

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

S

1

SENATE BILL 190*

Short Title: Haz. Materials Task Force Recommendations. (Public)

Sponsors: Senators Malone; Berger of Franklin, Bingham, Cowell, Dannelly,
Dorsett, Forrester, Jones, Smith, and Stevens.

Referred to: Agriculture/Environment/Natural Resources.

February 15, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE THE OVERSIGHT OF HAZARDOUS WASTE
3 FACILITIES, AS RECOMMENDED BY THE GOVERNOR'S HAZARDOUS
4 MATERIALS TASK FORCE.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. REGULATORY RECOMMENDATIONS**

8
9 **REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO PROVIDE**
10 **FINANCIAL ASSURANCE FOR THE CLEANUP AND FOR THE OFF-SITE**
11 **SCREENING FOR POTENTIAL CONTAMINATION MIGRATION IN THE**
12 **EVENT OF A RELEASE OF HAZARDOUS WASTE OR HAZARDOUS**
13 **WASTE CONSTITUENTS INTO THE ENVIRONMENT**

14
15 **SECTION 1.1.(a)** Part 2 of Article 9 of Chapter 130A of the General
16 Statutes is amended by adding a new section to read:

17 **"§ 130A-295.04. Financial responsibility of hazardous waste facilities.**

18 (a) In addition to any other financial requirements for solid waste facilities under
19 G.S. 130A-294, an applicant for a permit for a hazardous waste facility shall satisfy the
20 Department that the applicant, and any parent, subsidiary, or other affiliate of the
21 applicant or parent, has sufficient availability of funds for facility closure, post-closure
22 monitoring, any corrective measures, and potential liability for sudden and nonsudden
23 accidental occurrences. To establish sufficient availability of funds under this
24 subsection, the applicant may use insurance, financial tests, third-party guarantees by
25 persons who can pass the financial test, guarantees by corporate parents who can pass
26 the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial
27 device, or any combination of the foregoing, shown to provide protection equivalent to
28 the financial protection that would be provided by insurance if insurance were the only

1 mechanism used. Any direct or indirect parent corporation or other parent entity of the
2 operator of a commercial hazardous waste facility shall be a guarantor of payment by
3 the operator for closure, monitoring, and corrective measures and for liability incurred
4 by the operator arising from the operation of the commercial hazardous waste facility.
5 The Department may provide a copy of any filing to meet the financial responsibility
6 requirements under this subsection to the State Treasurer, who shall review the filing
7 and provide written comments on the equivalency of protection provided by the filing,
8 including any recommended changes.

9 (b) In addition to the financial assurance required under subsection (a) of this
10 section, an applicant for a permit for a commercial hazardous waste facility shall satisfy
11 the Department that the applicant, and any parent, subsidiary, or other affiliate of the
12 applicant or parent, has sufficient availability of funds both for cleanup and for off-site
13 screening for potential migration of contaminants, in the event of a release of hazardous
14 waste or hazardous waste constituents into the environment. To establish sufficient
15 availability of funds under this subsection for cleanup, the applicant may provide
16 financial assurance through the use of insurance, financial tests, third-party guarantees
17 by persons who can pass the financial test, guarantees by corporate parents who can
18 pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other
19 financial device, or any combination of the foregoing, shown to provide protection
20 equivalent to the financial protection that would be provided by insurance if insurance
21 were the only mechanism used. To establish sufficient availability of funds under this
22 subsection for off-site screening for potential migration of contaminants, the applicant
23 shall establish an escrow account in a form and amount approved by the Department for
24 the benefit of the Department for costs associated with these off-site assessments.
25 Payments from the escrow account shall be made as directed by the Department in
26 writing either to reimburse the Department for its off-site assessment costs or to
27 reimburse other persons authorized by the Department to make the off-site assessments.
28 The Department may provide a copy of any filing to meet the financial responsibility
29 requirements under this subsection to the State Treasurer, who shall review the filing
30 and provide written comments on the equivalency of protection provided by the filing,
31 including any recommended changes.

32 (c) An applicant for a permit for a hazardous waste facility shall satisfy the
33 Department that the applicant has met the requirements of subsection (a) of this section
34 and, if applicable, subsection (b) of this section before the Department is required to
35 otherwise review the application. In order to continue to hold a permit for a hazardous
36 waste facility, a permittee must remain financially qualified and must provide any
37 information requested by the Department to demonstrate that the permittee continues to
38 be financially qualified.

39 (d) The Commission may adopt rules regarding financial responsibility in order
40 to implement this section."

41 **SECTION 1.1.(b)** This section becomes effective October 1, 2007.

42
43 **REQUIRE APPLICANTS FOR PERMITS FOR HAZARDOUS WASTE**
44 **FACILITIES TO SEEK INPUT FROM LOCAL GOVERNMENT AND**

1 **EMERGENCY RESPONSE AGENCIES ON THEIR CONTINGENCY**
2 **PLANS FOR THE FACILITIES**

3
4 **SECTION 1.2.(a)** G.S. 130A-295 is amended by adding four new
5 subsections to read:

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

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

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

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

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

19 (e) The local governments and the emergency response agencies that receive
20 information under subsection (d) of this section shall, within 60 days of receiving the
21 information, respond to the applicant in writing as to the adequacy of the contingency
22 plan, the availability and adequacy of its resources and equipment to respond, according
23 to the role set forth under the contingency plan, to an emergency at the facility that
24 results in a release of hazardous waste or hazardous waste constituents into the
25 environment.

26 (f) An applicant for a permit for a hazardous waste facility shall include with its
27 application for a permit the written responses the applicant received under subsection
28 (e) of this section, along with documentation that the local governments and emergency
29 response agencies did in fact receive the information required under subsection (d) of
30 this section, and verification by each that its resources and equipment are available and
31 adequate to respond to an emergency at the facility in accordance with its role as set
32 forth in the contingency plan.

33 (g) In addition to the requirements under subsections (d) through (f) of this
34 section, every two years after receiving its permit, the applicant shall again verify that
35 the resources and equipment of each local government and emergency response agency
36 are available and adequate to respond to an emergency at the facility in accordance with
37 its role as set forth in the contingency plan and shall submit this verification to the
38 Department."

39 **SECTION 1.2.(b)** This section is effective when it becomes law.

40
41 **REQUIRE OPERATORS OF COMMERCIAL HAZARDOUS WASTE**
42 **FACILITIES TO MAINTAIN CERTAIN INFORMATION AND MANIFESTS**
43 **OFF-SITE AND MAKE THESE ACCESSIBLE TO THE DEPARTMENT OF**
44 **ENVIRONMENT AND NATURAL RESOURCES, LOCAL GOVERNMENT,**

1 **AND EMERGENCY RESPONSE AGENCIES THAT HAVE A ROLE**
2 **UNDER CONTINGENCY PLANS**

3
4 **SECTION 1.3.(a)** G.S. 130A-295.01 is amended by adding a new
5 subsection to read:

6 "(c) The operator of a commercial hazardous waste facility shall maintain off-site
7 copies of information concerning the quantity, type, location, and hazards of the waste
8 at the facility and copies of the manifests required under subdivision (5) of subsection
9 (c) of G.S. 130A-294 and shall make this information and manifests, in a form and
10 manner to be determined by the Department, accessible to the Department, to the county
11 in which the facility is located, to any municipality with planning jurisdiction over the
12 site of the facility, and to emergency response agencies that have a role under the
13 contingency plan for the facility."

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

15
16 **REQUIRE APPLICANTS FOR COMMERCIAL HAZARDOUS WASTE**
17 **FACILITIES TO NOTIFY PROPERTY OWNERS WHO OWN PROPERTY**
18 **LOCATED WITHIN ONE-FOURTH MILE OF THE PROPOSED**
19 **FACILITIES AND RESIDENTS OF THAT AREA THAT THE APPLICANT**
20 **HAS FILED AN APPLICATION AND TO PROVIDE THE DEPARTMENT**
21 **OF ENVIRONMENT AND NATURAL RESOURCES WITH**
22 **DOCUMENTATION THAT THIS NOTICE REQUIREMENT WAS MET;**
23 **AND REQUIRE THESE APPLICANTS TO PROVIDE THESE PROPERTY**
24 **OWNERS AND RESIDENTS WITH INFORMATION CONCERNING THE**
25 **FACILITY'S CONTINGENCY PLAN**

26
27 **SECTION 1.4.(a)** G.S. 130A-295.01 is amended by adding a new
28 subsection to read:

29 "(d) Within 10 days of filing an application for a permit for a commercial
30 hazardous waste facility and again at the midpoint of the term of such permit, the
31 applicant shall do all of the following:

32 (1) Notify by certified mail, return receipt requested, every property owner
33 who owns property located within one-fourth mile of any property
34 boundary of the facility and every resident of that area that the
35 application has been filed.

36 (2) Provide, by certified mail, return receipt requested, and in a form and
37 manner approved by the Department, with the notice under subdivision
38 (1) of this subsection, all of the following:

39 a. A description of the facility.

40 b. The location of the facility.

41 c. The wastes, both hazardous and nonhazardous, that are to be
42 received and processed at the facility.

43 d. A description of the facility's planned response to emergencies.

1 (3) Provide sufficient documentation to the Department to satisfy the
2 Department that the requirements under subdivisions (1) and (2) of this
3 subsection have been met."

4 **SECTION 1.4.(b)** This section is effective when it becomes law.

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

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

16 "(e) No later than January 31 of each year, the operator of a commercial
17 hazardous waste facility shall report to the Department any changes in sensitive land use
18 or population density that occurred during the previous calendar year in the area located
19 within one-fourth mile of any property boundary of the facility. Changes shall be
20 recorded in the operating record of the facility. As used in this subsection, 'sensitive
21 land use' includes residential housing, places of assembly, churches, schools, day care
22 providers, and hospitals. Sensitive land use does not include retail businesses."

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

24 "(j) For purposes of this subsection, special purpose commercial hazardous waste
25 facilities include: a facility that manages limited quantities of hazardous waste; a facility
26 that limits its hazardous waste management activities to reclamation or recycling,
27 including energy or materials recovery or a facility that stores hazardous waste
28 primarily for use at such facilities; or a facility that is determined to be low risk under
29 rules adopted by the Commission pursuant to this subsection. The Commission shall
30 adopt rules establishing reasonable times and frequencies for the presence of a resident
31 inspector on less than a full-time basis at special purpose commercial hazardous waste
32 facilities. Rules adopted pursuant to this subsection shall establish classifications of
33 special purpose hazardous waste facilities based on factors including, but not limited to,
34 the size of the facility, the type of treatment or storage being performed, the nature and
35 volume of waste being treated or stored, the uniformity, similarity, or lack of diversity
36 of the waste streams, the predictability of the nature of the waste streams and their
37 treatability, whether the facility utilizes automated monitoring or safety devices that
38 adequately perform functions that would otherwise be performed by a resident
39 inspector, the fact that reclamation or recycling is being performed at the facility, and
40 the compliance history of the facility and its operator. Special purpose commercial
41 hazardous waste facilities shall be subject to inspection at all times during which the
42 facility is in operation, undergoing any maintenance or repair, or undergoing any test or
43 calibration. Rules adopted pursuant to this subsection shall specify a minimum number
44 of inspections during such times as the facility is subject to inspection. When

1 determining the frequency of inspections, the Department also shall consider any
2 changes in sensitive land use or population density that occurred during the previous
3 calendar year in the area located within one-fourth mile of any property boundary of the
4 facility. Special purpose commercial hazardous waste facilities that utilize hazardous
5 waste as a fuel source shall be inspected a minimum of 40 hours per week, unless
6 compliance data for these facilities can be electronically monitored and recorded off-site
7 by the Department. The Department, considering the benefits provided by electronic
8 monitoring, shall determine the number of hours of on-site inspection required at these
9 facilities. The Department shall maintain records of all inspections at special purpose
10 commercial hazardous waste facilities. Such records shall contain sufficient detail and
11 shall be arranged in a readily understandable format so as to facilitate determination at
12 any time as to whether the special purpose commercial hazardous waste facility is in
13 compliance with the requirements of this subsection and of rules adopted pursuant to
14 this subsection."

15 **SECTION 1.5.(c)** This section is effective when it becomes law.
16

17 **REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO PROVIDE**
18 **SECURITY AND SURVEILLANCE AT THE FACILITY 24 HOURS A DAY,**
19 **SEVEN DAYS A WEEK, EITHER BY PROVIDING ELECTRONIC**
20 **SECURITY AND SURVEILLANCE OR BY EMPLOYING TRAINED**
21 **FACILITY PERSONNEL**
22

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

25 "(f) An applicant for a commercial hazardous waste facility shall provide security
26 and surveillance at the facility 24 hours a day, seven days a week, to continuously
27 monitor site conditions and to control entry. The requirement under this subsection may
28 be satisfied either by providing an electronic security and surveillance system approved
29 by the Department or by employing trained facility personnel that are capable of
30 immediately detecting unauthorized access to the facility, monitoring conditions,
31 identifying operator errors, and detecting any discharge that could directly or indirectly
32 cause a fire, explosion, or release of hazardous waste or hazardous waste constituents
33 into the environment or threaten human health. Electronic security and surveillance
34 under this subsection may be provided by television, motion detectors, heat sensing
35 equipment, combustible gas monitors, any combination of these, or any others approved
36 by the Department."

37 **SECTION 1.6.(b)** This section becomes effective October 1, 2007.
38

39 **REQUIRE PERMITS FOR COMMERCIAL HAZARDOUS WASTE**
40 **FACILITIES TO BE SUBJECT TO RENEWAL AT LEAST EVERY FIVE**
41 **YEARS**
42

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

1 "(g) Any permit for a commercial hazardous waste facility shall not exceed five
2 years. Unless permission for a later date is granted by the Department, any application
3 for the renewal of such a permit shall be submitted no later than one calendar year prior
4 to the expiration of the permit."

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

6
7 **AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
8 **RESOURCES TO REGULATE FACILITIES AT WHICH HAZARDOUS**
9 **WASTE IS STORED FOR MORE THAN 24 HOURS BUT LESS THAN 10**
10 **DAYS AND DIRECT THE DEPARTMENT TO STUDY THE NEED FOR**
11 **FURTHER REGULATION AND PERMITTING OF THESE FACILITIES**

12
13 **SECTION 1.8.(a)** G.S. 130A-290(a) is amended by renumbering
14 subdivision (13a) as (13b) and by adding a new subdivision to read:

15 "(13a) 'Hazardous waste transfer facility' means any facility or location where
16 a hazardous waste transporter stores hazardous waste for a period of
17 more than 24 hours but less than 10 days."

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

19 "(9) "Hazardous waste facility" means a facility for the collection, storage,
20 processing, treatment, recycling, recovery, or disposal of hazardous
21 waste. Hazardous waste facility does not include a hazardous waste
22 transfer facility that meets the requirements of 40 Code of Federal
23 Regulations § 263.12 (1 July 2006)."

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

26 **§ 130A-295.05. Hazardous waste transfer facilities.**

27 (a) A hazardous waste transporter shall register with the Department every
28 hazardous waste transfer facility the transporter uses in North Carolina and shall obtain
29 a hazardous waste transfer facility identification number for each such hazardous waste
30 transfer facility.

31 (b) The Department shall issue a hazardous waste transfer facility identification
32 number for a hazardous waste transfer facility if the hazardous waste transporter
33 provides all of the following information regarding the transfer facility at the time of
34 registration:

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

36 (2) The identification number issued by the Department for the hazardous
37 waste transporter.

38 (3) The name of the owner of the property on which the hazardous waste
39 transfer facility is located.

40 (c) Except during transportation emergencies as determined by the Department,
41 the storage, consolidation, or commingling of hazardous waste may occur if and only if
42 all of the following requirements are satisfied:

1 (1) The storage, consolidation, or commingling of hazardous waste occurs
2 at a hazardous waste transfer facility that has been issued a facility
3 identification number by the Department.

4 (2) The storage, consolidation, or commingling of hazardous waste is
5 designated on the hazardous waste manifest.

6 (d) A hazardous waste transporter shall conduct all operations at any hazardous
7 waste transfer facility in compliance with the requirements of 40 C.F.R. Part 263 and 49
8 U.S.C. 5101, et seq., and any regulations adopted under those federal laws.
9 Accordingly, loading, unloading, and transferring between containers, segregating
10 hazardous materials, providing emergency response information, maintaining
11 emergency response information in a location that is immediately accessible to facility
12 personnel in the event of an emergency involving the hazardous material, requiring
13 training of facility personnel, and reporting incidents are subject to these federal laws
14 and regulations. The Department may adopt rules that exceed these federal laws and
15 regulations for hazardous waste transporter operations at hazardous waste transfer
16 facilities if the Department determines these rules are necessary to protect human health
17 and the environment. Any records that are required to be kept for hazardous waste
18 transfer facilities shall be maintained at the hazardous waste transfer facility for a period
19 of three years."

20 **SECTION 1.8.(d)** The Department of Environment and Natural Resources
21 shall study the need for further regulation of hazardous waste transfer facilities, as
22 defined in G.S. 130A-290(a)(13a), as enacted by subsection (a) of this section, including
23 the need for requiring these facilities to obtain a permit under Part 2 of Article 9 of
24 Chapter 130A of the General Statutes, pay permit fees, provide contingency plans, and
25 provide financial assurance. No later than February 15, 2008, the Department of
26 Environment and Natural Resources shall report the results of this study to the
27 Environmental Review Commission, along with its findings and any recommendations,
28 including legislative or administrative proposals.

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

30
31 **REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO OBTAIN**
32 **AND MAINTAIN ON-SITE WIND MONITORS**

33
34 **SECTION 1.9.(a)** G.S. 130A-295.01 is amended by adding a new
35 subsection to read:

36 "(h) Each commercial hazardous waste facility shall obtain and maintain an
37 on-site wind monitor approved by the Department. The wind monitor required under
38 this subsection shall be located so that the real-time wind direction can be determined
39 from a remote location in the event of a release of hazardous waste or hazardous waste
40 constituents into the environment."

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

42
43 **PROHIBIT THE INVALIDATION OF LOCAL ORDINANCES THAT PLACE A**
44 **CONDITION OR A RESTRICTION UPON THE MANAGEMENT OF**

1 HAZARDOUS WASTE OR UPON THE SITING OF A HAZARDOUS
2 WASTE FACILITY WHEN THE PRIMARY PURPOSE OF THESE
3 ORDINANCES IS TO PROTECT PUBLIC HEALTH AND SAFETY OR THE
4 ENVIRONMENT, CREATE A PRESUMPTION THAT LOCAL
5 ORDINANCES ARE VALID UNLESS THE SECRETARY OF
6 ENVIRONMENT AND NATURAL RESOURCES MAKES A FINDING TO
7 THE CONTRARY, AND REQUIRE THE OFFICE OF THE GOVERNOR TO
8 SEEK THE ADVICE OF LOCAL UNITS OF GOVERNMENT REGARDING
9 THE ADEQUACY OF CURRENT CRITERIA THE SECRETARY MUST
10 CONSIDER WHEN DECIDING WHETHER TO PREEMPT THESE LOCAL
11 ORDINANCES

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

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

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

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

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

1 municipalities, or other local authorities that prohibit or have the effect of prohibiting
2 the establishment or operation of a hazardous waste facility are invalidated to the extent
3 preempted by the Secretary pursuant to this Section. Local ordinances that regulate land
4 use are not invalidated under this section to the extent that they place restrictions or
5 conditions that are generally applicable or they have the primary purpose to protect
6 public health, safety, or the environment.

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

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

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

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

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

34 (d) A local ordinance is presumed to be valid and enforceable unless the
35 Secretary makes a finding of fact to the contrary. The Secretary shall determine whether
36 or to what extent to preempt local ordinances so as to allow for the establishment and
37 operation of the facility no later than 60 days after conclusion of the hearing. The
38 Secretary shall preempt a local ordinance only if the Secretary makes all ~~five~~ of the
39 following findings:

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

43 (2) That the proposed facility is needed in order to establish adequate
44 capability to meet the current or projected hazardous waste

1 management needs of this State or to comply with the terms of any
2 interstate agreement for the management of hazardous waste to which
3 the State is a party and therefore serves the interests of the citizens of
4 the State as a whole.

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

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

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

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

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

33 (1) In violation of constitutional provisions;

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

35 (3) Made upon unlawful procedure;

36 (4) Affected by other error of law;

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

40 (6) Arbitrary or capricious.

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

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

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

4 **SECTION 1.10.(b)** The Office of the Governor shall seek the advice of local
5 units of government to determine whether the criteria the Secretary of Environment and
6 Natural Resources considers to determine whether or to what extent to preempt local
7 ordinances so as to allow for the establishment and operation of a hazardous waste
8 facility under G.S. 130A-293, as amended by subsection (a) of this section, should be
9 further amended or whether further additional criteria should be considered by the
10 Secretary. No later than May 1, 2008, the Office of the Governor shall report its
11 findings under this subsection and any legislative recommendations to the
12 Environmental Review Commission and to the Department of Environment and Natural
13 Resources.

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

15 16 **PART II. REGULATORY RECOMMENDATIONS CONFORMING CHANGES**

17
18 **SECTION 2.1.(a)** G.S. 130A-290(a) is amended by adding a new
19 subdivision to read:

20 "(8a) 'Hazardous waste constituent' has the same meaning as in 40 Code of
21 Federal Regulations § 260.10 (1 July 2006).'"

22 **SECTION 2.1.(b)** G.S. 130A-294(c) reads as rewritten:

23 "(c) The Commission shall adopt and the Department shall enforce rules
24 concerning the management of hazardous waste. These rules shall establish a complete
25 and integrated regulatory scheme in the area of hazardous waste management and shall
26 provide for:

- 27 (1) Establishing criteria for hazardous waste, identifying the
28 characteristics of hazardous waste and listing particular hazardous
29 ~~waste;~~waste.
- 30 (1a) Establishing criteria for hazardous constituents, identifying the
31 characteristics of hazardous constituents and listing particular
32 hazardous ~~constituents;~~constituents.
- 33 (2) Record-keeping and reporting by generators and transporters of
34 hazardous waste and owners and operators of hazardous waste
35 ~~facilities;~~facilities.
- 36 (3) Proper labeling of hazardous waste ~~containers;~~containers.
- 37 (4) ~~Use of~~Using appropriate containers for hazardous ~~waste;~~waste.
- 38 (5) ~~A-~~Maintaining a manifest system to assure that all hazardous waste is
39 designated for treatment, storage or disposal at a hazardous waste
40 facility to which a permit has been ~~issued;~~issued.
- 41 (6) ~~Proper~~Requiring proper transportation of hazardous ~~waste;~~waste.
- 42 (7) ~~Treatment,~~Developing treatment storage and disposal standards of
43 performance and techniques to be used by hazardous waste
44 ~~facilities;~~facilities.

- 1 (8) ~~Location,~~Developing standards regarding location, design, ownership
2 and construction of hazardous waste facilities; provided, however, that
3 no hazardous waste disposal facility or polychlorinated biphenyl
4 disposal facility shall be located within 25 miles of any other
5 hazardous waste disposal facility or polychlorinated biphenyl disposal
6 ~~facility;~~facility.
- 7 (9) ~~Plans—~~Requiring plans to minimize unanticipated damage from
8 treatment, storage or disposal of hazardous waste; and a plan or plans
9 providing for the establishment and/or operation of one or more
10 hazardous waste facilities in the absence of adequate approved
11 hazardous waste facilities established or operated by any person within
12 the ~~State;~~State.
- 13 (10) ~~Proper—~~Requiring proper maintenance and operation of hazardous
14 waste facilities, including requirements for ownership by any person or
15 the State, financial responsibility (~~including requirements for sufficient~~
16 ~~availability of funds for facility closure and post closure monitoring~~
17 ~~and corrective measures through the use of a letter of credit, insurance,~~
18 ~~surety, trust agreement, financial test, or financial test and corporate~~
19 ~~guarantee),~~ in accordance with this section and G.S. 130A-295.04,
20 training of personnel, continuity of operation and procedures for
21 establishing and maintaining hazardous waste ~~facilities;~~facilities.
- 22 (11) Monitoring by owners or operators of hazardous waste
23 ~~facilities;~~facilities.
- 24 (12) ~~Inspection—~~Authorizing or requiring inspection or copying of records
25 required to be ~~kept;~~kept by owners or operators.
- 26 (13) Obtaining and analyzing hazardous waste samples and samples of
27 hazardous waste containers and labels from generators and transporters
28 and from owners and operators of hazardous waste ~~facilities;~~facilities.
- 29 (14) ~~A—~~Developing a permit system governing the establishment and
30 operation of hazardous waste ~~facilities;~~facilities.
- 31 (15) ~~Additional—~~Developing additional requirements as necessary for the
32 effective management of hazardous ~~waste;~~waste.
- 33 (16) ~~The—~~Requiring the operator of the hazardous waste disposal facility
34 ~~shall to~~ maintain adequate insurance to cover foreseeable claims
35 arising from the operation of the facility. The Department shall
36 determine what constitutes an adequate amount of ~~insurance;~~insurance.
- 37 (17) ~~The—~~Requiring the bottom of a hazardous waste disposal facility ~~shall~~
38 to be at least 10 feet above the seasonal high water table and more
39 when necessary to protect the public health and the ~~environment;~~
40 ~~and~~environment.
- 41 (18) ~~The—~~Requiring the operator of a hazardous waste disposal facility ~~shall~~
42 to make monthly reports to the board of county commissioners of the
43 county in which the facility is located on the kinds and amounts of
44 hazardous wastes in the facility."

1 **SECTION 2.1.(c)** G.S. 130A-294(j) is repealed.

2 **SECTION 2.1.(d)** G.S. 130A-295.01 reads as rewritten:

3 "**§ 130A-295.01. Additional requirement for commercial hazardous waste**
4 **treatment facilities.**

5 (a) As used in this section:

6 (1) "Commercial hazardous waste ~~treatment~~ facility" means any hazardous
7 waste ~~treatment facility~~ facility that accepts hazardous waste
8 from the general public or from another person for a fee, but does not
9 include any facility owned or operated by a generator of hazardous
10 waste solely for his own use, and does not include any facility owned
11 by the State or by any agency or subdivision thereof solely for the
12 ~~treatment-management~~ of hazardous waste generated by agencies or
13 subdivisions of the ~~State~~; State.

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

19 (3) "Modified", when used in connection with "permit", means any change
20 in any permit in force on or after June 22, 1987, ~~which~~ that would
21 either expand the scope of permitted operations, or extend the
22 expiration date of the permit, or otherwise constitute a ~~major~~ Class 2 or
23 Class 3 modification of the permit as defined in Title 40, ~~Part 270.41~~
24 Part 270.42 of the Code of Federal Regulations (~~1 July 1986~~); ~~and~~ (28
25 September 1988).

26 (4) "7Q10 conditions", when used in connection with "surface water,"
27 refers to the minimum average flow for a period of seven consecutive
28 days that has an average occurrence of once in 10 years as referenced
29 in 15 NCAC 2B .0206(a)(3) as adopted February 1, 1976.

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

35 (1) The facility shall not discharge directly a hazardous or toxic substance
36 into a surface water that is upstream from a public drinking water
37 supply intake in North Carolina, unless there is a dilution factor of
38 1000 or greater at the point of discharge into the surface water under
39 7Q10 conditions.

40 (2) The facility shall not discharge indirectly through a publicly owned
41 treatment works (POTW) a hazardous or toxic substance into a surface
42 water that is upstream from a public drinking water supply intake in
43 North Carolina, unless there is a dilution factor of 1000 or greater,

1 irrespective of any dilution occurring in a wastewater treatment plant,
2 at the point of discharge into the surface water under 7Q10 conditions.

3 (c) through (h) (Reserved.)

4 (i) The Commission may adopt rules to implement this section."

5 **SECTION 2.1.(e)** This section becomes effective October 1, 2007, and
6 applies to new and existing facilities.

7
8 **PART III. RECOMMENDATIONS FOR OTHER STATUTORY CHANGES**

9
10 **AUTHORIZE STATE MEDICAL ASSISTANCE TEAMS AND THE**
11 **EPIDEMIOLOGY SECTION OF THE DIVISION OF PUBLIC HEALTH OF**
12 **THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO SEEK**
13 **REIMBURSEMENT FOR ALL REASONABLE DEPLOYMENT COSTS**
14 **INCURRED WHEN ACTIVATED TO RESPOND TO THE RELEASE OF**
15 **HAZARDOUS MATERIAL OR HAZARDOUS WASTE INTO THE**
16 **ENVIRONMENT**

17
18 **SECTION 3.1.(a)** G.S. 166A-27 reads as rewritten:

19 **"§ 166A-27. Action for the recovery of costs of hazardous materials emergency**
20 **response.**

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

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

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

37 **"§ 130A-20.01. Action for the recovery of costs of hazardous materials emergency**
38 **medical response.**

39 The owner or operator of a hazardous waste facility permitted under Article 9 of this
40 Chapter from which hazardous waste or a constituent of hazardous waste is released
41 into the environment requiring the activation of one or more State Medical Assistance
42 Teams ("SMATs") or the Epidemiology Section of the Division of Public Health of the
43 Department of Health and Human Services shall be liable for all reasonable costs
44 incurred by each team or the Epidemiology Section that responds to or mitigates the

1 incident. The Secretary of Health and Human Services shall invoice the owner or
2 operator of the facility, and, in the event of nonpayment, may institute an action to
3 recover those costs in the superior court of the county in which the release occurred."

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

6
7 **CLARIFY THAT MUNICIPAL 911 DATA HAS THE SAME**
8 **CONFIDENTIALITY AS COUNTY 911 DATA**

9
10 **SECTION 3.2.(a)** G.S. 132-1.5 reads as rewritten:

11 **"§ 132-1.5. 911 database.**

12 Automatic number identification and automatic location identification information
13 that consists of the name, address, and telephone numbers of telephone subscribers
14 which is contained in a county or municipal 911 database is confidential and is not a
15 public record as defined by Chapter 132 of the General Statutes if that information is
16 required to be confidential by the agreement with the telephone company by which the
17 information was obtained. Dissemination of the information contained in the 911
18 automatic number and automatic location database is prohibited except on a call-by-call
19 basis only for the purpose of handling emergency calls or for training, and any
20 permanent record of the information shall be secured by the public safety answering
21 points and disposed of in a manner which will retain that security except as otherwise
22 required by applicable law."

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

24
25 **CLARIFY THAT DATA CONTAINED IN A REVERSE 911 EMERGENCY**
26 **NOTIFICATION SYSTEM IS CONFIDENTIAL**

27
28 **SECTION 3.3.(a)** G.S. 132-1.5, as amended by Section 3.2 of this act, reads
29 as rewritten:

30 **"§ 132-1.5. 911 database.**

31 Automatic number identification and automatic location identification information
32 that consists of the name, address, and telephone numbers of telephone ~~subscribers~~
33 ~~which subscribers, or the e-mail addresses of subscribers to a reverse 911 system, that is~~
34 contained in a county or municipal 911 ~~database~~-database, or in a county or municipal
35 telephonic or electronic emergency notification system (reverse 911), is confidential and
36 is not a public record as defined by Chapter 132 of the General Statutes if that
37 information is required to be confidential by the agreement with the telephone company
38 by which the information was obtained. Dissemination of the information contained in
39 the 911 or reverse 911 automatic number and automatic location database is prohibited
40 except on a call-by-call basis only for the purpose of handling emergency calls or for
41 training, and any permanent record of the information shall be secured by the public
42 safety answering points and disposed of in a manner which will retain that security
43 except as otherwise required by applicable law."

44 **SECTION 3.3.(b)** This section is effective when it becomes law.

1
2 **PART IV. STUDIES**

3
4 **ESTABLISH A TASK FORCE TO REVIEW THE STATE BUILDING CODE**
5 **TO ENSURE THAT THE CODE ADDRESSES THE NEEDS AND SAFETY**
6 **OF THE CITIZENS OF THE STATE WITH RESPECT TO THE**
7 **REGULATION OF FACILITIES THAT STORE, TREAT, OR DISPOSE OF**
8 **HAZARDOUS MATERIALS; TO MANDATE THE NORTH CAROLINA**
9 **BUILDING CODE COUNCIL TO AMEND THE STATE BUILDING CODE**
10 **TO IMPLEMENT ANY RECOMMENDATIONS OF THE TASK FORCE;**
11 **AND TO ALLOW STATE AND LOCAL FIRE INSPECTORS TO IDENTIFY**
12 **ALL RISKS ASSOCIATED WITH HAZARDOUS MATERIALS**

13
14 **SECTION 4.1.(a)** Task Force Established. – There is established the
15 Regulation of Hazardous Materials Facilities Task Force.

16 **SECTION 4.1.(b)** Membership. – The Task Force shall consist of 11
17 members. The Secretary of the Department of Environment and Natural Resources and
18 the Commissioner of Insurance, or their designees, shall serve as ex officio members.
19 The remaining members shall be appointed as follows:

- 20 (1) Three persons appointed by the General Assembly, upon
21 recommendation of the Speaker of the House of Representatives, one
22 of whom shall be a representative from the North Carolina Association
23 of Fire Marshals and one of whom shall be a fire marshal or inspector
24 from the Western region of the State.
- 25 (2) Three persons appointed by the General Assembly, upon
26 recommendation of the President Pro Tempore of the Senate, one of
27 whom shall be a representative from the North Carolina Fire Chiefs
28 Association and one of whom shall be a fire marshal or inspector from
29 the Eastern region of the State.
- 30 (3) One representative from one of the seven North Carolina Regional
31 Response Teams for Hazardous Materials Response, appointed by the
32 Governor.
- 33 (4) One fire marshal or inspector from the Piedmont region of the State,
34 appointed by the Governor.
- 35 (5) One member of the general public appointed by the Governor.

36 Appointments to the Task Force shall be made no later than September 1,
37 2007. A vacancy in the Task Force or as chair of the Task Force resulting from the
38 resignation of a member or otherwise shall be filled in the same manner in which the
39 original appointment was made.

40 **SECTION 4.1.(c)** Duties of Task Force. – The Task Force shall study issues
41 related to the treatment, storage, and disposal of hazardous materials, as defined in
42 G.S. 166A-21, hazardous waste, as defined in G.S. 130A-290, hazardous substances, as
43 defined in G.S. 143-215.77, and hazardous chemicals, as defined in G.S. 95-174 and
44 shall review all current fire code regulations regarding the commercial treatment,

1 storage, and disposal of those hazardous materials, hazardous waste, hazardous
2 substances, and hazardous chemicals to ensure that the Code addresses the needs and
3 safety of the citizens of the State. In particular, the Task Force shall:

- 4 (1) Review the facts and issues related to the Environmental Quality
5 Industrial Services facility fire in Apex, North Carolina, on October 5,
6 2006. The Task Force shall review the investigation report and
7 determine whether the fire could have been prevented by additional, or
8 more specific, State regulations.
- 9 (2) Analyze all fire inspection or investigation reports of fires that have
10 occurred at commercial facilities that treat, store, or dispose of
11 hazardous materials within the past 10 years and determine if there is a
12 trend in violations.
- 13 (3) Review the current State Building Code with respect to allowable
14 hazardous materials quantities and determine if the State Building
15 Code should be amended to provide for an additional classification of
16 mixed waste or unidentifiable materials.
- 17 (4) Analyze the current definitions of high hazard facilities and high
18 hazardous Group H classifications in the State Building Code and
19 determine whether commercial facilities that treat, store, or dispose of
20 hazardous materials should be classified so that mixed wastes and
21 unidentifiable materials can be easily identified.
- 22 (5) Review the current annual fire inspection process at permitted
23 commercial hazardous waste facilities, as defined in
24 G.S. 130A-295.01, that are treatment, storage, and disposal facilities to
25 determine how the annual fire inspection can be conducted in
26 collaboration with the inspection and permitting process of the
27 Department of Environment and Natural Resources.
- 28 (6) Review the sprinkler requirements for Hazardous Materials Facilities
29 (Section 903.2.4) of the State Building Code and determine whether
30 sprinkler design criteria and coverage should be amended.
- 31 (7) Review the fire alarm requirements for Hazardous Materials Facilities
32 (Section 907.2.5) of the State Building Code and determine whether
33 the relevant facilities should have a full fire alarm system or, in the
34 alternative, full staffing as recommended by the Department of
35 Environment and Natural Resources. If the Task Force determines that
36 relevant facilities should have full staffing, the Task Force shall
37 recommend the level of knowledge and training that should be
38 required of the staff.
- 39 (8) Determine when any new regulatory rules recommended by the Task
40 Force should become effective for existing commercial hazardous
41 waste facilities.

42 **SECTION 4.1.(d)** Report. – By April 1, 2008, the Task Force shall submit a
43 report of its findings and recommendations, including legislative, administrative, and
44 funding recommendations, to the 2008 Regular Session of the 2007 General Assembly,

1 the Governor, the North Carolina Building Code Council, and the Environmental
2 Review Commission. The Task Force shall terminate upon filing its report.

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

6 **SECTION 4.1.(f)** Chair; Meetings. – The President Pro Tempore of the
7 Senate and the Speaker of the House of Representatives shall each designate one
8 member to serve as cochair of the Task Force. The cochairs shall call the initial meeting
9 of the Task Force on or before October 1, 2007. The Task Force shall subsequently
10 meet upon such notice and in such manner as its members determine. A majority of the
11 members of the Task Force shall constitute a quorum. The Task Force may meet in the
12 Legislative Building or the Legislative Office Building upon the approval of the
13 Legislative Services Commission.

14 **SECTION 4.1.(g)** Upon the prior approval of the Legislative Services
15 Commission, the Legislative Services Officer may assign professional and clerical staff
16 and other services and supplies, as needed for the Task Force to carry out its duties in an
17 effective manner.

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

21 **SECTION 4.1.(i)** The North Carolina Building Code Council shall adopt
22 rules or amend the State Building Code to implement the recommendations of the
23 Regulation of Hazardous Materials Facilities Task Force. In particular, the Building
24 Code Council shall adopt rules or amend the State Building Code to require that
25 hazardous waste, as defined in G.S. 130A-290, hazardous substances, as defined in
26 G.S. 143-215.77, hazardous chemicals, as defined in G.S. 95-174, and hazardous
27 materials as defined in G.S. 166A-21, are classified and identified in a manner that
28 provides State and local inspectors with sufficient information to identify all potential
29 risks to the citizens of the State.

30 **SECTION 4.1.(j)** This section becomes effective July 1, 2007.

31 32 **STUDY POTENTIAL SOURCES OF PERMANENT FUNDING FOR THE** 33 **STATE MEDICAL ASSISTANCE TEAMS**

34
35 **SECTION 4.2.(a)** The Department of Crime Control and Public Safety shall
36 study potential sources of permanent funding to continue and support the State Medical
37 Assistance Teams in light of the uncertain future availability of federal and local
38 funding. The Department shall report its findings to the Fiscal Research Division of the
39 General Assembly no later than January 1, 2008, and shall identify an appropriate
40 source of permanent funding in this report.

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

42 43 **PART V. OTHER RECOMMENDATIONS**

1 **REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**
2 **RESOURCES TO ESTABLISH A DIGITAL INFORMATION EXCHANGE**
3 **SYSTEM FOR A HAZARDOUS CHEMICALS INVENTORY DATABASE**
4

5 **SECTION 5.1.(a)** The Division of Information Technology Services of the
6 Department of Environment and Natural Resources, in collaboration with the Division
7 of Emergency Management of the Department of Crime Control and Public Safety,
8 shall establish a Tier II hazardous chemicals inventory database and web-based access
9 application, to be maintained by the Division of Emergency Management of the
10 Department of Crime Control and Public Safety, that will accept uploads of Tier II data
11 from local government systems acting as partners in the project and from the University
12 of Texas at Dallas EPlan repository until all Tier II hazardous chemical inventory is in
13 the database. The database also shall consist of data concerning sites listed in the
14 planned Toxic Release Inventory exchange and the Department's existing Facilities
15 Registry System, a database of facilities for which the Department has environmental
16 concerns, such as facilities that are subject to an environmental permit for water, air,
17 waste, land quality, wetlands, public water supply, wastewater treatment, and other
18 environmental permits. The database shall be connected via web services to the North
19 Carolina Exchange Node. The purposes of this project are to provide a one-stop,
20 real-time information source for all regulated hazardous material and toxic release sites
21 and all sites that are subject to an environmental permit in order to enhance the
22 operational effectiveness of the Department of Environment and Natural Resources, the
23 Division of Emergency Management of the Department of Crime Control and Public
24 Safety, first responders and emergency management officials, local government
25 officials, and any others with a role in emergency management or planning, to remove
26 the burden of data reentry in multiple systems and reduce the dependence on paper
27 forms submissions for Tier II reporting, and to extend the Network for the Exchange
28 Node community and reuse information already deployed at the Department.

29 **SECTION 5.1.(b)** This section becomes effective July 1, 2007.
30

31 **REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO**
32 **DEVELOP A MODEL PLAN FOR PUBLIC HEALTH RESPONSE TO**
33 **EVENTS WITH A POTENTIAL FOR CHEMICAL, BIOLOGICAL, OR**
34 **RADIOLOGICAL CONTAMINATION**
35

36 **SECTION 5.2.(a)** The Occupational and Environmental Epidemiology
37 Branch of the Division of Public Health of the Department of Health and Human
38 Services shall enter into an 18-month contract with an industrial hygienist who, under
39 the terms of the contract, shall be required to develop a plan that will be used as a model
40 for the public health response to events with a potential for chemical, biological, or
41 radiological contamination. The scope of the plan shall address pre-event, event, and
42 post-event stages of the contamination event. The terms of the contract shall require the
43 industrial hygienist contractor to:

- 1 (1) Develop a planning and training project that will include opportunities
2 for training in all North Carolina counties.
- 3 (2) Develop a statement of need for integrating existing environmental
4 data around the 11 hazardous waste sites in North Carolina and,
5 following analysis by the industrial hygienist, recommend additional
6 testing that is needed, including testing to establish background levels
7 of selected hazardous materials.
- 8 (3) Initiate and facilitate a staff level work group of federal, State, and
9 local response partners for continuity and to further develop best
10 practice response protocols.

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

12

13 **AUTHORIZE THE BOARD OF GOVERNORS OF THE UNIVERSITY OF**
14 **NORTH CAROLINA TO ESTABLISH AN INSTITUTE FOR DISASTER**
15 **STUDIES AND TO STUDY THE EMISSION AND TRANSPORT OF**
16 **POLLUTANTS AT FIRES AT COMMERCIAL HAZARDOUS WASTE**
17 **FACILITIES AND RESEARCH THE HEALTH AND ECONOMIC**
18 **IMPACTS OF SUCH FIRES**

19

20 **SECTION 5.3.(a)** The Board of Governors of The University of North
21 Carolina may establish a multidisciplinary, interinstitutional, basic and applied research
22 program that applies state-of-the-art concepts and technologies to address urgent and
23 important disaster research questions and to assist the campuses within The University
24 of North Carolina to develop crisis management and crisis communications systems that
25 will help individual campuses to better prepare in the event of a disaster.

26 **SECTION 5.3.(b)** The Board of Governors of The University of North
27 Carolina may study the emission and transport of pollutants at fires at commercial
28 hazardous waste facilities, as defined in G.S. 130A-295.01, and may research the human
29 health and economic impacts of fires at commercial hazardous waste facilities, as
30 defined in G.S. 130A-295.01.

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