

January 29, 2007

H 36. HAZ. MATERIALS TASK FORCE RECOMMENDATIONS. Filed 1/29/07. *TO IMPROVE THE OVERSIGHT OF HAZARDOUS WASTE FACILITIES, AS RECOMMENDED BY THE GOVERNOR'S HAZARDOUS MATERIALS TASK FORCE.* To be summarized in tomorrow's *Daily Bulletin*.

Intro. by Weiss, Ross, T. Harrell, Dollar.

GS 132, 130A, 166A, STUDY

January 30, 2007

H 36. HAZ. MATERIALS TASK FORCE RECOMMENDATIONS. Filed 1/29/07. *TO IMPROVE THE OVERSIGHT OF HAZARDOUS WASTE FACILITIES, AS RECOMMENDED BY THE GOVERNOR'S HAZARDOUS MATERIALS TASK FORCE.* Makes changes relating to hazardous waste facilities and related matters and requires studies, as described below.

Regulation of commercial hazardous waste facilities. Amends Part 2 (Solid and Hazardous Waste Management) of Article 9 of GS Chapter 130A as follows: Enacts a new GS 130A-295.04 requiring commercial hazardous waste facilities to provide the Department of Environment and Natural Resources (DENR) financial assurance for the facility's closure, post-closure monitoring, liability for accidents, clean up, and off-site screening for potential migration of contaminants. Amends GS 130A-295 to require hazardous waste facility permit applicants to get input on their contingency plans from local government and emergency response agencies and to verify that each local government and emergency response agency's resources and equipment are available and adequate to respond to an emergency at the facility as laid out in the contingency plan. Amends GS 130A-295.01 (additional requirement for commercial hazardous waste treatment facilities) to require commercial hazardous waste facility operators to (1) maintain offsite copies of information on the waste at the facility and make them accessible to DENR, local governments, and emergency response agencies; (2) notify property owners and residents within one-fourth mile of a proposed facility after filing the application for the facility and at midpoint of the permit's term; (3) report to DENR annually on the changes during the previous year in sensitive land use or population density in the area around the facility (which, in turn DENR must consider when determining how frequently the facility must be inspected); (4) provide security and surveillance at the facility at all times; and (5) obtain and maintain wind monitors onsite. Further amends GS 130A-295.01 to (1) make commercial hazardous waste facility permits subject to renewal every five years and (2) authorize the Commission for Health Services to adopt rules.

Amends GS 130A-295.05 to (1) authorize DENR to regulate hazardous waste transfer facilities; (2) require hazardous waste transporters to register with DENR each hazardous waste transfer facility they use; (3) establish procedures for issuing hazardous waste transfer facility identification numbers and for regulating the storage, consolidation, or commingling of hazardous waste; and (4) direct DENR to study the need for further regulation and permitting of these facilities. Amends GS 130A-293 to limit the authority of DENR to preempt local ordinances that place a condition or restriction on the management of hazardous waste or the siting of a hazardous waste facility. Makes conforming changes to GS 130A-290(a), GS 130A-294(c), GS 130A-295.01, and GS 130A-294.

Other hazardous waste and related changes. Amends GS 166A-27 to allow State Medical Assistance Teams (SMATs) or the Epidemiology Section of the Division of Public Health of the Department of Health and Human Services (Epidemiology Section) to hold a person causing the release of hazardous materials liable for costs incurred in responding to the incident. Enacts new GS 130A-20.01 allowing SMATs or the Epidemiology Section to hold the owner or operator of a hazardous waste facility liable for costs incurred in responding to the incident. Amends GS 132-1.5 to clarify that municipal 911 data has the same confidentiality as county 911 data and that data contained in a reverse 911 emergency notification system is confidential.

Requires DENR to establish a hazardous chemicals inventory database containing data concerning sites listed in the Toxic Release Inventory and DENR's existing database of facilities for which DENR has environmental concerns. The database is to be maintained by the Division of Emergency Management of the Department of Crime Control and Public Safety. Requires the Department of Health and Human Services to contract with an industrial hygienist for 18 months

to develop a model plan for public health response to events with a potential for chemical, biological, or radiological contamination.

Studies. Establishes an 11-member Regulation of Hazardous Materials Facilities Task Force to study issues related to the treatment, storage, and disposal of hazardous materials, waste, substances, and chemicals. The task force will also review the state fire and building codes. Requires the North Carolina building code council to amend the state building code to implement any recommendations of the task force. The task force must report its findings by April 1, 2008, to the General Assembly, the Governor, the North Carolina Building Code Council, and the Environmental Review Commission.

Directs the Department of Crime Control and Public Safety to study potential sources for permanent funding to support the State Medical Assistance Teams and report its findings to the Fiscal Research Division no later than January 1, 2008. Authorizes the UNC Board of Governors to establish a research program to assist in crisis management and communication systems to help better prepare campuses for disasters. Also authorizes the study of emission and transport of pollutants at fires at commercial hazardous waste facilities as well as the health and economic impacts of such fires.

Effective Dates. Financial assurance, offsite information, security, wind monitors, commission authorization to adopt rules, regulations relating to hazardous waste transfer facilities, and conforming changes become effective October 1, 2007. Database, public health model response plan, task force, and UNC disaster research provisions become effective July 1, 2007.

Intro. By Weiss, Ross, T. Harrell, Dollar.

GS 132, 130A, 166A, STUDY

April 26, 2007

H 36. HAZ. MATERIALS TASK FORCE RECOMMENDATIONS. Filed 1/29/07. House committee substitute makes the following changes to 1st edition and also reorganizes the bill.

Part 1. Modifies proposed GS 130A-295.04 as follows: (1) reorganizes the statute; (2) requires a permit applicant or a permit holder (was, permit applicant) for a hazardous waste facility, in addition to other financial responsibility requirements for solid waste management facilities, to establish financial assurance ensuring that sufficient funds are available (was, satisfy the Department of Environment and Natural Resources (DENR) that the applicant, parent, subsidiary, or other affiliate has sufficient funds available) for facility closure, post-closure maintenance and monitoring, any corrective action that DENR may require, and to satisfy any potential liability for sudden and non-sudden accidental occurrences, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the state; (3) adds guarantees by corporate parents who can pass the financial test to the list of means by which sufficient availability of funds can be established; (4) provides that a permit applicant or a permit holder for a hazardous waste facility and any parent, subsidiary, or other affiliate of the applicant, permit holder, or parent, including any joint venturer with an interest, is a guarantor of payment and adds post-closure maintenance to the list of items for which they are a guarantor of payment; (5) requires a permit applicant or a permit holder for a commercial hazardous waste facility to establish financial assurance ensuring that there are sufficient funds, in an amount approved by DENR, for corrective action and for off-site screening for potential migration of contaminants if there is a release of hazardous waste, and prohibits the use of a financial test or captive insurance to establish financial assurance; (6) authorizes DENR to require an applicant for a hazardous waste facility to provide cost estimates related to the facility's closure and any corrective action that may be required, and allows DENR to require cost estimates for off-site screening in the event of a release of hazardous waste if the applicant is seeking a commercial hazardous waste facility permit; (7) establishes requirements concerning the accessibility of the assets used to meet the financial assurance requirements; and (8) provides that permit applicants and permit holders (was, permit applicants) must satisfy DENR that the financial responsibility requirements have been met before DENR is required to review the application.

Amends GS 130A-294(b) to remove the provision requiring the Commission for Health Services (CHS) to adopt rules for financial responsibility. Makes conforming changes to GS

130A-294(b2). Makes technical and conforming changes to GS 130A-308(a), and to the catch line of GS 130A-310.9. Modifies proposed GS 130A-295(f) to require DENR to verify the adequacy of resources and equipment for emergency response during the permit application review if the applicant does not receive a timely verification from a local government or emergency response agency. Modifies the effective date for changes to GS 130A-295 to clarify that the section applies to applications pending on the date that the section becomes effective and to require applicants to provide the information required in new GS 130A-295(d) as it relates to an application pending on the date the section becomes effective, within 30 days after the section is effective. Modifies proposed GS 130A-295.01(c) to require the owner or operator (was, operator) to maintain records off-site, and includes the identity of the generators of waste in the information that must be recorded.

Amends GS 130A-295.01 as follows: (1) removes the requirement that the notices mailed to residents must be by certified mail; (2) requires the permit holder for a commercial hazardous waste facility to publish a notice, containing the same information as the notice mailed to residents and property owners, annually beginning one year after the permit is issued in a newspaper of general circulation in the community where the facility is located; (3) requires the notice to be mailed to residents and land owners at the midpoint of the permit period; and (4) requires commercial hazardous waste facility applicants and permit holders to provide documentation showing that the notice requirements have been met. Changes the effective date for proposed new GS 130A-295.01(d)-(g) to October 1, 2007.

Modifies proposed GS 130A-295.01(e) (reporting) to include the owner of a commercial hazardous waste facility, and to make clarifying changes. Amends GS 130A-295.02(j) to require CHS to adopt rules to determine whether a commercial hazardous waste facility is a special purpose commercial hazardous waste facility and to establish classifications of these facilities; requires rules to establish times and frequencies for the presence of a resident inspector at special purpose commercial hazardous waste facilities based on changes in land use or population. Also provides that special purpose hazardous waste facilities must be subject to inspection at all times that the facility is in operation, undergoing maintenance, repair, test, or calibration. Modifies proposed GS 130A-295.01(f) to provide that the owner or operator, not the applicant, must provide a security and surveillance system.

Modifies proposed GS 130A-295.05 to remove the requirement that the storage, consolidation, or commingling of hazardous waste be designated on the hazardous waste manifest. Also requires a hazardous waste transporter to conduct all operations in compliance with applicable state laws or rules, except as preempted. Amends GS 130A-295.01 to clarify that the operators of a commercial hazardous waste facility must install a wind monitor. Amends GS 130A-293 to remove the proposed exceptions for acts, resolutions, or ordinances that contain restrictions or conditions intended to protect public health, safety, or the environment. Also specifies that local zoning or land-use ordinances are presumed to be valid to the extent the ordinance imposes requirements generally applicable to development, unless the DENR Secretary makes a finding to the contrary. Removes the requirement that the Office of the Governor report its finding to DENR.

Part 2. Makes technical changes to GS 130A-294(c). Amends GS 130A-295.01 to remove the provision allowing CHS to adopt rules and makes technical changes. Changes the effective date for Part 2 from October 1, 2007, to when it becomes law.

Part 3. Makes technical corrections to GS 166A-27. Modifies proposed GS 130A-20.01 to hold a person causing the release of a hazardous material (was, the owner or operator of the hazardous waste facility from which the hazardous waste is released) liable for costs. Amends GS 132-1.5 to include electronic emergency notification systems.

Part 4. Includes a definition of hazardous material. Increases the number of members of the task force from 11 to 15. Adds the requirement that appointments to the task force be made by September 1, 2007, and provides for the filling of vacancies. Requires the Department of Crime Control and Public Safety to work in conjunction with the Department of Health and Human Services to identify and evaluate funding sources and removes the requirement that a permanent funding source be identified in the report. Makes technical changes.

Part 5. Makes technical changes. Provides that the University of North Carolina (was, UNC Board of Governors) may study the emission and transport of pollutants at commercial hazardous waste facility fires.

Part 6. Adds a provision on the effect of the headings, and a severability clause. Adds a statement that except as otherwise provided, the act is effective when it becomes law.

June 12, 2007

H 36. HAZ. MATERIALS TASK FORCE RECOMMENDATIONS. Filed 1/29/07. Senate committee substitute makes the following changes to 2nd edition. Amends GS 130A-294(b) to reinstate the second paragraph, which the 2nd edition would have deleted, requiring the Commission for Health Services to adopt rules for financial responsibility. Amends GS 130A-294(b2)(1) to reinstate the language that the second edition would have deleted and to allow the Department of Environment and Natural Resources (DENR) to require permit holders and applicants for a solid waste management facility to establish financial responsibility as required by GS 130A-294(b0) for entities other than hazardous waste facilities and as required by GS 130A-295.04 for hazardous waste facilities. Modifies proposed new GS 130A-295.05 to require the owner or operator of a hazardous waste transfer facility in North Carolina to register the facility with DENR (was, a hazardous waste transporter must register with DENR every hazardous waste transfer facility the transporter uses in North Carolina) and obtain a hazardous waste transfer facility identification number. Requires the owner or operator of the facility to provide DENR with the location of the facility and the name of the owner of the property on which the facility is located in order to obtain a facility identification number. Adds the owner or operator of a hazardous waste facility to those who must comply with federal and state laws while conducting operations. Requires a hazardous waste transporter to notify DENR of every hazardous waste transfer facility in North Carolina that the transporter uses. Also requires the owner or operator of a hazardous waste facility to notify DENR of every transporter that uses the facility and requires the owner or operator to keep all records that are required to be maintained for at least three years. Makes technical and conforming changes.

June 27, 2007

SL 2007-107 (H 36). HAZARDOUS MATERIALS TASK FORCE RECOMMENDATIONS.
AN ACT TO IMPROVE THE OVERSIGHT OF HAZARDOUS WASTE FACILITIES, AS RECOMMENDED BY THE GOVERNOR'S HAZARDOUS MATERIALS TASK FORCE.
Summarized in *Daily Bulletin* 1/30/07, 4/26/07, and 6/12/07. Enacted June 26, 2007. Effective June 26, 2007, except as otherwise provided.