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LEGISLATIVE RESEARCH COMMISSION

USED TIRE AND WASTE OIL DISPOSAL



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REPORT TO THE 1987 GENERAL ASSEMBLY OF NORTH CAROLINA

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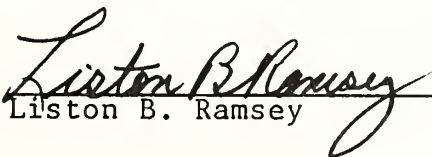
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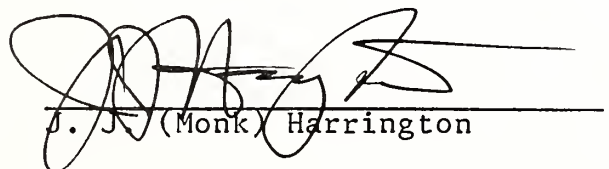
TO THE MEMBERS OF THE 1987 GENERAL ASSEMBLY:

The Legislative Research Commission herewith reports to the 1987 General Assembly on the matter of the problems surrounding the environmentally safe disposal of used tires and waste oil and their possible solutions. The report is made pursuant to Chapter 1032 of the 1986 Session Laws.

This report was prepared by the Legislative Research Commission's Committee on Used Tire and Waste Oil Disposal and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,


Liston B. Ramsey


J. J. (Monk) Harrington

Cochairmen
Legislative Research Commission

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P R E F A C E

PREFACE

The Legislative Research Commission, authorized by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is co-chaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigation into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" [G.S. 120-30.17(1)].

At the direction of the 1986 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The co-chairmen of the Legislative Research Commission, under the authority of General Statute 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairmen, one from each house of the General Assembly, were designated for each committee.

The study of used tire and waste oil disposal was authorized by Section 12.2 of Chapter 1032 of the 1986 Session Laws. A copy of Chapter 1032 of the 1986 Session Laws is included in Appendix A of this report.

The Legislative Research Commission grouped this study in its State Regulation area under the direction of Senator A. D. Guy. The Committee was chaired by Representative Joe R. Hudson and Senator Henson P. Barnes. The full membership of the Committee is listed in Appendix B of this report.

I N T R O D U C T I O N

INTRODUCTION

Section 12.2 of Chapter 1032 of the 1986 Session Laws, which authorized the Used Tire and Waste Oil Disposal Study Committee, states that the Legislative Research Commission may study "problems surrounding the environmentally safe disposal of used tires and waste oil and their possible solutions." Pursuant to this authorization, the Used Tire and Waste Oil Disposal Study Committee studied the manner in which used tires and waste oil are currently being disposed of, the environmental problems associated with current disposal practices, and possible solutions to these problems.

The information presented to the Committee showed that waste oil is frequently disposed of in ways that are detrimental to the environment. Generators of waste oil, including individuals who change their own motor oil, often pour the waste oil on the ground or down storm drains, or put it in their garbage to be taken to a landfill. Such disposal, though convenient, is environmentally hazardous. Waste oil is frequently reused for various purposes. It is most commonly reused as fuel or as a dust suppressant on dirt roads. Service stations and garages generally pass on their waste oil to waste oil collectors who take the oil to reprocessing facilities where it is reprocessed into a salable product. Environmental problems arise when the waste oil is mixed with solvents or

other hazardous wastes. When the contaminated oil is reused or disposed of improperly, it pollutes our environment. Recently, service stations and garages have had greater difficulty in passing on their waste oil because of the decline in virgin oil prices, which has reduced the market for used oil, and because the United States Environmental Protection Agency (EPA) has proposed to regulate used oil as a special category of hazardous waste. As a result, the problems associated with the disposal of waste oil have intensified.

The information presented also showed that there are unique problems associated with the disposal of used tires. Most used tires in North Carolina are discarded at landfills or illegally dumped. A limited number are sold for reuse or retreading. Tires pose special problems at landfills. They take up a lot of space, do not significantly decompose, and tend to resurface when buried. Some landfills charge a premium disposal fee for tires, while others will only accept tires that have been shredded or sliced. Still others refuse to accept tires at all. Tire piles, in addition to being unsightly, can be a nuisance and a public health problem because they provide an excellent breeding ground for mosquitos and other vermin. Tire piles are also an environmental concern because when they catch on fire they result in air pollution and groundwater contamination. A tire fire is very difficult to extinguish and expensive to fight and clean up. There are many alternatives available for recycling or recovering the resource

value of discarded tires. Unfortunately, very few tires are being used for such purposes in North Carolina at this time.

There are no easy answers to the problems associated with the disposal of used tires and waste oil. These problems can be alleviated, however, through a cooperative effort on the part of state and local officials, private industry, academicians, and the public.

COMMITTEE PROCEEDINGS

COMMITTEE PROCEEDINGS

The Used Tire And Waste Oil Disposal Study Committee met two times. At the Committee's first meeting, held on October 24, 1986, an overview was presented on the environmental problems associated with the disposal of used tires and waste oil. William L. Meyer, Head of the North Carolina Solid and Hazardous Waste Management Branch, explained how used tires and waste oil are currently being disposed of, how the disposal of these materials is regulated, and the problems associated with current disposal practices.

Roger Schecter described the North Carolina Pollution Prevention Pays Program and how it has been utilized to help alleviate the problems surrounding used tire and waste oil disposal. The Pollution Prevention Pays Program recently co-sponsored a series of workshops on managing waste oil which were designed to provide clear and up-to-date information on regulations dealing with waste oil and on available options for proper management and recycling. The workshops were conducted by Jerome Kohl who is a Senior Engineering Extension Specialist at North Carolina State University. Mr. Kohl addressed the Committee and offered his suggestions on how waste oil disposal in North Carolina could be improved. The Pollution Prevention Pays Program also funded a conference on scrap tire recycling which was held in November, 1986, in Fayetteville. Sharon Valentine, coordinator of that conference, described the conference in greater detail and told the Committee about a study conducted for Cumberland County on the feasibility of siting a scrap tire processing facility in Fayetteville.

The Committee then heard the comments of parties interested in used tire and waste oil disposal. Representatives from the North Carolina Service Station Association; the North Carolina Tire Dealers and Retreaders Association, Inc.; the North Carolina Petroleum Council; the Carolina Asphalt Paving Association, Inc.; and Petroleum Management, a waste oil reprocessing and marketing business, addressed the Committee. Bill Holman, a lobbyist for the Sierra Club and the North Carolina Conservation Council, also addressed the Committee.

The Committee held its second meeting on November 19, 1986. At that meeting, the Committee looked more closely at the problems associated with the disposal of used tires, and their possible solutions. Thomas E. Cole speaking on behalf of the Rubber Manufacturers Association, which is a national association of tire manufacturers, showed the Committee a video on scrap tire disposal and offered his suggestions on how to improve scrap tire disposal in North Carolina. A representative of the North Carolina Mosquito and Vector Control Association shared the concerns and suggestions of that organization relative to the disposal of tires. Two officials of the North Carolina Department of Transportation spoke on the use of rubber from tires in asphalt paving applications on North Carolina's roads.

The Committee then heard from three speakers on whether changes should be made in the way the disposal of used tires at landfills is regulated. Most of the landfills in this State are operated by our counties or cities. Some, however, are privately owned. To obtain a balanced perspective on this issue, the Committee heard from a representative of each of these three groups----that is, from a representative of the North Carolina Association of County Commissioners, a representative of the

North Carolina League of Municipalities, and an owner of a private landfill.

Lastly, William L. Meyer told the Committee about tax incentives which are currently available in North Carolina for recycling solid waste such as tires.

The Committee then discussed the information presented and the suggestions made and decided upon the recommendations to be made in its report to the Legislative Research Commission.

Detailed minutes of both meetings are available in the Legislative Library. A list of the speakers who appeared before the Committee may be found in Appendix E of this report.

R E C O M M E N D A T I O N S

RECOMMENDATIONS

The Used Tire And Waste Oil Disposal Study Committee makes the following recommendations to the Legislative Research Commission and the 1987 Session of the General Assembly:

1. The Study Committee recognizes that there are serious environmental problems associated with the disposal of used tires and waste oil and recommends that state and local officials, private industry, academicians, and the public commit themselves to work together to help alleviate these problems. A cooperative effort on the part of all concerned is necessary in order to improve the present situation.

2. The Study Committee finds that used tires and waste oil are potentially valuable resources that can and should be recovered or recycled to the extent it is economically feasible to do so and recommends that the State encourage efforts to recycle or recover these resources.

Both used tires and waste oil can be recycled or reused in various ways. It is obviously preferable to reuse a product in some form or another, if it is feasible to do so, than to dispose of it. It appears that a considerable amount of the waste oil generated in North Carolina is being recycled or reused in some way. This is primarily due to the fact that there are businesses in this State that collect and reprocess waste oil. Used tires, on the other hand, are not being recycled or reused to the extent they could be, partly because of the lack of a tire recovery or recycling industry in North Carolina. There is a need to attract such an industry to this State and to explore the alternatives

available for reusing, recovering, and recycling used tires. Among the alternatives which should be explored are the use of tires for erosion control, in septic systems, as fuel, and as a raw material for manufacturing rubber products.

3. The Study Committee recommends that the public be better educated about the proper disposal of waste oil and informed of places that accept waste oil from the public.

The people of this State need to be made more aware of the proper means of disposing of waste oil, of the environmental problems caused by improper disposal, of the potential for recycling or reusing waste oil, and of places where they can drop off their waste oil so that it can be recycled. The North Carolina Retail Merchants Association has agreed to assist in this effort and to look into the possibility of having places of business that accept waste oil from the public post a decal so indicating. The Study Committee does not recommend that all sellers of motor oil be required to post a sign in their place of business informing the public of how and where they may properly dispose of their waste oil.

4. The Study Committee finds that the problems associated with the disposal of waste oil will not be remedied by the imposition of additional regulations and therefore recommends that no additional regulations concerning the disposal of waste oil be imposed.

The disposal of waste oil in North Carolina is adequately regulated at this time. The imposition of additional regulations will not solve the problems associated with waste oil disposal and

would only increase the confusion presently existing on this subject. The solutions to the problems associated with waste oil disposal lie with better education of the people of this State and enforcement of the existing regulations.

In addition, there is reason for optimism with respect to two other factors which have contributed to the problems in this area: 1) the decline in virgin oil prices, which has reduced the market for used oil, and 2) a proposal by the EPA to regulate used oil as a special category of hazardous waste. First, an increase in virgin oil prices is inevitable and will result in a more favorable market for waste oil. Second, it now appears that the EPA is backing away from its proposal to classify used oil as hazardous waste. As a result, much of the confusion and concern which was generated by the proposed regulation will be eliminated.

5. The Study Committee recommends that the existing tax incentives for recycling and recovering solid waste such as tires be retained but not expanded.

Favorable tax treatment is currently available to individuals and corporations that purchase resource recovery or recycling equipment or that construct facilities for resource recovery or recycling. For details on these tax incentives, see Appendix D. The existing tax incentives are sufficient to serve their intended purpose and do not need to be expanded.

6. The Study Committee recommends that the North Carolina Department of Transportation continue to study the use of rubber in asphalt paving applications, as it deems appropriate, but that such use not be mandated.

In 1979, the North Carolina Department of Transportation (DOT) conducted an experiment on a portion of Interstate Highway 40 in Haywood County on the use of ground rubber from tires in asphalt paving. This experiment was part of a Federal Highway Administration demonstration project on the use of discarded tires in highway construction. Although the results of the experiment were very satisfactory, DOT views the experiment as only a limited success because of the high cost of the rubber asphalt treatment. A number of other states have also conducted experiments on the use of ground rubber in asphalt paving applications. The results of these experiments has been mixed.

Based on its own experience as well as that of other states, DOT has concluded that the use of rubber in routine asphalt paving applications is neither technically appropriate nor economically feasible. DOT has indicated, however, that it will continue to support research and development efforts in this area which could lead to improved performance of our asphalt pavements. The Study Committee supports the position taken by DOT.

7. The Study Committee recommends that the North Carolina Mosquito and Vector Control Association continue to monitor the public health and nuisance problems associated with the improper storage and disposal of tires in this State; however, the Committee does not believe that legislation specifically designed to alleviate these problems is warranted at this time.

8. The Study Committee recommends that local governments continue to be allowed to regulate tire disposal for themselves and that statewide regulation of tire disposal not be pursued at this time.

Most of the landfills in this State are operated by our counties or cities. Some are privately owned. At present, local governments decide whether scrap tires will be accepted at their landfills, and if accepted, in what form---whole, sliced, or shredded. It has been suggested that tire disposal be regulated on a statewide, rather than local, basis so that there will be uniform tire disposal rules around the State. The present system of regulating tire disposal is adequate to meet the current needs of the State; therefore, the Study Committee recommends that statewide regulation of tire disposal not be pursued at this time.

9. The Study Committee recommends that a committee be set up to continue the study of the problems associated with the disposal of tires and their possible solutions.

The problems associated with the disposal of tires have the potential to become very great in North Carolina in the coming years. The time to address these problems is now, before they become unmanageable. To this end, it is recommended that a committee be set up to study further the problems associated with the disposal of tires and their possible solutions. As part of its study, this committee could also determine the extent of the tire disposal problem in this State and explore in greater depth the technological options available for tire recycling and recovery.

A P P E N D I C E S

Except as otherwise provided in this Act, the provisions of this Act shall apply to the period beginning on the date of the enactment of this Act and ending on the date of the expiration of the term of office of the members of the committee for such purposes as may be determined by the committee.

GENERAL ASSEMBLY OF NORTH CAROLINA

1985 SESSION (REGULAR SESSION, 1986)

RATIFIED BILL

CHAPTER 1032
HOUSE BILL 2141

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, AND TO MAKE OTHER AMENDMENTS AFFECTING THE RAILROAD NEGOTIATING COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Studies Authorized. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1985 bill or resolution that originally proposed the issue or study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

- (1) Uniform System of Voting Machines (H.B. 1664 - Wood),
- (2) Adolescent Pregnancy and Premature Births (H.B. 2078 - Jeralds),
- (3) Low-Level Radioactive Waste Regulation (S.B. 882 - Tally),
- (4) Campaign and Election Procedures (S.B. 1002 - Martin, W.)
- (5) Veterans Cemetery Study (H.B. 2117 - Lancaster).

Sec. 2. Transportation Matters. The Legislative Research Commission may study the actions proposed in the following portions of Senate Bill 866 of the 1985 General Assembly as introduced by Senator Redman:

Part I
Parts VII through XIII, and
Part XV.

Sec. 3. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1987 General Assembly.

Sec. 4. Bills and Resolution References. The listing of the original bill or resolution in Sections 1 through 3 of this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

-----EXTEND COMPLIANCE WITH VOTING ACCESSIBILITY FOR THE ELDERLY AND HANDICAPPED ACT.

Sec. 4.1. Section 4 of Chapter 4, Session Laws of the Extra Session of 1986 is amended by deleting "October 1, 1986" and substituting "July 1, 1987".

-----RAILROAD NEGOTIATING COMMISSION AMENDMENTS.

Sec. 5. Section 13.4(b) of Chapter 792, Session Laws of 1985 is rewritten to read:

"(b) The cochairmen of the Commission may appoint an executive committee for such purposes as determined by the Commission."

Sec. 6. The first sentence of Section 13.7(4) of Chapter 792, Session Laws of 1985 is repealed.

Sec. 7. Section 13.8 of Chapter 792, Session Laws of 1985 is amended by adding the following at the end:

"The Boards of Directors of the railroads (or the Board of Directors of the railroad, if the two railroads are merged or combined) each should appoint a negotiating committee to conduct negotiations concerning the leases. If such committees are established, the Commission shall designate two or more of its members (other than the Commission members appointed under subdivisions (6) and (7) of Section 13.2 of this act) who may attend the negotiating sessions of each railroad, without a vote; provided that if the two railroads are not merged or combined, no person so designated may attend the negotiating sessions of both railroads."

Sec. 8. Section 13.10 of Chapter 792, Session Laws of 1985 is repealed.

Sec. 9. Section 13.14 of Chapter 792, Session Laws of 1985 is rewritten to read:

"Sec. 13.14. The Commission shall advise the Governor and General Assembly of its opinion as to whether the Governor should vote his proxy to approve any lease negotiated by the Board of Directors of each railroad, or the Board of Directors of a merged or combined railroad, if such lease requires shareholder approval, and shall advise the Council of State whether it should approve the lease under Chapter 124 of the General Statutes."

Sec. 10. Section 13.15 of Chapter 792, Session Laws of 1985 is amended by adding the following immediately before the period at the end: ", and shall recommend the same to the Governor, in the exercise of his executive function of disposing of property. In any vote on whether the stock held by the State should be sold, the members appointed under subdivisions (6) and (7) of Section 13.2 of this act would be invited to attend the meetings in this regard and to offer the Commission advice and opinion, but would not be entitled to vote."

Sec. 11. Article 6A.1 of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-30.9H. Decision letters of U. S. Attorney General published in North Carolina Register.--All letters and other documents received by the authorities required by this Article to submit any 'changes affecting voting' from the Attorney General of the United States in which a final decision is made concerning a submitted 'change affecting voting' shall be filed with the Director of the Office of Administrative Hearings. The Director shall publish the letters and other documents in the North Carolina Register."

Sec. 12. G.S. 150B-63(d1) is amended by adding between the words "information" and "relating" the words "required by law to be published in it, and information".

Sec. 12.1. Chapter 792 of the 1985 Session Laws (First Session, 1985) is amended by adding the following to Section 11.7:

"Upon the approval of the Legislative Services Commission, additional expenses of the Study Commission on State Parks and

Recreation Areas shall be paid from funds appropriated to the General Assembly for the 1986-87 fiscal year."

Sec. 12.2. Used Tire and Waste Oil Disposal. The Legislative Research Commission may study problems surrounding the environmentally safe disposal of used tires and waste oil and their possible solutions.

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1986.

ROBERT B. JORDAN III

Robert B. Jordan III
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

SUBJECT: USED TIRE AND WASTE OIL DISPOSAL
Auth.: Chapter 1032 § 12.2 (HB 2141 - Rep. Watkins), amendment by
 Sen. Barnes
Report by: Legislative Research Commission (Committee on Used Tire and
 Waste Oil Disposal)
Report to: General Assembly
Date: 1987 Session

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STANDARDS
for
SPECIAL TAX TREATMENT
of
RECYCLING AND RESOURCE RECOVERY
EQUIPMENT AND FACILITIES

Prepared by the N. C. Department of Human Resources
Division of Health Services
Sanitary Engineering Section
Solid Waste & Vector Control Branch

Effective June 2, 1976

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STANDARDS FOR SPECIAL TAX TREATMENT OF
RECYCLING AND RESOURCE RECOVERY EQUIPMENT AND FACILITIES

INTRODUCTION

The 1975 General Assembly enacted Chapter 764 as contained in the 1975 Session Laws and codified in G.S. 130-166.18; G.S. 105-122(b); G.S. 105-130.10; G.S. 105-130.5(b)(6); G.S. 105-147(13); and G.S. 105-275(8). These amendments were effective January 1, 1976, and gave special tax treatment to individuals and corporations that purchase resource recovery or recycling equipment, or that construct facilities for resource recovery or recycling. The cost of such equipment and facilities may be deducted from capital stock, surplus, and undivided profits in computing the corporate franchise tax [G.S. 105-122(b)], the cost may be taken as a deduction in computing taxable income for the corporate and individual income taxes (amortized over 60 months) [G.S. 105-130.10 and G.S. 105-147(13)], and such equipment and facilities are excluded from the property tax base [G.S. 105-275(8)]. Before any of these tax benefits can be obtained the taxpayer must present to the Secretary of Revenue or to the local tax supervisor a certificate from the Department of Human Resources to the effect that "the equipment or facility has actually been purchased, installed, or constructed; that it is in conformance with all rules of the Department of Human Resources; and that recycling or resource recovering is the primary purpose of the facility or equipment." Chapter 764 further amends G.S. 130-166.18 to authorize the Department of Human Resources to develop and promulgate standards that the equipment and facilities must meet in order to qualify for the special tax treatment. Certificates will be issued for facilities and equipment meeting the standards.

The purpose of the act is to encourage the purchase of resource recovery and recycling equipment and the construction of facilities for those purposes through the use of the tax laws. In some cases the tax advantages will serve to make recycled goods competitive with those produced from virgin materials; in other cases the recycled goods may be given a competitive advantage because of the tax treatment. The act was not, however, intended to qualify every piece of equipment and every part of a facility that is connected with resource recovery and recycling, no matter how remote the connection. The last sentence of new G.S. 130-166.18(3) provides: "The standards shall be so developed as to qualify only those facilities and equipment exclusively used in the actual resource recovering or recycling process and shall exclude any incidental or supportive facilities and equipment." This provision restricts the equipment and facilities that can qualify and places the responsibility on the Department of Human Resources to include appropriate restrictive provisions in its standards. Accordingly, the adopted standards reflect the statutory mandate that only limited expenditures and property qualify for special tax treatment.

Chapter 764 itself does not define "recycling facility or equipment" or "resource recovery facility or equipment." These terms are, however, defined in Chapter 311, also enacted by the 1975 General Assembly and codified in G.S. 130-166.16. They are defined as follows: "'Resource recovery' -- the process of obtaining material or energy resources from solid waste"; "'recycling' -- the process by which recovered resources are transformed into new products in such a manner that the original products lose their identity."

The following standards were presented at the Public Hearing held in Raleigh, North Carolina, on April 22, 1976, and were adopted by the Department of Human Resources on May 3, 1976. The standards became effective June 2, 1976.

Immediately following the standards are examples of qualifying facilities and equipment.

Section 10 NCAC 10C .0500; STANDARDS FOR SPECIAL TAX TREATMENT OF RECYCLING AND RESOURCE RECOVERY EQUIPMENT AND FACILITIES; has been adopted and reads as follows:

.0501 RESOURCE RECOVERING FACILITIES

(a) A resource recovering facility is a building, or buildings, or parts thereof, and includes any equipment exclusively and integrally used therein for obtaining material or energy resources from solid waste. The facility also includes land occupied by the buildings and equipment.

(b) Facilities used to collect, sort, or otherwise prepare solid waste for reuse or recycling are resource recovering facilities.

(c) Incidental or supportive facilities and equipment as defined in .0506(a) of this section do not qualify for special tax treatment as resource recovering facilities.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0502 RESOURCE RECOVERING EQUIPMENT

Resource recovering equipment is equipment exclusively and integrally used in the actual process of recovering material or energy resources from solid waste. To qualify, the equipment need not be specially designed for the resource recovery process.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976 ; Readopted Eff. Dec. 5, 1977

.0503 RECYCLING FACILITIES

(a) A recycling facility is a building, or buildings, or parts thereof, and includes any equipment exclusively and integrally used in a process by which recovered resources are transformed into new products in such a manner that the original materials lose their identity. Recovered resources are materials that have been recovered from solid waste. The facility also includes the land occupied by the buildings and equipment.

(b) Incidental or supportive facilities and equipment as defined in .0506(a) of this Section do not qualify for special tax treatment as recycling facilities.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976 ; Readopted Eff. Dec. 5, 1977

.0504 RECYCLING PROCESS

(a) To constitute recycling, the recovered materials must be so altered in form that the original materials lose their identity and a new product is formed. A physical rather than a chemical change may be all that occurs but a substantial change in the form of the materials must occur.

(b) The recycling process ends when a new product has been created from the recovered materials, even though the complete manufacturing process involving the recycled products has not concluded.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0505 RECYCLING EQUIPMENT

Recycling equipment is equipment exclusively and integrally used in the actual process by which recovered resources are transformed into new products in such a manner that the original materials lose their identity. The equipment need not be specially designed for the recycling process.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0506 INCIDENTAL OR SUPPORTIVE FACILITIES AND EQUIPMENT

(a) Incidental or supportive facilities and equipment consist of a building, buildings, or parts thereof, land or equipment, which provide administrative or maintenance services to the resource recovery or recycling process or which provides a comfort or convenience for the employees.

(b) Buildings, land and equipment are used in the actual resource recovering or recycling process if they are an integral part of the process by which:

(1) material or energy resources are obtained from solid waste; or

(2) recovered resources are transformed into new products in such a manner that the original products lose their identity.

(c) Qualifying equipment and facilities must be used in a mechanical or chemical process, in transportation, or in storage.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0507 OPERATIONAL REQUIREMENTS FOR FACILITIES AND EQUIPMENT

All resource recovering and recycling facilities and equipment shall be in full compliance with the rules on solid waste management found in 10 NCAC 10C .0100 adopted by the Commission for Health Services.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0508 APPLICATION FOR TAX CERTIFICATION

(a) For the purposes of this rule, the following definitions shall apply:

(1) "Person" means any individual, partnership, firm, organization, corporation, association, business trust, company, or other legal entity.

(2) "Department of Human Resources" means the Director of the Division of Health Services or his authorized representative.

(b) No application for tax certification shall be received from any person unless submitted in triplicate to the Department

of Human Resources containing the following information:

- (1) general layout of resource recovery or recycling facilities and equipment;
- (2) specify and describe facilities and parts thereof to be considered (including therewith acreage involved);
- (3) specify and describe equipment exclusively used in resource recovering or recycling processes;
- (4) construction schedule if not yet completed, including anticipated date of final completion; and
- (5) the individual primarily responsible for management operation and maintenance of the facilities and equipment.

(c) The Department of Human Resources reserves the right to request additional information in the event the above does not provide sufficient specificity.

(d) Upon proper receipt of the above information, a representative of the division of health services shall inspect said facilities and equipment.

(e) Evaluation of such facilities and equipment shall be made in accordance with these rules. Based thereon, the division of health services shall issue a written decision denying or granting tax certification. Where a request is denied, such decision shall enumerate the reasons therefore.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0509 APPEALS

Appeal procedures shall be in accordance with Article 3 of the Administrative Procedure Act and the rules in 10 NCAC 1B.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0510 SEVERABILITY

If any provision of these standards or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the standards that can be given effect without the invalid provisions or applications, and to this end the provisions of these standards are declared to be severable.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

.0511 PAMPHLET

There is available from the sanitary engineering section, division of health services, Department of Human Resources, a pamphlet containing:

- (1) background information concerning these standards;
- (2) the standards; and
- (3) examples of types of facilities and equipment covered by these standards.

History Note: Statutory Authority G.S. 130-166.18(3);
Eff. June 2, 1976; Readopted Eff. Dec. 5, 1977

EXAMPLES

- (a) Retail Business. The Tarheel Variety Store maintains an area at the rear of its building where boxes and papers are baled. Materials that can be reused or recycled are bound together and transported by conveyor to a loading dock. The conveyor is used in other operations of the store and so is the loading dock.

How much of the building and machinery qualifies for special tax treatment as a resource recovering facility?

If the part of the store used for the sorting operation is used for no other purpose, it qualifies. The conveyor and loading dock do not qualify because they are not used exclusively for resource recovering.

- (b) Salvage Business. The Tarheel Salvage Company operates a salvage yard where junked automobiles are shredded and the metal parts are prepared for shipment out of the state for recycling. At the salvage yard the company maintains a crane, a conveyor, a shredder, and a compactor. In addition, there is located at the yard a trailer used as an office and snack bar and a parking lot.

How much of the facility qualifies for special tax treatment?

The land occupied by the yard itself, the crane, the shredder, the conveyor and the compactor all qualify because they are exclusively and integrally used in the actual resource recovery process. The office, snack bar, and parking lot do not qualify, even though they would not be there except for the salvage yard, because they are not used in the actual resource recovering process, but are rather supportive facilities.

- (c) Manufacturing Business. The Apex Widget Company uses a forklift truck to transport paper intended for recycling from various parts of its warehouse to a loading dock. The truck is used for this purpose about 75 percent of the time.

Does the truck qualify as resource recovering equipment?

No. It is not used exclusively for resource recovering and there is no provision in Chapter 764 for allowing the company special tax treatment on 75 percent of the cost of the truck; that is, no proration is permitted.

- (d) Paper Recovery. The Tarheel Paper Company maintains locations in fifty towns in eastern North Carolina where old newspapers may be deposited. Large metal containers are kept at each location. They are maintained free of charge on public property. The company also owns a truck that it uses to pick up the used paper at the various deposit locations for transportation to its plant in Kinston. The truck is used for no other purpose.

Do the deposit containers and truck qualify as resource recovering equipment?

Yes. They are exclusively used in the actual resource recovering process. Recovery of recyclable newsprint requires collection at several different locations and transportation to a central recycling facility; therefore, the containers and the truck are integral parts of the recovery process and are not merely supportive equipment.

- (e) Paper Manufacturing. Eastco Paper Company operates a paper mill that produces new paper from used newsprint. The process is in four major stages. First, newspapers are shredded into small pieces; second, a pulp is made; third, the pulp is rolled and dried; and fourth, sheets are cut and packaged.

Is the entire mill a recycling facility?

No. Recycling ends with the second stage of the process. At that point, a new product has been created from the recovered paper. The third and fourth stages of the process would be essentially the same if virgin materials were being used and do not constitute recycling. Therefore, only those parts of the facility used in the first two stages qualify for special tax treatment.

- (f) Glass Manufacturing. Apex Glass Company maintains a facility for grinding bottles to make paving materials. The facility consists of a small office building, two grinding machines, a receiving platform, a loading platform, and storage bins for bottles ready for grinding.

Does any of this facility qualify for special tax treatment and if so, how much?

A new product is created from recovered glass here, so the process constitutes recycling. The grinding machines, loading platform, receiving platform, and storage bins are all part of the recycling process and are actually used in recycling. They qualify for special tax treatment. The office building is a supportive facility and does not qualify.

APPENDIX E

Speakers Appearing Before the Used Tire and Waste
Oil Disposal Study Committee

- William L. Meyer, Head of the N. C. Solid and Hazardous Waste Management Branch
- Roger Schechter, Director of the N. C. Pollution Prevention Pays Program
- Jerry Kohl, Senior Engineering Extension Specialist, N. C. State University
- Sharon Valentine, Principal Investigator for the Cumberland County Rubber Crumb Feasibility Study and Tire Recycling Conference Coordinator
- Ted R. Bost, President, N. C. Service Station Association
- Robert E. Smith, Executive Vice-President, N. C. Tire Dealers and Retreaders Association, Inc.
- Lynn Phillips, Manager, Petroleum Management
- Angela Waldorf, Associate Director, N. C. Petroleum Council
- Ben Ross, Executive Director, Carolina Asphalt Pavement Association, Inc.
- Thomas E. Cole, Vice-President, Tire Division, Rubber Manufacturers Association
- Bobby T. Waters, Vice-President, N. C. Mosquito and Vector Control Association
- Pat Strong, Research Unit Head, N. C. Department of Transportation
- Frank Pace, State Road Maintenance Engineer, N. C. Department of Transportation
- Ed Regan, Fiscal Analyst, N. C. Association of County Commissioners
- Fred Baggett, General Counsel, N. C. League of Municipalities
- Bill Rowland, Owner of Rowland Landfill, Inc.

