

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS35033-LDz-34E\* (12/20)

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

Sponsors: Senator Malone.

Referred to:

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

**PART I. REGULATORY RECOMMENDATIONS**

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

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

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

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

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

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

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

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

42 **SECTION 1.1.(b)** This section becomes effective October 1, 2007.  
43

1 **REQUIRE APPLICANTS FOR PERMITS FOR HAZARDOUS WASTE**  
2 **FACILITIES TO SEEK INPUT FROM LOCAL GOVERNMENT AND**  
3 **EMERGENCY RESPONSE AGENCIES ON THEIR CONTINGENCY**  
4 **PLANS FOR THE FACILITIES**

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

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

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

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

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

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

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

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

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

41 **SECTION 1.2.(b)** This section is effective when it becomes law.  
42

43 **REQUIRE OPERATORS OF COMMERCIAL HAZARDOUS WASTE**  
44 **FACILITIES TO MAINTAIN CERTAIN INFORMATION AND MANIFESTS**

1       **OFF-SITE AND MAKE THESE ACCESSIBLE TO THE DEPARTMENT OF**  
2       **ENVIRONMENT AND NATURAL RESOURCES, LOCAL GOVERNMENT,**  
3       **AND EMERGENCY RESPONSE AGENCIES THAT HAVE A ROLE**  
4       **UNDER CONTINGENCY PLANS**

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

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

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

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

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

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

- 34           (1) Notify by certified mail, return receipt requested, every property owner  
35 who owns property located within one-fourth mile of any property  
36 boundary of the facility and every resident of that area that the  
37 application has been filed.  
38           (2) Provide, by certified mail, return receipt requested, and in a form and  
39 manner approved by the Department, with the notice under subdivision  
40 (1) of this subsection, all of the following:  
41           a. A description of the facility.  
42           b. The location of the facility.  
43           c. The wastes, both hazardous and nonhazardous, that are to be  
44 received and processed at the facility.

1                   d.     A description of the facility's planned response to emergencies.  
2           (3)     Provide sufficient documentation to the Department to satisfy the  
3                   Department that the requirements under subdivisions (1) and (2) of this  
4                   subsection have been met."

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

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

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

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

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

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

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

16 **SECTION 1.5.(c)** This section is effective when it becomes law.  
17

18 **REQUIRE COMMERCIAL HAZARDOUS WASTE FACILITIES TO PROVIDE**  
19 **SECURITY AND SURVEILLANCE AT THE FACILITY 24 HOURS A DAY,**  
20 **SEVEN DAYS A WEEK, EITHER BY PROVIDING ELECTRONIC**  
21 **SECURITY AND SURVEILLANCE OR BY EMPLOYING TRAINED**  
22 **FACILITY PERSONNEL**  
23

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

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

38 **SECTION 1.6.(b)** This section becomes effective October 1, 2007.  
39

40 **REQUIRE PERMITS FOR COMMERCIAL HAZARDOUS WASTE**  
41 **FACILITIES TO BE SUBJECT TO RENEWAL AT LEAST EVERY FIVE**  
42 **YEARS**  
43

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

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

7           **SECTION 1.7.(b)** This section is effective when it becomes law.  
8

9           **AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL**  
10           **RESOURCES TO REGULATE FACILITIES AT WHICH HAZARDOUS**  
11           **WASTE IS STORED FOR MORE THAN 24 HOURS BUT LESS THAN 10**  
12           **DAYS AND DIRECT THE DEPARTMENT TO STUDY THE NEED FOR**  
13           **FURTHER REGULATION AND PERMITTING OF THESE FACILITIES**  
14

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

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

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

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

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

28           "§ 130A-295.05. Hazardous waste transfer facilities.

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

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

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

38           (2) The identification number issued by the Department for the hazardous  
39 waste transporter.

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

42           (c) Except during transportation emergencies as determined by the Department,  
43 the storage, consolidation, or commingling of hazardous waste may occur if and only if  
44 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.