

March 26, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. TO: (1) CLARIFY THE CIRCUMSTANCES UNDER WHICH AN APPLICATION FOR A SOLID WASTE MANAGEMENT PERMIT MAY BE DENIED; (2) SPECIFY TECHNICAL REQUIREMENTS FOR SOLID WASTE CONTAINERS; (3) PROVIDE THAT SOLID WASTE MANAGEMENT PERMITS ARE NOT TRANSFERABLE; (4) INCREASE THE PENALTIES THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS; (5) REQUIRE THAT AN APPLICANT FOR A PERMIT AND A PERMIT HOLDER ESTABLISH FINANCIAL RESPONSIBILITY TO ENSURE THE AVAILABILITY OF SUFFICIENT FUNDS FOR PROPER DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, CLOSURE, AND POST-CLOSURE MONITORING AND MAINTENANCE OF A SOLID WASTE MANAGEMENT FACILITY; (6) REQUIRE THAT AN OWNER OR OPERATOR OF A SANITARY LANDFILL ESTABLISH FINANCIAL RESPONSIBILITY SUFFICIENT TO COVER A MINIMUM OF THREE MILLION DOLLARS IN COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT THE FACILITY, IN ADDITION TO OTHER FINANCIAL RESPONSIBILITY REQUIREMENTS; (7) CLARIFY AND EXPAND THE SCOPE OF ENVIRONMENTAL COMPLIANCE REVIEW REQUIREMENTS; (8) CLARIFY THAT A PARENT, SUBSIDIARY, OR OTHER AFFILIATE OF THE APPLICANT OR PARENT, INCLUDING ANY BUSINESS ENTITY OR JOINT VENTURER WITH A DIRECT OR INDIRECT FINANCIAL OR EQUITY INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (9) SPECIFY ADDITIONAL TECHNICAL REQUIREMENTS FOR SOLID WASTE MANAGEMENT FACILITIES; (10) REQUIRE THAT ALL APPLICANTS FOR SOLID WASTE MANAGEMENT FACILITY PERMITS CONDUCT AN ENVIRONMENTAL IMPACT STUDY AND TRAFFIC STUDY; (11) CLARIFY THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (12) AUTHORIZE CERTAIN UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL LIAISONS; (13) PROVIDE FOR STATE-LEVEL REVIEW OF PROPOSED MULTI-JURISDICTIONAL SOLID WASTE MANAGEMENT FACILITIES; (14) ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL FEE TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE IN LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF ORPHAN LANDFILLS AND OTHER CONTAMINATED SITES; AND (16) MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

To be summarized in tomorrow's *Daily Bulletin*.

Intro. by Clodfelter.

GS 130A, 153A, 160A

March 27, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. TO: (1) CLARIFY THE CIRCUMSTANCES UNDER WHICH AN APPLICATION FOR A SOLID WASTE MANAGEMENT PERMIT MAY BE DENIED; (2) SPECIFY TECHNICAL REQUIREMENTS FOR SOLID WASTE CONTAINERS; (3) PROVIDE THAT SOLID WASTE MANAGEMENT PERMITS ARE NOT TRANSFERABLE; (4) INCREASE THE PENALTIES THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS; (5) REQUIRE THAT AN APPLICANT FOR A PERMIT AND A PERMIT HOLDER ESTABLISH FINANCIAL RESPONSIBILITY TO ENSURE THE AVAILABILITY OF SUFFICIENT FUNDS FOR PROPER DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, CLOSURE, AND POST-CLOSURE MONITORING AND MAINTENANCE OF A SOLID WASTE MANAGEMENT FACILITY; (6) REQUIRE THAT AN OWNER OR OPERATOR OF A SANITARY LANDFILL ESTABLISH FINANCIAL RESPONSIBILITY SUFFICIENT TO COVER A MINIMUM OF THREE MILLION DOLLARS IN COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT THE FACILITY, IN ADDITION TO OTHER FINANCIAL RESPONSIBILITY REQUIREMENTS; (7) CLARIFY AND EXPAND THE SCOPE OF ENVIRONMENTAL COMPLIANCE REVIEW REQUIREMENTS; (8) CLARIFY THAT A PARENT, SUBSIDIARY, OR OTHER AFFILIATE OF THE APPLICANT OR PARENT, INCLUDING ANY

BUSINESS ENTITY OR JOINT VENTURER WITH A DIRECT OR INDIRECT FINANCIAL OR EQUITY INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (9) SPECIFY ADDITIONAL TECHNICAL REQUIREMENTS FOR SOLID WASTE MANAGEMENT FACILITIES; (10) REQUIRE THAT ALL APPLICANTS FOR SOLID WASTE MANAGEMENT FACILITY PERMITS CONDUCT AN ENVIRONMENTAL IMPACT STUDY AND TRAFFIC STUDY; (11) CLARIFY THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (12) AUTHORIZE CERTAIN UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL LIAISONS; (13) PROVIDE FOR STATE-LEVEL REVIEW OF PROPOSED MULTI-JURISDICTIONAL SOLID WASTE MANAGEMENT FACILITIES; (14) ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL FEE TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE IN LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF ORPHAN LANDFILLS AND OTHER CONTAMINATED SITES; AND (16) MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.

Management program. Effective August 1, 2007, amends GS 130A-294 specifying when the Department of Environment and Natural Resources (DENR) must deny a solid waste management facility permit application, including when environmental damage would result or when there is a practical alternative that would result in less adverse impacts. Establishes requirements for containers used to transport solid waste by railway or barge, including that the containers be certified as watertight. Provides that the entry of liquids into a container, the spillage of waste and the escape of odors from a container used to transport solid waste by truck, railway, or barge are violations of Article 9 (Solid Waste Management). Provides that a permit for a solid waste management facility is not transferable. Effective August 1, 2007, amends GS 130A-290(a) to include definitions of *business entity* and *orphan landfill* and makes technical corrections.

Enforcement. Effective December 1, 2007, amends GS 130A-22 to increase civil penalties for solid waste management violations, including the terms or conditions of a permit. Amends GS 130A-22 to allow the Secretary of DENR to assess against a person assessed a penalty the costs associated with the assessment of the civil penalty. Effective December 1, 2007, amends GS 130A-18 to allow an action for injunctive relief if a condition of a permit or order under GS Chapter 130A is violated.

Financial responsibility. Effective August 1, 2007, enacts new GS 130A-295.2 requiring solid waste management permit applicants and permit holders to ensure the availability of sufficient funds for the design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of the facility and for any corrective action required during the life of a facility, or during the closure and for at least 30 years after closure. Provides for means of establishing financial responsibility, for allowing the establishment of financial responsibility for shorter periods of time, and for maintaining financial responsibility. Requires owners or operators of a sanitary landfill to establish financial responsibility sufficient to cover at least \$3 million in costs in addition to other financial responsibility requirements and establishes conditions upon which DENR may increase the amount of financial responsibility required; this provision is effective February 1, 2008, with respect to permits in effect on August 1, 2007. Amends GS 130A-309.27 to clarify that a minority shareholder with no management or control over the publicly traded corporation is not considered an owner or operator on the basis of stock holdings.

Environmental compliance review. Effective August 1, 2007, enacts new GS 130A-295.3 requiring DENR to evaluate the applicant's environmental compliance history for at least three years for each applicant for a new solid waste management permit, permit renewal, or permit amendment. Authorizes DENR to deny an application if the applicant has repeatedly violated related statutes, rules, orders, or permit conditions for the protection of the environment or conservation of natural resources. Also provides that a parent, subsidiary, or other affiliate of the applicant or parent, including any person with a direct or indirect financial interest, is subject to environmental compliance review. Makes conforming repeal of GS 130A-309.06(b).

Sanitary landfill requirements. Effective August 1, 2007, enacts new GS 130A-295.4 establishing sanitary landfill requirements. Requires sanitary landfill permit applicants to conduct an environmental impacts study. DENR must hold a public hearing on the study in the county where the landfill will be located and must consider the study and any mitigation proposed by the applicant in deciding whether to issue a permit. Also requires the applicant to conduct a traffic study of the impacts of the proposed facility and requires DENR to include mitigation of the impacts identified in the study as a condition of the permit. Requires sanitary landfill owners to employ a project engineer to inspect various aspects of the landfill. Also requires at least a 200-foot buffer between the landfill and any streams or wetland and prohibits the landfills from being located within a 100-year floodplain. Establishes landfill construction requirements and sets requirements for landfills for which a liner is required. Amends GS 153A-136 and enacts new GS 160A-325 to allow counties and cities with planning jurisdiction over portions of the site of landfills with services areas extending 100 miles or more to employ a local government landfill liaison.

Multi-jurisdictional facilities. Effective August 1, 2007, enacts new GS 130A-295.5 establishing the Commission on Multi-Jurisdictional Solid Waste Management Facilities (commission), which must approve applications for solid waste management facilities with a service area extending beyond the county's jurisdictional boundary before DENR may act on the application. Sets standards that must be met before the commission may approve an application. The commission is made up of the secretaries of DENR, Health and Human Services, and Commerce.

Fees. Amends GS 153A-292 and GS 160A-314.1 to clarify when counties and cities may charge an availability fee. Enacts new GS 130A-295.6 establishing the nonreverting Solid Waste Management Account. All new permits permit modification, and permit amendment fees are to be credited to the account and must be used to support the solid waste management program. Sets fees for new permits, permit amendments, and permit modifications at various types of facilities.

Enacts new GS 130A-295.7 to set a fee of \$2 per ton of municipal solid waste disposed of in any landfill and establishes a fee of \$2 per ton of waste on the transfer of municipal solid waste to a transfer station for disposal outside the state. Provides for the recording of waste tonnage and the calculation of fees. Fees received are to be credited to the Inactive Hazardous Sites Cleanup Fund and are to be used for: (1) assessment and remediation of orphan landfills and inactive hazardous waste sites that the state or local government may be responsible for; and (2) assessment and remediation of orphan landfills or inactive hazardous substance or waste disposal sites for which a private party, that cannot be identified or located, may be responsible; in addition, up to 15% of the proceeds may be used for costs of administering contracts for assessment and remediation, up to 10% of the proceeds may be used for grants to local government to support redevelopment of Brownfields, and up to 10% of the proceeds may be used to pay the state's share of the cost of assessment and remediation of sites listed on the federal national priorities list. Amends GS 130A-310.11 to create the Inactive Hazardous Sites Cleanup Fund. Amends GS 130A-310.6 to require the Secretary of DENR to implement a remedial action plan for orphan landfills and provides that risks posed by the landfill may be mitigated using a risk-based approach. Each of the above described provisions is effective August 1, 2007.

Commission for Health Services. Effective August 1, 2007, requires the Commission for Health Services to review rules governing the design, construction, operation, maintenance, closure, and post-closure monitoring and maintenance of solid waste management facilities to determine whether changes are needed. Also directs the commission to adopt rules to minimize impacts from solid waste management facilities.

Intro. by Clodfelter.

GS 130A, 153A, 160A

July 23, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. Senate committee substitute makes the following changes to 1st edition.

Management program. Modifies proposed amendments to GS 130A-294 to amend the findings upon which the Department of Environment and Natural Resources (DENR) must deny an application for a solid waste management

facility permit. Deletes specific technical requirements for containers used to transport solid waste. Deletes the prohibition on issuing a permit for a landfill to receive solid nonradioactive waste generated outside the state. Provides that DENR must (was, may) require a permit applicant to show financial responsibility and compliance. Also requires permit holders to show financial responsibility and compliance before DENR is required to review the application.

Penalties. Modifies proposed amendments to GS 130A-22(a) to increase the daily limit on the penalty for violations involving nonhazardous waste from \$5,000 to \$15,000 (the first edition proposed \$10,000).

Financial responsibility. Modifies proposed GS 130A-295.2 as follows. Adds definitions of *financial assurance*, *financial qualification*, and *financial responsibility*. Allows (was, requires) the Commission for Health Services (commission) to adopt rules governing financial responsibility requirements for permit applicants and holders. Provides that if DENR requires an applicant or permit holder to demonstrate its financial qualification, the applicant or permit holder must provide an audited, certified financial statement. Requires applicants and permit holders to establish financial assurance. Authorizes the commission to adopt rules authorizing a local government and a solid waste management authority to meet the financial responsibility requirements by either a local government financial test or a capital reserve fund requirement. Modifies proposed amendments to GS 130A-309.27 to modify who is considered an owner or operator.

Environmental compliance review. Modifies proposed new GS 130A-295.3 to increase the amount of time for which DENR must evaluate an applicant's environmental compliance history, requires a permit holder to notify DENR of any signification change in environmental compliance history or other information, and allows DENR to reevaluate the history of a permit holder and modify or revoke a permit.

Combustion products. Effective August 1, 2007, enacts new GS 130A-295.4 allowing DENR to permit the siting of combustion products from coal-fired generating units at the same facility that generated the products and enumerates technical requirements that must be met by the landfills. Makes a corresponding change to GS 130A-290(a) by adding applicable definitions.

Sanitary landfill requirements. Moves the requirement for applicants for a sanitary landfill permit to conduct a traffic study from GS 130A-298.4 to proposed new GS 130A-295.5. Adds applicants for a transfer station permit to those that must conduct a traffic study. Provides that the traffic study requirements may be met by obtaining a certification from the Department of Transportation Division Engineer that the proposed facility will not have a substantial impact on highway traffic. Enumerates instances in which the requirements do not apply. Modifies proposed new GS 130A-295.6 (was, GS 130A-295.4) to require DENR (was, an applicant) to conduct an environmental impact study of a proposed sanitary landfill, with the costs to be paid by the permit applicant. Deletes the requirement that a sanitary landfill be constructed with a double liner. Prohibits landfills from being constructed within specified distances of protected areas. Deletes the requirement that an owner of a sanitary landfill employ a project engineer to

perform inspections. Provides that GS 130A-295.6 is effective August 1, 2007, and lists permits for which any provisions that are more stringent than those in effect before August 1, 2007, do not apply. Modifies proposed GS 153A-136(e) and proposed GS 160A-325 to no longer require that the landfill have a service area extending 100 or more miles from the landfill's permitted disposal area before a local government landfill liaison may be hired. Also provides that a landfill liaison entering land on which the landfill is located is not committing trespass or taking property.

Permit applications. Moves proposed new GS 130A-295.6 to proposed new GS 130A-295.8. Sets deadlines by which DENR must make determinations regarding a solid waste management facility permit application. Provides that during the period from August 1, 2007, to August 1, 2008, DENR must determine whether an application is complete within 270 days after receiving the application.

Tax. Moves proposed new GS 130A-295.7 to proposed new Article 5G of GS Chapter 105. Decreases the solid waste disposal tax from the proposed \$2.00 to \$1.50 per ton of waste. Provides for \$225,000 of the tax to be used to reimburse the Department of Revenue for its cost of collection and changes the allocation of the tax proceeds. Enacts conforming GS 130A-295.9 regarding the allocation of the disposal tax. Effective July 1, 2008. Effective July 1, 2008, modifies GS 130A-310.6 to require the Secretary to use funds allocated to DENR under GS 130A-295.9(c)(1) to assess pre-1983 landfills, determine the priority for remediation of pre-1983 landfills, and develop a remedial action plan for each pre-1983 landfill requiring remediation (was, the Secretary must develop and implement a remedial action plan for orphan landfills). Modifies GS 130A-290(a)(21a) to replace *orphan landfill* with *pre-1983 landfill*.

Recycling. Enacts new Part 2E of Article 9 of GS Chapter 130A, requiring manufacturers of computer equipment to register with DENR and pay a \$10,000 registration fee, and later pay renewal fees, to be credited to the newly created Computer Equipment Management Account. Requires computer equipment manufacturers to submit a plan for reuse or recycling of discarded computer equipment in NC that is produced by the manufacturer. Sets other program requirements, including labeling and requirements for computer equipment recycling facilities. Requires DENR to submit a report on the recycling of discarded computer equipment to the Environmental Review Commission (ERC) by April 1 of each year. Establishes the effective dates for the provisions of the new part beginning in January 2008. Amends GS 130A-309.09A to require local governments to include in their comprehensive solid waste management plans an assessment of programs for collecting discarded computer equipment for each county and municipality with a population exceeding 25,000. Makes a conforming change to GS 130A-309.10. Enacts new GS 147-33.104 prohibiting state agencies and other public bodies from purchasing computer equipment from manufacturers that are not in compliance with the manufacturers' requirements. Makes technical changes to and recodifies sections of GS 130A-295.01 and makes technical changes to Section 4.1 (Regulation of Hazardous Materials Facilities Task Force) of SL 2007-107. Require DENR

Division of Waste Management and the Division of Pollution Prevention and Environmental Assistance to develop a proposal for the recycling of florescent lamps and to report to the ERC by March 1, 2008. Requires the ERC to study issues related to the franchise of solid waste management facilities by units of local government and report its findings to the 2008 session of the General Assembly.

Misc. Deletes proposed new GS 130A-295.5 (state-level review of proposed multi-jurisdictional solid waste facilities). Adds a severability clause.

Effective Dates. Changes the effective date of the amendment to GS 130A-18 (injunction) from December 1, 2007, to August 1, 2007. Changes the effective date of the penalty change in GS 130A-22(a) from December 1, 2007, to August 1, 2007. Changes the effective date of GS 130A-22(j) from December 1, 2007, to August 1, 2007. Amends the effective date of GS 130A-309.27 to provide that the changes are effective for any application for a permit that is pending on August 1, 2007, and provides that GS 130A-295.2(h) applies to an owner or operator of a sanitary landfill when the permit is next up for renewal after August 1, 2009.

July 25, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. Senate committee substitute makes the following changes to 2nd edition. Modifies proposed new GS 105-187.61 to provide that the tax on the disposal of municipal solid waste and construction and demolition debris in any landfill is due on waste and debris from third parties and on waste and debris disposed of by the owner or operator. Provides that the tax is payable by the owner or operator of each permitted landfill and transfer station. Modifies proposed new GS 105-187.62 to require landfill and transfer station owners and operators to maintain records as required by the Secretary of Revenue. Allows an owner or operator to add the amount of the disposal tax to the amount charged to a third party for the disposal of municipal solid waste or construction and demolition debris. Deletes the proposed provisions concerning the payment of the tax and provides that the tax is payable and a return must be filed in the manner required for sales tax. Modifies proposed new GS 130A-309.93 to exempt from the registration fee manufacturers that sell 1,000 or fewer items of computer equipment per year.

July 26, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. Senate amendment makes the following changes to 3rd edition. Modifies proposed GS 130A-295.6(d) to prohibit issuance of a permit to construct a waste disposal unit of a landfill that would be located within specified areas (was, prohibit issuance of the permit if at the time of the application any portion of the proposed waste disposal unit would be located within the specified areas).

July 27, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. Senate amendments make the following changes to 3rd edition, as amended. Amendment # 4 makes the following changes to GS Chapter 130A, Article 9, proposed Part 2E (regarding discarded computer equipment management).

Deletes the definition for *certified computer equipment recycling facility*.

Overwrites the changes made by amendment # 3, which modified proposed GS 130A-309.93 to exempt computer equipment manufacturers with annual gross sales of less than \$1 million from the registration fee and annual renewal fee imposed under the statute.

Modifies the requirements of the plan that manufacturers of computer equipment are to develop and submit to the Department of Environment and Natural Resources (DENR) for

recycling or reuse of discarded computer equipment to decrease the manufacturer's responsibility for recycling of certain discarded computer equipment. Requires the plan to provide for environmentally sound management practices to transport and recycle discarded computer equipment. Mandates a formula for calculating recycling rates for the discarded computer equipment. Requires a manufacturer to include details in the plan regarding how the manufacturer proposes to cover processing and transportation costs for discarded computer equipment.

Deletes provisions regarding a manufacturer's payments to certified computer equipment recycling facilities and modifies requirements for discarded computer equipment collectors. Deletes proposed GS 130A-309.95 (certification of computer equipment recycling facilities), and proposed GS 130A-309.96 (requirements for certified computer equipment recycling facilities). Deletes DENR's responsibilities with regard to calculations regarding market shares notice of pro rata cost shares and developing and maintaining a list of certified computer equipment recycling facilities.

Makes additional conforming and technical changes. Adds additional language.

July 28, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. Senate amendment replaces amendment #4, adopted 7/27/07 and reconsidered and withdrawn 7/28/07. Substantially identical to amendment #4, except corrects formatting errors and as follows. Modifies section on the Department's responsibilities to require the Department to develop and maintain a current list of complying manufacturers and provide the list to the Office of Information Technology Services (amendment #4 had the list going to the Department of Administration). Amends enforcement section, deleting provision allowing the Department to recover unpaid costs plus expenses of an action necessary to recover unpaid costs and allowing the Attorney General to commence a civil action. Adjusts effective dates.

July 28, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. House committee substitute makes the following changes to 4th edition. Adds preamble language to Act. Amends GS 130A-294, as amended by SL 2007-107 to specify that a permit for a solid waste management facility may be transferred only with the approval of the Department of Environment and Natural Resources (DENR). Amends proposed new GS 130A-295.2 to: (1) delete the requirement that the owner or operator of a sanitary landfill must establish financial assurance sufficient to cover a minimum of \$3 million in costs for potential assessment and corrective action at the facility to meet the financial assurance requirements; and (2) delete authorization for DENR to require financial assurance in a higher amount under certain circumstances. Deletes the requirement that provisions of GS 130A-295.2(h), apply to the owner or operator of a sanitary landfill when the permit is next subject to renewal after August 1, 2009. Deletes proposed new GS 130A-295.5 (traffic study required for certain solid waste management facilities). Deletes proposed new GS 130A-295.6 (additional requirements for sanitary landfills). Deletes proposed amendments to GS 153A-292(b) and GS 160A-314.1 (clarifying when a county or city may charge an availability fee for disposal facility services not provided by a private hauler). Deletes proposed new GS 130A-295.8 (fees applicable to permits for solid waste management facilities). Deletes proposed new Article 5G of Subchapter I of GS Chapter 105 and proposed new GS 130A-295.9 (relating to solid waste disposal tax). Deletes proposed amendments to GS 130A-310.6 (relating to assessment and remediation of pre-1983 landfills). Deletes proposed amendment to GS 130A-310.11 (relating to use of funds credited to the inactive hazardous sites cleanup fund). Deletes proposed new Part 2E of Article 9 of GS Chapter 130A (discarded computer equipment management). Deletes proposed new GS 147-33.104 (prohibiting purchase by State agencies and governmental entities of certain computer equipment). Directs the Environmental Review Commission to study the siting and technical standards for solid waste management facilities. Makes technical changes and conforming changes. Conforms the title.

August 1, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. Conference report recommends changes to 5th edition to reconcile matters in controversy, to be digested in tomorrow's *Daily Bulletin*.

August 2, 2007

S 1492. SOLID WASTE MANAGEMENT ACT OF 2007. Filed 3/26/07. Conference report recommends changes to 5th edition to reconcile matters in controversy.

Financial responsibility. Requires owners or operators of a sanitary landfill to establish financial responsibility sufficient to cover at least \$3 million in costs in addition to other financial responsibility requirements and establishes conditions upon which the Department of Environment and Natural Resources (DENR) may increase the amount of financial responsibility required; this provision applies to the owner or operator of a landfill when the permit is next subject to renewal after August 1, 2009. Effective August 1, 2007.

Traffic study. Effective August 1, 2007, enacts GS 130A-295.5 requiring the applicant for a sanitary landfill or transfer station permit to conduct a traffic study of the impacts of the proposed facility and requires DENR to include mitigation of the impacts identified in the study as a condition of the permit. Provides that the traffic study requirements may be met by obtaining a certification from the Department of Transportation Division Engineer that the proposed facility will not have a substantial impact on highway traffic. Enumerates instances in which the requirements do not apply.

Sanitary landfill requirements. Effective August 1, 2007, enacts new GS 130A-295.6 requiring DENR to conduct an environmental impacts study of any proposed sanitary landfill. DENR must hold a public hearing on any required environmental impact statement in the county where the landfill will be located and must consider the study and any mitigation proposed by the applicant in deciding whether to issue a permit. Also requires at least a 200-foot buffer between the landfill and any streams or wetland and prohibits the landfills waste disposal unit from being located within a 100-year floodplain or land removed from a 100-year floodplain as a result of man-made alterations within the floodplain, except as authorized by variance. Prohibits a waste disposal unit from being constructed within a wetland unless all of the specified conditions are met. Prohibits the permitting of a landfill disposal unit if at the time the application is determined to be complete, any portion of the unit would be located within: (1) five miles of a National Wildlife Refuge; (2) one mile of a state gameland that is owned, leased, or managed by the Wildlife Resources Commission; or (3) two miles of a component of the state parks system. Establishes landfill construction requirements and sets requirements for landfills for which a liner is required. Requires a permit holder to implement a waste screening plan. Prohibits the permitting of a landfill with (1) a capacity of more than 55 million cubic yards of waste, (2) a disposal area of more than 350 acres, or (3) a maximum height of more than 250 feet above the disposal area's mean natural elevation. Provides that to the extent that the statute imposes requirements that are more stringent than those in effect before August 1, 2007, the more stringent requirements do not apply to specified types of permits.

Permits and fees. Amends GS 153A-292(b) and GS 160A-314.1 clarifying when a county or city may charge an availability fee for disposal facility services not provided by a private hauler. Enacts new GS 130A-295.8 establishing the nonreverting Solid Waste Management Account. All new permits, permit modification, and permit amendment fees are to be credited to the account and must be used to support the solid waste management program. Sets fees for new permits, permit amendments, and permit modifications at various types of facilities. Requires DENR to determine whether an application is complete within 90 days after receiving the application. Provides for the timeline and process for final determinations, draft permit decisions, and final permit decisions. Effective August 1, 2007, and applies to pending applications as of that date. Provides that during the period from August 1, 2007, to August 1, 2008, DENR must determine whether an application is complete within 270 days after receiving the application.

Disposal Tax. Enacts new Article 5G of GS Chapter 105 establishing a solid waste disposal tax. Sets an excise tax of \$2 per ton of municipal solid waste disposed of in any landfill and \$2 per ton of waste on the transfer of municipal solid waste to a transfer station for disposal outside the state. Provides that the tax on the disposal of municipal solid waste and construction and

demolition debris in any landfill is due on waste and debris from third parties and on waste and debris disposed of by the owner or operator. Provides that the tax is payable by the owner or operator of each permitted landfill and transfer station. Provides for the recording of waste tonnage and maintenance of records. Provides for \$225,000 of the tax to be used to reimburse the Department of Revenue for its cost of collection. Requires the tax proceeds to be distributed as follows: (1) 50% to the Inactive Hazardous Sites Cleanup Fund, (2) 37.5% to units of local government that provide solid waste management services directly to residents within the local government to be used for solid waste management programs and services, and (3) 12.5% to the Solid Waste Management Trust Fund. Enacts new GS 130A-295.9 providing that the proceeds of the solid waste disposal tax credited to the Inactive Hazardous Sites Cleanup Fund be used for the assessment and remediation of pre-1983 landfills and that funds credited to the Solid Waste Management Trust Fund be used to fund grants for the initiation or enhancement of local recycling programs and to provide for the management of difficult-to-manage solid waste. Makes a conforming change to GS 130A-310.11. Amends GS 130A-310.6 to require the Secretary of DENR to implement a remedial action plan for pre-1983 landfills and provides that risks posed by the landfills may be mitigated using a risk-based approach. Prohibits the Secretary from seeking cost recovery for assessment and remedial action at a pre-1983 landfill from a local government or from any other potentially responsible party if the Secretary develops and implements a remedial action plan for that landfill. Allows the Secretary to seek cost recovery if any potentially responsible party fails to cooperate with assessment of a site and implementation of control and mitigation measures. Allows a local government that voluntarily undertakes assessment or remediation of a pre-1983 landfill to request reimbursement from DENR. Each of the above described provisions is effective July 1, 2008.

Computer Recycling. Enacts new Part 2E of Article 9 of GS Chapter 130A, requiring manufacturers of computer equipment to register with DENR and pay a \$10,000 registration fee, and later pay renewal fees, to be credited to the newly created Computer Equipment Management Account. Exempts manufacturers that sell 1,000 or fewer items of computer equipment per year from the registration fee. Provides that discarded computer equipment collectors and manufacturers share responsibility for the recycling of discarded computer equipment and for educating citizens as to recycling opportunities. Requires computer equipment manufacturers to submit a plan for reuse or recycling of discarded computer equipment in NC that is produced by the manufacturer. Sets other program requirements, including labeling and requirements for discarded computer equipment collectors. Establishes DENR's responsibilities. Establishes the nonreverting Computer Equipment Management Account, the funds of which are to be used for implementation. Requires DENR to submit a report on the recycling of discarded computer equipment to the Environmental Review Commission (ERC) by April 1 of each year. Establishes the effective dates for the provisions of the new part beginning in January 2009. Effective January 1, 2009, amends GS 130A-309.09A to require local governments to include in their comprehensive solid waste management plans an assessment of programs for collecting discarded computer equipment for each county and municipality with a population exceeding 25,000. Effective January 1, 2012, makes conforming changes to GS 130A-309.10. Effective July 1, 2009, enacts new GS 147-33.104 prohibiting state agencies and other public bodies from purchasing computer equipment from manufacturers that are not in compliance with the manufacturers' requirements.

Misc. Deletes the technical changes to and recodification of sections of GS 130A-295.01 and technical changes to Section 4.1 (Regulation of Hazardous Materials Facilities Task Force) of SL 2007-107.

Study. Limits the study by the Environmental Review Commission to issues related to the franchise of solid waste management facilities by local governments (previous editions also included studying siting and technical standards for solid waste management facilities).

Makes technical and conforming changes. Conforms the title.

September 4, 2007

SL 2007-550 (S 1492). SOLID WASTE MANAGEMENT ACT OF 2007. AN ACT TO: (1) CLARIFY THE CIRCUMSTANCES UNDER WHICH AN APPLICATION FOR A SOLID WASTE

MANAGEMENT PERMIT MAY BE DENIED; (2) PROVIDE THAT SOLID WASTE MANAGEMENT PERMITS ARE NOT TRANSFERABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES; (3) INCREASE THE PENALTIES THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS; (4) REQUIRE THAT AN APPLICANT FOR A PERMIT AND A PERMIT HOLDER ESTABLISH FINANCIAL RESPONSIBILITY TO ENSURE THE AVAILABILITY OF SUFFICIENT FUNDS FOR PROPER DESIGN, CONSTRUCTION, OPERATION, MAINTENANCE, CLOSURE, AND POST-CLOSURE MONITORING AND MAINTENANCE OF A SOLID WASTE MANAGEMENT FACILITY; (5) REQUIRE THAT AN OWNER OR OPERATOR OF A SANITARY LANDFILL ESTABLISH FINANCIAL ASSURANCE SUFFICIENT TO COVER A MINIMUM OF THREE MILLION DOLLARS IN COSTS FOR POTENTIAL ASSESSMENT AND CORRECTIVE ACTION AT THE FACILITY, IN ADDITION TO OTHER FINANCIAL RESPONSIBILITY REQUIREMENTS; (6) CLARIFY AND EXPAND THE SCOPE OF ENVIRONMENTAL COMPLIANCE REVIEW REQUIREMENTS; (7) CLARIFY THAT A PARENT, SUBSIDIARY, OR OTHER AFFILIATE OF THE APPLICANT OR PARENT, INCLUDING ANY BUSINESS ENTITY OR JOINT VENTURER WITH A DIRECT OR INDIRECT INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW; (8) PROVIDE FOR SITING OF COMBUSTION PRODUCTS LANDFILLS IN AREAS THAT HAVE BEEN FORMERLY USED FOR THE STORAGE OR DISPOSAL OF COMBUSTION PRODUCTS FROM COAL-FIRED GENERATING UNITS AT THE SAME FACILITY THAT GENERATED THE COMBUSTION PRODUCTS, AND TECHNICAL REQUIREMENTS FOR THESE LANDFILLS; (9) SPECIFY ADDITIONAL TECHNICAL REQUIREMENTS FOR SOLID WASTE MANAGEMENT FACILITIES; (10) REQUIRE THAT ALL APPLICANTS FOR PERMITS FOR SANITARY LANDFILLS CONDUCT AN ENVIRONMENTAL IMPACT STUDY; (11) REQUIRE THAT CERTAIN APPLICANTS FOR SOLID WASTE MANAGEMENT FACILITY PERMITS CONDUCT A TRAFFIC STUDY; (12) CLARIFY THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY COLLECT A SOLID WASTE AVAILABILITY FEE; (13) AUTHORIZE UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL LIAISONS; (14) ESTABLISH FEES APPLICABLE TO PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES TO SUPPORT THE SOLID WASTE MANAGEMENT PROGRAM; (15) ESTABLISH A SOLID WASTE DISPOSAL TAX TO BE IMPOSED ON THE DISPOSAL OF MUNICIPAL SOLID WASTE IN LANDFILLS IN THE STATE AND ON THE TRANSFER OF MUNICIPAL SOLID WASTE FOR DISPOSAL OUTSIDE THE STATE IN ORDER TO PROVIDE FUNDS FOR THE ASSESSMENT AND REMEDIATION OF PRE-1983 LANDFILLS AND FOR OTHER PURPOSES; (16) ESTABLISH A COMPUTER EQUIPMENT MANAGEMENT PROGRAM; (17) DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A PROPOSED RECYCLING PROGRAM FOR FLUORESCENT LAMPS; (18) DIRECT THE ENVIRONMENT REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE FRANCHISE OF SOLID WASTE MANAGEMENT FACILITIES BY UNITS OF LOCAL GOVERNMENT AND THE TRANSPORTATION OF SOLID WASTE BY RAIL AND BARGE; AND (19) MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL CHANGES. Summarized in *Daily Bulletin* 3/27/07, 7/23/07, 7/25/07, 7/26/07, 7/27/07, 7/28/07, and 8/2/07. Enacted August 31, 2007. Effective August 31, 2007, except as otherwise provided.