

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

3

HOUSE BILL 36
Committee Substitute Favorable 4/26/07
Senate Agriculture/Environment/Natural Resources Committee Substitute
Adopted 6/12/07

Short Title: Haz. Materials Task Force Recommendations.

(Public)

Sponsors:

Referred to:

January 30, 2007

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE OVERSIGHT OF HAZARDOUS WASTE FACILITIES, AS RECOMMENDED BY THE GOVERNOR'S HAZARDOUS MATERIALS TASK FORCE.

The General Assembly of North Carolina enacts:

PART I. REGULATORY RECOMMENDATIONS

REQUIRE APPLICANTS FOR PERMITS FOR COMMERCIAL HAZARDOUS WASTE FACILITIES TO DEMONSTRATE FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION AND FOR SCREENING FOR POTENTIAL OFF-SITE MIGRATION OF CONTAMINATION IN THE EVENT OF A RELEASE OF HAZARDOUS WASTE OR HAZARDOUS WASTE CONSTITUENTS INTO THE ENVIRONMENT

SECTION 1.1.(a) Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-295.04. Financial responsibility requirements for applicants for a permit and permit holders for hazardous waste facilities.

(a) In addition to any other financial responsibility requirements for solid waste management facilities under this Part, the applicant for a permit or a permit holder for a hazardous waste facility shall establish financial assurance that will ensure that sufficient funds are available for facility closure, post-closure maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and nonsudden accidental occurrences, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.

1 **(b)** To establish sufficient availability of funds under this section, the applicant
2 for a permit or a permit holder for a hazardous waste facility may use insurance,
3 financial tests, third-party guarantees by persons who can pass the financial test,
4 guarantees by corporate parents who can pass the financial test, irrevocable letters of
5 credit, trusts, surety bonds, or any other financial device, or any combination of the
6 foregoing, shown to provide protection equivalent to the financial protection that would
7 be provided by insurance if insurance were the only mechanism used.

8 **(c)** The applicant for a permit or a permit holder for a hazardous waste facility,
9 and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent,
10 including any joint venturer with a direct or indirect interest in the applicant, permit
11 holder, or parent, shall be a guarantor of payment for closure, post-closure maintenance
12 and monitoring, any corrective action that the Department may require, and to satisfy
13 any potential liability for sudden and nonsudden accidental occurrences arising from the
14 operation of the hazardous waste facility.

15 **(d)** In addition to any other financial assurance requirements for hazardous waste
16 management facilities under this section, an applicant for a permit or a permit holder for
17 a commercial hazardous waste facility shall establish financial assurance that will
18 ensure that sufficient funds are available for corrective action and for off-site screening
19 for potential migration of contaminants in the event of a release of hazardous waste or
20 hazardous waste constituents into the environment in an amount approved by the
21 Department. The applicant for a permit or a permit holder may not use a financial test or
22 captive insurance to establish financial assurance under this subsection.

23 **(e)** The Department may require an applicant for a permit for a hazardous waste
24 facility to provide cost estimates for facility closure, post-closure maintenance and
25 monitoring, and any corrective action that the Department may require to the
26 Department. The Department may require an applicant for a permit for a commercial
27 hazardous waste facility to provide cost estimates for off-site screening for potential
28 migration of contaminants in the event of a release of hazardous waste or hazardous
29 waste constituents into the environment.

30 **(f)** Assets used to meet the financial assurance requirements of this section shall
31 be in a form that will allow the Department to readily access funds for the purposes set
32 out in this section. Assets used to meet financial assurance requirements of this section
33 shall not be accessible to the permit holder except as approved by the Department.

34 **(g)** The Department may provide a copy of any filing that an applicant for a
35 permit or a permit holder for a hazardous waste facility submits to the Department to
36 meet the financial responsibility requirements under this section to the State Treasurer.
37 The State Treasurer shall review the filing and provide the Department with a written
38 opinion as to the adequacy of the filing to meet the purposes of this section, including
39 any recommended changes.

40 **(h)** In order to continue to hold a permit for a hazardous waste facility, a permit
41 holder must maintain financial responsibility as required by this Part and must provide
42 any information requested by the Department to establish that the permit holder
43 continues to maintain financial responsibility.

1 (i) An applicant for a permit or a permit holder for a hazardous waste facility
2 shall satisfy the Department that the applicant or permit holder has met the financial
3 responsibility requirements of this Part before the Department is required to otherwise
4 review the application.

5 (j) The Commission may adopt rules regarding financial responsibility in order
6 to implement this section."

7 **SECTION 1.1.(b)** G.S. 130A-294(b) reads as rewritten:

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

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

35 **SECTION 1.1.(c)** G.S. 130A-290(a) is amended by adding a new
36 subdivision to read:

37 "(8a) 'Hazardous waste constituent' has the same meaning as in 40 Code of
38 Federal Regulations § 260.10 (1 July 2006)."

39 **SECTION 1.1.(d)** G.S. 130A-294(b2) reads as rewritten:

40 "(b2) The Department may require an applicant for a permit or a permit holder
41 under this Article to satisfy the Department that the applicant, ~~applicant or permit~~
42 holder, and any parent, subsidiary, or other affiliate of the ~~applicant~~ applicant, permit
43 holder, or ~~parent~~ parent, including any joint venturer with a direct or indirect interest in
44 the applicant, permit holder, or parent:

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

8"

9 **SECTION 1.1.(e)** G.S. 130A-294(j) is repealed.

10 **SECTION 1.1.(f)** G.S. 130A-308(a) reads as rewritten:

11 "(a) Standards adopted under G.S. 130A-294(c) and a permit issued under
12 G.S. 130A-294(c) shall require corrective action for all releases of hazardous waste or
13 constituents from any solid waste management unit at a treatment, storage, or disposal
14 facility seeking a permit under G.S. 130A-294(c), regardless of the time at which waste
15 was placed in such unit. Permits issued under G.S. 130A-294(c) which implement
16 Section 3005 of RCRA (42 U.S.C. § 6925) shall contain schedules of compliance for
17 ~~such~~ corrective action (~~where such if~~ corrective action cannot be completed prior to
18 issuance of the ~~permit~~ permit and ~~assurances of financial responsibility~~ establishment of
19 financial assurance for completing ~~such~~ corrective action. Notwithstanding any other
20 provision of this section, this section shall apply only to units, facilities, and permits that
21 are covered by Section 3004(u) of RCRA (42 U.S.C. § 6924(u)). Notwithstanding the
22 foregoing, corrective action authorized elsewhere in this Chapter shall not be limited by
23 this section."

24 **SECTION 1.1.(g)** The catch line of G.S. 130A-310.9 reads as rewritten:

25 "**§ 130A-310.9. Voluntary remedial actions; ~~maximum financial responsibility;~~**
26 **limitation of liability; agreements; implementation and oversight by**
27 **private engineering and consulting firms.**"

28 **SECTION 1.1.(h)** This section becomes effective 1 October 2007.

29
30 **REQUIRE APPLICANTS FOR PERMITS FOR HAZARDOUS WASTE**
31 **FACILITIES TO SEEK INPUT FROM LOCAL GOVERNMENT AND**
32 **EMERGENCY RESPONSE AGENCIES ON THEIR CONTINGENCY**
33 **PLANS FOR THE FACILITIES**

34
35 **SECTION 1.2.(a)** G.S. 130A-295 is amended by adding four new
36 subsections to read:

37 "(d) At least 120 days prior to submitting an application, an applicant for a permit
38 for a hazardous waste facility shall provide to the county in which the facility is located,
39 to any municipality with planning jurisdiction over the site of the facility, and to all
40 emergency response agencies that have a role under the contingency plan for the facility
41 all of the following information:

42 (1) Information on the nature and type of operations to occur at the
43 facility.

1 (2) Identification of the properties of the hazardous waste to be managed
2 at the facility.

3 (3) A copy of the draft contingency plan for the facility that includes the
4 proposed role for each local government and each emergency response
5 agency that received information under this subsection.

6 (4) Information on the hazardous waste locations within the facility.

7 (e) Within 60 days of receiving the information, each local government and
8 emergency response agency that receives information under subsection (d) of this
9 section shall respond to the applicant in writing as to the adequacy of the contingency
10 plan and the availability and adequacy of its resources and equipment to respond to an
11 emergency at the facility that results in a release of hazardous waste or hazardous waste
12 constituents into the environment according to the role set forth for the local
13 government or emergency response agency under the contingency plan.

14 (f) An applicant for a permit for a hazardous waste facility shall include
15 documentation that each local government and emergency response agency received the
16 information required under subsection (d) of this section, the written responses the
17 applicant received under subsection (e) of this section, and verification by each that its
18 resources and equipment are available and adequate to respond to an emergency at the
19 facility in accordance with its role as set forth in the contingency plan. If the applicant
20 does not receive a timely verification from a local government or emergency response
21 agency notified under subsection (d) of this section, the Department shall verify the
22 adequacy of resources and equipment for emergency response during the course of
23 review of the permit application, taking into account any contracts entered into by the
24 applicant for such emergency response resources.

25 (g) At each two-year interval after a permit for a hazardous waste facility is
26 issued, the permit holder shall verify that the resources and equipment of each local
27 government and emergency response agency are available and adequate to respond to an
28 emergency at the facility in accordance with its role as set forth in the contingency plan
29 and shall submit this verification to the Department."

30 **SECTION 1.2.(b)** This section is effective when it becomes law and applies
31 to applications pending on the date this section becomes effective. An applicant shall
32 provide the information required under G.S. 130A-295(d), as enacted by this section, as
33 it relates to an application pending on the date this section becomes effective within 30
34 days after this section becomes effective.
35

36 **REQUIRE OPERATORS OF COMMERCIAL HAZARDOUS WASTE**
37 **FACILITIES TO MAINTAIN CERTAIN INFORMATION AT AN OFF-SITE**
38 **LOCATION AND MAKE THESE ACCESSIBLE TO THE DEPARTMENT**
39 **OF ENVIRONMENT AND NATURAL RESOURCES, LOCAL**
40 **GOVERNMENT, AND EMERGENCY RESPONSE AGENCIES THAT**
41 **HAVE A ROLE UNDER CONTINGENCY PLANS**
42

43 **SECTION 1.3.(a)** G.S. 130A-295.01 is amended by adding a new
44 subsection to read:

1 "(c) The owner or operator of a commercial hazardous waste facility shall
2 maintain a record of information at an off-site location that identifies the generators of
3 the waste and the quantity, type, location, and hazards of the waste at the facility and
4 shall make this information available in a form and manner to be determined by the
5 Department, accessible to the Department, to the county in which the facility is located,
6 to any municipality with planning jurisdiction over the site of the facility, and to
7 emergency response agencies that have a role under the contingency plan for the
8 facility."

9 **SECTION 1.3.(b)** This section becomes effective 1 October 2007.

10
11 **REQUIRE AN APPLICANT FOR A PERMIT FOR A COMMERCIAL**
12 **HAZARDOUS WASTE FACILITY TO NOTIFY PERSONS WHO RESIDE**
13 **OR OWN PROPERTY LOCATED WITHIN ONE-FOURTH MILE OF THE**
14 **PROPOSED FACILITY THAT AN APPLICATION HAS BEEN FILED,**
15 **REQUIRE PERMIT HOLDERS TO PROVIDE PERIODIC NOTICE TO**
16 **THESE PERSONS THAT INCLUDES INFORMATION CONCERNING THE**
17 **EMERGENCY RESPONSE PLAN FOR THE FACILITY, AND REQUIRE**
18 **THAT DOCUMENTATION OF THESE NOTICES BE PROVIDED TO THE**
19 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

20
21 **SECTION 1.4.(a)** G.S. 130A-295.01 is amended by adding four new
22 subsections to read:

23 "(d) Within 10 days of filing an application for a permit for a commercial
24 hazardous waste facility, the applicant shall notify every person who resides or owns
25 property located within one-fourth mile of any property boundary of the facility that the
26 application has been filed. The notice shall be by mail to residents and by certified mail
27 to property owners, or by any other means approved by the Department, shall be in a
28 form approved by the Department, and shall include all of the following:

29 (1) The location of the facility.

30 (2) A description of the facility.

31 (3) The hazardous and nonhazardous wastes that are to be received and
32 processed at the facility.

33 (4) A description of the emergency response plan for the facility.

34 (e) The permit holder for a commercial hazardous waste facility shall publish a
35 notice that includes the information set out in subsection (d) of this section annually
36 beginning one year after the permit is issued. The notice shall be published in a form
37 and manner approved by the Department in a newspaper of general circulation in the
38 community where the facility is located.

39 (f) The permit holder for a commercial hazardous waste facility shall provide the
40 information set out in subdivisions (1) through (4) of subsection (d) of this section by
41 mail to the persons described in subsection (d) of this section at the midpoint of the
42 period for which the permit is issued.

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

4 SECTION 1.4.(b) This section becomes effective 1 October 2007.

5
6 **REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
7 **RESOURCES TO CONSIDER, WHEN DETERMINING THE FREQUENCY**
8 **OF INSPECTIONS AT COMMERCIAL HAZARDOUS WASTE**
9 **FACILITIES, CHANGES IN SENSITIVE LAND USE OR POPULATION**
10 **DENSITY THAT OCCURRED DURING THE PREVIOUS YEAR IN THE**
11 **AREA LOCATED WITHIN ONE-FOURTH MILE OF ANY PROPERTY**
12 **BOUNDARY OF SUCH FACILITIES**

13
14 SECTION 1.5.(a) G.S. 130A-295.01 is amended by adding a new
15 subsection to read:

16 "(e) No later than 31 January of each year, the owner or operator of a commercial
17 hazardous waste facility shall report to the Department any increase or decrease in the
18 number of sensitive land uses and any increase or decrease in estimated population
19 density based on information provided by the local government that has planning
20 jurisdiction over the site on which the facility is located that occurred during the
21 previous calendar year in the area located within one-fourth mile of any property
22 boundary of the facility. Changes shall be recorded in the operating record of the
23 facility. As used in this subsection, 'sensitive land use' includes residential housing,
24 places of assembly, places of worship, schools, day care providers, and hospitals.
25 Sensitive land use does not include retail businesses."

26 SECTION 1.5.(b) G.S. 130A-295.02(j) reads as rewritten:

27 "(j) For purposes of this subsection, special purpose commercial hazardous waste
28 facilities include: a facility that manages limited quantities of hazardous waste; a facility
29 that limits its hazardous waste management activities to reclamation or recycling,
30 including energy or materials recovery or a facility that stores hazardous waste
31 primarily for use at such facilities; or a facility that is determined to be low risk under
32 rules adopted by the Commission pursuant to this subsection. The Commission shall
33 adopt rules ~~establishing to determine whether a commercial hazardous waste facility is a~~
34 ~~special purpose commercial hazardous waste facility and to establish classifications of~~
35 ~~special purpose commercial hazardous waste facilities. reasonable times and frequencies~~
36 ~~for the presence of a resident inspector on less than a full time basis at special purpose~~
37 ~~commercial hazardous waste facilities. Rules adopted pursuant to this subsection~~ The
38 rules to determine whether a commercial hazardous waste facility is a special purpose
39 commercial hazardous waste facility and to establish classifications of special purpose
40 commercial hazardous waste facilities shall ~~establish classifications of special purpose~~
41 ~~hazardous waste facilities~~ be based on factors including, but not limited to, the size of
42 the facility, the type of treatment or storage being performed, the nature and volume of
43 waste being treated or stored, the uniformity, similarity, or lack of diversity of the waste
44 streams, the predictability of the nature of the waste streams and their treatability,

1 whether the facility utilizes automated monitoring or safety devices that adequately
2 perform functions that would otherwise be performed by a resident inspector, the fact
3 that reclamation or recycling is being performed at the facility, and the compliance
4 history of the facility and its operator. ~~Special purpose commercial hazardous waste~~
5 ~~facilities shall be subject to inspection at all times during which the facility is in~~
6 ~~operation, undergoing any maintenance or repair, or undergoing any test or calibration.~~
7 Based on the foregoing factors and any increase or decrease in the number of sensitive
8 land uses over time or in estimated population density over time reported pursuant to
9 G.S. 130A-295.01(e), rules ~~Rules~~ adopted pursuant to this subsection shall establish
10 times and frequencies for the presence of a resident inspector on less than a full-time
11 basis at special purpose commercial hazardous waste facilities and specify a minimum
12 number of additional inspections at special purpose hazardous waste facilities. Special
13 purpose commercial hazardous waste facilities that utilize hazardous waste as a fuel
14 source shall be inspected a minimum of 40 hours per week, unless compliance data for
15 these facilities can be electronically monitored and recorded off-site by the Department.
16 The Department, considering the benefits provided by electronic monitoring, shall
17 determine the number of hours of on-site inspection required at these facilities. The
18 Department shall maintain records of all inspections at special purpose commercial
19 hazardous waste facilities. Such records shall contain sufficient detail and shall be
20 arranged in a readily understandable format so as to facilitate determination at any time
21 as to whether the special purpose commercial hazardous waste facility is in compliance
22 with the requirements of this subsection and of rules adopted pursuant to this
23 subsection. Notwithstanding any other provision of this section, special purpose
24 commercial hazardous waste facilities shall be subject to inspection at all times during
25 which the facility is in operation, undergoing any maintenance or repair, or undergoing
26 any test or calibration."

27 **SECTION 1.5.(c)** This section is effective when it becomes law.
28

29 **REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO PROVIDE**
30 **SECURITY AND SURVEILLANCE AT THE FACILITY 24 HOURS A DAY,**
31 **SEVEN DAYS A WEEK IN ORDER TO MONITOR SITE CONDITIONS**
32 **AND TO CONTROL ENTRY TO THE SITE OF THE FACILITY**
33

34 **SECTION 1.6.(a)** G.S. 130A-295.01 is amended by adding a new
35 subsection to read:

36 "(f) The owner or operator of a commercial hazardous waste facility shall provide
37 a security and surveillance system at the facility 24 hours a day, seven days a week in
38 order to continuously monitor site conditions and to control entry. The security and
39 surveillance system shall be capable of promptly detecting unauthorized access to the
40 facility; monitoring conditions; identifying operator errors; and detecting any discharge
41 that could directly or indirectly cause a fire, explosion, or release of hazardous waste or
42 hazardous waste constituents into the environment or threaten human health. The
43 requirements of this subsection may be satisfied either by employing trained facility
44 personnel or by providing an electronic security and surveillance system which may

1 include television, motion detectors, heat-sensing equipment, combustible gas monitors,
2 or any combination of these, as approved by the Department."

3 **SECTION 1.6.(b)** This section becomes effective 1 October 2007.

4
5 **REQUIRE PERMITS FOR COMMERCIAL HAZARDOUS WASTE**
6 **FACILITIES TO BE SUBJECT TO RENEWAL AT LEAST EVERY FIVE**
7 **YEARS**

8
9 **SECTION 1.7.(a)** G.S. 130A-295.01 is amended by adding a new
10 subsection to read:

11 "(g) The Department shall not issue a permit for a commercial hazardous waste
12 facility for a period of more than five years. A permit holder for a commercial
13 hazardous waste facility who intends to apply for renewal of the permit shall submit an
14 application for the renewal of the permit at least one year before the permit expires
15 unless the Department approves a shorter period of time."

16 **SECTION 1.7.(b)** This section is effective when it becomes law.

17
18 **AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
19 **RESOURCES TO REGULATE FACILITIES AT WHICH HAZARDOUS**
20 **WASTE IS STORED FOR MORE THAN 24 HOURS BUT LESS THAN 10**
21 **DAYS AND DIRECT THE DEPARTMENT TO STUDY THE NEED FOR**
22 **FURTHER REGULATION OF THESE FACILITIES**

23
24 **SECTION 1.8.(a)** G.S. 130A-290(a) is amended by renumbering
25 subdivision (13a) as (13b) and by adding a new subdivision to read:

26 "(13a) 'Hazardous waste transfer facility' means a facility or location where a
27 hazardous waste transporter stores hazardous waste for a period of
28 more than 24 hours but less than 10 days."

29 **SECTION 1.8.(b)** G.S. 130A-290(a)(9) reads as rewritten:

30 "(9) 'Hazardous waste facility' means a facility for the collection, storage,
31 processing, treatment, recycling, recovery, or disposal of hazardous
32 waste. Hazardous waste facility does not include a hazardous waste
33 transfer facility that meets the requirements of 40 Code of Federal
34 Regulations § 263.12 (1 July 2006)."

35 **SECTION 1.8.(c)** Part 2 of Article 9 of Chapter 130A of the General
36 Statutes is amended by adding a new section to read:

37 **§ 130A-295.05. Hazardous waste transfer facilities.**

38 (a) The owner or operator of a hazardous waste transfer facility in North Carolina
39 shall register the facility with the Department and shall obtain a hazardous waste
40 transfer facility identification number for the facility. In order to obtain a hazardous
41 waste transfer facility identification number for the facility, the owner or operator of the
42 facility shall provide all of the following information to the Department at the time of
43 registration:

44 (1) The location of the hazardous waste transfer facility.

1 (2) The name of the owner of the property on which the hazardous waste
2 transfer facility is located.

3 (b) Except during transportation emergencies as determined by the Department,
4 the temporary storage, consolidation, or commingling of hazardous waste may occur
5 only at a hazardous waste transfer facility that has been issued a facility identification
6 number by the Department.

7 (c) A hazardous waste transporter and the owner or operator of a hazardous
8 waste transfer facility shall conduct all operations at any hazardous waste transfer
9 facility in compliance with the requirements of 40 Code of Federal Regulations Part 263
10 (1 July 2006), 49 U.S.C. § 5101, et seq., and any laws, regulations, or rules enacted or
11 adopted pursuant to these federal laws. Except as preempted under 49 U.S.C. § 5125, a
12 hazardous waste transporter and the owner or operator of a hazardous waste transfer
13 facility shall also conduct all operations at any hazardous waste transfer facility in
14 compliance with all applicable State laws or rules.

15 (d) A hazardous waste transporter shall notify the Department, on a form
16 prescribed by the Department, of every hazardous waste transfer facility in North
17 Carolina that the transporter uses. A hazardous waste transporter shall retain all records
18 that are required to be maintained for at least three years.

19 (e) The owner or operator of a hazardous waste transfer facility shall notify the
20 Department, on a form prescribed by the Department, of every hazardous waste
21 transporter that makes use of the facility. The owner or operator of a hazardous waste
22 transfer facility shall retain all records that are required to be maintained for at least
23 three years."

24 **SECTION 1.8.(d)** The Department of Environment and Natural Resources
25 shall study the need for further regulation of hazardous waste transfer facilities, as
26 defined in G.S. 130A-290(a)(13a), as enacted by subsection (a) of this section, including
27 whether to require these facilities to obtain a permit under Part 2 of Article 9 of Chapter
28 130A of the General Statutes, pay permit fees, provide contingency plans, and
29 demonstrate financial responsibility. The Department of Environment and Natural
30 Resources shall report its findings and recommendations, including any legislative
31 proposals, to the Environmental Review Commission on or before 15 February 2008.

32 **SECTION 1.8.(e)** This section becomes effective 1 October 2007.

33
34 **REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO INSTALL**
35 **AND MAINTAIN ON-SITE WIND MONITORS**

36
37 **SECTION 1.9.(a)** G.S. 130A-295.01 is amended by adding a new
38 subsection to read:

39 "(h) The operator of a commercial hazardous waste facility shall install an on-site
40 wind monitor approved by the Department. The wind monitor required shall be located
41 so that the real-time wind direction can be determined from a remote location in the
42 event of a release of hazardous waste or hazardous waste constituents into the
43 environment."

44 **SECTION 1.9.(b)** This section becomes effective 1 October 2007.

1
2 **PROVIDE THAT A LOCAL ZONING OR LAND-USE ORDINANCE IS**
3 **PRESUMED TO BE VALID AND ENFORCEABLE TO THE EXTENT THE**
4 **ZONING OR LAND-USE ORDINANCE IMPOSES REQUIREMENTS,**
5 **RESTRICTIONS, OR CONDITIONS THAT ARE GENERALLY**
6 **APPLICABLE TO DEVELOPMENT; AND REQUIRE THE OFFICE OF**
7 **THE GOVERNOR TO SEEK THE ADVICE OF LOCAL UNITS OF**
8 **GOVERNMENT REGARDING THE ADEQUACY OF CURRENT**
9 **CRITERIA THE SECRETARY MUST CONSIDER WHEN DECIDING**
10 **WHETHER TO PREEMPT THESE LOCAL ORDINANCES**

11
12 **SECTION 1.10.(a)** G.S. 130A-293 reads as rewritten:

13 **"§ 130A-293. Local ordinances prohibiting hazardous waste facilities invalid;**
14 **petition to preempt local ordinance.**

15 (a) It is the intent of the General Assembly to maintain a uniform system for the
16 management of hazardous waste and to place limitations upon the exercise by all units
17 of local government in North Carolina of the power to regulate the management of
18 hazardous waste by means of special, local, or private acts or resolutions, ordinances,
19 property restrictions, zoning regulations, or otherwise. Notwithstanding any authority
20 granted to counties, municipalities, or other local authorities to adopt local ordinances,
21 including but not limited to those imposing taxes, fees, or charges or regulating health,
22 environment, or land use, any local ordinance that prohibits or has the effect of
23 prohibiting the establishment or operation of a hazardous waste facility that the
24 Secretary has preempted pursuant to subsections (b) through (f) of this section, shall be
25 invalid to the extent necessary to effectuate the purposes of this Chapter. To this end, all
26 provisions of special, local, or private acts or resolutions are repealed that:

- 27 (1) Prohibit the transportation, treatment, storage, or disposal of hazardous
28 waste within any county, city, or other political subdivision.
29 (2) Prohibit the siting of a hazardous waste facility within any county,
30 city, or other political subdivision.
31 (3) Place any restriction or condition not placed by this Article 9 ~~of~~
32 ~~Chapter 130A of the General Statutes~~ upon the transportation,
33 treatment, storage, or disposal of hazardous waste, or upon the siting
34 of a hazardous waste facility within any county, city, or other political
35 subdivision.
36 (4) In any manner are in conflict or inconsistent with the provisions of this
37 Article. ~~Article 9 of Chapter 130A of the General Statutes.~~

38 (a1) No special, local, or private acts ~~or resolutions~~ act or resolution enacted or
39 taking effect hereafter may be construed to modify, amend, or repeal any portion of this
40 Article 9 ~~of Chapter 130A of the General Statutes~~ unless it expressly provides for such
41 by specific references to the appropriate section of this ~~Part~~ Article. Further to this end,
42 all provisions of local ordinances, including those regulating land use, adopted by
43 counties, municipalities, or other local authorities that prohibit or have the effect of

1 prohibiting the establishment or operation of a hazardous waste facility are invalidated
2 to the extent preempted by the Secretary pursuant to this ~~Section~~-section.

3 (b) When a hazardous waste facility would be prevented from construction or
4 operation by a county, municipal, or other local ordinance, the operator of the proposed
5 facility may petition the Secretary to review the matter. After receipt of a petition, the
6 Secretary shall hold a hearing in accordance with the procedures in subsection (c) of this
7 section and shall determine whether or to what extent to preempt the local ordinance to
8 allow for the establishment and operation of the facility.

9 (c) When a petition described in subsection (b) of this section has been filed with
10 the Secretary, the Secretary shall hold a public hearing to consider the petition. The
11 public hearing shall be held in the affected locality within 60 days after receipt of the
12 petition by the Secretary. The Secretary shall give notice of the public hearing by:

13 (1) Publication in a newspaper or newspapers having general circulation in
14 the county or counties where the facility is or is to be located or
15 operated, once a week for three consecutive weeks, the first notice
16 appearing at least 30 days prior to the scheduled date of the hearing;
17 and

18 (2) First class mail to persons who have requested notice. The Secretary
19 shall maintain a mailing list of persons who request notice in advance
20 of the hearing pursuant to this section. Notice by mail shall be
21 complete upon deposit of a copy of the notice in a post-paid wrapper
22 addressed to the person to be notified at the address that appears on the
23 mailing list maintained by the Board, in a post office or official
24 depository under the exclusive care and custody of the United States
25 Postal Service.

26 (c1) Any interested person may appear before the Secretary at the hearing to offer
27 testimony. In addition to testimony before the Secretary, any interested person may
28 submit written evidence to the Secretary for the Secretary's consideration. At least 20
29 days shall be allowed for receipt of written comment following the hearing.

30 (d) A local zoning or land-use ordinance is presumed to be valid and enforceable
31 to the extent the zoning or land-use ordinance imposes requirements, restrictions, or
32 conditions that are generally applicable to development, including, but not limited to,
33 setback, buffer, and stormwater requirements, unless the Secretary makes a finding of
34 fact to the contrary. The Secretary shall determine whether or to what extent to preempt
35 local ordinances so as to allow for the establishment and operation of the facility no
36 later than 60 days after conclusion of the hearing. The Secretary shall preempt a local
37 ordinance only if the Secretary makes all ~~five~~ of the following findings:

38 (1) That there is a local ordinance that would prohibit or have the effect of
39 prohibiting the establishment or operation of a hazardous waste
40 facility.

41 (2) That the proposed facility is needed in order to establish adequate
42 capability to meet the current or projected hazardous waste
43 management needs of this State or to comply with the terms of any
44 interstate agreement for the management of hazardous waste to which

1 the State is a party and therefore serves the interests of the citizens of
2 the State as a whole.

3 (3) That all legally required State and federal permits or approvals have
4 been issued by the appropriate State and federal agencies or that all
5 State and federal permit requirements have been satisfied and that the
6 permits or approvals have been denied or withheld only because of the
7 local ordinance.

8 (4) That local citizens and elected officials have had adequate opportunity
9 to participate in the siting process.

10 (5) That the construction and operation of the facility will not pose an
11 unreasonable health or environmental risk to the surrounding locality
12 and that the facility operator has taken or consented to take reasonable
13 measures to avoid or manage foreseeable risks and to comply to the
14 maximum feasible extent with applicable local ordinances.

15 (d1) If the Secretary does not make all ~~five of the findings set out above, under~~
16 subsection (d) of this section, the Secretary shall not preempt the challenged local
17 ordinance. The Secretary's decision shall be in writing and shall identify the evidence
18 submitted to the Secretary plus any additional evidence used in arriving at the decision.

19 (e) The decision of the Secretary shall be final unless a party to the action files a
20 written appeal under Article 4 of Chapter 150B of the General Statutes, as modified by
21 G.S. 7A-29 and this section, within 30 days of the date of the decision. The record on
22 appeal shall consist of all materials and information submitted to or considered by the
23 Secretary, the Secretary's written decision, a complete transcript of the hearing, all
24 written material presented to the Secretary regarding the location of the facility, the
25 specific findings required by subsection (d) of this section, and any minority positions
26 on the specific findings required by subsection (d) of this section. The scope of judicial
27 review shall be that the court may affirm the decision of the Secretary, or may remand
28 the matter for further proceedings, or may reverse or modify the decision if the
29 substantial rights of the parties may have been prejudiced because the agency findings,
30 inferences, conclusions, or decisions are:

31 (1) In violation of constitutional provisions;

32 (2) In excess of the statutory authority or jurisdiction of the agency;

33 (3) Made upon unlawful procedure;

34 (4) Affected by other error of law;

35 (5) Unsupported by substantial evidence admissible under
36 G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as
37 submitted; or

38 (6) Arbitrary or capricious.

39 (e1) If the court reverses or modifies the decision of the agency, the judge shall set
40 out in writing, which writing shall become part of the record, the reasons for the
41 reversal or modification.

42 (f) In computing any period of time prescribed or allowed by this procedure, the
43 provisions of Rule 6(a) of the Rules of Civil Procedure, G.S. 1A-1, shall apply.

44 (g) Repealed by Session Laws 1989, c. 168, s. 13."

1 **SECTION 1.10.(b)** The Office of the Governor shall seek the advice of units
2 of local government to determine if the criteria that the Secretary of Environment and
3 Natural Resources considers in determining whether or to what extent to preempt local
4 ordinances pursuant to G.S. 130A-293, as amended by subsection (a) of this section,
5 should be further amended. The Office of the Governor shall report its findings and
6 recommendations, including any legislative proposals to the Environmental Review
7 Commission on or before 1 March 2008.

8 **SECTION 1.10.(c)** This section is effective when it becomes law.
9

10 **PART II. CLARIFYING, CONFORMING, AND TECHNICAL CHANGES**

11
12 **SECTION 2.1.(a)** G.S. 130A-294(c) reads as rewritten:

13 "(c) The Commission shall adopt and the Department shall enforce rules
14 ~~concerning governing~~ the management of hazardous waste. These rules shall establish a
15 complete and integrated regulatory scheme in the area of hazardous waste ~~management~~
16 management, implement this Part, and shall provide for: shall:

- 17 (1) ~~Establishing~~ Establish criteria for hazardous waste, ~~identifying~~ identify
18 the characteristics of hazardous ~~waste and listing~~ waste, and list
19 particular hazardous ~~waste;~~ waste.
- 20 (1a) ~~Establishing~~ Establish criteria for hazardous constituents, ~~identifying~~
21 identify the characteristics of hazardous ~~constituents~~ and
22 ~~listing~~ constituents, and list particular hazardous
23 ~~constituents;~~ constituents.
- 24 (2) ~~Record keeping~~ Require record keeping and reporting by generators
25 and transporters of hazardous waste and owners and operators of
26 hazardous waste ~~facilities;~~ facilities.
- 27 (3) ~~Proper~~ Require proper labeling of hazardous waste
28 ~~containers;~~ containers.
- 29 (4) ~~Use of~~ Require use of appropriate containers for hazardous
30 ~~waste;~~ waste.
- 31 (5) ~~A~~ Require maintenance of a manifest system to assure that all
32 hazardous waste is designated for treatment, storage or disposal at a
33 hazardous waste facility to which a permit has been ~~issued;~~ issued.
- 34 (6) ~~Proper~~ Require proper transportation of hazardous ~~waste;~~ waste.
- 35 (7) ~~Treatment,~~ Develop treatment storage and disposal standards of
36 performance and techniques to be used by hazardous waste
37 ~~facilities;~~ facilities.
- 38 (8) ~~Location,~~ Develop standards regarding location, design, ownership and
39 construction of hazardous waste facilities; provided, however, that no
40 hazardous waste disposal facility or polychlorinated biphenyl disposal
41 facility shall be located within 25 miles of any other hazardous waste
42 disposal facility or polychlorinated biphenyl disposal ~~facility;~~ facility.
- 43 (9) ~~Plans~~ Require plans to minimize unanticipated damage from treatment,
44 storage or disposal of hazardous waste; and a plan or plans providing

- 1 for the establishment and/or operation of one or more hazardous waste
 2 facilities in the absence of adequate approved hazardous waste
 3 facilities established or operated by any person within the ~~State~~;State.
 4 (10) ~~Proper~~Require proper maintenance and operation of hazardous waste
 5 facilities, including requirements for ownership by any person or the
 6 State, require demonstration of financial responsibility (~~including~~
 7 ~~requirements for sufficient availability of funds for facility closure and~~
 8 ~~post-closure monitoring and corrective measures through the use of a~~
 9 ~~letter of credit, insurance, surety, trust agreement, financial test, or~~
 10 ~~financial test and corporate guarantee~~), in accordance with this section
 11 and G.S. 130A-295.04, provide for training of personnel, and provide
 12 for continuity of operation and procedures for establishing and
 13 maintaining hazardous waste facilities;facilities.
 14 (11) ~~Monitoring by~~Require owners or operators of hazardous waste
 15 ~~facilities~~; facilities to monitor the facilities.
 16 (12) ~~Inspection~~Authorize or require inspection or copying of records
 17 required to be ~~kept~~;kept by owners or operators.
 18 (13) ~~Obtaining and analyzing~~Provide for collection and analysis of
 19 hazardous waste samples and samples of hazardous waste containers
 20 and labels from generators and transporters and from owners and
 21 operators of hazardous waste ~~facilities~~;facilities.
 22 (14) ~~A~~Develop a permit system governing the establishment and operation
 23 of hazardous waste ~~facilities~~;facilities.
 24 (15) ~~Additional~~Develop additional requirements as necessary for the
 25 effective management of hazardous ~~waste~~;waste.
 26 (16) ~~The~~Require the operator of the hazardous waste disposal facility ~~shall~~
 27 to maintain adequate insurance to cover foreseeable claims arising
 28 from the operation of the facility. The Department shall determine
 29 what constitutes an adequate amount of ~~insurance~~;insurance.
 30 (17) ~~The~~Require the bottom of a hazardous waste disposal facility ~~shall to~~
 31 be at least 10 feet above the seasonal high water table and more when
 32 necessary to protect the public health and the ~~environment~~;
 33 ~~and~~environment.
 34 (18) ~~The~~Require the operator of a hazardous waste disposal facility ~~shall to~~
 35 make monthly reports to the board of county commissioners of the
 36 county in which the facility is located on the kinds and amounts of
 37 hazardous wastes in the facility."

38 SECTION 2.1.(b) G.S. 130A-295.01 reads as rewritten:

39 "§ 130A-295.01. **Additional requirement for commercial hazardous waste**
 40 **treatment facilities.**

41 (a) As used in this section:

- 42 (1) "Commercial hazardous waste ~~treatment~~ facility" means any hazardous
 43 waste ~~treatment facility which~~facility that accepts hazardous waste
 44 from the general public or from another person for a fee, but does not

1 include any facility owned or operated by a generator of hazardous
2 waste solely for his own use, and does not include any facility owned
3 by the State or by any agency or subdivision thereof solely for the
4 ~~treatment-management~~ of hazardous waste generated by agencies or
5 subdivisions of the ~~State~~; State.

6 (2) "New", when used in connection with "facility", refers to a planned or
7 proposed facility, or a facility ~~which~~ that has not been placed in
8 operation, but does not include facilities ~~which~~ that have commenced
9 operations as of ~~June 22, 1987~~, 22 June 1987, including facilities
10 operated under interim ~~status~~; status.

11 (3) "Modified", when used in connection with "permit", means any change
12 in any permit in force on or after ~~June 22, 1987~~, 22 June 1987 ~~which~~
13 that would either expand the scope of permitted operations, or extend
14 the expiration date of the permit, or otherwise constitute a ~~major~~ Class
15 2 or Class 3 modification of the permit as defined in ~~Title 40, Part~~
16 270.41 of the 40 Code of Federal Regulations § 270.41 (1 July 2006).
17 (~~1 July 1986~~); and

18 (4) "7Q10 conditions", when used in connection with "surface water,"
19 refers to the minimum average flow for a period of seven consecutive
20 days that has an average occurrence of once in 10 years as referenced
21 in 15 NCAC 2B .0206(a)(3) as adopted ~~February 1, 1976~~, February 1976.

22 (b) No permit for any new commercial hazardous waste ~~treatment~~ facility shall
23 be issued or become effective, and no permit for a commercial hazardous waste
24 ~~treatment~~ facility shall be modified, until the applicant has satisfied the Department that
25 such facility meets, in addition to all other applicable requirements, the following
26 requirements:

27 (1) The facility shall not discharge directly a hazardous or toxic substance
28 into a surface water that is upstream from a public drinking water
29 supply intake in North Carolina, unless there is a dilution factor of
30 1000 or greater at the point of discharge into the surface water under
31 7Q10 conditions.

32 (2) The facility shall not discharge indirectly through a publicly owned
33 treatment works (POTW) a hazardous or toxic substance into a surface
34 water that is upstream from a public drinking water supply intake in
35 North Carolina, unless there is a dilution factor of 1000 or greater,
36 irrespective of any dilution occurring in a wastewater treatment plant,
37 at the point of discharge into the surface water under 7Q10 conditions.

38 (c) through (h) (Reserved.)"

39 **SECTION 2.1.(c)** This section is effective when it becomes law.

41 **PART III. RECOMMENDATIONS FOR OTHER STATUTORY CHANGES**

42 **AUTHORIZE STATE MEDICAL ASSISTANCE TEAMS AND THE** 43 **EPIDEMIOLOGY SECTION OF THE DIVISION OF PUBLIC HEALTH OF** 44

1 **THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SEEK**
2 **REIMBURSEMENT FOR ALL REASONABLE DEPLOYMENT COSTS**
3 **INCURRED IN RESPONSE TO THE RELEASE OF HAZARDOUS**
4 **MATERIAL OR HAZARDOUS WASTE INTO THE ENVIRONMENT**

5
6 **SECTION 3.1.(a)** G.S. 166A-27 reads as rewritten:

7 **"§ 166A-27. Action for the recovery of costs of hazardous materials emergency**
8 **response.**

9 (a) A person who causes the release of a hazardous material requiring the
10 activation of a regional response team shall be liable for all reasonable costs incurred by
11 the regional response team in responding to and mitigating the incident. The Secretary
12 shall invoice the person liable for the hazardous materials release, and, in the event of
13 nonpayment, may institute an action to recover those costs in the superior court of the
14 county in which the release occurred.

15 (b) A person who causes the release of a hazardous material that results in the
16 activation of one or more State Medical Assistance Teams (SMATs) or the
17 Epidemiology Section of the Division of Public Health of the Department of Health and
18 Human Services shall be liable for all reasonable costs incurred by each team or the
19 Epidemiology Section that responds to or mitigates the incident. The Secretary of
20 Health and Human Services shall invoice the person liable for the hazardous materials
21 release and, in the event of nonpayment, may institute an action to recover those costs in
22 the superior court of the county in which the release occurred."

23 **SECTION 3.1.(b)** Article 1 of Chapter 130A of the General Statutes is
24 amended by adding a new section to read:

25 **"§ 130A-20.01. Action for the recovery of costs of hazardous materials emergency**
26 **medical response.**

27 A person who causes the release of a hazardous material that results in the activation
28 of one or more State Medical Assistance Teams (SMATs) or the Epidemiology Section
29 of the Division of Public Health of the Department of Health and Human Services shall
30 be liable for all reasonable costs incurred by each team or the Epidemiology Section that
31 responds to or mitigates the incident. The Secretary of Health and Human Services shall
32 invoice the person liable for the hazardous materials release and, in the event of
33 nonpayment, may institute an action to recover those costs in the superior court of the
34 county in which the release occurred."

35 **SECTION 3.1.(c)** This section is effective when it becomes law and applies
36 to civil actions filed on or after that date.

37
38 **CLARIFY THAT MUNICIPAL 911 DATA HAS THE SAME**
39 **CONFIDENTIALITY AS COUNTY 911 DATA AND THAT DATA**
40 **CONTAINED IN A REVERSE 911 EMERGENCY NOTIFICATION**
41 **SYSTEM IS CONFIDENTIAL**

42
43 **SECTION 3.2.(a)** G.S. 132-1.5 reads as rewritten:

44 **"§ 132-1.5. 911 database.**

1 Automatic number identification and automatic location identification information
2 that consists of the name, address, and telephone numbers of telephone subscribers
3 ~~which subscribers, or the e-mail addresses of subscribers to an electronic emergency~~
4 ~~notification or reverse 911 system, that is contained in a county or municipal 911~~
5 ~~database—database, or in a county or municipal telephonic or electronic emergency~~
6 ~~notification or reverse 911 system, is confidential and is not a public record as defined~~
7 by Chapter 132 of the General Statutes if that information is required to be confidential
8 by the agreement with the telephone company by which the information was obtained.
9 Dissemination of the information contained in the ~~911—911, electronic emergency~~
10 ~~notification or reverse 911 system, or~~ automatic number and automatic location
11 database is prohibited except on a call-by-call basis only for the purpose of handling
12 emergency calls or for training, and any permanent record of the information shall be
13 secured by the public safety answering points and disposed of in a manner which will
14 retain that security except as otherwise required by applicable law."

15 **SECTION 3.2.(b)** This section is effective when it becomes law.

16 17 **PART IV. STUDIES**

18
19 **ESTABLISH A TASK FORCE TO REVIEW THE STATE BUILDING CODE**
20 **TO ENSURE THAT THE CODE ADDRESSES THE NEEDS AND SAFETY**
21 **OF THE CITIZENS OF THE STATE WITH RESPECT TO THE**
22 **REGULATION OF FACILITIES THAT STORE, TREAT, OR DISPOSE OF**
23 **HAZARDOUS MATERIALS; TO MANDATE THE NORTH CAROLINA**
24 **BUILDING CODE COUNCIL TO AMEND THE STATE BUILDING CODE**
25 **TO IMPLEMENT ANY RECOMMENDATIONS OF THE TASK FORCE;**
26 **AND TO ALLOW STATE AND LOCAL FIRE INSPECTORS TO IDENTIFY**
27 **ALL RISKS ASSOCIATED WITH HAZARDOUS MATERIALS**

28
29 **SECTION 4.1.(a)** Task Force Established. – There is established the
30 Regulation of Hazardous Materials Facilities Task Force.

31 **SECTION 4.1.(b)** Definitions. – As used in this section "hazardous
32 material" means hazardous materials, as defined in G.S. 166A-21, hazardous waste, as
33 defined in G.S. 130A-290, hazardous substances, as defined in G.S. 143-215.77, and
34 hazardous chemicals, as defined in G.S. 95-174.

35 **SECTION 4.1.(c)** Membership. – The Task Force shall consist of 15
36 members as follows:

- 37 (1) The Secretary of Environment and Natural Resources or the
38 Secretary's designee.
- 39 (2) The Commissioner of Insurance or the Commissioner's designee.
- 40 (3) Three persons appointed by the General Assembly upon
41 recommendation of the Speaker of the House of Representatives, one
42 of whom shall be a member of the North Carolina Association of Fire
43 Marshals and one of whom shall be a fire marshal or inspector from
44 the western region of the State.

- 1 (4) Three persons appointed by the General Assembly upon
2 recommendation of the President Pro Tempore of the Senate, one of
3 whom shall be a member of the North Carolina Fire Chiefs
4 Association and one of whom shall be a fire marshal or inspector from
5 the eastern region of the State.
- 6 (5) A member from one of the seven North Carolina Regional Response
7 Teams for Hazardous Materials Response appointed by the Governor.
- 8 (6) A fire marshal or inspector from the central region of the State
9 appointed by the Governor.
- 10 (7) Two members of the Building Code Council appointed by the Chair of
11 the Council.
- 12 (8) A person who is engaged in an industrial manufacturing process that
13 uses hazardous chemicals, hazardous materials, or hazardous
14 substances, or that generates hazardous waste appointed by the
15 President of the Manufacturers and Chemical Industry Council of
16 North Carolina.
- 17 (9) An owner or operator of a commercial hazardous waste facility
18 appointed by the Governor.
- 19 (10) A member of the general public appointed by the Governor.

20 **SECTION 4.1.(d)** Appointments. – Appointments to the Task Force shall be
21 made no later than 1 September 2007. A vacancy in the Task Force or as chair of the
22 Task Force resulting from the resignation of a member or otherwise shall be filled in the
23 same manner in which the original appointment was made.

24 **SECTION 4.1.(e)** Chair; Quorum; Meetings. – The President Pro Tempore
25 of the Senate and the Speaker of the House of Representatives shall each designate one
26 member to serve as cochair of the Task Force. The cochairs shall call the initial meeting
27 of the Task Force on or before 1 October 2007. A majority of the members of the Task
28 Force shall constitute a quorum. The Task Force may meet in the Legislative Building
29 or the Legislative Office Building upon the approval of the Legislative Services
30 Commission.

31 **SECTION 4.1.(f)** Duties of Task Force. – The Task Force shall study issues
32 related to the treatment, storage, and disposal of hazardous materials and shall review
33 all current fire code regulations regarding the commercial treatment, storage, and
34 disposal of hazardous materials to ensure that the Code addresses the needs and safety
35 of the citizens of the State. In particular, the Task Force shall:

- 36 (1) Review the facts and issues related to the Environmental Quality
37 Industrial Services facility fire in Apex, North Carolina, on 5 October
38 2006. The Task Force shall review the investigation report and
39 determine whether the fire could have been prevented by additional, or
40 more specific, State regulations.
- 41 (2) Analyze all fire inspection or investigation reports of fires that have
42 occurred at commercial facilities that treat, store, or dispose of
43 hazardous materials within the past 10 years and determine if there is a
44 trend in violations.

- 1 (3) Review the current State Building Code with respect to allowable
2 hazardous materials quantities and determine if the State Building
3 Code should be amended to provide for an additional classification of
4 mixed waste or unidentifiable materials.
- 5 (4) Analyze the current definitions of high hazard facilities and high
6 hazardous Group H classifications in the State Building Code and
7 determine whether commercial facilities that treat, store, or dispose of
8 hazardous materials should be classified so that mixed wastes and
9 unidentifiable materials can be easily identified.
- 10 (5) Review the current annual fire inspection process at permitted
11 commercial hazardous waste facilities, as defined in
12 G.S. 130A-295.01, that are treatment, storage, and disposal facilities to
13 determine how the annual fire inspection can be conducted in
14 collaboration with the inspection and permitting process of the
15 Department of Environment and Natural Resources.
- 16 (6) Review the sprinkler requirements for Hazardous Materials Facilities
17 (Section 903.2.4) of the State Building Code and determine whether
18 sprinkler design criteria and coverage should be amended.
- 19 (7) Review the fire alarm requirements for Hazardous Materials Facilities
20 (Section 907.2.5) of the State Building Code and determine whether
21 the relevant facilities should have a full fire alarm system or, in the
22 alternative, full staffing as recommended by the Department of
23 Environment and Natural Resources. If the Task Force determines that
24 relevant facilities should have full staffing, the Task Force shall
25 recommend the level of knowledge and training that should be
26 required of the staff.
- 27 (8) Determine when any rules recommended by the Task Force should
28 become effective for existing commercial hazardous waste facilities.

29 **SECTION 4.1.(g)** Expenses of Members. – Members of the Task Force shall
30 receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1,
31 138-5, or 138-6, as appropriate.

32 **SECTION 4.1.(h)** Staff. – Upon the prior approval of the Legislative
33 Services Commission, the Legislative Services Officer may assign professional and
34 clerical staff and other services and supplies, as needed, for the Task Force to carry out
35 its duties in an effective manner.

36 **SECTION 4.1.(i)** Cooperation by Government Agencies. – The Task Force
37 may call upon any department, agency, institution, or officer of the State or any political
38 subdivision thereof for facilities, data, or other assistance.

39 **SECTION 4.1.(j)** Report. – The Task Force shall submit a report of its
40 findings and recommendations, including legislative proposals, to the 2008 Regular
41 Session of the 2007 General Assembly, the Governor, the North Carolina Building Code
42 Council, and the Environmental Review Commission on or before 1 April 2008. The
43 Task Force shall terminate upon filing its report.

1 **SECTION 4.1.(k)** North Carolina Building Code Council to Adopt Rules. –
2 The North Carolina Building Code Council shall adopt rules or amend the State
3 Building Code to implement the recommendations of the Regulation of Hazardous
4 Materials Facilities Task Force. In particular, the Building Code Council shall adopt
5 rules or amend the State Building Code to require that hazardous materials are classified
6 and identified in a manner that provides State and local inspectors with sufficient
7 information to identify all potential risks to the citizens of the State.

8 **SECTION 4.1.(l)** This section becomes effective 1 July 2007.
9

10 **STUDY POTENTIAL SOURCES OF PERMANENT FUNDING FOR THE**
11 **STATE MEDICAL ASSISTANCE TEAMS**
12

13 **SECTION 4.2.(a)** The Department of Crime Control and Public Safety and
14 the Department of Health and Human Services shall jointly identify and evaluate
15 sources of permanent funding for State Medical Assistance Teams in light of the
16 uncertain future availability of federal and local funding. The Department shall jointly
17 report its findings and recommendations, including any legislative proposals, to the
18 Fiscal Research Division on or before 1 January 2008.

19 **SECTION 4.2.(b)** This section is effective when it becomes law.
20

21 **PART V. OTHER RECOMMENDATIONS**
22

23 **REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
24 **RESOURCES TO ESTABLISH A DIGITAL INFORMATION EXCHANGE**
25 **SYSTEM FOR A HAZARDOUS CHEMICALS INVENTORY DATABASE**
26

27 **SECTION 5.1.(a)** The Division of Information Technology Services of the
28 Department of Environment and Natural Resources, in collaboration with the Division
29 of Emergency Management of the Department of Crime Control and Public Safety,
30 shall establish a Tier II Hazardous Chemicals Inventory Database and Web-based
31 access application that will accept uploads of Tier II data from local government
32 systems acting as partners in the project and from the University of Texas at Dallas
33 E-Plan repository until all Tier II hazardous chemical inventory is in the database. The
34 database shall include data on sites listed in the planned Toxic Release Inventory
35 exchange and the Department's existing Facilities Registry System. The Facilities
36 Registry System is a database of facilities for which the Department has environmental
37 concerns, including facilities that are subject to an environmental permit for water, air,
38 waste, land quality, wetlands, public water supply, wastewater treatment, and other
39 environmental permits. The database shall be connected via Web services to the North
40 Carolina Exchange Node. The purposes of this database are to provide a one-stop,
41 real-time information source for all hazardous and toxic materials release sites and all
42 sites that are subject to an environmental permit in order to enhance the operational
43 effectiveness of the Department of Environment and Natural Resources, the Division of
44 Emergency Management of the Department of Crime Control and Public Safety, first

1 responders and emergency management officials, local government officials, and any
2 others with a role in emergency management or planning; to remove the burden of data
3 reentry in multiple systems; to reduce the dependence on paper submissions for Tier II
4 reporting; to extend the Network for the Exchange Node community; and to reuse
5 information already deployed at the Department. The Tier II Hazardous Chemicals
6 Inventory Database and Web-based access application shall be maintained by the
7 Division of Emergency Management of the Department of Crime Control and Public
8 Safety.

9 **SECTION 5.1.(b)** This section becomes effective 1 July 2007.

10
11 **REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO**
12 **DEVELOP A MODEL PLAN FOR PUBLIC HEALTH RESPONSE TO**
13 **EVENTS WITH A POTENTIAL FOR CHEMICAL, BIOLOGICAL, OR**
14 **RADIOLOGICAL CONTAMINATION**

15
16 **SECTION 5.2.(a)** The Occupational and Environmental Epidemiology
17 Branch of the Division of Public Health of the Department of Health and Human
18 Services shall contract with an industrial hygienist who shall develop a model plan for
19 public health response to events with a potential for chemical, biological, or radiological
20 contamination. The plan shall address all stages of the contamination event. The
21 contract shall provide for the services of the industrial hygienist for up to 18 months.
22 The contract shall require the industrial hygienist to:

- 23 (1) Develop a model plan and a training program that provides for training
24 in all North Carolina counties.
25 (2) Analyze existing environmental data related to the hazardous waste
26 facilities in the State, develop a statement of need for the integration of
27 that data, and recommend any additional tests that may be needed,
28 including tests to establish background levels of selected hazardous
29 materials.
30 (3) Initiate and facilitate a staff-level work group of federal, State, and
31 local response personnel to provide continuity and to assist with the
32 development of best practice response protocols.

33 **SECTION 5.2.(b)** This section becomes effective 1 July 2007.

34
35 **AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF**
36 **NORTH CAROLINA TO ESTABLISH AN INSTITUTE FOR DISASTER**
37 **STUDIES AND AUTHORIZE THE UNIVERSITY OF NORTH CAROLINA**
38 **TO STUDY THE EMISSION AND TRANSPORT OF POLLUTANTS AT**
39 **FIRES AT COMMERCIAL HAZARDOUS WASTE FACILITIES AND THE**
40 **HEALTH AND ECONOMIC IMPACTS OF SUCH FIRES**

41
42 **SECTION 5.3.(a)** The Board of Governors of The University of North
43 Carolina may establish a multidisciplinary, interinstitutional, basic and applied research
44 program that applies state-of-the-art concepts and technologies to address disaster

1 research questions and to assist the campuses within The University of North Carolina
2 to develop crisis management and crisis communications systems that will help
3 individual campuses to better prepare in the event of a disaster.

4 **SECTION 5.3.(b)** The University of North Carolina may study the emission
5 and transport of pollutants at fires at commercial hazardous waste facilities, as defined
6 in G.S. 130A-295.01, and may study the human health and economic impacts of fires at
7 commercial hazardous waste facilities.

8 **SECTION 5.3.(c)** This section becomes effective 1 July 2007.

9
10 **PART VI. MISCELLANEOUS PROVISIONS**

11
12 **EFFECT OF HEADINGS**

13
14 **SECTION 6.1.** The headings to the parts and sections of this act are a
15 convenience to the reader and are for reference only. The headings do not expand,
16 limit, or define the text of this act.

17
18 **SEVERABILITY CLAUSE**

19
20 **SECTION 6.2.** If any section or provision of this act is declared
21 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
22 whole or any part other than the part so declared to be unconstitutional or invalid.

23
24 **EFFECTIVE DATES**

25
26 **SECTION 6.3.** Except as otherwise provided in this act, this act is effective
27 when it becomes law.