

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 327
HOUSE BILL 708

AN ACT TO AMEND THE GENERAL STATUTES TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO ELECTRONICALLY MONITOR AND RECORD COMPLIANCE DATA OFF-SITE FROM SPECIAL PURPOSE COMMERCIAL HAZARDOUS WASTE FACILITIES THAT USE HAZARDOUS WASTE AS A FUEL AND TO CLARIFY THE CIRCUMSTANCES UNDER WHICH A PRIVATE ENVIRONMENTAL CONSULTING OR ENGINEERING FIRM MAY BE EMPLOYED TO IMPLEMENT AND OVERSEE A VOLUNTARY REMEDIAL ACTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-295.02(j) reads as rewritten:

"(j) For purposes of this subsection, special purpose commercial hazardous waste facilities include: a facility that manages limited quantities of hazardous waste; a facility that limits its hazardous waste management activities to reclamation or recycling, including energy or materials recovery or a facility that stores hazardous waste primarily for use at such facilities; or a facility that is determined to be low risk under rules adopted by the Commission pursuant to this subsection. The Commission shall adopt rules establishing reasonable times and frequencies for the presence of a resident inspector on less than a full-time basis at special purpose commercial hazardous waste facilities. Rules adopted pursuant to this subsection shall establish classifications of special purpose hazardous waste facilities based on factors including, but not limited to, the size of the facility, the type of treatment or storage being performed, the nature and volume of waste being treated or stored, the uniformity, similarity, or lack of diversity of the waste streams, the predictability of the nature of the waste streams and their treatability, whether the facility utilizes automated monitoring or safety devices that adequately perform functions that would otherwise be performed by a resident inspector, the fact that reclamation or recycling is being performed at the facility, and the compliance history of the facility and its operator. Special purpose commercial hazardous waste facilities shall be subject to inspection at all times during which the facility is in operation, undergoing any maintenance or repair, or undergoing any test or calibration. Rules adopted pursuant to this subsection shall specify a minimum number of inspections during such times as the facility is subject to inspection. Special purpose commercial hazardous waste facilities that utilize hazardous waste as a fuel source shall be inspected a minimum of 40 hours per ~~week-week~~, unless compliance data for these facilities can be electronically monitored and recorded off-site by the Department. The

Department, considering the benefits provided by electronic monitoring, shall determine the number of hours of on-site inspection required at these facilities. The Department shall maintain records of all inspections at special purpose commercial hazardous waste facilities. Such records shall contain sufficient detail and shall be arranged in a readily understandable format so as to facilitate determination at any time as to whether the special purpose commercial hazardous waste facility is in compliance with the requirements of this subsection and of rules adopted pursuant to this subsection."

Sec. 2. G.S. 130A-310.9(c) reads as rewritten:

"(c) The Department may select and hire approve a private environmental consulting and engineering firms-firm to implement and oversee a voluntary remedial actions by owners, operators, or other responsible parties- action by an owner, operator, or other responsible party. An owner, operator, or other responsible party that chooses to use who enters into an agreement with the Secretary to implement a voluntary remedial action may hire a private environmental consulting or engineering firm shall reimburse the Department for the cost of all work performed by the firm- approved by the Department to implement and oversee the voluntary remedial action. A voluntary remedial action that is implemented and overseen by a private environmental consulting or engineering firm shall be implemented in accordance with all federal and State laws, regulations, and rules that apply to remedial actions generally and is subject to rules adopted pursuant to G.S. 130A-310.12(b). The Department may revoke its approval of the oversight of a voluntary remedial action by a private environmental consulting or engineering firm and assume direct oversight of the voluntary remedial action whenever it appears to the Department that the voluntary remedial action is not being properly implemented or is not being adequately overseen. The Department may require the owner, operator, other responsible party, or private environmental consulting or engineering firm to take any action necessary to bring the voluntary remedial action into compliance with applicable requirements."

Sec. 3. G.S. 130A-310.12(b) reads as rewritten:

"(b) The Commission shall adopt rules governing the selection and use of private environmental engineering and consulting and engineering firms to implement and oversee voluntary remedial actions by owners, operators, or other responsible parties under G.S. 130A-310.9(c). Rules adopted under this subsection shall specify:

- (1) Standards applicable to private environmental consulting and engineering firms.
- (2) Procedures for identifying and choosing firms- Criteria and procedures for approval of firms by the Department.
- (3) Standards and procedures governing charges by private environmental consulting and engineering firms and the reimbursement of those charges- Requirements and procedures under which the Department monitors and audits a voluntary remedial action to ensure that the voluntary remedial action complies with applicable federal and State law, regulations, and under which the owner, operator, or other responsible party reimburses the Department for the cost of monitoring and auditing the voluntary remedial action.

- (4) ~~Financial~~ Any financial assurances to that may be required of an owner, operator, or other responsible party that chooses to implement a voluntary remedial action under G.S. 130A-310.9(e) party.
- (5) Requirements for the preparation, maintenance, and public availability of work plans and records, reports of data collection including sampling, sample analysis, and other site testing, and other records and reports that are consistent with the requirements applicable to remedial actions generally."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 26th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives