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

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

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

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

37 (d) No person may recover from the owner or operator of a used oil collection
38 center any costs of response actions resulting from a release of either used oil or a
39 hazardous substance against the owner or operator of a used oil collection center if such
40 used oil is:

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

43 (2) Not knowingly accepted with any hazardous substances contained
44 therein;

1 (3) Transported from the used oil collection center by a certified
2 transporter pursuant to G.S. 130A-309.23; and

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

5 (e) Subsection (d) of this section applies only to that portion of the public used
6 oil collection center used for the collection of used oil and does not apply if the owner
7 or operator is grossly negligent in the operation of the public used oil collection center.

8 Nothing in this section shall affect or modify in any way the obligations or liability of
9 any person under any other provisions of State or federal law, including common law,
10 for injury or damage resulting from a release of used oil or hazardous substances. For
11 the purpose of this section, the owner or operator of a used oil collection center may
12 presume that a quantity of no more than five gallons of used oil accepted from any
13 member of the public is not mixed with a hazardous substance, provided that the owner
14 or operator acts in good faith.

15 **"§ 130A-309.21. Incentives program.**

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

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

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

24 **"§ 130A-309.22. Grants to local governments.**

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

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

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

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

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

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

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

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

1 (d) The Department shall initiate rule making on or before 1 January 1991,
2 necessary to carry out the purposes of this section.

3 **"§ 130A-309.23. Certification of used oil transporters.**

4 (a) Any person who transports over public highways after 1 January 1992, more
5 than 500 gallons of used oil in any week must be a certified transporter or must be
6 employed by a person who is a certified transporter.

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

11 (c) The Department of Transportation shall adopt rules governing certification,
12 which shall include requirements for the following:

13 (1) Registration and annual reporting pursuant to G.S. 130A-309.17.

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

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

18 **"§ 130A-309.24. Permits for used oil recycling facilities.**

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

22 (b) By 1 January 1992, the Department shall develop a permitting system for
23 used oil recycling facilities after reviewing and considering the applicability of the
24 permit system for hazardous waste treatment, storage, or disposal facilities.

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

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

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

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

35 **"§ 130A-309.25. Training of operators of solid waste management facilities.**

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

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

43 (c) A person may not perform the duties of an operator of a solid waste
44 management facility after 1 January 1996, unless he has completed an operator training

1 course approved by the Department. An owner of a solid waste management facility
2 may not employ any person to perform the duties of an operator unless such person has
3 completed an approved solid waste management facility operator training course.

4 (d) The Commission may adopt rules and minimum standards to effectuate the
5 provisions of this section and to ensure the safe, healthy, and lawful operation of solid
6 waste management facilities. The Commission may establish, by rule, various
7 classifications for operators to address the need for differing levels of training required
8 to operate various types of solid waste management facilities due to different operating
9 requirements at the facilities.

10 **"§ 130A-309.26. Regulation of medical waste.**

11 (a) As used in this section:

12 (1) 'Sharps' means needles, syringes, and scalpel blades.

13 (2) 'Treatment' means any process, including steam sterilization,
14 chemical treatment, incineration, and other methods approved by the
15 Commission which changes the character or composition of medical
16 waste so as to render it noninfectious.

17 (b) It is the intent of the General Assembly to protect the public health by
18 establishing standards for the safe packaging, storage, treatment, and disposal of
19 medical waste. The Commission for Health Services shall regulate the packaging,
20 storage, and treatment of medical waste which occurs at facilities where medical waste
21 is generated. The Department shall regulate:

22 (1) Medical waste from the point at which the waste is transported from
23 the facility where it was generated;

24 (2) On-site and off-site incineration of medical waste; and

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

26 (c) No later than 1 August 1990, the Commission shall adopt rules necessary to
27 protect the health, safety, and welfare of the public and to carry out the purpose of this
28 section. Such rules shall address, but need not be limited to, the packaging of medical
29 waste, including specific requirements for the safe packaging of sharps and the
30 segregation, storage, treatment, and disposal of medical wastes at the facilities in which
31 such waste is generated.

32 **"§ 130A-309.27. Landfill escrow account.**

33 (a) As used in this section:

34 (1) 'Owner or operator' means, in addition to the usual meanings of the
35 term, any owner of record of any interest in land on which a landfill
36 is or has been sited, and any person or corporation which owns a
37 majority interest in any other corporation which is the owner or
38 operator of a landfill.

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

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

43 (c) The owner or operator of a landfill shall establish a fee, or a surcharge on
44 existing fees or other appropriate revenue-producing mechanism, to ensure the

1 availability of financial resources for the proper closure of the landfill. However, the
2 disposal of solid waste by persons on their own property is exempt from the provisions
3 of this section.

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

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

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

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

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

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

41 **"§ 130A-309.28. University research.**

42 Research, training, and service activities related to solid and hazardous waste
43 management conducted by The University of North Carolina shall be coordinated by the
44 Board of Governors of The University of North Carolina through the Office of the

1 President. Proposals for research contracts and grants; public service assignments; and
2 responses to requests for information and technical assistance by the State and units of
3 local government, business, and industry shall be addressed by a formal process
4 involving an advisory board of university personnel appointed by the President and
5 chaired and directed by an individual appointed by the President. The Board of
6 Governors of The University of North Carolina shall consult with the Department of
7 Human Resources in developing the research programs and provide the Department
8 with a copy of the proposed research program for review and comment before the
9 research is undertaken. Research contracts shall be awarded to independent nonprofit
10 colleges and universities within the State which are accredited by the Southern
11 Association of Colleges and Schools on the same basis as those research contracts
12 awarded to The University of North Carolina. Research activities shall include the
13 following areas:

- 14 (1) Methods and processes for recycling solid and hazardous waste;
- 15 (2) Methods of treatment for detoxifying hazardous waste; and
- 16 (3) Technologies for disposing of solid and hazardous waste."

17 Sec. 3. Article 9 of Chapter 130A of the General Statutes is amended by
18 adding a new Part to read:

19 **"PART 2B.**

20 **"SCRAP TIRE DISPOSAL ACT.**

21 **"§ 130A-309.51. Title.**

22 This Part may be cited as the 'North Carolina Scrap Tire Disposal Act.'

23 **"§ 130A-309.52. Findings; purpose.**

24 (a) The General Assembly finds that:

- 25 (1) Scrap tire disposal poses a unique and troublesome solid waste
26 management problem.
- 27 (2) Scrap tires are a usable resource that may be recycled for energy value.
- 28 (3) Uncontrolled disposal of scrap tires may create a public health and
29 safety problem because tire piles act as breeding sites for mosquitoes
30 and other disease-transmitting vectors, pose substantial fire hazards,
31 and present a difficult disposal problem for landfills.
- 32 (4) A significant number of scrap tires are illegally dumped in North
33 Carolina.
- 34 (5) It is in the State's best interest to encourage efforts to recycle or
35 recover resources from scrap tires.
- 36 (6) It is desirable to allow units of local government to control tire
37 disposal for themselves and to encourage multicounty, regional
38 approaches to scrap tire disposal and collection.
- 39 (7) It is desirable to encourage reduction in the volume of scrap tires being
40 disposed of at public sanitary landfills.

41 (b) The purpose of this Article is to provide statewide guidelines and structure
42 for the environmentally safe disposal of scrap tires to be administered through units of
43 local government.

44 **"§ 130A-309.53. Definitions.**

1 Unless a different meaning is required by the context, the following definitions shall
2 apply throughout this Part:

- 3 (1) 'Collection site' means a site used for the storage of scrap tires.
4 (2) 'Disposal fee' is any amount charged by a tire collector, tire
5 processor, or unit of local government in exchange for accepting
6 scrap tires.
7 (3) 'In-county scrap tire' means any scrap tire brought for disposal from
8 inside the county in which the collection or processing site is
9 located.
10 (4) 'Out-of-county scrap tire' means any scrap tire brought for disposal
11 from outside the county in which the collection or processing site is
12 located.
13 (5) 'Processing site' means a site actively used to produce or
14 manufacture usable materials, including fuel, from scrap tires.
15 Commercial enterprises processing scrap tires shall not be
16 considered solid waste management facilities insofar as the
17 provisions of G.S. 130A-294(a)(4) and G.S. 130A-294(b) are
18 concerned.
19 (6) 'Scrap tire' means a tire that is no longer suitable for its original,
20 intended purpose because of wear, damage, or defect.
21 (7) 'Tire' means a continuous solid or pneumatic rubber covering
22 encircling the wheel of a motor vehicle as defined in G.S. 20-
23 4.01(23).
24 (8) 'Tire collector' means a person who owns or operates a site used for
25 the storage, collection, or deposit of more than 50 scrap tires.
26 (9) 'Tire hauler' means a person engaged in the picking up or
27 transporting of scrap tires for the purpose of storage, processing, or
28 disposal.
29 (10) 'Tire processor' means a person who engages in the processing of
30 scrap tires or one who owns or operates a tire processing site.
31 (11) 'Tire retailer' means a person who engages in the retail sale of a tire
32 in any quantity for any use or purpose by the purchaser other than
33 for resale.

34 **"§ 130A-309.54. Scrap tire disposal fee.**

35 (a) A fee is imposed on the privilege of selling or using new motor vehicle tires
36 in this State. This fee is in addition to all other taxes and fees imposed.

37 (b) The definitions in G.S. 105-164.3 apply to G.S. 130A-309.55 and G.S. 130A-
38 309.56, except the term 'sale' does not include a lease or rental.

39 (c) The fees imposed by G.S. 130A-55 and G.S. 130A-56 shall be used by each
40 county for the disposal of scrap tires pursuant to the provisions of this Part or for the
41 abatement of a nuisance pursuant to G.S. 130A-309.60.

42 (d) The fees imposed by G.S. 130A-55 and G.S. 130A-56 shall be administered
43 in the same manner as the tax imposed by Article 5 of Chapter 105 of the General
44 Statutes. All other provisions of Article 5 and Article 9 of Chapter 105 of the General

1 Statutes shall apply to this Part to the extent they are not inconsistent with the
2 provisions of this Part. However, the exemptions and exclusions under G.S. 105-164.13
3 and G.S. 105-164.3(19) and the lower rates of tax imposed have no effect on the scrap
4 tire disposal fee. The refund provisions under G.S. 105-164.14(a), (b), and (c) do not
5 apply. The Secretary of Revenue may administer, enforce, collect and distribute the
6 scrap tire disposal fee. The administrative interpretation made by the Secretary of
7 Revenue with respect to the North Carolina Sales and Use Tax Act applies to the scrap
8 tire disposal fee to the extent they are not inconsistent.

9 **"§ 130A-309.55. Fee upon sale.**

10 (a) Beginning 1 January 1990, a scrap tire disposal fee shall be imposed upon the
11 retail sale of each new motor vehicle tire at the rate of one percent (1%) of the sales
12 price for each new tire sold. This fee shall be imposed upon the tire retailer's net taxable
13 sales and shall be paid and collected in the same manner as the State's sales tax under
14 Article 5 of Chapter 105 of the General Statutes. The fee is not subject to the general
15 sales tax under Article 5 of Chapter 105 of the General Statutes. The scrap tire disposal
16 fee does not apply to recapped tires or to the lease or rental of tires.

17 (b) Ten percent (10%) of the proceeds of the scrap tire disposal fee shall be
18 deposited on a quarterly basis in the Solid Waste Management Trust Fund. The
19 Secretary of Revenue shall distribute the remainder of the net proceeds of the scrap tire
20 disposal fee quarterly among the counties on a per capita basis according to the most
21 recent annual population estimates certified by the Office of State Budget and
22 Management to the Secretary of Revenue.

23 **"§ 130A-309.56. Fee for use.**

24 (a) Beginning 1 January 1990, all persons shall be required to pay a scrap tire
25 disposal fee for the use of new motor vehicle tires in this State. This fee shall be
26 imposed at the rate of one percent (1%) of the cost price of each new tire.

27 (b) Where a fee under G.S. 130A-309.55 has already been paid on the purchase
28 of a new motor vehicle tire, then that fee shall be credited against the fee imposed by
29 this section. Where a fee substantially similar to the fee under G.S. 130A-309.55 has
30 been paid in another state, then that fee shall be credited against the fee imposed by this
31 section.

32 (c) The fee imposed by this section shall be paid and collected in the same
33 manner as the tax imposed under G.S. 105-164.6.

34 (d) The Secretary of Revenue shall distribute the net proceeds of the tire disposal
35 fee quarterly among the counties as soon as practicable after collection during the prior
36 quarter, on a per capita basis according to the most recent annual population estimates
37 certified by the Office of State Budget and Management to the Secretary of Revenue.

38 **"§ 130A-309.57. Scrap tire disposal program.**

39 (a) The owner or operator of any scrap tire collection site shall, within six
40 months after the effective date of this section, provide the Department with information
41 concerning the site's location, size, and the approximate number of scrap tires that are
42 accumulated at the site and shall initiate steps to comply with subsection (c) of this
43 section.

44 (b) On or after 1 July 1990:

- 1 (1) A person may not maintain a scrap tire collection site or a scrap tire
2 disposal site unless the site is permitted.
- 3 (2) It is unlawful for any person to dispose of scrap tires in the State
4 unless the scrap tires are disposed of at a scrap tire collection site or
5 at a tire disposal site, or disposed of for processing at a scrap tire
6 processing facility.
- 7 (c) By 1 January 1990, the Department shall adopt rules to carry out the
8 provisions of this section. Such rules shall:
- 9 (1) Provide for the administration of scrap tire collector and collection
10 center permits and scrap tire disposal site permits, which may not
11 exceed two hundred fifty dollars (\$250.00) annually;
- 12 (2) Set standards for scrap tire processing facilities and associated scrap
13 tire sites, scrap tire collection centers, and scrap tire collectors; and
- 14 (3) Authorize the final disposal of scrap tires at a permitted solid waste
15 disposal facility provided the tires have been cut into sufficiently
16 small parts to assure their proper disposal.
- 17 (d) A permit is not required for:
- 18 (1) A tire retreading business where fewer than 1,000 scrap tires are
19 kept on the business premises;
- 20 (2) A business that, in the ordinary course of business, removes tires
21 from motor vehicles if fewer than 1,000 of these tires are kept on the
22 business premises; or
- 23 (3) A retail tire-selling business which is serving as a scrap tire
24 collection center if fewer than 1,000 scrap tires are kept on the
25 business premises.
- 26 (e) The Department shall encourage the voluntary establishment of scrap tire
27 collection centers at retail tire-selling businesses, scrap tire processing facilities, and
28 solid waste disposal facilities, to be open to the public for the deposit of used and scrap
29 tires. The Department may establish an incentives program for individuals to encourage
30 them to return their used or scrap tires to a scrap tire collection center.

31 **"§ 130A-309.58. Disposal of scrap tires.**

- 32 (a) Each county is responsible for providing for the disposal of scrap tires located
33 within its boundaries in accordance with the provisions of this Part and any rules and
34 regulations issued pursuant to this Part. The following are permissible methods of scrap
35 tire disposal:
- 36 (1) Incinerating;
- 37 (2) Retreading;
- 38 (3) Constructing crash barriers;
- 39 (4) Controlling soil erosion when whole tires are not used;
- 40 (5) Chopping or shredding;
- 41 (6) Grinding into crumbs for use in road asphalt, tire derived fuel, and as
42 raw material for other products;
- 43 (7) Slicing vertically, resulting in each scrap tire being divided into at
44 least two pieces;

- 1 (8) Sludge composting;
2 (9) Using for agriculture-related purposes;
3 (10) Chipping for use as an oyster cultch as approved by rules adopted by
4 the Marine Fisheries Commission;
5 (11) Cutting, stamping, or dyeing tires;
6 (12) Pyrolizing and other physico-chemical processing;
7 (13) Hauling to out-of-State collection or processing sites; and
8 (14) Monofilling split, ground, chopped, sliced, or shredded scrap tires.

9 (b) Department may approve other permissible methods of disposal by
10 promulgating rules and regulations pursuant to this Part. Landfilling of whole scrap
11 tires is prohibited.

12 (c) Units of local government may enter into joint ventures or other cooperative
13 efforts with other units of local government for the purpose of disposing of scrap tires.
14 Units of local government may enter into leases or other contractual arrangements with
15 units of local government or private entities in order to dispose of scrap tires.

16 (d) Each county is responsible for developing a description of scrap tire disposal
17 procedures. These procedures shall be included in any solid waste management plan
18 required by the Department under this Article. Further, any revisions to the initial
19 description of the scrap tire disposal procedures shall be forwarded to the Department.

20 (e) A county shall provide, directly or by contract with another unit of local
21 government or private entity, at least one site for scrap tire disposal for that county. The
22 unit of local government or contracting party may charge a disposal fee for the disposal
23 of in-county scrap tires and such disposal fees shall be assessed only to the extent that
24 the cost per tire of disposal exceeds the scrap tire disposal fees received by the county
25 during the preceding 12-month period, divided by the number of tires disposed of within
26 the county according to the tire disposal procedures during that period. The unit of local
27 government or contracting party may charge a disposal fee for the disposal of scrap tires
28 from tire manufacturers, retreaders not engaged in the retail sale of new tires, and any
29 others subject to the scrap tire disposal fee, regardless of where such scrap tires
30 originated, and such fees shall not exceed the cost of disposal for such tires. The unit of
31 local government or contracting party also may charge a disposal fee for the disposal of
32 out-of-county and out-of-State scrap tires at the county's site.

33 (f) Every tire retailer or other person disposing of scrap tires shall complete and
34 sign a certification form prescribed by the Department and distributed to each county,
35 certifying that the tires were collected in the normal course of business for disposal, the
36 county in which the tires were collected, and the number of tires to be disposed of. This
37 form also shall be completed and signed by the tire hauler, certifying that the load
38 contains the same tires that were received from the tire retailer or other person disposing
39 of scrap tires. The tire hauler shall present this certification form to the tire processor or
40 tire collector at the time of delivery of the scrap tires for disposal, collection, or
41 processing. Copies of these certification forms shall be retained for a minimum of three
42 years after the date of delivery of the scrap tires.

1 (g) The provisions of subsection (e) of this section do not apply to tires that are
2 brought for disposal in quantities of five or less by someone other than a tire collector,
3 tire processor, or tire hauler.

4 **"§ 130A-309.59. Registration of tire haulers.**

5 (a) Before engaging in the hauling of scrap tires in this State, any tire hauler must
6 register with the Department whereupon the Department shall issue to the tire hauler a
7 scrap tire hauling identification number. A tire retailer licensed under G.S. 105-164.29
8 and solely engaged in the hauling of scrap tires received by it in connection with the
9 retail sale of replacement tires is not required to register under this section.

10 (b) Each tire hauler shall furnish its hauling identification number on all
11 certification forms required under G.S. 130A-309.58(f). Any tire retailer engaged in the
12 hauling of scrap tires and not required by subsection (a) of this section to be registered
13 shall supply its merchant identification number on all certification forms required by
14 G.S. 130A-309.58(f).

15 **"§ 130A-309.60. Nuisance tire collection sites.**

16 (a) On or after 1 July 1990, if the Department determines that a tire collection
17 site is a nuisance, it shall notify the person responsible for the nuisance and request that
18 the tires be processed or removed within 90 days. If the person fails to take the
19 requested action within 90 days, the Department shall order the person to abate the
20 nuisance within 90 days. If the person responsible for the nuisance is not the owner of
21 the property on which the tire collection site is located, the Department may order the
22 property owner to permit abatement of the nuisance. If the person responsible for the
23 nuisance fails to comply with the order, the Department shall take any action necessary
24 to abate the nuisance, including entering the property where the tire collection site is
25 located and confiscating the scrap tires, or arranging to have the scrap tires processed or
26 removed.

27 (b) When the Department abates the nuisance pursuant to subsection (a) of this
28 section, the person responsible for the nuisance shall be liable for the actual costs
29 incurred by the Department for its nuisance abatement activities and its administrative
30 and legal expenses related to the abatement. The Department may ask the Attorney
31 General to initiate a civil action to recover these costs from the person responsible for
32 the nuisance. Nonpayment of the actual costs incurred by the Department shall result in
33 the imposition of a lien on the owner's real property on which the tire collection site is
34 located.

35 (c) This section does not apply to any of the following:

36 (1) A retail business premises where tires are sold if no more than 500
37 scrap tires are kept on the premises at one time;

38 (2) The premises of a tire retreading business if no more than 3,000
39 scrap tires are kept on the premises at one time;

40 (3) A premises where tires are removed from motor vehicles in the
41 ordinary course of business if no more than 500 scrap tires are kept
42 on the premises at one time;

43 (4) A solid waste disposal facility where no more than 60,000 scrap tires
44 are stored above ground at one time if all tires received for storage

1 are processed, buried, or removed from the facility within one year
2 after receipt;

3 (5) A site where no more than 250 scrap tires are stored for agricultural
4 uses; and

5 (6) A construction site where scrap tires are stored for use or used in
6 road surfacing and construction of embankments.

7 (d) The descending order of priority for the Department's abatement activities
8 under subsection (a) of this section is as follows:

9 (1) Tire collection sites determined by the Department to contain more
10 than 1,000,000 tires;

11 (2) Tire collection sites which constitute a fire hazard or threat to public
12 health;

13 (3) Tire collection sites in densely populated areas; and

14 (4) Any other tire collection sites that are determined to be a nuisance.

15 (e) This section does not change the existing authority of the Department to
16 enforce any existing laws or of any person to abate a nuisance.

17 (f) As used in this section, 'nuisance' means an unreasonable danger to public
18 health, safety, or welfare or to the environment.

19 "**§ 130A-309.61. Preemption.**

20 This Part preempts any local ordinance regarding the disposal of scrap tires to the
21 extent that any local ordinance is inconsistent with this Part or rules adopted pursuant to
22 this Part. A unit of local government may not charge any fees for the disposal of scrap
23 tires except as authorized by this Part.

24 "**§ 130A-309.62. Fines and penalties.**

25 Any person who knowingly hauls or disposes of a tire in violation of this Part or the
26 rules adopted pursuant to this Part shall be assessed a civil penalty of fifty dollars
27 (\$50.00) per violation. Each tire hauled or disposed of in violation of this Part or rules
28 adopted pursuant to this Part constitutes a separate violation."

29 Sec. 4. G.S. 90-113.4A is repealed.

30 Sec. 5. G.S. 120-70.44 is amended by adding a new sentence at the end
31 thereof to read:

32 "Notwithstanding any rule or resolution to the contrary, proposed legislation to
33 implement any recommendation of the Environmental Review Commission regarding
34 any study the Environmental Review Commission is authorized to undertake or any
35 report authorized or required to be made by or to the Environmental Review
36 Commission may be introduced and considered during any session of the General
37 Assembly."

38 Sec. 6. Article 2 of Chapter 136 of the General Statutes is amended by
39 adding a section to read:

40 "**§ 136-285. Use of recyclable materials in construction.**

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

43 (b) The General Assembly declares it to be in the public interest to find
44 alternative ways to use certain recyclable materials that currently are part of the solid

1 waste stream and that contribute to problems of declining space in landfills. To
2 determine the feasibility of using recyclable materials for highway construction, the
3 Department shall undertake a literature search to evaluate the potential for using:

4 (1) Ground rubber from tires in road resurfacing or subbase materials;
5 and

6 (2) Recycled mixed-plastic materials for guard rail posts, right-of-way
7 fence posts, and sign supports.

8 (c) As a part of its scheduled projects, the Department may conduct such
9 additional research as it determines to be warranted, which may include demonstration
10 projects, on the use of recyclable materials in highway construction.

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

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

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

22 Sec. 7. G.S. 14-399.1 is repealed.

23 Sec. 8. G.S. 14-399 reads as rewritten:

24 "**§ 14-399. Littering.**

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

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

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

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

43 (c) ~~As used in this section, the word 'litter' shall be defined as any rubbish, waste~~
44 ~~material, cans, refuse, garbage, trash, debris, dead animals or discarded materials of~~

1 every kind and description; the word 'vehicle' shall be defined as in G.S. 20-4.01(49);
2 and the word 'watercraft' shall be defined as any boat or vessel used for transport upon
3 or across the water.

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

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

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

18 (d) Any person who dumps litter in violation of subsection (a) in an amount
19 exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500
20 pounds in weight or 100 cubic feet in volume, and not for commercial purposes, is
21 guilty of a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) or
22 more than three hundred dollars (\$300.00). In addition, the court shall require the
23 violator to pick up litter or perform other community service commensurate with the
24 offense committed. Further, if the violation involves the use of a motor vehicle, upon a
25 finding of guilt, regardless of whether adjudication is withheld or of whether imposition
26 of sentence is withheld, deferred, or suspended, the court shall forward a record of the
27 finding to the Department of Transportation, Division of Motor Vehicles, which shall
28 record a penalty of two points on the violator's drivers license pursuant to the point
29 system established by G.S. 20-16. There shall be no insurance premium surcharge or
30 assessment of points under the classification plan adopted pursuant to G.S. 58-30.4 for a
31 finding of guilt under this subsection.

32 (e) Any person who dumps litter in violation of subsection (a) in an amount
33 exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for
34 commercial purposes, or dumps litter which is a hazardous waste as defined in G.S.
35 130A-290 is guilty of a Class J felony. In addition, the court may order the violator to:

36 (1) Remove, or render harmless, the litter that he dumped in violation of
37 this section;

38 (2) Repair or restore property damaged by, or pay damages for any
39 damage arising out of, his dumping litter in violation of this section;

40 or

41 (3) Perform community public service relating to the removal of litter
42 dumped in violation of this section or to the restoration of an area
43 polluted by litter dumped in violation of this section.

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

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

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

13 (i) For the purpose of the section, unless the context requires otherwise:

14 (1) 'Aircraft' means a motor vehicle or other vehicle that is used or
15 designed to fly, but does not include a parachute or any other device
16 used primarily as safety equipment.

17 (2) 'Commercial vehicle' means a vehicle that is owned or used by a
18 business, corporation, association, partnership, or sole proprietorship
19 or any other entity conducting business for economic gain.

20 (3) 'Law enforcement officer' means any officer of the North Carolina
21 Highway Patrol, the Division of Motor Vehicles of the Department
22 of Transportation, a county sheriff's department, a municipal law
23 enforcement department, a law enforcement department of any other
24 political subdivision, the Department of Natural Resources, or the
25 North Carolina Wildlife Resources Commission. In addition, and
26 solely for the purposes of this section, 'law enforcement officer'
27 means any employee of a county or municipal park or recreation
28 department designated by the department head as a litter
29 enforcement officer; or wildlife protectors as defined in G.S. 113-
30 128(9);

31 (4) 'Litter' means any garbage, rubbish, trash, refuse, can, bottle, box
32 container, paper, tobacco product, tire appliance, mechanical
33 equipment or part, building or construction material, tool,
34 machinery, wood, motor vehicle or motor vehicle part, vessel,
35 aircraft, farm machinery or equipment, sludge from a waste
36 treatment facility, water supply treatment plant, or air pollution
37 control facility, dead animal or discarded material in any form
38 resulting from domestic, industrial, commercial, mining,
39 agricultural, or governmental operations. 'Litter' does not include
40 political pamphlets, handbills, religious tracts, newspapers, and other
41 such printed materials the unsolicited distribution of which is
42 protected by the Constitution of the United States or the Constitution
43 of North Carolina.

44 (5) 'Vehicle' has the same meaning as in G.S. 20-4.01(49); and

1 (6) 'Watercraft' means any boat or vessel used for transportation across
2 the water.

3 (j) It shall be the duty of all law enforcement officers to enforce the provisions of
4 this section.

5 (k) This section does not limit the authority of any State or local agency to
6 enforce other laws, rules or ordinances relating to litter or solid waste management."

7 Sec. 9. G.S. 20-16(c) reads as rewritten:

8 "(c) The Division shall maintain a record of convictions of every person licensed or
9 required to be licensed under the provisions of this Article as an operator and shall enter
10 therein records of all convictions of such persons for any violation of the motor vehicle
11 laws of this State and shall assign to the record of such person, as of the date of
12 commission ~~for [of]~~ of the offense, a number of points for every such conviction in
13 accordance with the following schedule of convictions and points, except that points
14 shall not be assessed for convictions resulting in suspensions or revocations under other
15 provisions of laws: Further, any points heretofore charged for violation of the motor
16 vehicle inspection laws shall not be considered by the Division of Motor Vehicles as a
17 basis for suspension or revocation of driver's license:

18
19 **SCHEDULE OF POINT VALUES**

20 Passing stopped school bus	5
21 Reckless driving	4
22 Hit and run, property damage only	4
23 Following too close	4
24 Driving on wrong side of road	4
25 Illegal passing	4
26 Running through stop sign	3
27 Speeding in excess of 55 miles per hour	3
28 Failing to yield right-of-way	3
29 Running through red light	3
30 No driver's license or license expired more than one year	3
31 Failure to stop for siren	3
32 Driving through safety zone	3
33 No liability insurance	3
34 Failure to report accident where such report is required	3
35 <u>Littering pursuant to G.S. 14-399 when the littering involves the use of a</u>	
36 <u>motor vehicle</u>	2
37 Speeding in a school zone in excess of the posted school zone speed limit	3
38 All other moving violations	2

39 The ~~above~~-above provisions of this subsection shall only apply to violations and
40 convictions which take place within the State of North Carolina.

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

- 42 Overloads
- 43 Over length
- 44 Over width

- 1 Over height
- 2 Illegal parking
- 3 Carrying concealed weapon
- 4 Improper plates
- 5 Improper registration
- 6 Improper muffler
- 7 Public drunk within a vehicle
- 8 Possession of alcoholic beverages
- 9 Improper display of license plates or dealers' tags
- 10 Unlawful display of emblems and insignia
- 11 Failure to display current inspection certificate.

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

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

20 Whenever any licensee accumulates as many as seven points or accumulates as
21 many as four points during a three-year period immediately following reinstatement of
22 his license after a period of suspension or revocation, the Division may request the
23 licensee to attend a conference regarding such licensee's driving record. The Division
24 may also afford any licensee who has accumulated as many as seven points or any
25 licensee who has accumulated as many as four points within a three-year period
26 immediately following reinstatement of his license after a period of suspension or
27 revocation an opportunity to attend a driver improvement clinic operated by the
28 Division and, upon the successful completion of the course taken at the clinic, three
29 points shall be deducted from the licensee's conviction record; provided, that only one
30 deduction of points shall be made on behalf of any licensee within any five-year period.

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

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

37 In the discretion of the Division, a period of probation not to exceed one year may
38 be substituted for suspension or for any unexpired period of suspension under
39 subsections (a)(1) through (a)(10a) of this section. Any violation of probation during the
40 probation period shall result in a suspension for the unexpired remainder of the
41 suspension period. Any accumulation of three or more points under this subsection
42 during a period of probation shall constitute a violation of the condition of probation."

43 Sec. 10. It is the intent of the General Assembly to monitor progress in the
44 State with respect to solid waste management. In particular, the General Assembly will

1 evaluate progress toward the solid waste management goals established in G.S. 130A-
2 309.04 and will consider increasing the recycling goal as appropriate. If the General
3 Assembly determines that there is inadequate progress in meeting the solid waste
4 management goals established for the State, the General Assembly will consider
5 additional requirements and incentives, including economic incentives to encourage
6 recycling and discourage landfilling, and additional methods of financing needed
7 improvements in the solid waste management program at both the State and local levels.

8 Sec. 11. (a) The Secretary of Administration, in cooperation with the
9 Department of Human Resources and with input from other interested parties having
10 expertise in solid waste management, shall review existing procurement procedures and
11 specifications for the purchase of paper and paper products to determine the economic
12 and technological feasibility of using paper and paper products with recycled content.

13 (b) The Secretary of Administration shall report his findings and
14 recommendations regarding the use of paper and paper products with recycled content
15 to the Governor, the Environmental Review Commission, and the General Assembly by
16 1 May 1990.

17 (c) All State agencies and units of local government shall cooperate with the
18 Secretary of Administration in carrying out the provisions of this section.

19 Sec. 12. The Department of Transportation shall report to the Governor, the
20 Environmental Review Commission, and the General Assembly by 1 January 1991 as to
21 its findings and recommendations regarding the use of recyclable materials in highway
22 construction.

23 Sec. 13. Neither the definition of "medical waste" nor any other provision of
24 this act shall be construed to require that rules or standards adopted by the Commission
25 for Health Services for the management of infectious and noninfectious medical waste
26 be identical or similar.

27 Sec. 14. All scrap tires located in North Carolina shall be disposed of in
28 accordance with the provisions of the Scrap Tire Disposal Act as enacted by this act
29 beginning 1 March 1990.

30 Sec. 15. This act shall become effective 1 October 1989.