

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1492

Short Title: Solid Waste Management Act of 2007. (Public)

Sponsors: Senators Clodfelter and Albertson.

Referred to: Agriculture/Environment/Natural Resources.

March 27, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO: (1) CLARIFY THE CIRCUMSTANCES UNDER WHICH AN
3 APPLICATION FOR A SOLID WASTE MANAGEMENT PERMIT MAY BE
4 DENIED; (2) SPECIFY TECHNICAL REQUIREMENTS FOR SOLID WASTE
5 CONTAINERS; (3) PROVIDE THAT SOLID WASTE MANAGEMENT
6 PERMITS ARE NOT TRANSFERABLE; (4) INCREASE THE PENALTIES
7 THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS; (5) REQUIRE
8 THAT AN APPLICANT FOR A PERMIT AND A PERMIT HOLDER
9 ESTABLISH FINANCIAL RESPONSIBILITY TO ENSURE THE
10 AVAILABILITY OF SUFFICIENT FUNDS FOR PROPER DESIGN,
11 CONSTRUCTION, OPERATION, MAINTENANCE, CLOSURE, AND
12 POST-CLOSURE MONITORING AND MAINTENANCE OF A SOLID WASTE
13 MANAGEMENT FACILITY; (6) REQUIRE THAT AN OWNER OR OPERATOR
14 OF A SANITARY LANDFILL ESTABLISH FINANCIAL RESPONSIBILITY
15 SUFFICIENT TO COVER A MINIMUM OF THREE MILLION DOLLARS IN
16 COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT
17 THE FACILITY, IN ADDITION TO OTHER FINANCIAL RESPONSIBILITY
18 REQUIREMENTS; (7) CLARIFY AND EXPAND THE SCOPE OF
19 ENVIRONMENTAL COMPLIANCE REVIEW REQUIREMENTS; (8) CLARIFY
20 THAT A PARENT, SUBSIDIARY, OR OTHER AFFILIATE OF THE
21 APPLICANT OR PARENT, INCLUDING ANY BUSINESS ENTITY OR JOINT
22 VENTURER WITH A DIRECT OR INDIRECT FINANCIAL OR EQUITY
23 INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL
24 RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (9)
25 SPECIFY ADDITIONAL TECHNICAL REQUIREMENTS FOR SOLID WASTE
26 MANAGEMENT FACILITIES; (10) REQUIRE THAT ALL APPLICANTS FOR
27 SOLID WASTE MANAGEMENT FACILITY PERMITS CONDUCT AN
28 ENVIRONMENTAL IMPACT STUDY AND TRAFFIC STUDY; (11) CLARIFY
29 THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT

1 MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (12) AUTHORIZE
2 CERTAIN UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL
3 LIAISONS; (13) PROVIDE FOR STATE-LEVEL REVIEW OF PROPOSED
4 MULTI-JURISDICTIONAL SOLID WASTE MANAGEMENT FACILITIES; (14)
5 ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID WASTE
6 MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE
7 MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL
8 FEE TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE IN
9 LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL
10 SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO
11 PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF
12 ORPHAN LANDFILLS AND OTHER CONTAMINATED SITES; AND (16)
13 MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL
14 CHANGES.

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 130A-294 reads as rewritten:

17 **"§ 130A-294. Solid waste management program.**

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

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

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

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

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

- 32 1. Construction or operation of the proposed facility would
33 be inconsistent with or violate rules adopted by the
34 Commission.
- 35 2. Construction or operation of the proposed facility would
36 result in a violation of water quality standards adopted
37 by the Environmental Management Commission
38 pursuant to G.S. 143-214.1 for waters, as defined in
39 G.S. 143-213.
- 40 3. Construction or operation of the proposed facility would
41 result in major or irreversible damage to important
42 environmental, historic, cultural, scientific, or scenic
43 values, or natural systems or processes which are of
44 more than local significance, or could unreasonably

1 placed in the waste stream for disposal be collected, transported, stored
2 and disposed of at a permitted solid waste management facility or
3 facilities serving such area. The provisions of such ordinance shall not
4 be construed to prohibit the source separation of materials from solid
5 waste prior to collection of such solid waste for disposal, or prohibit
6 collectors of solid waste from recycling materials or limit access to
7 such materials as an incident to collection of such solid waste;
8 provided such prohibitions do not authorize the construction and
9 operation of a resource recovery facility unless specifically permitted
10 pursuant to an approved solid waste management plan. If a private
11 solid waste landfill shall be substantially affected by such ordinance
12 then the unit of local government adopting the ordinance shall be
13 required to give the operator of the affected landfill at least two years
14 written notice prior to the effective date of the proposed ordinance.

15 (5c) Except for the authority to designate a geographic area to be serviced
16 by a solid waste management facility, delegate authority and
17 responsibility to units of local government to perform all or a portion
18 of a solid waste management program within the jurisdictional area of
19 the unit of local government; provided that no authority over or control
20 of the operations or properties of one local government shall be
21 delegated to any other local government.

22 (5d) Require that an annual report of the implementation of the solid waste
23 management plan within the designated geographic area be filed with
24 the Department.

25 (6) ~~The Department is authorized to charge~~ Charge and collect fees from
26 operators of hazardous waste disposal facilities. The fees shall be used
27 to establish a fund sufficient for each individual facility to defray the
28 anticipated costs to the State for monitoring and care of the facility
29 after the termination of the period during which the facility operator is
30 required by applicable State and federal statutes, regulations or rules to
31 remain responsible for post-closure monitoring and care. In
32 establishing the fees, consideration shall be given to the size of the
33 facility, the nature of the hazardous waste and the projected life of the
34 facility.

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

38 (8) Require that a container used to transport solid waste by railway or
39 barge meet the following requirements:

40 a. The waste container shall be completely enclosed or covered
41 and designed, constructed, loaded, operated, secured, and
42 maintained so as to prevent the escape of wastes, liquids, and
43 odors, accidents during loading, transportation, unloading, and

1 the loss or spillage of wastes and liquids in the event of an
2 accident.

3 b. The waste container shall be certified as watertight when it is
4 placed into service and at least once every six months thereafter
5 while it remains in service. In order to be certified as watertight,
6 a waste container shall:

7 1. Have a minimum internal head of 24 inches of water
8 applied to the container in an upright position for at least
9 15 minutes during which the container shall remain free
10 from the escape of water.

11 2. Be visually inspected for damage on all sides, plus the
12 top and bottom and must have no visible holes, gaps, or
13 structural damage affecting the container's integrity or
14 performance.

15 (9) Require that the owner of a container used to transport solid waste by
16 railway or barge shall maintain a record of the tests of the container
17 required by sub-subdivision b. of subdivision (8) of this subsection for
18 three years, provide a copy of the record to any person who leases or
19 handles the container, and make the record available to the Department
20 for inspection.

21 (10) Require that a barge or railcar that is not containerized meet the
22 requirements of subdivisions (8) and (9) of this subsection.

23 (a1) (1) The entry of liquids into a container used to transport solid waste by
24 truck, railway, or barge while the waste is being transported, held, or
25 stored, or in the event of an accident, is a violation of this Article.

26 (2) The escape, loss, or spillage of wastes or liquids from a container used
27 to transport solid waste by truck, railway, or barge while the waste is
28 being transported, held, or stored, or in the event of an accident, is a
29 violation of this Article.

30 (3) The escape of odors from a container used to transport solid waste by
31 truck, railway, or barge while the waste is being transported, held, or
32 stored, or in the event of an accident, is a violation of this Article.

33 (a2) No permit shall be issued for any public or private sanitary landfill to receive
34 solid nonradioactive waste generated outside the boundaries of the State for disposal in
35 the State unless the waste has previously been inspected by the solid waste regulatory
36 agency of that nation, state, or territory, characterized in detail as to its contents, and
37 certified by that agency to be non-injurious to public health and safety. The Commission
38 shall adopt rules to implement this subsection.

39 (a3) A permit for a solid waste management facility is not transferable.

40 (b) The Commission shall adopt and the Department shall enforce rules to
41 implement a comprehensive statewide solid waste management program. The rules shall
42 be consistent with applicable State and federal law; and shall be designed to protect the
43 public health, safety, and welfare; preserve the environment; and provide for the
44 greatest possible conservation of cultural and natural resources. Rules for the

1 establishment, location, operation, maintenance, use, discontinuance, recordation,
2 post-closure care of solid waste management facilities also shall be based upon
3 recognized public health practices and procedures, including applicable epidemiological
4 research and studies; hydrogeological research and studies; sanitary engineering
5 research and studies; and current technological development in equipment and methods.
6 The rules shall not apply to the management of solid waste that is generated by an
7 individual or individual family or household unit on the individual's property and is
8 disposed of on the individual's property.

9 ~~The Commission shall adopt rules for financial responsibility to ensure the~~
10 ~~availability of sufficient funds for closure and post closure maintenance and monitoring~~
11 ~~at solid waste management facilities, and for any corrective action the Department may~~
12 ~~require during the active life of a facility or during the closure and post closure periods.~~
13 ~~The rules may permit demonstration of financial responsibility through the use of a~~
14 ~~letter of credit, insurance, surety, trust agreement, financial test, or guarantee by~~
15 ~~corporate parents or third parties who can pass the financial test. The rules shall require~~
16 ~~that an owner or operator of a privately owned solid waste management facility~~
17 ~~demonstrate financial responsibility by a method or combinations of methods that will~~
18 ~~ensure that sufficient funds for closure, post closure maintenance and monitoring, and~~
19 ~~any corrective action that the Department may require will be available during the~~
20 ~~active life of the facility, at closure, and for a period of not less than 30 years after~~
21 ~~closure even if the owner or operator becomes insolvent or ceases to reside, be~~
22 ~~incorporated, do business, or maintain assets in the State.~~

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

25 a. An increase of ten percent (10%) or more in:

- 26 1. The population of the geographic area to be served by
27 the sanitary landfill;
- 28 2. The quantity of solid waste to be disposed of in the
29 sanitary landfill; or
- 30 3. The geographic area to be served by the sanitary landfill.

31 b. A change in the categories of solid waste to be disposed of in
32 the sanitary landfill or any other change to the application for a
33 permit or to the permit for a sanitary landfill that the
34 Commission or the Department determines to be substantial.

35 (2) A person who intends to apply for a new permit, the renewal of a
36 permit, or a substantial amendment to a permit for a sanitary landfill
37 shall obtain, prior to applying for a permit, a franchise for the
38 operation of the sanitary landfill from each local government having
39 jurisdiction over any part of the land on which the sanitary landfill and
40 its appurtenances are located or to be located. A local government may
41 adopt a franchise ordinance under G.S. 153A-136 or G.S. 160A-319. A
42 franchise granted for a sanitary landfill shall include all of the
43 following:

- 1 a. A statement of the population to be served, including a
2 description of the geographic area.
- 3 b. A description of the volume and characteristics of the waste
4 stream.
- 5 c. A projection of the useful life of the sanitary landfill.
- 6 d. An explanation of how the franchise will be consistent with the
7 jurisdiction's solid waste management plan required under
8 G.S. 130A-309.09A, including provisions for waste reduction,
9 reuse, and recycling.
- 10 e. The procedures to be followed for governmental oversight and
11 regulation of the fees and rates to be charged by facilities
12 subject to the franchise for waste generated in the jurisdiction of
13 the franchising entity.
- 14 f. A facility plan for the sanitary landfill that shall include the
15 exact boundaries of the proposed facility, proposed
16 development of the facility site in five-year operational phases,
17 the boundaries of all waste disposal units, final elevations and
18 capacity of all waste disposal units, the amount of waste to be
19 received per day in tons, the total waste disposal capacity of the
20 sanitary landfill in tons, a description of environmental controls,
21 and a description of any other waste management activities to
22 be conducted at the facility. In addition, the facility plan shall
23 show the location of soil borrow areas, leachate facilities, and
24 all other facilities and infrastructure, including ingress and
25 egress to the facility.
- 26 (2a) A local government may elect to award a preliminary franchise. If a
27 local government elects to award a preliminary franchise, the
28 preliminary franchise shall contain, at a minimum, all of the
29 information described in sub-subdivisions a. through e. of subdivision
30 (2) of this subsection plus a general description of the proposed
31 sanitary landfill, including the approximate number of acres required
32 for the proposed sanitary landfill and its appurtenances and a
33 description of any other solid waste management activities that are to
34 be conducted at the site.
- 35 (3) Prior to the award of a franchise for the construction or operation of a
36 sanitary landfill, the board of commissioners of the county or counties
37 in which the sanitary landfill is proposed to be located or is located or,
38 if the sanitary landfill is proposed to be located or is located in a city,
39 the governing board of the city shall conduct a public hearing. The
40 board of commissioners of the county or counties in which the sanitary
41 landfill is proposed to be located or is located or, if the sanitary landfill
42 is proposed to be located or is located in a city, the governing board of
43 the city shall provide at least 30 days' notice to the public of the public
44 hearing. The notice shall include a summary of all the information

1 required to be included in the franchise, and shall specify the
2 procedure to be followed at the public hearing. The applicant for the
3 franchise shall provide a copy of the application for the franchise that
4 includes all of the information required to be included in the franchise,
5 to the public library closest to the proposed sanitary landfill site to be
6 made available for inspection and copying by the public.

- 7 (4) An applicant for a new permit, the renewal of a permit, or a substantial
8 amendment to a permit for a sanitary landfill shall request each local
9 government having jurisdiction over any part of the land on which the
10 sanitary landfill and its appurtenances are located or to be located to
11 issue a determination as to whether the local government has in effect
12 a franchise, zoning, subdivision, or land-use planning ordinance
13 applicable to the sanitary landfill and whether the proposed sanitary
14 landfill, or the existing sanitary landfill as it would be operated under
15 the renewed or substantially amended permit, would be consistent with
16 the applicable ordinances. The request to the local government shall be
17 accompanied by a copy of the permit application and shall be delivered
18 to the clerk of the local government personally or by certified mail. In
19 order to serve as a basis for a determination that an application for a
20 new permit, the renewal of a permit, or a substantial amendment to a
21 permit for a sanitary landfill is consistent with a zoning, subdivision,
22 or land-use planning ordinance, an ordinance or zoning classification
23 applicable to the real property designated in the permit application
24 shall have been in effect not less than 90 days prior to the date the
25 request for a determination of consistency is delivered to the clerk of
26 the local government. The determination shall be verified or supported
27 by affidavit signed by the chief administrative officer, the chief
28 administrative officer's designee, clerk, or other official designated by
29 the local government to make the determination and, if the local
30 government states that the sanitary landfill as it would be operated
31 under the new, renewed, or substantially amended permit is
32 inconsistent with a franchise, zoning, subdivision, or land-use planning
33 ordinance, shall include a copy of the ordinance and the specific
34 reasons for the determination of inconsistency. A copy of the
35 determination shall be provided to the applicant when the
36 determination is submitted to the Department. The Department shall
37 not act upon an application for a permit under this section until it has
38 received a determination from each local government requested to
39 make a determination by the applicant; provided that if a local
40 government fails to submit a determination to the Department as
41 provided by this subsection within 15 days after receipt of the request,
42 the Department shall proceed to consider the permit application
43 without regard to a franchise, local zoning, subdivision, and land-use
44 planning ordinances. Unless the local government makes a subsequent

1 determination of consistency with all ordinances cited in the
2 determination or the sanitary landfill as it would be operated under the
3 new, renewed, or substantially amended permit is determined by a
4 court of competent jurisdiction to be consistent with the cited
5 ordinances, the Department shall attach as a condition of the permit a
6 requirement that the applicant, prior to construction or operation of the
7 sanitary landfill under the permit, comply with all lawfully adopted
8 local ordinances cited in the determination that apply to the sanitary
9 landfill. This subsection shall not be construed to affect the validity of
10 any lawfully adopted franchise, local zoning, subdivision, or land-use
11 planning ordinance or to affect the responsibility of any person to
12 comply with any lawfully adopted franchise, local zoning, subdivision,
13 or land-use planning ordinance. This subsection shall not be construed
14 to limit any opportunity a local government may have to comment on a
15 permit application under any other law or rule. This subsection shall
16 not apply to any facility with respect to which local ordinances are
17 subject to review under either G.S. 104E-6.2 or G.S. 130A-293.

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

25 (b2) The Department may require an applicant for a permit under this Article to
26 satisfy the Department that the applicant, and any parent, subsidiary, or other affiliate of
27 the applicant or ~~parent~~ parent, including any joint venturer with a direct or indirect
28 financial or equity interest in the applicant:

29 (1) ~~Is financially qualified to carry out the activity for which the permit is~~
30 ~~required.~~ Has established financial responsibility as required by
31 G.S. 130A-295.2.

32 (2) Has substantially complied with the requirements applicable to any
33 solid waste management activity in which the applicant applicant, or a
34 parent, subsidiary, or other affiliate of the applicant or parent, or a joint
35 venturer with a direct or indirect financial or equity interest in the
36 applicant, has previously engaged and has been in substantial
37 compliance with federal and state laws, regulations, and rules for the
38 protection of the environment.environment as provided in
39 G.S. 130A-295.3.

40 (b3) An applicant for a permit under this Article shall satisfy the Department that
41 the applicant has met the requirements of subsection (b2) of this section before the
42 Department is required to otherwise review the application. ~~In order to continue to hold~~
43 ~~a permit under this Article, a permittee must remain financially qualified and must~~

1 provide any information requested by the Department to demonstrate that the permittee
2 continues to be financially qualified.

3 ..."

4 **SECTION 2.** G.S. 130A-18 reads as rewritten:

5 "**§ 130A-18. Injunction.**

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

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

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

17 "(a) The Secretary of Environment and Natural Resources may impose an
18 administrative penalty on a person who violates Article 9 of this Chapter, rules adopted
19 by the Commission pursuant to Article 9, or any term or condition of a permit or order
20 issued under Article 9. Each day of a continuing violation shall constitute a separate
21 violation. The penalty shall not exceed ~~five thousand dollars (\$5,000)~~ ten thousand
22 dollars (\$10,000) per day in the case of a violation involving nonhazardous waste. The
23 penalty shall not exceed ~~twenty-five thousand dollars (\$25,000)~~ thirty-two thousand five
24 hundred dollars (\$32,500) per day in the case of a first violation involving hazardous
25 waste as defined in G.S. 130A-290 or involving the disposal of medical waste as
26 defined in G.S. 130A-290 in or upon water in a manner that results in medical waste
27 entering waters or lands of the State; and shall not exceed fifty thousand dollars
28 (\$50,000) per day for a second or further violation involving the disposal of medical
29 waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical
30 waste entering waters or lands of the State. The penalty shall not exceed ~~twenty-five~~
31 ~~thousand dollars (\$25,000)~~ thirty-two thousand five hundred dollars (\$32,500) per day
32 for a violation involving a voluntary remedial action implemented pursuant to
33 G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to G.S. 130A-310.12(b).
34 If a person fails to pay a civil penalty within 60 days after the final agency decision or
35 court order has been served on the violator, the Secretary of Environment and Natural
36 Resources shall request the Attorney General to institute a civil action in the superior
37 court of any county in which the violator resides or has his or its principal place of
38 business to recover the amount of the assessment. Such civil actions must be filed
39 within three years of the date the final agency decision or court order was served on the
40 violator."

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

42 "(j) The Secretary of Environment and Natural Resources may also assess the
43 reasonable costs of any investigation, inspection, or monitoring associated with the

1 assessment of the civil penalty against any person who is assessed a civil penalty under
2 this section."

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

5 **"§ 130A-295.2. Financial responsibility requirements for applicants and permit**
6 **holders.**

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

13 (b) An applicant for a permit or a permit holder may establish financial
14 responsibility through a cash deposit, insurance, binding letter of credit, binding loan
15 commitment, surety, trust agreement, financial test, or guarantee by a corporate parent
16 or third party that can pass the financial test. A business entity that established financial
17 responsibility for an applicant for a permit or a permit holder must be rated AAA by
18 Standard & Poor's, Moody's Investor Service, or Fitch, Inc. If assets of a parent,
19 subsidiary, or other affiliate of the applicant for a permit, permit holder, or a joint
20 venturer with a direct or indirect financial or equity interest in the applicant or permit
21 holder are proposed to be used to establish the financial responsibility of the applicant
22 for a permit or permit holder, the party whose assets are to be used must be listed on the
23 permit of the facility. Assets used to meet the financial responsibility requirements of
24 this section shall be in a form that will allow the Department to readily access funds for
25 the purposes set out in this section. Assets used to meet financial responsibility
26 requirements of this section shall not be accessible to the permit holder except as
27 approved by the Department.

28 (c) The owner or operator of a privately owned solid waste management facility
29 shall provide an audited, certified financial statement and shall establish financial
30 responsibility by a method or combination of methods that will ensure that sufficient
31 funds for closure, post-closure maintenance and monitoring, and any corrective action
32 that the Department may require will be available during the active life of the facility, at
33 closure, and for a period of not less than 30 years after closure even if the owner or
34 operator becomes insolvent or ceases to reside, be incorporated, do business, or
35 maintain assets in the State.

36 (d) The Department may, in its discretion, require an applicant for a permit to
37 construct a facility to establish financial responsibility for the proper design,
38 construction, operation, maintenance, closure, and post-closure monitoring and
39 maintenance of a facility to the first five-year phase of the facility. If the Department
40 requires an applicant for a permit or a permit holder to establish financial responsibility
41 for only the first five-year phase of the facility, the Department shall require the
42 applicant for a permit or a permit holder to establish financial responsibility for each
43 successive five-year phase of the facility when applying for a permit to construct each
44 successive phase of the facility. The applicant shall provide cost estimates for site

1 investigation; land acquisition, including financing terms and land ownership; proper
2 design, construction of each five-year phase, operation, maintenance, closure, and
3 post-closure monitoring and maintenance of the facility.

4 (e) In order to continue to hold a permit under this Article, a permit holder must
5 maintain financial responsibility and must provide any information requested by the
6 Department to establish that the permit holder continues to maintain financial
7 responsibility. A permit holder shall notify the Department of any significant change in
8 the: (i) identity of any person or structure of the business entity that holds the permit for
9 the facility; (ii) identity of any person or structure of the business entity that owns or
10 operates the facility; or (iii) assets of the permit holder, owner, or operator of the
11 facility. The permit holder shall notify the Department within 30 days of a significant
12 change. A change shall be considered significant if it has the potential to affect the
13 financial responsibility of the permit holder, owner, or operator, or if it would result in a
14 change in the identity of the permit holder, owner, or operator for purposes of either
15 financial responsibility or environmental compliance review. Based on its review of the
16 changes, the Department may require the permit holder to reestablish financial
17 responsibility and may modify or revoke a permit, or require issuance of a new permit.

18 (f) To meet the financial responsibility requirements of this section, the owner or
19 operator of a sanitary landfill shall establish financial responsibility sufficient to cover a
20 minimum of three million dollars (\$3,000,000) in costs for potential assessment and
21 corrective action at the facility. The Department may require financial responsibility in
22 a higher amount and may increase the amount of financial responsibility required of a
23 permit holder at any time based upon the types of waste disposed in the landfill, the
24 projected amount of waste to be disposed in the landfill, the location of the landfill,
25 potential receptors of releases from the landfill, and inflation. The financial
26 responsibility requirements of this subsection are in addition to the financial
27 responsibility requirements set out in subsections (a) through (e) of this section."

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

29 **"§ 130A-309.27. ~~Landfill escrow account.~~Joint and several liability.**

30 (a) As used in this section:

31 (1) "Owner or operator" means, in addition to the usual meanings of the
32 term, any owner of record of any interest in land on which a landfill is
33 or has been sited, and any person or ~~corporation which~~ business entity
34 that owns a majority interest in any other corporation which that is the
35 owner or operator of a ~~landfill.~~landfill, except that a minority
36 shareholder of a publicly traded corporation who has no involvement
37 in management or control of the corporation or any of its subsidiaries
38 or affiliates shall not be considered an owner or operator solely on the
39 basis of his stock holdings.

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

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

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

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

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

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

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

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

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

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

1 **"§ 130A-295.3. Environmental compliance review requirements for applicants and**
2 **permit holders.**

3 (a) The Department shall conduct an environmental compliance review of each
4 applicant for a new permit, permit renewal, and permit amendment under this Article.
5 The environmental compliance review shall evaluate the environmental compliance
6 history of the applicant for a period of at least three years prior to the date of the
7 application and may cover a longer period at the discretion of the Department. The
8 environmental compliance review of an applicant may include consideration of the
9 environmental compliance history of the parents, subsidiaries, or other affiliates of the
10 applicant or parent, including any business entity or joint venturer with a direct or
11 indirect financial or equity interest in the applicant, and other facilities owned or
12 operated by any of them. The Department shall determine the scope of the review of the
13 environmental compliance history of the applicant, parents, subsidiaries, or other
14 affiliates of the applicant or parent, including any business entity or joint venturer with a
15 direct or indirect financial or equity interest in the applicant, and of other facilities
16 owned or operated by any of them. An applicant for a permit shall provide
17 environmental compliance history information for each facility, business entity, joint
18 venture, or other undertaking in which any of the persons listed in this subsection is or
19 has been an owner, operator, officer, director, manager, member, or partner, or in which
20 any of the persons listed in this subsection has had a direct or indirect financial or equity
21 interest as requested by the Department. In its conduct of an environmental compliance
22 review, the Department may consider the environmental compliance history of:

- 23 (1) Officers, directors, managers, members, and partners of the applicant
24 for the permit.
25 (2) All persons with a direct or indirect financial or equity interest in the
26 applicant for the permit.
27 (3) Officers, directors, managers, members, and partners in any business
28 entity which has a direct or indirect financial or equity interest in the
29 applicant for the permit.
30 (4) Officers, directors, managers, members, and partners in any business
31 entity which is a parent, subsidiary, or other affiliate of the applicant
32 for the permit.

33 (b) The Department shall determine the extent to which the applicant, or a parent,
34 subsidiary, or other affiliate of the applicant or parent, or a joint venturer with a direct or
35 indirect financial or equity interest in the applicant, has substantially complied with the
36 requirements applicable to any activity in which any of these entities previously
37 engaged, and has substantially complied with federal and state laws, regulations, and
38 rules for the protection of the environment. The Department may deny an application
39 for a permit if the applicant has repeatedly violated related statutes, rules, orders, or
40 permit terms or conditions for the protection of the environment or for the conservation
41 of natural resources.

42 (c) For purposes of this section, an applicant for a permit includes the owner or
43 operator of the facility, or, if the owner or operator is a business entity, the parent,
44 subsidiary, or other affiliate of the applicant, a partner, officer, director, member,

1 manager, and any person with a direct or indirect financial or equity interest in the
2 applicant, other than a minority shareholder of a publicly traded corporation who has no
3 involvement in management or control of the corporation or any of its parents,
4 subsidiaries, or affiliates."

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

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

8 **"§ 130A-295.4. Additional requirements for sanitary landfills.**

9 (a) An applicant for a permit to construct a sanitary landfill shall conduct a study
10 of environmental impacts from the proposed facility as described in G.S. 113A-4 and
11 rules adopted pursuant to G.S. 113A-4. In addition to information required under
12 G.S. 113A-4, the study shall address the applicant's ability to ensure compliance with
13 State laws and rules, and any applicable local ordinances, that prohibit the disposal of
14 certain items in landfills, and an alternative sites analysis. The Department shall publish
15 notice of the draft environmental impact statement and shall hold a public hearing in the
16 county where the landfill will be located no sooner than 30 days following the public
17 notice. The Department shall consider the study of environmental impacts and any
18 mitigation measures proposed by the applicant in deciding whether to issue or deny a
19 permit.

20 (b) An applicant for a permit to construct a sanitary landfill shall conduct a traffic
21 study of the impacts of the proposed facility. The Department shall include as a
22 condition of a permit for a sanitary landfill a requirement that the permit holder mitigate
23 adverse impacts identified by the traffic study. The study shall include all of the
24 following at a minimum:

- 25 (1) Identification of routes from the nearest limited access highway used
26 to access the proposed facility.
- 27 (2) Daily and hourly traffic volumes that will result along each approach
28 route between the nearest limited access highway and the proposed
29 facility.
- 30 (3) A map identifying land uses located along the identified approach
31 routes, including, but not limited to, residential, commercial, industrial
32 development and agricultural operations. The map shall identify
33 residences, schools, hospitals, nursing homes, and other significant
34 buildings that front the approach routes.
- 35 (4) Identification of locations on approach routes where road conditions
36 are inadequate to handle the increased traffic associated with the
37 proposed facility and a description of the mitigation measures
38 proposed by the applicant to address the conditions.
- 39 (5) A description of the potential adverse impacts of increased traffic
40 associated with the proposed facility and the mitigation measures
41 proposed by the applicant to address these impacts.

42 (c) The owner of a sanitary landfill shall employ a project engineer to inspect the
43 construction of disposal units within the sanitary landfill, landfill leachate handling
44 facilities, and landfill appurtenances. The project engineer shall be licensed as a

1 professional engineer under Chapter 89C of the General Statutes. The project engineer
2 shall be responsible for monitoring, documenting, and certifying that construction of the
3 disposal units at the sanitary landfill, leachate handling facilities, and landfill
4 appurtenances conforms to the plan approved by the Department as set out in the permit
5 to construct and all applicable federal and State laws, regulations, and rules. The project
6 engineer or the engineer's representative shall be at the site at all times during
7 construction of the disposal units and leachate handling systems. Each certification shall
8 bear the seal and signature of the project engineer and the date of certification.

9 (d) The Department shall require a buffer between any stream or wetland and the
10 nearest waste disposal unit of a sanitary landfill of at least 200 feet. The Department
11 may approve a buffer of less than 200 feet, but in no case less than 100 feet, if it finds
12 all of the following:

13 (1) The proposed sanitary landfill or expansion of the sanitary landfill will
14 serve a critical need in the community.

15 (2) There is no feasible alternative location that would allow siting or
16 expansion of the sanitary landfill with 200 foot buffers.

17 (e) Notwithstanding G.S. 143-215.54A(b), a sanitary landfill shall not be sited
18 within a 100-year floodplain or on land previously designated as a 100-year floodplain.

19 (f) A sanitary landfill shall be constructed with a composite liner system
20 consisting of two components. The upper component shall consist of a flexible
21 membrane liner and the lower component shall consist of a minimum of two feet of soil
22 with a maximum permeability of 1×10^{-7} centimeters per second. The flexible
23 membrane liner shall have a minimum thickness of 30 millimeters, except that liners
24 consisting of high density polyethylene shall be at least 60 millimeters thick. The
25 flexible membrane liner shall be installed in direct and uniform contact with the
26 compacted soil layer. The Department may approve an alternative composite liner
27 system if the Department finds, based on modeling, that the alternative system offers an
28 equivalent or greater degree of impermeability.

29 (g) A sanitary landfill for the disposal of construction and demolition debris shall
30 be constructed with a composite liner system consisting of two components. The upper
31 component shall consist of a flexible membrane liner and the lower component shall
32 consist of a minimum of two feet of compacted soil with a maximum permeability of 1
33 $\times 10^{-7}$ centimeters per second. The liner shall be a minimum of 30 millimeters in
34 thickness, except that a liner composed of high density polyethylene shall be a
35 minimum of 60 millimeters in thickness. The liner shall be installed in direct and
36 uniform contact with the compacted soil layer. The Department may approve an
37 alternate liner system if the Department finds, based on modeling, that the alternate liner
38 system will provide equivalent or greater impermeability.

39 (h) A sanitary landfill shall be constructed so that the post-settlement bottom
40 elevation of the liner system, or the post-settlement bottom elevation of the waste if no
41 liner system is required, is a minimum of five feet above the seasonal high groundwater
42 table and the bedrock datum plane contours.

43 (i) A permit holder for a sanitary landfill shall develop and implement a waste
44 screening plan. The plan shall identify measures adequate to ensure compliance with

1 State laws and rules, and any applicable local ordinances, that prohibit the disposal of
2 certain items in landfills. The plan shall address all sources of waste generation. The
3 plan is subject to approval by the Department.

4 (j) The following requirements apply to any sanitary landfill for which a liner is
5 required:

6 (1) Any geomembrane base liner system shall be tested for leaks and
7 damage by methods approved by the Department that ensure that the
8 entire liner is evaluated.

9 (2) Any leachate collection system shall be designed to return the head of
10 the liner to 30 centimeters or less within 72 hours after a
11 25-year-24-hour storm event. The leachate collection system shall
12 maintain a head of less than 30 centimeters at all times during leachate
13 recirculation. The Department may require the operator to monitor the
14 head of the liner to demonstrate that the head is being maintained in
15 accordance with this subdivision and any applicable rules.

16 (3) Any leachate collection lines shall be designed and constructed to
17 permanently allow remote camera inspection and cleaning. Any
18 leachate lines shall be cleaned and remotely inspected by camera at
19 least once a year. Documentation of the inspection and cleaning shall
20 be included in the operating records of the facility and provided to the
21 Department upon request.

22 (4) Any pipes used to transmit leachate shall provide dual containment
23 outside of the disposal unit. The bottom liner of a sanitary landfill shall
24 be constructed without pipe penetrations."

25 **SECTION 8.(a)** G.S. 153A-292(b) reads as rewritten:

26 "(b) The board of county commissioners may impose a fee for the collection of
27 solid waste. The fee may not exceed the costs of collection.

28 The board of county commissioners may impose a fee for the use of a disposal
29 facility provided by the county. The fee for use may not exceed the cost of operating the
30 facility and may be imposed only on those who use the facility. The fee for use may
31 vary based on the amount, characteristics, and form of recyclable materials present in
32 solid waste brought to the facility for disposal. A county may not impose a fee for the
33 use of a disposal facility on a city located in the county or a contractor or resident of the
34 city unless the fee is based on a schedule that applies uniformly throughout the county.

35 The board of county commissioners may impose a fee for the availability of a
36 disposal facility provided by the county. A fee for availability may not exceed the cost
37 of providing the facility and may be imposed on all improved property in the county
38 that benefits from the availability of the facility. A county may not impose an
39 availability fee on property whose solid waste is collected by a county, a city, or a
40 private contractor for a fee if the fee imposed by a county, a city, or a private contractor
41 for the collection of solid waste includes a charge for the availability and use of a
42 disposal facility provided by the county. Property served by a private contractor who
43 disposes of solid waste collected from the property in a disposal facility provided by a
44 private contractor that provides the same services as those provided by the county

1 disposal facility is not considered to benefit from a disposal facility provided by the
2 county and is not subject to a fee imposed by the county for the availability of a disposal
3 facility provided by the county. To the extent that the services provided by the county
4 disposal facility differ from the services provided by the disposal facility provided by a
5 private contractor, the county may charge an availability fee to cover the costs of the
6 additional services provided by the county disposal facility.

7 In determining the costs of providing and operating a disposal facility, a county may
8 consider solid waste management costs incidental to a county's handling and disposal of
9 solid waste at its disposal facility, including the costs of the methods of solid waste
10 management specified in G.S. 130A-309.04(a) of the Solid Waste Management Act of
11 1989. A fee for the availability or use of a disposal facility may be based on the
12 combined costs of the different disposal facilities provided by the county."

13 **SECTION 8.(b)** G.S. 160A-314.1(a) reads as rewritten:

14 "(a) In addition to a fee that a city may impose for collecting solid waste or for
15 using a disposal facility, a city may impose a fee for the availability of a disposal
16 facility provided by the city. A fee for availability may not exceed the cost of providing
17 the facility and may be imposed on all improved property in the city that benefits from
18 the availability of the facility. A city may not impose an availability fee on property
19 whose solid waste is collected by a county, a city, or a private contractor for a fee if the
20 fee imposed by a county, a city, or a private contractor for the collection of solid waste
21 includes a charge for the availability and use of a disposal facility provided by the city.
22 Property served by a private contractor who disposes of solid waste collected from the
23 property in a disposal facility provided by a private contractor that provides the same
24 services as those provided by the city disposal facility is not considered to benefit from
25 a disposal facility provided by the city and is not subject to a fee imposed by the city for
26 the availability of a disposal facility provided by the city. To the extent that the services
27 provided by the city disposal facility differ from the services provided by the disposal
28 facility provided by a private contractor, the city may charge an availability fee to cover
29 the costs of the additional services provided by the city disposal facility.

30 In determining the costs of providing and operating a disposal facility, a city may
31 consider solid waste management costs incidental to a city's handling and disposal of
32 solid waste at its disposal facility. A fee for the availability or use of a disposal facility
33 may be based on the combined costs of the different disposal facilities provided by the
34 city."

35 **SECTION 9.(a)** G.S. 153A-136 is amended by adding a new subsection to
36 read:

37 "(e) A county that has planning jurisdiction over any portion of the site of a
38 sanitary landfill with a service area that extends 100 miles or more in any direction from
39 the permitted disposal area of the landfill may employ a local government landfill
40 liaison. No person who is responsible for any aspect of the management or operation of
41 the landfill may serve as a local government landfill liaison. A local government landfill
42 liaison may enter the landfill facility at reasonable times and inspect the landfill
43 operation to:

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

- 1 (2) Identify and notify the Department of suspected violations of
2 applicable federal or State laws, regulations, or rules.
3 (3) Identify and notify the Department of potentially hazardous conditions
4 at the facility."

5 **SECTION 9.(b)** Chapter 160A of the General Statutes is amended by adding
6 a new section to read:

7 **"§ 160A-325. Local government landfill liaison.**

8 A city that has planning jurisdiction over any portion of the site of a sanitary landfill
9 with a service area that extends 100 miles or more in any direction from the permitted
10 disposal area of the landfill may employ a local government landfill liaison. No person
11 who is responsible for any aspect of the management or operation of the landfill may
12 serve as a local government landfill liaison. A local government landfill liaison may
13 enter the landfill facility at reasonable times and inspect the landfill operation to:

- 14 (1) Ensure that the facility meets all local requirements.
15 (2) Identify and notify the Department of suspected violations of
16 applicable federal or State laws, regulations, or rules.
17 (3) Identify and notify the Department of potentially hazardous conditions
18 at the facility."

19 **SECTION 10.** Part 2 of Article 9 of Chapter 130A of the General Statutes is
20 amended by adding a new section to read:

21 **"§ 130A-295.5. State-level review of proposed multi-jurisdictional solid waste**
22 **facilities.**

23 (a) There is hereby established the Commission on Multi-Jurisdictional Solid
24 Waste Management Facilities. The Commission shall be composed of the Secretary of
25 Environment and Natural Resources, the Secretary of Health and Human Services, and
26 the Secretary of Commerce. The Secretary of Environment and Natural Resources shall
27 be the chair of the Commission.

28 (b) If the service area for a solid waste management facility extends beyond the
29 jurisdictional boundary of the county in which it is located, the Department shall not act
30 upon an application for a permit, the renewal of a permit, or a substantial amendment to
31 a permit for the facility under this Article until the Commission on Multi-Jurisdictional
32 Solid Waste Management Facilities has approved the application as provided in this
33 section. The Commission shall approve an application only if the Commission
34 determines that:

- 35 (1) The proposed solid waste management facility is consistent with the
36 State solid waste management policy and goals as set out in
37 G.S. 130A-309.04 and with the State solid waste management plan
38 developed as provided in G.S. 130A-309.07.
39 (2) The local comprehensive solid waste management plan required by
40 G.S. 130A-309.09A(b) of the unit or units of local government where
41 the proposed solid waste management facility is located and the local
42 comprehensive solid waste management plans of each North Carolina
43 unit of local government that is located within the service area of the
44 proposed facility is consistent with the State solid waste management

1 policy and goals as set out in G.S. 130A-309.04 and with the State
2 solid waste management plan developed as provided in
3 G.S. 130A-309.07.

4 (3) Adequate procedures are legally established for governmental
5 oversight and regulation of the fees and rates to be charged by the
6 facility.

7 (4) The proposed solid waste management facility does not have a
8 disproportionate adverse impact on a minority or low-income
9 community."

10 **SECTION 11.(a)** G.S. 130A-290(a) is amended by renumbering subdivision
11 (1a) as (1b), renumbering subdivision (1b) as (1c), renumbering subdivision (1c) as
12 (1d), and by adding a new subdivision to read:

13 "(1a) 'Business entity' has the same meaning as in G.S. 55-1-40(2a)."

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

16 "(21a) 'Orphan landfill' means any landfill, whether publicly or privately
17 owned, that received municipal solid waste from a unit of local
18 government for disposal prior to 1 January 1983, that is no longer in
19 operation, and for which assessment and remediation are needed in
20 order to protect public health and the environment."

21 **SECTION 12.** Chapter 130A of the General Statutes is amended by adding a
22 new section to read:

23 **"§ 130A-295.6. Fees applicable to permits for solid waste management facilities.**

24 (a) The Solid Waste Management Account is established as a nonreverting
25 account within the Department. All fees collected under this section shall be credited to
26 the Account and shall be used to support the solid waste management program
27 established pursuant to G.S. 130A-294.

28 (b) As used in this section:

29 (1) 'New permit' means any of the following:

30 a. An application for a permit for a solid waste management
31 facility that has not been previously permitted by the
32 Department. The term includes one site suitability review, the
33 initial permit to construct, and one permit to operate the
34 constructed portion of a phase included in the permit to
35 construct.

36 b. An application that proposes to expand the boundary of a
37 permitted waste management facility for the purpose of
38 expanding the permitted activity.

39 c. An application that includes a proposed expansion to the
40 boundary of a waste disposal unit within a permitted solid waste
41 management facility.

42 d. An application for a substantial amendment to a solid waste
43 permit, as defined in G.S. 130A-294.

44 (2) 'Permit amendment' means any of the following:

- 1 a. An application for a permit to construct and one permit to
2 operate for the second and subsequent phases of landfill
3 development described in the approved facility plan for a
4 permitted solid waste management facility.
- 5 b. An application for the five-year renewal of a permit for a
6 permitted solid waste management facility or for a permit
7 review of a permitted solid waste management facility.
- 8 c. Any application that proposes a change in ownership or
9 corporate structure of a permitted solid waste management
10 facility.
- 11 (3) 'Permit modification' means any of the following:
- 12 a. An application for any change to the plans approved in a permit
13 for a solid waste management facility that does not constitute a
14 'permit amendment' or a 'new permit'.
- 15 b. A second or subsequent permit to operate for a constructed
16 portion of a phase included in the permit to construct.
- 17 (c) An applicant for a permit shall pay an application fee upon submission of an
18 application according to the following schedule:
- 19 (1) Municipal Solid Waste Landfill accepting less than 100,000 tons/year
20 of solid waste, New Permit – \$25,000.
- 21 (2) Municipal Solid Waste Landfill accepting less than 100,000 tons/year
22 of solid waste, Amendment – \$15,000.
- 23 (3) Municipal Solid Waste Landfill accepting less than 100,000 tons/year
24 of solid waste, Modification – \$1,500.
- 25 (4) Municipal Solid Waste Landfill accepting 100,000 tons/year or more
26 of solid waste, New Permit – \$50,000.
- 27 (5) Municipal Solid Waste Landfill accepting 100,000 tons/year or more
28 of solid waste, Amendment – \$30,000.
- 29 (6) Municipal Solid Waste Landfill accepting 100,000 tons/year or more
30 of solid waste, Modification – \$3,000.
- 31 (7) Construction and Demolition Landfill accepting less than 100,000
32 tons/year of solid waste, New Permit – \$15,000.
- 33 (8) Construction and Demolition Landfill accepting less than 100,000
34 tons/year of solid waste, Amendment – \$9,000.
- 35 (9) Construction and Demolition Landfill accepting less than 100,000
36 tons/year of solid waste, Modification – \$1,500.
- 37 (10) Construction and Demolition Landfill accepting 100,000 tons/year or
38 more of solid waste, New Permit – \$30,000.
- 39 (11) Construction and Demolition Landfill accepting 100,000 tons/year or
40 more of solid waste, Amendment – \$18,500.
- 41 (12) Construction and Demolition Landfill accepting 100,000 tons/year or
42 more of solid waste, Modification – \$2,500.
- 43 (13) Industrial Landfill accepting less than 100,000 tons/year of solid
44 waste, New Permit – \$15,000.

- 1 (14) Industrial Landfill accepting less than 100,000 tons/year of solid
2 waste, Amendment – \$9,000.
- 3 (15) Industrial Landfill accepting less than 100,000 tons/year of solid
4 waste, Modification – \$1,500.
- 5 (16) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
6 New Permit – \$30,000.
- 7 (17) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
8 Amendment – \$18,500.
- 9 (18) Industrial Landfill accepting 100,000 tons/year or more of solid waste,
10 Modification – \$2,500.
- 11 (19) Tire Monofill, New Permit – \$1,750.
- 12 (20) Tire Monofill, Amendment – \$1,250.
- 13 (21) Tire Monofill, Modification – \$500.
- 14 (22) Treatment and Processing, New Permit – \$1,750.
- 15 (23) Treatment and Processing, Amendment – \$1,250.
- 16 (24) Treatment and Processing, Modification – \$500.
- 17 (25) Transfer Station, New Permit – \$5,000.
- 18 (26) Transfer Station, Amendment – \$3,000.
- 19 (27) Transfer Station, Modification – \$500.
- 20 (28) Incinerator, New Permit – \$1,750.
- 21 (29) Incinerator, Amendment – \$1,250.
- 22 (30) Incinerator, Modification – \$500.
- 23 (31) Large Compost Facility, New Permit – \$1,750.
- 24 (32) Large Compost Facility, Amendment – \$1,250.
- 25 (33) Large Compost Facility, Modification – \$500.
- 26 (34) Land Clearing and Inert, New Permit – \$1,000.
- 27 (35) Land Clearing and Inert, Amendment – \$500.
- 28 (36) Land Clearing and Inert, Modification – \$250.
- 29 (d) A permitted solid waste management facility shall pay an annual permit fee
30 on or before 1 August of each year according to the following schedule:
- 31 (1) Municipal Solid Waste Landfill – \$3,500.
- 32 (2) Post-Closure Municipal Solid Waste Landfill – \$1,000.
- 33 (3) Construction and Demolition Landfill – \$2,750.
- 34 (4) Post-Closure Construction and Demolition Landfill – \$500.
- 35 (5) Industrial Landfill – \$2,750.
- 36 (6) Post Closure Industrial Landfill – \$500.
- 37 (7) Transfer Station – \$750.
- 38 (8) Treatment and Processing Facility – \$500.
- 39 (9) Tire Monofill – \$500.
- 40 (10) Incinerator – \$500.
- 41 (11) Large Compost Facility – \$500.
- 42 (12) Land Clearing and Inert Debris Landfill – \$500."

43 **SECTION 13.(a)** Part 2A of Article 9 of Chapter 130A of the General
44 Statutes is amended by adding a new section to read:

1 **"§ 130A-295.7. Solid waste disposal fee; use of proceeds.**

2 (a) Tax Imposed. – A tax of two dollars (\$2.00) per ton of waste is imposed on
3 the disposal of municipal solid waste in any landfill permitted pursuant to this Part. A
4 tax of two dollars (\$2.00) per ton of waste is imposed on the transfer of municipal solid
5 waste to a transfer station permitted pursuant to this Part for disposal outside the State.

6 (b) Determination and Payment of Tax. – The owner or operator of each landfill
7 and transfer station permitted pursuant to this Part shall maintain scales designed to
8 determine waste tonnage that are approved by the Department of Agriculture and
9 Consumer Services. Each owner or operator shall record waste tonnage at the time the
10 waste is received on a form approved by the Department and shall calculate and record
11 the tax due under this section for each calendar month on a form approved by the
12 Department. Each owner or operator shall report the number of tons of waste received
13 and pay the tax due for each calendar month to the Department no later than the
14 fifteenth day of the following calendar month. The Department shall credit all taxes
15 received pursuant to this section to the Inactive Hazardous Sites Cleanup Fund
16 established by G.S. 130A-310.11.

17 (c) Use of Proceeds. – The Department shall use the proceeds of this tax imposed
18 by this section for the following purposes:

- 19 (1) Assessment and remediation of orphan landfills and of inactive
20 hazardous substance or waste disposal sites for which the State or a
21 unit of local government is or may be responsible.
- 22 (2) Assessment and remediation of orphan landfills and of inactive
23 hazardous substance or waste disposal sites for which a private party is
24 or may be responsible if the private party cannot be identified or
25 located or if the private party is unable or refuses to assume
26 responsibility for the assessment or remediation.
- 27 (3) Up to fifteen percent (15%) of the proceeds may be used to fund staff
28 to administer contracts for the assessment and remediation of orphan
29 landfills and of inactive hazardous substance or waste disposal sites
30 pursuant to subdivisions (1) and (2) of this subsection.
- 31 (4) Up to ten percent (10%) of the proceeds may be used for grants to
32 units of local government to support redevelopment of brownfields.
- 33 (5) Up to ten percent (10%) of the proceeds may be used by the
34 Department to provide the State's share of the cost of assessment and
35 remediation of sites in the State that are listed on the federal National
36 Priorities List sites."

37 **SECTION 13.(b)** G.S. 130A-310.6 is amended by adding a new subsection
38 to read:

39 "(c) The Secretary shall develop and implement a remedial action plan for orphan
40 landfills. Environmental and human health risks posed by an orphan landfill may be
41 mitigated using a risk-based approach for assessment and remediation."

42 **SECTION 13.(c)** G.S. 130A-310.11 reads as rewritten:

43 **"§ 130A-310.11. Inactive Hazardous Sites Cleanup Fund created.**

1 (a) There is established under the control and direction of the Department the
2 Inactive Hazardous Sites Cleanup Fund. This fund shall be a revolving fund consisting
3 of any monies appropriated for such purpose by the General Assembly or available to it
4 from grants, taxes, and other monies paid to it or recovered by or on behalf of the
5 Department. The Inactive Hazardous Sites Cleanup Fund shall be treated as a
6 nonreverting special trust fund and shall be credited with interest by the State Treasurer
7 pursuant to G.S. 147-69.2 and G.S. 147-69.3.

8 (b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to
9 G.S. 130A-295.6 shall be used only as provided in G.S. 130A-309.295.6(c)."

10 **SECTION 14.** The Commission for Health Services shall review rules
11 governing the design, construction, operation, maintenance, closure, and post-closure
12 monitoring and maintenance of solid waste management facilities to determine whether
13 changes are required to protect public health, safety, welfare, and the environment; to
14 improve the performance of solid waste management facilities; to take advantage of
15 technological advances in landfill design, construction, operation, maintenance, and
16 closure; and to provide additional protection to environmentally sensitive areas of the
17 State. The Commission shall adopt rules necessary to minimize impacts from solid
18 waste management facilities on public health, safety, welfare, and the environment.
19 These rules shall:

- 20 (1) Establish standards for the collection, control, and utilization or
21 destruction of landfill gasses at municipal solid waste landfills.
- 22 (2) Establish standards for the design, construction, operation,
23 maintenance, closure, and post-closure monitoring and maintenance of
24 bioreactor landfills.
- 25 (3) Establish criteria for development of bird and wildlife management
26 plans.
- 27 (4) Incorporate measures necessary to minimize impacts to natural,
28 historic, and cultural resources, including, but not limited to, wetlands,
29 critical fisheries habitat, parks, recreation areas, cultural and historic
30 sites, and potential water supplies.

31 **SECTION 15.** Sections 1, 6, 8, 9, 10, 11, 12, 13, 14, and 15 of this act
32 become effective 1 August 2007. Sections 2, 3, and 4 of this act become effective 1
33 December 2007 and apply to violations that occur on or after that date.

34 The repeal of G.S. 130A-294(a)(4)b. by Section 1 of this act applies to facilities for
35 which an application for a permit is pending on 1 August 2007.

36 Section 5 of this act becomes effective on 1 August 2007 except that the
37 requirements of subsections (b) and (f) of G.S. 130A-295.2, as enacted by Section 5,
38 become effective on 1 February 2008 with respect to permit holders of permits that are
39 in effect on 1 August 2007.

40 Section 7 of this act becomes effective on 1 August 2007 and applies to facilities for
41 which a permit is issued on or after that date, including facilities for which an
42 application for a permit is pending on that date. The requirements of
43 G.S. 130A-295.4(i), as enacted by Section 7 of this act, become effective on 1 February
44 2008 with respect to permit holders of permits that are in effect on 1 August 2007.