

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**SENATE BILL 1492
Agriculture/Environment and Natural Resources Committee Substitute Adopted
7/23/07
Finance Committee Substitute Adopted 7/25/07
Fourth Edition Engrossed 7/28/07
House Committee Substitute Favorable 7/28/07**

Short Title: Solid Waste Management Act of 2007.

(Public)

Sponsors:

Referred to:

March 27, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO: (1) TO REPEAL THE EXEMPTION FOR SANITARY LANDFILLS
3 OPERATED BY LOCAL GOVERNMENTS FROM THE REQUIREMENTS FOR
4 ENVIRONMENTAL IMPACT STATEMENTS UNDER THE NORTH
5 CAROLINA ENVIRONMENTAL POLICY ACT OF 1971; (2) CLARIFY THE
6 CIRCUMSTANCES UNDER WHICH AN APPLICATION FOR A SOLID
7 WASTE MANAGEMENT PERMIT MAY BE DENIED; (3) PROVIDE THAT
8 SOLID WASTE MANAGEMENT PERMITS ARE NOT TRANSFERABLE
9 WITHOUT THE APPROVAL OF THE DEPARTMENT OF ENVIRONMENT
10 AND NATURAL RESOURCES; (4) INCREASE THE PENALTIES THAT MAY
11 BE IMPOSED FOR SOLID WASTE VIOLATIONS; (5) REQUIRE THAT AN
12 APPLICANT FOR A PERMIT AND A PERMIT HOLDER ESTABLISH
13 FINANCIAL RESPONSIBILITY TO ENSURE THE AVAILABILITY OF
14 SUFFICIENT FUNDS FOR PROPER DESIGN, CONSTRUCTION, OPERATION,
15 MAINTENANCE, CLOSURE, AND POST-CLOSURE MONITORING AND
16 MAINTENANCE OF A SOLID WASTE MANAGEMENT FACILITY; (6)
17 CLARIFY AND EXPAND THE SCOPE OF ENVIRONMENTAL COMPLIANCE
18 REVIEW REQUIREMENTS; (7) CLARIFY THAT A PARENT, SUBSIDIARY,
19 OR OTHER AFFILIATE OF THE APPLICANT OR PARENT, INCLUDING ANY
20 BUSINESS ENTITY OR JOINT VENTURER WITH A DIRECT OR INDIRECT
21 INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL
22 RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (8)
23 PROVIDE FOR SITING OF COMBUSTION PRODUCTS LANDFILLS IN
24 AREAS THAT HAVE BEEN FORMERLY USED FOR THE STORAGE OR
25 DISPOSAL OF COMBUSTION PRODUCTS FROM COAL-FIRED

1 GENERATING UNITS AT THE SAME FACILITY THAT GENERATED THE
2 COMBUSTION PRODUCTS, AND TECHNICAL REQUIREMENTS FOR
3 THESE LANDFILLS; (9) AUTHORIZE UNITS OF LOCAL GOVERNMENT TO
4 HIRE LANDFILL LIAISONS; (10) DIRECT THE DEPARTMENT OF
5 ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A PROPOSED
6 RECYCLING PROGRAM FOR FLUORESCENT LAMPS; (11) DIRECT THE
7 ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED
8 TO THE FRANCHISE OF SOLID WASTE MANAGEMENT FACILITIES BY
9 UNITS OF LOCAL GOVERNMENT, TRANSPORTATION OF SOLID WASTE
10 BY RAIL AND BARGE, AND SITING AND TECHNICAL STANDARDS FOR
11 SOLID WASTE MANAGEMENT FACILITIES; AND (12) MAKE RELATED
12 CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

13 Whereas, North Carolina has experienced severe problems from widespread
14 flooding during the past five years; and

15 Whereas, large areas of the State have also experienced severe drought
16 conditions during the past five years; and

17 Whereas, groundwater is the source of drinking water for approximately half
18 the population of the State; and

19 Whereas, groundwater pollution is increasing due to contamination from a
20 variety of sources; and

21 Whereas, depletion of certain large groundwater aquifers in the State has been
22 documented in recent years; and

23 Whereas, protection and enhancement of water quality in the State's rivers
24 and coastal estuaries is the declared public policy of the State; and

25 Whereas, North Carolina is home to many rare and endangered species of
26 plants and animals; and

27 Whereas, the State has established many parks, natural areas, and wildlife
28 refuges to protect habitats for migrating birds and other species; and

29 Whereas, many fragile ecosystems exist in the State which are in need of
30 further study and protection; and

31 Whereas, the State recognizes that ecosystems transcend state borders, and
32 that changes affecting the State's water, air, natural habitats, and scenic resources also
33 have impacts outside the State; and

34 Whereas, it is the policy of the State to ensure the continued public enjoyment
35 of the natural attractions of the State; and

36 Whereas, improperly sited, designed, or operated landfills have the potential
37 to cause serious environmental damage, including groundwater contamination; and

38 Whereas, it is essential that the State study the siting, design, and operational
39 requirements for landfills for the disposal of solid waste in areas susceptible to flooding
40 from natural disasters, areas with high water tables, and other environmentally sensitive
41 areas in order to protect public health and the environment; and

42 Whereas, it is critical to the protection of public health and the environment
43 to adequately staff the State solid waste program to review permit applications, ensure

1 compliance with State solid waste management laws and rules, and provide technical
2 assistance on solid waste management issues; and

3 Whereas, it is the policy of the State to promote methods of solid waste
4 management that are alternatives to disposal in landfills; and

5 Whereas, S.L. 2006-244 directed the Environmental Review Commission,
6 with the assistance of the Division of Waste Management of the Department of
7 Environment, to study issues related to solid waste; and

8 Whereas, the Environmental Review Commission met at least six times after
9 the 2006 legislative session to discuss items related to solid waste; and

10 Whereas, bills have been introduced in the House of Representatives and the
11 Senate during the 2007 Regular Session to address issues related to landfills and
12 management of solid waste that have been the subject of intense discussion by members
13 of the General Assembly and a stakeholder working group;

14 Now, therefore,

15 The General Assembly of North Carolina enacts:

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

18 **"§ 130A-294. Solid waste management program.**

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

- 23 (1) Develop a comprehensive program for implementation of safe and
24 sanitary practices for management of solid waste;
- 25 (2) Advise, consult, cooperate and contract with other State agencies, units
26 of local government, the federal government, industries and
27 individuals in the formulation and carrying out of a solid waste
28 management program;
- 29 (3) Develop and adopt rules to establish standards for qualification as a
30 "recycling, reduction or resource recovering facility" or as "recycling,
31 reduction or resource recovering equipment" for the purpose of special
32 tax classifications or treatment, and to certify as qualifying those
33 applicants which meet the established standards. The standards shall
34 be developed to qualify only those facilities and equipment exclusively
35 used in the actual waste recycling, reduction or resource recovering
36 process and shall exclude any incidental or supportive facilities and
37 equipment;
- 38 (4) a. Develop a permit system governing the establishment and
39 operation of solid waste management facilities. A landfill with a
40 disposal area of 1/2 acre or less for the on-site disposal of land
41 clearing and inert debris is exempt from the permit requirement
42 of this section and shall be governed by G.S. 130A-301.1. The
43 Department shall not approve an application for a new permit,
44 the renewal of a permit, or a substantial amendment to a permit

1 for a sanitary landfill, excluding demolition landfills as defined
2 in the rules of the Commission, except as provided in
3 subdivisions (3) and (4) of subsection (b1) of this section. No
4 permit shall be granted for a solid waste management facility
5 having discharges that are point sources until the Department
6 has referred the complete plans and specifications to the
7 Environmental Management Commission and has received
8 advice in writing that the plans and specifications are approved
9 in accordance with the provisions of G.S. 143-215.1. If the
10 applicant is a unit of local government, and has not submitted a
11 solid waste management plan that has been approved by the
12 Department pursuant to G.S. 130A-309.09A(b), the Department
13 may deny a permit for a sanitary landfill or a facility that
14 disposes of solid waste by incineration, unless the Commission
15 has not adopted rules pursuant to G.S. 130A-309.29 for local
16 solid waste management plans. In any case where the
17 Department denies a permit for a solid waste management
18 facility, it shall state in writing the reason for denial and shall
19 also state its estimate of the changes in the applicant's proposed
20 activities or plans that will be required for the applicant to
21 obtain a permit.

22 ~~b. The issuance of permits for sanitary landfills operated by local~~
23 ~~governments is exempt from the environmental impact~~
24 ~~statements required by Article 1 of Chapter 113A of the~~
25 ~~General Statutes, entitled the North Carolina Environmental~~
26 ~~Policy Act of 1971. All sanitary landfill permits issued to local~~
27 ~~governments prior to July 1, 1984, are hereby validated~~
28 ~~notwithstanding any failure to provide environmental impact~~
29 ~~statements pursuant to the North Carolina Environmental Policy~~
30 ~~Act of 1971;~~

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

33 1. Construction or operation of the proposed facility would
34 be inconsistent with or violate rules adopted by the
35 Commission.

36 2. Construction or operation of the proposed facility would
37 result in a violation of water quality standards adopted
38 by the Environmental Management Commission
39 pursuant to G.S. 143-214.1 for waters, as defined in
40 G.S. 143-213.

41 3. Construction or operation of the facility would result in
42 significant damage to ecological systems, natural
43 resources, cultural sites, recreation areas, or historic sites
44 of more than local significance. These areas include, but

- 1 are not limited to, national or State parks or forests;
2 wilderness areas; historic sites; recreation areas;
3 segments of the natural and scenic rivers system; wildlife
4 refuges, preserves and management areas; areas that
5 provide habitat for threatened or endangered species;
6 primary nursery areas and critical fisheries habitat
7 designated by the Marine Fisheries Commission; and
8 Outstanding Resource Waters designated by the
9 Environmental Management Commission.
- 10 4. Construction or operation of the proposed facility would
11 substantially limit or threaten access to or use of public
12 trust waters or public lands.
- 13 5. The proposed facility would be located in a natural
14 hazard area, including a floodplain, a landslide hazard
15 area, or an area subject to storm surge or excessive
16 seismic activity, such that the facility will present a risk
17 to public health or safety.
- 18 6. There is a practical alternative that would accomplish the
19 purposes of the proposed facility with less adverse
20 impact on public resources, considering engineering
21 requirements and economic costs.
- 22 7. The cumulative impacts of the proposed facility and
23 other facilities in the area of the proposed facility would
24 violate the criteria set forth in sub-sub-subdivisions 2.
25 through 5. of this sub-subdivision.
- 26 8. Construction or operation of the proposed facility would
27 be inconsistent with the State solid waste management
28 policy and goals as set out in G.S. 130A-309.04 and with
29 the State solid waste management plan developed as
30 provided in G.S. 130A-309.07.
- 31 9. The cumulative impact of the proposed facility, when
32 considered in relation to other similar impacts of
33 facilities located or proposed in the community, would
34 have a disproportionate adverse impact on a minority or
35 low-income community protected by Title VI of the
36 federal Civil Rights Act of 1964.
- 37 (4a) ~~No permit shall be granted for any public or private sanitary landfill to~~
38 ~~receive solid non radioactive waste generated outside the boundaries~~
39 ~~of North Carolina to be deposited, unless such waste has previously~~
40 ~~been inspected by the solid waste regulatory agency of that nation,~~
41 ~~state or territory, characterized in detail as to its contents and certified~~
42 ~~by that agency to be non injurious to health and safety. The~~
43 ~~Commission shall adopt rules to implement this subsection.~~
- 44 (5) Repealed by Session Laws 1983, c. 795, s. 3.

- 1 (5a) Designate a geographic area within which the collection,
2 transportation, storage and disposal of all solid waste generated within
3 said area shall be accomplished in accordance with a solid waste
4 management plan. Such designation may be made only after the
5 Department has received a request from the unit or units of local
6 government having jurisdiction within said geographic area that such
7 designation be made and after receipt by the Department of a solid
8 waste management plan which shall include:
9 a. The existing and projected population for such area;
10 b. The quantities of solid waste generated and estimated to be
11 generated in such area;
12 c. The availability of sanitary landfill sites and the environmental
13 impact of continued landfill of solid waste on surface and
14 subsurface waters;
15 d. The method of solid waste disposal to be utilized and the energy
16 or material which shall be recovered from the waste; and
17 e. Such other data that the Department may reasonably require.
- 18 (5b) Authorize units of local government to require by ordinance, that all
19 solid waste generated within the designated geographic area that is
20 placed in the waste stream for disposal be collected, transported, stored
21 and disposed of at a permitted solid waste management facility or
22 facilities serving such area. The provisions of such ordinance shall not
23 be construed to prohibit the source separation of materials from solid
24 waste prior to collection of such solid waste for disposal, or prohibit
25 collectors of solid waste from recycling materials or limit access to
26 such materials as an incident to collection of such solid waste;
27 provided such prohibitions do not authorize the construction and
28 operation of a resource recovery facility unless specifically permitted
29 pursuant to an approved solid waste management plan. If a private
30 solid waste landfill shall be substantially affected by such ordinance
31 then the unit of local government adopting the ordinance shall be
32 required to give the operator of the affected landfill at least two years
33 written notice prior to the effective date of the proposed ordinance.
- 34 (5c) Except for the authority to designate a geographic area to be serviced
35 by a solid waste management facility, delegate authority and
36 responsibility to units of local government to perform all or a portion
37 of a solid waste management program within the jurisdictional area of
38 the unit of local government; provided that no authority over or control
39 of the operations or properties of one local government shall be
40 delegated to any other local government.
- 41 (5d) Require that an annual report of the implementation of the solid waste
42 management plan within the designated geographic area be filed with
43 the Department.

1 (6) ~~The Department is authorized to charge~~ Charge and collect fees from
2 operators of hazardous waste disposal facilities. The fees shall be used
3 to establish a fund sufficient for each individual facility to defray the
4 anticipated costs to the State for monitoring and care of the facility
5 after the termination of the period during which the facility operator is
6 required by applicable State and federal statutes, regulations or rules to
7 remain responsible for post-closure monitoring and care. In
8 establishing the fees, consideration shall be given to the size of the
9 facility, the nature of the hazardous waste and the projected life of the
10 facility.

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

14 (a1) A permit for a solid waste management facility may be transferred only with
15 the approval of the Department.

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

29 ~~(b0) The Commission shall adopt rules for financial responsibility to ensure the~~
30 ~~availability of sufficient funds for closure and post closure maintenance and monitoring~~
31 ~~at solid waste management facilities, and for any corrective action the Department may~~
32 ~~require during the active life of a facility or during the closure and post closure periods.~~
33 ~~The rules may permit demonstration of financial responsibility through the use of a~~
34 ~~letter of credit, insurance, surety, trust agreement, financial test, or guarantee by~~
35 ~~corporate parents or third parties who can pass the financial test. The rules shall require~~
36 ~~that an owner or operator of a privately owned solid waste management facility~~
37 ~~demonstrate financial responsibility by a method or combinations of methods that will~~
38 ~~ensure that sufficient funds for closure, post closure maintenance and monitoring, and~~
39 ~~any corrective action that the Department may require will be available during the~~
40 ~~active life of the facility, at closure, and for a period of not less than 30 years after~~
41 ~~closure even if the owner or operator becomes insolvent or ceases to reside, be~~
42 ~~incorporated, do business, or maintain assets in the State.~~

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

- 1 a. An increase of ten percent (10%) or more in:
 - 2 1. The population of the geographic area to be served by
 - 3 the sanitary landfill;
 - 4 2. The quantity of solid waste to be disposed of in the
 - 5 sanitary landfill; or
 - 6 3. The geographic area to be served by the sanitary landfill.
- 7 b. A change in the categories of solid waste to be disposed of in
- 8 the sanitary landfill or any other change to the application for a
- 9 permit or to the permit for a sanitary landfill that the
- 10 Commission or the Department determines to be substantial.
- 11 (2) A person who intends to apply for a new permit, the renewal of a
- 12 permit, or a substantial amendment to a permit for a sanitary landfill
- 13 shall obtain, prior to applying for a permit, a franchise for the
- 14 operation of the sanitary landfill from each local government having
- 15 jurisdiction over any part of the land on which the sanitary landfill and
- 16 its appurtenances are located or to be located. A local government may
- 17 adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A
- 18 franchise granted for a sanitary landfill shall include all of the
- 19 following:
 - 20 a. A statement of the population to be served, including a
 - 21 description of the geographic area.
 - 22 b. A description of the volume and characteristics of the waste
 - 23 stream.
 - 24 c. A projection of the useful life of the sanitary landfill.
 - 25 d. An explanation of how the franchise will be consistent with the
 - 26 jurisdiction's solid waste management plan required under
 - 27 G.S. 130A-309.09A, including provisions for waste reduction,
 - 28 reuse, and recycling.
 - 29 e. The procedures to be followed for governmental oversight and
 - 30 regulation of the fees and rates to be charged by facilities
 - 31 subject to the franchise for waste generated in the jurisdiction of
 - 32 the franchising entity.
 - 33 f. A facility plan for the sanitary landfill that shall include the
 - 34 ~~exact~~—boundaries of the proposed facility, proposed
 - 35 development of the facility site in five-year operational phases,
 - 36 the boundaries of all waste disposal units, final elevations and
 - 37 capacity of all waste disposal units, the amount of waste to be
 - 38 received per day in tons, the total waste disposal capacity of the
 - 39 sanitary landfill in tons, a description of environmental controls,
 - 40 and a description of any other waste management activities to
 - 41 be conducted at the facility. In addition, the facility plan shall
 - 42 show the proposed location of soil borrow areas, leachate
 - 43 facilities, and all other facilities and infrastructure, including
 - 44 ingress and egress to the facility.

- 1 (2a) A local government may elect to award a preliminary franchise. If a
2 local government elects to award a preliminary franchise, the
3 preliminary franchise shall contain, at a minimum, all of the
4 information described in sub-subdivisions a. through e. of subdivision
5 (2) of this subsection plus a general description of the proposed
6 sanitary landfill, including the approximate number of acres required
7 for the proposed sanitary landfill and its appurtenances and a
8 description of any other solid waste management activities that are to
9 be conducted at the site.
- 10 (3) Prior to the award of a franchise for the construction or operation of a
11 sanitary landfill, the board of commissioners of the county or counties
12 in which the sanitary landfill is proposed to be located or is located or,
13 if the sanitary landfill is proposed to be located or is located in a city,
14 the governing board of the city shall conduct a public hearing. The
15 board of commissioners of the county or counties in which the sanitary
16 landfill is proposed to be located or is located or, if the sanitary landfill
17 is proposed to be located or is located in a city, the governing board of
18 the city shall provide at least 30 days' notice to the public of the public
19 hearing. The notice shall include a summary of all the information
20 required to be included in the franchise, and shall specify the
21 procedure to be followed at the public hearing. The applicant for the
22 franchise shall provide a copy of the application for the franchise that
23 includes all of the information required to be included in the franchise,
24 to the public library closest to the proposed sanitary landfill site to be
25 made available for inspection and copying by the public.
- 26 (4) An applicant for a new permit, the renewal of a permit, or a substantial
27 amendment to a permit for a sanitary landfill shall request each local
28 government having jurisdiction over any part of the land on which the
29 sanitary landfill and its appurtenances are located or to be located to
30 issue a determination as to whether the local government has in effect
31 a franchise, zoning, subdivision, or land-use planning ordinance
32 applicable to the sanitary landfill and whether the proposed sanitary
33 landfill, or the existing sanitary landfill as it would be operated under
34 the renewed or substantially amended permit, would be consistent with
35 the applicable ordinances. The request to the local government shall be
36 accompanied by a copy of the permit application and shall be delivered
37 to the clerk of the local government personally or by certified mail. In
38 order to serve as a basis for a determination that an application for a
39 new permit, the renewal of a permit, or a substantial amendment to a
40 permit for a sanitary landfill is consistent with a zoning, subdivision,
41 or land-use planning ordinance, an ordinance or zoning classification
42 applicable to the real property designated in the permit application
43 shall have been in effect not less than 90 days prior to the date the
44 request for a determination of consistency is delivered to the clerk of

1 the local government. The determination shall be verified or supported
2 by affidavit signed by the chief administrative officer, the chief
3 administrative officer's designee, clerk, or other official designated by
4 the local government to make the determination and, if the local
5 government states that the sanitary landfill as it would be operated
6 under the new, renewed, or substantially amended permit is
7 inconsistent with a franchise, zoning, subdivision, or land-use planning
8 ordinance, shall include a copy of the ordinance and the specific
9 reasons for the determination of inconsistency. A copy of the
10 determination shall be provided to the applicant when the
11 determination is submitted to the Department. The Department shall
12 not act upon an application for a permit under this section until it has
13 received a determination from each local government requested to
14 make a determination by the applicant; provided that if a local
15 government fails to submit a determination to the Department as
16 provided by this subsection within 15 days after receipt of the request,
17 the Department shall proceed to consider the permit application
18 without regard to a franchise, local zoning, subdivision, and land-use
19 planning ordinances. Unless the local government makes a subsequent
20 determination of consistency with all ordinances cited in the
21 determination or the sanitary landfill as it would be operated under the
22 new, renewed, or substantially amended permit is determined by a
23 court of competent jurisdiction to be consistent with the cited
24 ordinances, the Department shall attach as a condition of the permit a
25 requirement that the applicant, prior to construction or operation of the
26 sanitary landfill under the permit, comply with all lawfully adopted
27 local ordinances cited in the determination that apply to the sanitary
28 landfill. This subsection shall not be construed to affect the validity of
29 any lawfully adopted franchise, local zoning, subdivision, or land-use
30 planning ordinance or to affect the responsibility of any person to
31 comply with any lawfully adopted franchise, local zoning, subdivision,
32 or land-use planning ordinance. This subsection shall not be construed
33 to limit any opportunity a local government may have to comment on a
34 permit application under any other law or rule. This subsection shall
35 not apply to any facility with respect to which local ordinances are
36 subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

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

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

6 (1) Is financially qualified to carry out the activity for which the permit is
7 required. An applicant for a permit and permit holders for solid waste
8 management facilities that are not hazardous waste facilities shall
9 establish financial responsibility as required by
10 ~~G.S. 130A-294(b0)~~G.S. 130A-295.2. An applicant for a permit and
11 permit holders for hazardous waste facilities shall establish financial
12 responsibility as required by G.S. 130A-295.04.

13 (2) Has substantially complied with the requirements applicable to any
14 ~~solid waste management~~ activity in which the ~~applicant~~applicant or
15 permit holder, or a parent, subsidiary, or other affiliate of the applicant,
16 permit holder, or parent, or a joint venturer with a direct or indirect
17 interest in the applicant, has previously engaged and has been in
18 substantial compliance with federal and state laws, regulations, and
19 rules for the protection of the ~~environment~~environment as provided in
20 G.S. 130A-295.3.

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

27"

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

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

32 "**§ 130A-18. Injunction.**

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

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

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

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

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

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

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

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

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

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

38 "**§ 130A-295.2. Financial responsibility requirements for applicants and permit**
39 **holders for solid waste management facilities.**

40 (a) As used in this section:

41 (1) 'Financial assurance' refers to the ability of an applicant or permit
42 holder to pay the costs of assessment and remediation in the event of a
43 release of pollutants from a facility, closure of the facility in

1 accordance with all applicable requirements, and post-closure
2 monitoring and maintenance of the facility.

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

6 (3) 'Financial responsibility' encompasses both financial assurance and
7 financial qualification.

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

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

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

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

43 (f) The applicant and permit holder for a solid waste management facility shall
44 establish financial assurance by a method or combination of methods that will ensure

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

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

29 (h) [Reserved for future codification purposes.]

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

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

35 "**§ 130A-309.27. ~~Landfill escrow account.~~ Joint and several liability.**

36 (a) As used in this section:

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

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

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

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

8 ~~(1) The revenue-producing mechanism must produce revenue at a rate
9 sufficient to generate funds to meet State and federal landfill closure
10 requirements.~~

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

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

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

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

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

1 **SECTION 5.(c)** This section becomes effective 1 August 2007 and applies
2 to any application for a permit for a solid waste management facility that is pending on
3 that date.

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

6 **"§ 130A-295.3. Environmental compliance review requirements for applicants and**
7 **permit holders.**

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

16 (b) The Department shall conduct an environmental compliance review of each
17 applicant for a new permit, permit renewal, and permit amendment under this Article.
18 The environmental compliance review shall evaluate the environmental compliance
19 history of the applicant for a period of five years prior to the date of the application and
20 may cover a longer period at the discretion of the Department. The environmental
21 compliance review of an applicant may include consideration of the environmental
22 compliance history of the parents, subsidiaries, or other affiliates of an applicant or
23 parent that is a business entity, including any business entity or joint venturer with a
24 direct or indirect interest in the applicant, and other facilities owned or operated by any
25 of them. The Department shall determine the scope of the review of the environmental
26 compliance history of the applicant, parents, subsidiaries, or other affiliates of the
27 applicant or parent, including any business entity or joint venturer with a direct or
28 indirect interest in the applicant, and of other facilities owned or operated by any of
29 them. An applicant for a permit shall provide environmental compliance history
30 information for each facility, business entity, joint venture, or other undertaking in
31 which any of the persons listed in this subsection is or has been an owner, operator,
32 officer, director, manager, member, or partner, or in which any of the persons listed in
33 this subsection has had a direct or indirect interest as requested by the Department.

34 (c) The Department shall determine the extent to which the applicant, or a parent,
35 subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or
36 indirect interest in the applicant, has substantially complied with the requirements
37 applicable to any activity in which any of these entities previously engaged, and has
38 substantially complied with federal and State laws, regulations, and rules for the
39 protection of the environment. The Department may deny an application for a permit if
40 the applicant has a history of significant or repeated violations of statutes, rules, orders,
41 or permit terms or conditions for the protection of the environment or for the
42 conservation of natural resources as evidenced by civil penalty assessments,
43 administrative or judicial compliance orders, or criminal penalties.

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

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

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

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

11 "(2a) "Coal-fired generating unit" means a coal-fired generating unit, as
12 defined by 40 Code of Federal Regulations § 96.2 (1 July 2001
13 Edition), that is located in this State and has the capacity to generate
14 25 or more megawatts of electricity.

15 (2b) "Combustion products" means residuals, including fly ash, bottom ash,
16 boiler slag, mill rejects, and flue gas desulfurization residue produced
17 by a coal-fired generating unit.

18 (2c) "Combustion products landfill" means a facility or unit for the disposal
19 of combustion products, where the landfill is located at the same
20 facility with the coal-fired generating unit or units producing the
21 combustion products, and where the landfill is located wholly or partly
22 on top of a facility that is, or was, being used for the disposal or
23 storage of such combustion products, including, but not limited to,
24 landfills, wet and dry ash ponds, and structural fill facilities."

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

27 **§ 130A-295.4. Combustion products landfills.**

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

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

1 (c) An applicant for a permit for a combustion products landfill shall develop and
2 provide to the Department a response plan, which shall describe the circumstances
3 under which corrective measures are to be taken at the landfill in the event of the
4 detection of leaks in the leak detection system between the upper two liner components
5 at amounts exceeding an amount specified in the response plan (as expressed in average
6 gallons per day per acre of landfill, defined as an Action Leakage Rate). The response
7 plan shall also describe the remedial actions that the landfill is required to undertake in
8 response to detection of leakage in amounts in excess of the Action Leakage Rate. The
9 Department shall review the response plan as a part of the permit application for the
10 landfill. Compliance with performance of the landfill to prevent releases of waste to the
11 environment may be determined based on leakage rate rather than monitoring well
12 data."

13 **SECTION 7.(c)** G.S. 130A-295.5, 130A-295.6, and 130A-295.7 are
14 reserved for future codification purposes.

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

19 **SECTION 8. [Reserved.]**

20 **SECTION 9. [Reserved.]**

21 **SECTION 10.(a)** G.S. 153A-136 is amended by adding two new subsections
22 to read:

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

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

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

32 (3) Identify and notify the Department of potentially hazardous conditions
33 at the facility.

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

36 **SECTION 10.(b)** Chapter 160A of the General Statutes is amended by
37 adding a new section to read:

38 **§ 160A-325. Local government landfill liaison.**

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

- 1 (1) Ensure that the facility meets all local requirements.
- 2 (2) Identify and notify the Department of suspected violations of
3 applicable federal or State laws, regulations, or rules.
- 4 (3) Identify and notify the Department of potentially hazardous conditions
5 at the facility.
- 6 (b) Entry pursuant to this section shall not constitute a trespass or taking of
7 property."

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

9 **SECTION 11.(a)** G.S. 130A-290(a), as amended by S.L. 2007-107, is
10 amended by renumbering subdivision (1a) as (1b), renumbering subdivision (1b) as
11 (1c), renumbering subdivision (1c) as (1d), and by adding a new subdivision to read:

12 "(1a) 'Business entity' has the same meaning as in G.S. 55-1-40(2a)."

13 **SECTION 11.(b)** G.S. 130A-290(a), as amended by S.L. 2007-107, is
14 amended by renumbering subdivision (21a) as (21b) and by adding a new subdivision to
15 read:

16 "(21a) 'Pre-1983 landfill' means any land area, whether publicly or privately
17 owned, on which municipal solid waste disposal occurred prior to 1
18 January 1983 but not thereafter, but does not include any landfill used
19 primarily for the disposal of industrial solid waste."

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

21 **SECTION 12. [Reserved.]**

22 **SECTION 13. [Reserved.]**

23 **SECTION 14.(a)** The Commission for Health Services shall review rules
24 governing the design, construction, operation, maintenance, closure, and post-closure
25 monitoring and maintenance of solid waste management facilities to determine whether
26 changes are required to protect public health, safety, welfare, and the environment; to
27 improve the performance of solid waste management facilities; to take advantage of
28 technological advances in landfill design, construction, operation, maintenance, and
29 closure; and to provide additional protection to environmentally sensitive areas of the
30 State. The Commission shall adopt rules necessary to minimize impacts from solid
31 waste management facilities on public health, safety, welfare, and the environment.
32 These rules shall:

- 33 (1) Establish standards for the collection, control, and utilization or
34 destruction of landfill gasses at municipal solid waste landfills.
- 35 (2) Establish standards for the design, construction, operation,
36 maintenance, closure, and post-closure monitoring and maintenance of
37 bioreactor landfills.
- 38 (3) Establish criteria for development of bird and wildlife management
39 plans.
- 40 (4) Incorporate measures necessary to minimize impacts to natural,
41 historic, and cultural resources, including, but not limited to, wetlands,
42 critical fisheries habitat, parks, recreation areas, cultural and historic
43 sites, and potential water supplies.

44 **SECTION 14.(b)** This section is effective when it becomes law.

1 **SECTION 15.(a)** G.S. 130A-295.01(g), as enacted by Section 1.7 of S.L.
2 2007-107, is recodified as G.S. 130A-295.01(c).

3 **SECTION 15.(b)** G.S. 130A-295.01(c), as enacted by Section 1.3 of S.L.
4 2007-107, is recodified as G.S. 130A-295.01(d).

5 **SECTION 15.(c)** Subsections (d), (e), (f), and (g) of G.S. 130A-295.01, as
6 enacted by Section 1.4 of S.L. 2007-107, read as rewritten:

7 "~~(d)~~(e)

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

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

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

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

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

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

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

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

36 **SECTION 15.(d)** G.S. 130A-295.01(e), as enacted by Section 1.5 of S.L.
37 2007-107, is recodified as G.S. 130A-295.01(f).

38 **SECTION 15.(e)** G.S. 130A-295.01(f), as enacted by Section 1.6 of S.L.
39 2007-107, is recodified as G.S. 130A-295.01(g).

40 **SECTION 15.(f)** Subdivisions (6) and (7) of subsection (f) of Section 4.1 of
41 S.L. 2007-107 read as rewritten:

42 "(6) Review the sprinkler requirements ~~for Hazardous Materials Facilities~~
43 ~~(Section 903.2.4) under Section 903.2.4~~ of the State Building Code ~~for~~
44 facilities used to collect, store, process, treat, recycle, recover, or

1 dispose of hazardous substance, as defined in 29 Code of Federal
2 Regulations § 1910.120(a)(3) (1 July 2006 Edition), and determine
3 whether sprinkler design criteria and coverage should be amended.

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

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

25 **SECTION 17.** The Environmental Review Commission shall study issues
26 related to the franchise of solid waste management facilities by units of local
27 government and siting and technical standards for solid waste management facilities.
28 The Environmental Review Commission, with the assistance of the Department of
29 Justice, shall study issues related to the transportation of solid waste by rail or barge,
30 including the extent to which regulation of the transportation of solid waste by rail or
31 barge by state governments may be preempted by federal law. The Environmental
32 Review Commission shall report its findings and recommendations, including any
33 legislative proposals, to the 2008 Regular Session of the General Assembly.

34 **SECTION 18.** If any section or provision of this act is declared
35 unconstitutional or invalid by the courts, the unconstitutional or invalid section or
36 provision does not affect the validity of this act as a whole or any part of this act other
37 than the part declared to be unconstitutional or invalid.

38 **SECTION 19.** Except as otherwise provided in this act, this act is effective
39 when it becomes law.