

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 891*

Short Title: Solid Waste Amendments.

(Public)

Sponsors: Senator Odom.

Referred to: Commerce

May 1, 1995

A BILL TO BE ENTITLED

AN ACT TO REVISE THE SOLID WASTE MANAGEMENT ACT OF 1989 AND
RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-290(a)(5) is repealed.

Sec. 2. G.S. 130A-290(a) is amended by adding a new subdivision to read:

"(13a) 'Industrial solid waste' means solid waste generated by manufacturing or industrial processes that is not hazardous waste."

Sec. 3. G.S. 130A-290(a)(18a) reads as rewritten:

"(18a) 'Municipal solid waste' means any solid waste resulting from the operation of residential, commercial, industrial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. Municipal solid waste does not include hazardous waste, sludge, industrial waste managed in a solid waste management facility owned and operated by the generator of the industrial waste for management of that waste, or solid waste from mining or agricultural operations."

Sec. 4. G.S. 130A-309.04 reads as rewritten:

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

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

- 5 (1) Waste reduction at the source;
- 6 (2) Recycling and reuse;
- 7 (3) Composting;
- 8 (4) Incineration with energy production; ~~recovery;~~
- 9 (5) Incineration for volume reduction; without energy recovery;
- 10 (6) Disposal in landfills.

11 (b) It is the policy of the State to encourage research into innovative solid waste
12 management methods and products and to encourage regional solid waste management
13 projects.

14 (c) It is the goal of this State to reduce the municipal solid waste stream, primarily
15 through source reduction, reuse, recycling, and composting, ~~on a per capita basis, on the~~
16 ~~following schedule:~~ by forty percent (40%) on a per capita basis by 30 June 2001.

- 17 (1) ~~Twenty five percent (25%) by 30 June 1993.~~
- 18 (2) ~~Forty percent (40%) by 30 June 2001.~~

19 (c1) To measure progress toward the municipal solid waste reduction ~~goals~~ goal in a
20 given year, comparison shall be made between the amount by weight of the municipal
21 solid waste that, during the baseline year and the given year, is received at municipal
22 solid waste management facilities and is:

- 23 (1) Disposed of in a landfill;
- 24 (2) Incinerated;
- 25 (3) Converted to tire-derived fuel; or
- 26 (4) Converted to refuse-derived fuel.

27 (c2) Comparison shall be between baseline and given years beginning on 1 July and
28 ending on 30 June of the following year. The baseline year shall be the year beginning 1
29 July 1991 and ending 30 June 1992. However, a unit of local government may use an
30 earlier baseline year if it demonstrates to the satisfaction of the Department that it has
31 sufficient data to support the use of the earlier baseline year.

32 (c3) ~~If a unit of local government is unable to meet the municipal solid waste~~
33 ~~reduction goal established in subdivision (2) of subsection (c) of this section and if the~~
34 ~~unit of local government demonstrates to the satisfaction of the Department that it has~~
35 ~~considered all reasonably available options to reduce its municipal solid waste stream~~
36 ~~through source reduction, reuse, recycling, and composting and that it has made a good~~
37 ~~faith effort and done everything technologically and economically feasible to meet the~~
38 ~~goal, for the purpose of calculating progress of the unit of local government toward the~~
39 ~~goal, ten percent (10%) of the amount by weight of the municipal solid waste stream that~~
40 ~~is converted to tire derived fuel or refuse derived fuel may be added to the amount that is~~
41 ~~diverted from the municipal solid waste stream through source reduction, reuse,~~
42 ~~recycling, and composting.~~

1 (d) In furtherance of the State's solid waste management policy, each State agency
2 shall develop a solid waste management plan ~~which~~that is consistent with the solid waste
3 management policy of the State.

4 (d1) It is the policy of the State to obtain, to the extent practicable, economic
5 benefits from the recovery from solid waste and reuse of material and energy resources.
6 In furtherance of this policy, it is the goal of the State to foster partnerships between the
7 public and private sectors that strengthen the supply of, and demand for, recyclable
8 materials and that foster opportunities for economic development from the recovery and
9 reuse of materials.

10 ~~(e) Each county, either individually or in cooperation with others, shall, in~~
11 ~~cooperation with its municipalities, develop a comprehensive county solid waste~~
12 ~~management plan and submit the plan to the Department for approval. County solid waste~~
13 ~~management plans shall be updated and submitted for approval at least once every two~~
14 ~~years. A county solid waste management plan shall be consistent with the State's~~
15 ~~comprehensive solid waste plan. In counties where a municipality operates the major~~
16 ~~solid waste disposal facility, the comprehensive solid waste plan may be prepared by the~~
17 ~~municipality, with the approval of the county and in cooperation with the other~~
18 ~~municipalities. Each county's comprehensive solid waste management plan shall include~~
19 ~~provisions which address the State's waste reduction goals. Each county's plan shall take~~
20 ~~into consideration facilities and other resources for management of solid waste which~~
21 ~~may be available through private enterprise. This section shall be construed to encourage~~
22 ~~the involvement and participation of private enterprise in solid waste management. The~~
23 ~~Department shall develop a form designed to elicit pertinent information regarding a~~
24 ~~county's solid waste management plan. The Department shall provide assistance in the~~
25 ~~preparation of county plans upon request.~~

26 ~~(f) Any unit of local government that does not participate in a county solid waste~~
27 ~~management plan shall prepare a plan in accordance with the provisions of subsection (e)~~
28 ~~of this section."~~

29 Sec. 5. G.S. 130A-309.05 reads as rewritten:

30 **"§ 130A-309.05. Regulated wastes; certain exclusions.**

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

33 (1) Medical waste; and

34 (2) Ash generated by a solid waste management facility from the burning of
35 solid waste.

36 (b) Ash generated by a solid waste management facility from the burning of solid
37 waste shall be disposed of in a properly designed solid waste disposal area that complies
38 with standards developed by the Department for the disposal of the ash. The Department
39 shall work with solid waste management facilities ~~which~~that burn solid waste to identify
40 and develop methods for recycling and reusing incinerator ash or treated ash.

41 ~~(e) Recovered materials are not subject to the provisions of this Part if:~~

42 ~~(1) A majority of the recovered materials at a facility are sold, used, or~~
43 ~~reused within one year;~~

- 1 (2) ~~The recovered materials or the products or by products of operations~~
2 ~~that process recovered materials are not discharged, deposited, injected,~~
3 ~~dumped, spilled, leaked, or placed into or upon any land or water so that~~
4 ~~the products or by products or any constituent thereof may enter other~~
5 ~~lands or be emitted into the air or discharged into any waters including~~
6 ~~groundwaters, or otherwise enter the environment or pose a threat to~~
7 ~~public health and safety; and~~
- 8 (3) ~~The recovered materials are not hazardous waste and have not been~~
9 ~~recovered from solid waste which is defined as hazardous waste under~~
10 ~~G.S. 130A-290."~~

11 Sec. 6. G.S. 130A-309.06 reads as rewritten:

12 **"§ 130A-309.06. Additional powers and duties of the Department.**

13 (a) In addition to other powers and duties set forth in this Part, the Department
14 shall:

- 15 (1) Develop a comprehensive solid waste management plan consistent with
16 this Part ~~by 1 March 1991.~~ Part. The plan shall be developed in
17 consultation with units of local government and shall be updated at least
18 every three years. In developing the State solid waste management
19 plan, the Department shall hold public hearings around the State and
20 shall give notice of these public hearings to all units of local
21 government and regional planning agencies.
- 22 (2) Provide guidance for the orderly collection, transportation, storage,
23 separation, processing, recovery, recycling, and disposal of solid waste
24 throughout the State.
- 25 (3) Encourage coordinated local activity for solid waste management within
26 a common geographical area.
- 27 (4) Provide planning, technical, and financial assistance to units of local
28 government and State agencies for reduction, recycling, reuse, and
29 processing of solid waste and for safe and environmentally sound solid
30 waste management and disposal.
- 31 (5) Cooperate with appropriate federal ~~agencies~~ agencies, local
32 governments, and private organizations in carrying out the provisions of
33 this Part.
- 34 (6) Promote and assist the development of solid waste reduction, recycling,
35 and resource recovery programs ~~which~~ that preserve and enhance the
36 quality of the air, water, and other natural resources of the State.
- 37 (7) Maintain a directory of recycling and resource recovery systems in the
38 State and provide assistance with matching recovered materials with
39 markets.
- 40 (8) Manage a program of grants for programs for recycling and special
41 waste management, and for programs ~~which~~ that provide for the safe and
42 proper management of solid waste.

- 1 (9) Provide for the education of the general public and the training of solid
2 waste management professionals to reduce the production of solid
3 waste, to ensure proper processing and disposal of solid waste, and to
4 encourage recycling and solid waste reduction.
- 5 (10) Develop descriptive literature to inform units of local government of
6 their solid waste management responsibilities and opportunities.
- 7 ~~(11) Conduct at least one workshop each year in each region served by a~~
8 ~~council of governments.~~
- 9 (12) Provide and maintain recycling bins for the collection and recycling of
10 newspaper, aluminum cans, glass containers, and recyclable plastic
11 beverage containers at the North Carolina Zoological Park.
- 12 (13) Identify, based on reports required under G.S. 130A-309.14 and any
13 other relevant information, those materials in the municipal solid waste
14 stream that are marketable in the State or any portion thereof and that
15 should be recovered from the waste stream prior to treatment or
16 disposal.
- 17 (14) Identify and analyze, with assistance from the Department of Commerce
18 pursuant to G.S. 130A-309.14, components of the State's recycling
19 industry and present and potential markets for recyclable materials in
20 this State, other states, and foreign countries.
- 21 (b) The Department may refuse to issue a permit to an applicant who by past
22 conduct in this State has repeatedly violated related statutes, rules, orders, or permit terms
23 or conditions relating to any solid waste management facility and who is deemed by the
24 Department to be responsible for the violations. For the purpose of this subdivision, an
25 applicant includes the owner or operator of the facility, or, if the owner or operator is a
26 business entity, the parent of the subsidiary corporation, a partner, a corporate officer or
27 director, or a stockholder holding more than fifty percent (50%) of the stock of the
28 corporation.
- 29 (c) The Department shall prepare by 1 ~~May~~October of each year a report on the
30 status of solid waste management efforts in the State. The scope of the report shall be
31 determined by the resources available to the Department for its preparation and, to the
32 extent possible, shall include:
- 33 (1) A comprehensive analysis, to be updated in each report, of solid waste
34 generation and disposal in the State projected for the 20-year period
35 beginning on 1 July 1991.
- 36 (2) The total amounts of solid waste ~~generated, recycled, recycled~~ and
37 disposed of and the methods of solid waste recycling and disposal used
38 during the calendar year prior to the year in which the report is
39 published.
- 40 (3) An evaluation of the development and implementation of local solid
41 waste management programs and county and municipal recycling
42 programs.

- 1 (4) An evaluation of ~~the success of each county or group of counties in~~
2 meeting the municipal solid waste reduction goal established in G.S.
3 130A-309.04.
- 4 (5) Recommendations concerning existing and potential programs for solid
5 waste reduction and recycling that would be appropriate for units of
6 local government and State agencies to implement to meet the
7 requirements of this Part.
- 8 (6) An evaluation of the markets for recycled materials and the success of
9 State, local, and private industry efforts to enhance the markets for ~~such~~
10 these materials.
- 11 (7) Recommendations to the Governor and the General Assembly to
12 improve the management and recycling of solid waste in the State.
- 13 (d) The Department of Environment, Health, and Natural Resources shall prepare
14 ~~by March 1, 1994, and every other year thereafter,~~ a report assessing the recycling industry
15 and recyclable materials markets in the State. State every two years, and shall submit the
16 report to the Environmental Review Commission on or before 1 March of even-numbered
17 years."

18 Sec. 7. G.S. 130A-309.07 reads as rewritten:
19 **"§ 130A-309.07. State solid waste management plan.**

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

- 21 (1) Procedures ~~and requirements to ensure~~ encourage cooperative efforts in
22 solid waste management by counties and municipalities and groups of
23 counties and municipalities where appropriate, including the
24 establishment of joint agencies pursuant to G.S. 160A-462.
- 25 (2) Provisions for the continuation of existing effective regional resource
26 recovery, recycling, and solid waste management facilities and
27 programs.
- 28 (3) Planning guidance and technical assistance to counties and
29 municipalities to aid in meeting the municipal solid waste reduction
30 goals established in G.S. 130A-309.04.
- 31 (4) Planning guidance and technical assistance to counties and
32 municipalities to assist the development and implementation of ~~recycling~~
33 solid waste reduction programs.
- 34 ~~(5) Technical assistance to counties and municipalities in determining the~~
35 ~~full cost for solid waste management as required in G.S. 130A-309.08.~~
- 36 (6) Planning guidance and technical assistance to counties and
37 municipalities to assist the development and implementation of
38 programs for alternative disposal, processing, or recycling of the solid
39 wastes prohibited from disposal in landfills pursuant to G.S. 130A-
40 309.10 and for special wastes.
- 41 (7) A public education program, to be developed in cooperation with the
42 Department of Public Instruction, units of local government, other State
43 agencies, and business and industry organizations, to inform the public

1 of the need for and the benefits of recycling solid waste and reducing
2 the amounts of solid and hazardous waste generated and disposed of in
3 the State. The public education program shall be implemented through
4 public workshops and through the use of brochures, reports, public
5 service announcements, and other materials.

6 (8) Provisions to encourage partnerships between the public and private
7 sectors that strengthen the supply of, and demand for, recyclable
8 materials and that foster opportunities for economic development from
9 the recovery and reuse of materials."

10 Sec. 8. G.S. 130A-309.08 reads as rewritten:

11 "**~~§ 130A-309.08. Determination of cost for solid waste management; local~~ Local**
12 **~~solid waste management fees.~~**

13 (a) ~~Within one year of the effective date of this section or within one year after~~
14 ~~rules are adopted by the Commission, whichever occurs later, each county and each~~
15 ~~municipality shall determine the full cost for solid waste management within the service~~
16 ~~area of the county or municipality for a one-year period as specified by rules adopted by~~
17 ~~the Commission, and shall update the full cost determination every year thereafter. The~~
18 ~~Commission shall establish by rule the method for units of local government to use in~~
19 ~~calculating full cost. Rule making shall be initiated and at least one public hearing shall~~
20 ~~be held by 1 March 1990. In developing the rule, the Commission shall examine the~~
21 ~~feasibility of the use of an enterprise fund process by units of local government in~~
22 ~~operating their solid waste management systems.~~

23 (b) ~~Within one year after the completion of the cost determination required by~~
24 ~~subsection (a) of this section, each municipality shall establish a system to inform, no less~~
25 ~~than once a year, residential and nonresidential users of solid waste management services~~
26 ~~within the municipality's service area of the user's share, on an average or individual~~
27 ~~basis, of the full cost for solid waste management as determined pursuant to subsection~~
28 ~~(a) of this section. Counties shall provide the information required of municipalities only~~
29 ~~to residential and nonresidential users of solid waste management services within the~~
30 ~~county's service area that are not served by a municipality. Municipalities shall include~~
31 ~~costs charges to them or persons contracting with them for disposal of solid waste in the~~
32 ~~full cost information provided to residential and nonresidential users of solid waste~~
33 ~~management services. Counties and municipalities are encouraged to operate their solid~~
34 ~~waste management systems through use of an enterprise fund.~~

35 (c) ~~For purposes of this section, "service area" means the area in which the county~~
36 ~~or municipality provides, directly or by contract, solid waste management services. The~~
37 ~~provisions of this section shall not be construed to require a person operating under a~~
38 ~~franchise contract or other agreement to collect or dispose of solid waste within the~~
39 ~~service area of a county or municipality to make the calculations or to establish a system~~
40 ~~to provide the information required under this section, unless such person agrees to do so~~
41 ~~as part of such franchise contract or other agreement.~~

42 (d) ~~In order to assist in achieving the municipal solid waste reduction goal and the~~
43 ~~reeycling provisions of G.S. 130A-309.09B, a county or a municipality A unit of local~~

1 ~~government which owns or operates a solid waste management facility may charge solid~~
2 ~~waste disposal fees which that may vary based on a number of factors, including the~~
3 ~~amount, characteristics, and form of recyclable materials present in the solid waste that is~~
4 ~~brought to the county's or the municipality's facility for processing or disposal.~~

5 (e) In addition to all other fees required or allowed by law, a county or a
6 municipality, at the discretion of its governing board, may impose a fee for the services
7 the county or municipality provides with regard to the collection, processing, or disposal
8 of solid waste, to be used for developing and implementing a ~~reeycling~~-waste reduction
9 program.

10 (f) This section does not prohibit a county, ~~municipality, city,~~ or other person from
11 providing loans, grants, loans, or other aid to low-income persons to pay all or part ~~or all~~
12 ~~of the costs of such persons' solid waste management services.~~ services for those persons."

13 Sec. 9. G.S. 130A-309.09A reads as rewritten:

14 **"§ 130A-309.09A. Local government solid waste responsibilities.**

15 (a) ~~The governing board of a designated local government shall provide for the~~
16 ~~operation of solid waste disposal facilities to meet the needs of all incorporated and~~
17 ~~unincorporated areas designated to be served by the facility. each unit of local~~
18 government shall assess local solid waste collection services and disposal capacity and
19 shall determine the adequacy of collection services and disposal capacity to meet local
20 needs and to protect human health and the environment. Each unit of local government
21 shall implement programs and take other actions that it determines are necessary to
22 address deficiencies in service or capacity required to meet local needs and to protect
23 human health and the environment. Pursuant to this section and notwithstanding any
24 ~~other provision of this Chapter, designated local governments~~ A unit of local government
25 may adopt ordinances governing the disposal ~~disposal,~~ in facilities which they operate
26 that it operates, of solid waste generated outside of the area designated to be served by
27 ~~such the~~ facility. Such ordinances shall not be construed to apply to privately operated
28 disposal facilities located within the boundaries of a ~~designated~~ the unit of local
29 government. ~~In accordance with this section, municipalities are responsible for collecting~~
30 ~~and transporting solid waste from their jurisdictions to a solid waste disposal facility~~
31 ~~operated by the municipality or county, any other municipality or county, or by any other~~
32 ~~person. Counties and municipalities may charge reasonable fees for the handling and~~
33 ~~disposal of solid waste at their facilities. The fees charged to municipalities without~~
34 ~~facilities at a solid waste management facility specified by the county shall not be greater~~
35 ~~than the fees charged to other users of the facility except as provided in G.S. 130A-~~
36 ~~309.08(d). Solid waste management fees collected on a countywide basis shall be used to~~
37 ~~fund solid waste management services provided throughout the county.~~

38 (b) ~~Each unit of local government, either individually or in cooperation with one~~
39 ~~or more other units of local government, shall participate in the development and~~
40 ~~implementation of a solid waste management plan designed to meet the waste reduction~~
41 ~~goals set out in G.S. 130A-309.04 within the geographic area covered by the plan.~~

42 Each unit of local government, either individually or in cooperation with other units
43 of local government, shall develop a 10-year comprehensive solid waste management

1 plan. Units of local government are encouraged to develop solid waste management
2 plans that are consistent with the State's forty percent (40%) municipal solid waste
3 reduction goal and with the State's comprehensive solid waste management plan. Each
4 unit of local government shall develop its solid waste management plan with public
5 participation, including, at a minimum, one advertised public meeting. The Department
6 shall assist units of local government in the preparation of the plan required by this
7 subsection if the unit of local government requests assistance. Each plan shall be updated
8 at least every three years. In order to assure compliance with this subsection, each unit of
9 local government shall provide the Department with a copy of its current plan upon
10 request by the Department. Each plan shall:

- 11 (1) Evaluate the solid waste stream in the geographic area covered by the
12 plan.
- 13 (2) Include a goal for the reduction of municipal solid waste on a per capita
14 basis by 30 June 2001 and a goal for the further reduction of municipal
15 solid waste by 30 June 2006. The solid waste reduction goals shall be
16 determined by the unit or units of local government that prepare the
17 plan.
- 18 (3) Be designed to achieve the solid waste reduction goals established by
19 the plan.
- 20 (4) Include a description of the process by which the plan was developed,
21 including provisions for public participation in the development of the
22 plan.
- 23 (5) Include a description and assessment of intended actions with respect to
24 the following solid waste management methods:
 - 25 a. Reduction at the source.
 - 26 b. Collection.
 - 27 c. Recycling and reuse.
 - 28 d. Composting and mulching.
 - 29 e. Incineration with energy recovery.
 - 30 f. Incineration without energy recovery.
 - 31 g. Transfer outside the geographic area covered by the plan.
 - 32 h. Disposal.
- 33 (6) Include a description and assessment of intended actions with respect to:
 - 34 a. Education with the community and through the schools.
 - 35 b. Management of special wastes.
 - 36 c. Prevention of illegal disposal and management of litter.
 - 37 d. Purchase of recycled materials and products manufactured with
38 recycled materials.
- 39 (7) Include a description and assessment of the costs of solid waste
40 management, including the costs of collection, disposal, waste
41 reduction, and other programs, and of the methods of financing those
42 costs.

1 (8) Consider the use of facilities and other resources for management of
2 solid waste that may be available through private enterprise.

3 ~~(e) The Department may reduce or modify the municipal solid waste reduction~~
4 ~~goal that a unit of local government is required to attempt to achieve pursuant to~~
5 ~~subsection (b) of this section if the unit of local government demonstrates to the~~
6 ~~Department that:~~

7 ~~(1) The achievement of the goal would have an adverse effect on the~~
8 ~~financial obligations of the unit of local government incurred prior to 1~~
9 ~~October 1989 that are directly related to a waste-to-energy facility~~
10 ~~owned or operated by or on behalf of a unit of local government; and~~

11 ~~(2) The unit of local government cannot remove normally combustible~~
12 ~~materials from solid waste that is to be processed at a waste-to-energy~~
13 ~~facility permitted prior to 1 July 1991 because of the need to maintain a~~
14 ~~sufficient amount of solid waste to ensure the financial viability of the~~
15 ~~facility. The goal may not be waived entirely and may be reduced or~~
16 ~~modified only to the extent necessary to alleviate the adverse effects of~~
17 ~~achieving the goal on the financial viability of a unit of local~~
18 ~~government's waste-to-energy facility. Nothing in this subsection shall~~
19 ~~exempt a unit of local government from developing and implementing a~~
20 ~~recycling program pursuant to this Part.~~

21 ~~(d) In order to assess the progress in meeting the goals set out in G.S. 130A-~~
22 ~~309.04, each county, either individually or in cooperation with one or more other~~
23 ~~counties, shall, by 1 December 1991 and each year thereafter, Each unit of local~~
24 ~~government shall report to the Department on the solid waste management programs and~~
25 ~~recycling-waste reduction activities within the county or the geographic area covered by~~
26 ~~the county's solid waste management plan. within the unit of local government by 1~~
27 ~~September of each year. This report by the county must At a minimum, the report shall~~
28 ~~include:~~

29 ~~(1) A description of public education programs on recycling; recycling.~~

30 ~~(2) The amount of solid waste received at municipal solid waste~~
31 ~~management facilities, by type of solid waste; waste.~~

32 ~~(3) The amount and type of materials from the solid waste stream that were~~
33 ~~reeyeled; recycled.~~

34 ~~(4) The percentage of the population participating in various types of~~
35 ~~recycling activities instituted; instituted.~~

36 ~~(5) The annual reduction in municipal solid waste, measured as provided in~~
37 ~~G.S. 130A-309.04; 130A-309.04.~~

38 ~~(6) A description of the recycling activities attempted, their success rates,~~
39 ~~the perceived reasons for failure or success, and the recycling activities~~
40 ~~which are ongoing and most successful; and Information regarding~~
41 ~~programs and other actions implemented as part of the local~~
42 ~~comprehensive solid waste management plan.~~

1 (7) ~~In its first report, a description of any recycling activities implemented prior to~~
2 ~~1 July 1991. A statement of the costs of solid waste management~~
3 ~~programs implemented by the unit of local government and the methods~~
4 ~~of financing those costs.~~

5 (e) ~~Any municipality that does not participate in the preparation of a county report~~
6 ~~shall prepare its own report in accordance with the provisions of subsection (d) of this~~
7 ~~section.~~

8 (f) ~~On and after 1 July 1991, each~~ Each operator of a municipal solid waste management
9 facility shall weigh all solid waste when it is received.

10 (g) A unit of local government that is a collector of municipal solid waste shall not
11 knowingly collect for disposal, and the owner or operator of a municipal solid waste
12 management facility that is owned or operated by a unit of local government shall not
13 knowingly dispose of, any type or form of municipal solid waste that is generated within
14 the boundaries of a unit of local government that by ordinance:

15 (1) Prohibits generators or collectors of municipal solid waste from
16 disposing of that type or form of municipal solid waste.

17 (2) Requires generators or collectors of municipal solid waste to recycle
18 that type or form of municipal solid waste."

19 Sec. 10. G.S. 130A-309.09B reads as rewritten:

20 "**§ 130A-309.09B. Local government recycling-waste reduction programs.**

21 (a) ~~Each designated unit of local government shall initiate a recyclable materials~~
22 ~~recycling program by 1 July 1991. Counties and municipalities are encouraged to form~~
23 ~~cooperative arrangements for implementing recycling programs. establish and maintain a~~
24 ~~solid waste reduction program that will enable the unit of local government to meet the~~
25 ~~local solid waste reduction goals established pursuant to G.S. 130A-309.09A(b)(2). The~~
26 ~~following requirements shall apply:~~

27 (1) ~~Construction and demolition debris must be separated from the solid~~
28 ~~waste stream and segregated in separate locations at a solid waste~~
29 ~~disposal facility or other permitted site. Demolition debris consisting~~
30 ~~of used asphalt or used asphalt mixed with dirt, sand, gravel, rock,~~
31 ~~concrete, or similar nonhazardous material may be used as fill and need~~
32 ~~not be disposed of in a permitted landfill or solid waste disposal facility,~~
33 ~~provided that such demolition debris may not be placed in the waters of~~
34 ~~the State or at or below the seasonal high water table.~~

35 (2) Repealed by Session Laws 1991, c. 621, s. 8.

36 (3) Units of local government are encouraged to separate marketable
37 plastics, glass, metal, and all grades of paper for recycling prior to final
38 disposal and are further encouraged to recycle yard trash and other
39 organic solid waste into compost available for agricultural and other
40 acceptable uses.

41 (b) To the maximum extent practicable, units of local government should
42 participate in the preparation and implementation of joint recycling-waste reduction and
43 solid waste management programs, whether through joint agencies established pursuant

1 to G.S. 153A-421, G.S. 160A-462, or any other means provided by law. Nothing in a
2 county's solid waste management or ~~recycling~~ waste reduction program shall affect the
3 authority of a municipality to franchise or otherwise provide for the collection of solid
4 waste generated within the boundaries of the municipality.

5 ~~(e) In the development and implementation of a curbside recyclable materials~~
6 ~~collection program, a county or municipality shall enter into negotiations with a~~
7 ~~franchisee who is operating to exclusively collect solid waste within a service area of a~~
8 ~~county or municipality to undertake curbside recyclable materials collection~~
9 ~~responsibilities for a county or municipality. If the county or municipality and the~~
10 ~~franchisee fail to reach an agreement within 60 days from the initiation of negotiations,~~
11 ~~the county or municipality may solicit proposals from other persons to undertake curbside~~
12 ~~recyclable materials collection responsibilities for the county or municipality as it may~~
13 ~~require. Upon the determination of the lowest responsible proposals, the county or~~
14 ~~municipality may undertake, or enter into a written agreement with the person who~~
15 ~~submitted the lowest responsible proposal to undertake, the curbside recyclable materials~~
16 ~~collection responsibilities for the county or municipality, notwithstanding the exclusivity~~
17 ~~of any franchise agreement for the collection of solid waste within a service area of the~~
18 ~~county or municipality.~~

19 ~~(d) In developing and implementing recycling programs, counties and~~
20 ~~municipalities shall give consideration to the collection, marketing, and disposition of~~
21 ~~recyclable materials by persons engaged in the business of recycling on either a for-profit~~
22 ~~or nonprofit basis. Counties and municipalities are encouraged to use for-profit and~~
23 ~~nonprofit organizations in fulfilling their responsibilities under this Part.~~

24 ~~(e) A county or county and the municipalities within the county's or counties'~~
25 ~~boundaries may jointly develop a recycling program, provided that the county and each~~
26 ~~municipality must enter into a written agreement to jointly develop a recycling program.~~
27 ~~If a municipality does not participate in jointly developing a recycling program with the~~
28 ~~county within which it is located, the county may require the municipality to provide~~
29 ~~information on recycling efforts undertaken within the boundaries of the municipality in~~
30 ~~order to determine whether the goals for municipal solid waste reduction are being~~
31 ~~achieved.~~

32 (f) A county or counties and its or their municipalities may jointly determine,
33 through a joint agency established pursuant to G.S. 153A-421 or G.S. 160A-462, which
34 local governmental agency shall administer a solid waste management or ~~recycling~~ waste
35 reduction program.

36 ~~(g) A unit of local government that enters into an agreement with one or more~~
37 ~~other units of local government to develop and operate a recycling program shall provide~~
38 ~~periodic written progress reports to the units of local government concerning the~~
39 ~~implementation of the recycling program."~~

40 Sec. 11. G.S. 130A-309.09C(g) reads as rewritten:

41 "(g) In addition to any other penalties provided by law, a unit of local government
42 that does not comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-
43 309.09B(a) shall not be eligible for grants from the Solid Waste Management Trust Fund,

1 the Scrap Tire Disposal Account, or the White Goods Management Account ~~and the~~
2 ~~Department may notify the State Treasurer to withhold payment of all or a portion of funds~~
3 ~~payable to the unit of local government by the Department from the General Fund or by the~~
4 ~~Department from any other State fund, to the extent not pledged to retire bonded indebtedness,~~
5 ~~unless the unit of local government demonstrates that good faith efforts to meet the requirements~~
6 ~~of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a) have been made or that the funds are being~~
7 ~~or will be used to finance the correction of a pollution control problem that spans jurisdictional~~
8 ~~boundaries. shall not receive the proceeds of the scrap tire disposal tax imposed by Article~~
9 ~~5B of Chapter 105 of the General Statutes or the proceeds of the white goods disposal tax~~
10 ~~imposed by Article 5C of Chapter 105 of the General Statutes to which the unit of local~~
11 ~~government would otherwise be entitled. The Secretary shall notify the Secretary of~~
12 ~~Revenue to withhold payment of funds to any unit of local government that fails to~~
13 ~~comply with the requirements of G.S. 130A-309.09A(b) and G.S. 130A-309.09B(a).~~
14 ~~Proceeds of the scrap tire disposal tax that are withheld pursuant to this subsection shall~~
15 ~~be credited to the Scrap Tire Disposal Account and may be used as provided in G.S.~~
16 ~~130A-309.63. Proceeds of the white goods management tax that are withheld pursuant to~~
17 ~~this subsection shall be credited to the White Goods Management Account and may be~~
18 ~~used as provided in G.S. 130A-309.83."~~

19 Sec. 12. G.S. 130A-309.09D reads as rewritten:

20 "**§ 130A-309.09D. Responsibilities of owners and operators of privately owned**
21 **~~municipal solid waste management facilities. facilities and collectors of~~**
22 **municipal solid waste.**

23 (a) ~~The~~ A collector of municipal solid waste shall not knowingly collect for
24 disposal, and the owner or operator of a privately owned or operated municipal solid
25 waste management facility shall operate the facility in a manner which is consistent with the
26 State solid waste management plan and with the solid waste management plans that have been
27 adopted by those units of local government served by the facility and approved by the
28 Department. not knowingly dispose of, any type or form of municipal solid waste that is
29 generated within the boundaries of a unit of local government that by ordinance:

30 (1) Prohibits generators or collectors of municipal solid waste from
31 disposing of that type or form of municipal solid waste.

32 (2) Requires generators or collectors of municipal solid waste to recycle
33 that type or form of municipal solid waste.

34 (b) ~~On or before 1 August 1992 and each year thereafter, August,~~ the owner or
35 operator of a privately owned ~~municipal~~ solid waste management facility shall report to
36 the Department, for the previous year beginning 1 July and ending 30 June, the amount
37 by weight of the solid waste that was received at the facility and disposed of in a landfill,
38 incinerated, or converted to fuel. To the maximum extent practicable, ~~such~~ the reports
39 shall indicate by weight the county of origin of all solid waste. The owner or operator
40 shall transmit a copy of the report to the county in which the facility is located and to
41 each county from which solid waste originated.

42 (c) A generator of industrial solid waste that owns and operates an industrial solid
43 waste facility for the management of industrial solid waste generated by that generator

1 shall develop a 10-year waste management plan. The plan shall be updated at least every
2 three years. In order to assure compliance with this subsection, each generator to which
3 this subsection applies shall provide the Department with a copy of its current plan upon
4 request by the Department. Each generator to which this subsection applies shall file a
5 report on its implementation of the plan required by this subsection with the Department
6 by 1 August of each year. The plan shall have the following components:

7 (1) A waste reduction goal established by the generator.

8 (2) Options for the management and reduction of wastes evaluated by the
9 generator.

10 (3) A waste management strategy, including plans for waste reduction and
11 waste disposal, for the 10-year period covered by the plan."

12 Sec. 13. G.S. 130A-309.10 reads as rewritten:

13 **"§ 130A-309.10. Prohibited acts relating to packaging; coded labeling of plastic**
14 **containers required; disposal of certain solid wastes in landfills or by**
15 **incineration prohibited.**

16 (a) No beverage shall be sold or offered for sale within the State in a beverage
17 container designed and constructed so that the container is opened by detaching a metal
18 ring or tab.

19 (b) No person shall distribute, sell, or offer for sale in this State, any product
20 packaged in a container or packing material manufactured with fully halogenated
21 chlorofluorocarbons (CFC). Producers of containers or packing material manufactured
22 with chlorofluorocarbons (CFC) are urged to introduce alternative packaging materials
23 ~~which that~~ are environmentally compatible.

24 (c) (1) No plastic bag shall be provided at any retail outlet to any
25 retail customer to use for the purpose of carrying items purchased by
26 that customer unless the bag is composed of material ~~which that~~ is
27 recyclable. Notice of recyclability shall be printed on each bag
28 purchased by the retailer.

29 (2) It is the goal of the State that at least twenty-five percent (25%) of the
30 plastic bags provided at retail outlets in the State to retail customers for
31 carrying items purchased by the customer be recycled.

32 (d) (1) No person shall distribute, sell, or offer for sale in this State
33 any polystyrene foam product ~~which that~~ is to be used in conjunction
34 with food for human consumption unless ~~such the~~ product is
35 composed of material ~~which that~~ is recyclable.

36 (2) ~~After October 1, 1997, no person shall distribute, sell, or offer for sale in~~
37 ~~this State any polystyrene foam product that is to be used in conjunction~~
38 ~~with food for human consumption unless the Secretary certifies that at~~
39 ~~least twenty five percent (25%) of such products are being recycled.~~
40 ~~This subdivision does not apply to any polystyrene foam product~~
41 ~~containing at least twenty five percent (25%) polystyrene derived from~~
42 ~~products that have been collected for recycling after those products have~~
43 ~~served the purpose for which they were manufactured.~~

1 (e) No person shall distribute, sell, or offer for sale in this State any plastic
2 container product unless the product has a molded label indicating the plastic resin used
3 to produce the plastic container product. The code shall consist of a number placed
4 within three triangulated arrows and letters placed below the triangulated arrows. The
5 three arrows shall form an equilateral triangle with the common point of each line
6 forming each angle of the triangle at the midpoint of each arrow and rounded with a short
7 radius. The arrowhead of each arrow shall be at the midpoint of each side of the triangle
8 with a short gap separating the arrowhead from the base of the adjacent arrow. The
9 triangle formed by the three arrows curved at their midpoints shall depict a clockwise
10 path around the code number. The label shall appear on the bottom of the plastic
11 container product and be clearly visible. Plastic beverage containers having a capacity of
12 less than 16 fluid ounces, nonsolid food liquid containers having a capacity of less than
13 16 fluid ounces, and rigid plastic containers having a capacity of less than eight fluid
14 ounces are exempt from the requirements of this subsection. The numbers and letters
15 shall be as follows:

- 16 (1) For polyethylene terephthalate, the letters 'PETE' and the number 1.
- 17 (2) For high density polyethylene, the letters 'HDPE' and the number 2.
- 18 (3) For vinyl, the letter 'V' and the number 3.
- 19 (4) For low density polyethylene, the letters 'LDPE' and the number 4.
- 20 (5) For polypropylene, the letters 'PP' and the number 5.
- 21 (6) For polystyrene, the letters 'PS' and the number 6.
- 22 (7) For any other, including multi-material containers, the letters 'OTHER'
23 and the number 7.

24 (f) ~~In accordance with the following schedule, no~~ No person shall knowingly dispose
25 of the following solid wastes in landfills:

- 26 (1) Repealed by Session Laws 1991, c. 375, s. 1.
- 27 (2) Used oil.
- 28 (3) Yard trash, except in landfills ~~classified for such use~~ approved for the
29 disposal of yard trash under rules adopted by the Commission. Yard
30 trash that is source separated from solid waste may be accepted at a
31 solid waste disposal area where the area provides and maintains separate
32 yard trash composting facilities.
- 33 (4) White goods.
- 34 (5) Antifreeze (ethylene glycol).
- 35 (6) Aluminum ~~cans, after July 1, 1994.~~ cans.
- 36 (7) Whole scrap tires, as provided in G.S. 130A-309.58(b). The prohibition
37 against landfilling whole tires applies to all whole pneumatic rubber
38 coverings, but does not apply to whole solid rubber coverings.
- 39 (8) Lead-acid batteries, as provided in G.S. 130A-309.70.

40 (f1) ~~In accordance with the following schedule, no~~ No person shall knowingly dispose
41 of the following solid wastes by incineration in an incinerator for which a permit is
42 required under this Article:

- 1 (1) Antifreeze (ethylene glycol) used solely in motor ~~vehicles, after July 1,~~
2 ~~1994. vehicles.~~
- 3 (2) Aluminum ~~cans, after July 1, 1994. cans.~~
- 4 (3) Steel cans, unless the steel is recoverable at the end of the incineration
5 ~~process, after July 1, 1994. process.~~
- 6 (4) White ~~goods, after July 1, 1994. goods.~~
- 7 (5) Lead-acid batteries, as provided in G.S. 130A-309.70.

8 (f2) ~~Provided that this subsection~~ Subsection (f1) of this section shall not apply to
9 solid waste incinerated in an incinerator solely owned and operated by the generator of
10 the solid ~~waste; and provided further that this subsection~~ waste. Subsection (f1) of this
11 section shall not apply to antifreeze (ethylene glycol) ~~which~~ that cannot be recycled or
12 reclaimed to make it usable as antifreeze in a motor vehicle.

13 (g) Prior to the effective dates specified in this section, the Department shall
14 identify and assist in developing alternative disposal, processing, or recycling options for
15 the solid waste identified in this section.

16 (h) The accidental or occasional disposal of small amounts of prohibited solid
17 waste by landfill or incineration shall not be construed as a violation of subsections (f) or
18 (f1) of this section."

19 Sec. 14. G.S. 130A-309.25(c) reads as rewritten:

20 "(c) A person may not perform the duties of an operator of a solid waste
21 management facility after 1 January ~~1996, 1998,~~ unless he has completed an operator
22 training course approved by the Department. An owner of a solid waste management
23 facility may not employ any person to perform the duties of an operator unless ~~such~~ the
24 person has completed an approved solid waste management facility operator training
25 course."

26 Sec. 15. G.S. 130A-309.26(b) reads as rewritten:

27 "(b) It is the intent of the General Assembly to protect the public health by
28 establishing standards for the safe packaging, storage, treatment, and disposal of medical
29 waste. The Commission shall adopt and the Department shall enforce rules for the
30 packaging, storage, treatment, and disposal of:

- 31 (1) Medical waste at facilities where medical waste is generated;
- 32 (2) Medical waste from the point at which the waste is transported from the
33 facility where it was generated;
- 34 (3) On-site and off-site ~~incineration~~ treatment of medical waste; and
- 35 (4) The off-site transport, storage, treatment or disposal of medical waste."

36 Sec. 16. G.S. 130A-309.53(7) reads as rewritten:

37 "(7) 'Tire' means a continuous solid or pneumatic rubber covering that
38 encircles the wheel of a ~~vehicle and is subject to the tax imposed by Article~~
39 ~~5B of Chapter 105~~ vehicle. Bicycle tires and other tires for vehicles
40 propelled by human power are not subject to the provisions of this Part."

41 Sec. 17. G.S. 130A-309.58(b) reads as rewritten:

42 "(b) The Commission may adopt rules approving other permissible methods of
43 scrap tire disposal. Landfilling of whole scrap tires is prohibited. The prohibition against

1 landfilling whole tires applies to all whole pneumatic rubber coverings, but does not
2 apply to whole solid rubber coverings."

3 Sec. 18. G.S. 130A-309.63(e) is rewritten to read:

4 "(e) Reports. – The Department shall ~~make quarterly reports~~ report annually on the
5 Scrap Tire Disposal Account to the Environmental Review Commission. The report shall
6 be submitted by 1 October of each year for the fiscal year ending the preceding 30 June
7 and may be submitted as part of the report required by G.S. 130A-309.06(c). The report
8 shall show the beginning and ending balances in the Account for the reporting period, the
9 amount credited to the Account during the quarter, and the amount of revenue used for
10 grants and to clean up nuisance tire collection sites. ~~A quarterly report shall be filed within~~
11 ~~60 days after the end of a calendar quarter."~~

12 Sec. 19. G.S. 130A-309.85 reads as rewritten:

13 **"§ 130A-309.85. (Effective until July 1, 1999) Department to submit annual report**
14 **on the management of white goods.**

15 The Department shall ~~make an annual report~~ annually to the Environmental Review
16 Commission concerning the management of white goods. The report shall be submitted
17 by 1 October ~~of each year, shall cover year for the~~ fiscal year ending on the preceding 30
18 June 30, and may be submitted as part of the report required by G.S. 130A-309.06(c).
19 The report shall include the following information:

- 20 (1) The amount of taxes collected and distributed under G.S. 105-187.24
21 during the period covered by the report.
- 22 (2) The cost to each county of managing white goods during the period
23 covered by the report.
- 24 (3) The beginning and ending balances of the White Goods Management
25 Account for the period covered by the report and a list of grants made
26 from the Account for the period.
- 27 (4) Any other information the Department considers helpful in
28 understanding the problem of managing white goods."

29 Sec. 20. G.S. 130A-309.85 reads as rewritten:

30 **"§ 130A-309.85. (Effective July 1, 1999) Department to submit annual report on the**
31 **management of white goods.**

32 The Department shall ~~make an annual report~~ annually to the Environmental Review
33 Commission concerning the management of white goods. The report shall be submitted
34 by 1 October ~~of each year, shall cover year for the~~ fiscal year ending on the preceding 30
35 June 30, and may be submitted as part of the report required by G.S. 130A-309.06(c).
36 The report shall include the cost to each county of managing white goods during the
37 period covered by the report, the additional fees on white goods collected by each county
38 during the period covered by the report, and any other information the Department
39 considers helpful in understanding the problem of managing white goods."

40 Sec. 21. G.S. 153A-292 is amended by adding three new subsections to read:

41 "(f) A board of county commissioners may impose reasonable fees for processing
42 and disposal of solid waste at any facility that the county owns or operates. Except as
43 provided in subsection (g) of this section, a county may not charge a fee to a municipality

1 that is greater than the fee the county charges to other users of the facility. Solid waste
2 use and availability fees collected on a countywide basis shall be used to fund solid waste
3 management services that are provided throughout the county.

4 (g) A county may vary the fees it charges for processing and disposal of solid
5 waste based upon the amount, characteristics, and form of recyclable materials present in
6 the solid waste.

7 (h) Nothing in this section prohibits a county from providing loans, grants, or other
8 aid to low-income persons to pay all or part of the cost of solid waste management
9 services for those persons."

10 Sec. 22. G.S. 160A-314 is amended by adding three new subsections to read:

11 "(f) The governing board of a city may impose reasonable fees for collecting,
12 processing, or disposal of solid waste in order to develop and implement a waste
13 reduction program.

14 (g) A city may vary the fees it charges for processing and disposal of solid waste
15 based upon the amount, characteristics, and form of recyclable materials present in the
16 solid waste.

17 (h) Nothing in this section prohibits a city from providing loans, grants, or other
18 aid to low-income persons to pay all or part of the cost of solid waste management
19 services for those persons."

20 Sec. 23. (a) Each unit of local government shall adopt a resolution approving the
21 comprehensive solid waste management plan required by G.S. 130A-309.09A(b), as
22 amended by Section 9 of this act, and shall begin implementation of the plan, by 1 July
23 1996. Units of local government that prepared a solid waste management plan pursuant
24 to G.S. 130A-309.09A(b) prior to the date this act becomes effective may, in lieu of
25 developing a new plan, update their existing plan to meet the requirements of G.S. 130A-
26 309.09A(b), as amended by Section 9 of this act.

27 (b) A generator of industrial waste who is required to develop a solid waste
28 management plan by G.S. 130A-309.09D(c), as enacted by Section 12 of this act, is not
29 required to complete the plan until 1 July 1996, and is not required to file the plan with
30 the Department of Environment, Health, and Natural Resources until 1 August 1997.

31 Sec. 24. This act is effective upon ratification.