

March 13, 2007

S 716. POULTRY PRODUCTS INSPECTION ACT PENALTIES (=H 589). Filed 3/13/07. *TO PROVIDE FOR CIVIL PENALTIES FOR VIOLATIONS OF THE POULTRY PRODUCTS INSPECTION ACT.*

Identical to H 589, filed 3/12/07.

Intro. by Albertson.

GS 106

July 27, 2007

S 716. SOLID WASTE MANAGEMENT AMENDS. 2007 (NEW). Filed 3/13/07. Proposed House committee substitute for the 1st edition will be digested in tomorrow's *Daily Bulletin*.

July 28, 2007

S 716. SOLID WASTE MANAGEMENT AMENDS. 2007 (NEW). Filed 3/13/07. Proposed House committee substitute adopted 7/27/07 deletes the provisions of the 1st edition and replaces it with AN ACT TO: (1) *EXTEND THE MORATORIUM ON THE CONSIDERATION OF PERMIT APPLICATIONS AND ISSUANCE OF PERMITS FOR THE CONSTRUCTION OF NEW LANDFILLS IN THE STATE TO 1 SEPTEMBER 2008;* (2) *TO REPEAL THE EXEMPTION FOR SANITARY LANDFILLS OPERATED BY LOCAL GOVERNMENTS FROM THE REQUIREMENTS FOR ENVIRONMENTAL IMPACT STATEMENTS UNDER THE NORTH CAROLINA ENVIRONMENTAL POLICY ACT OF 1971;* (3) *CLARIFY THE CIRCUMSTANCES UNDER WHICH AN APPLICATION FOR A SOLID WASTE MANAGEMENT PERMIT MAY BE DENIED;* (4) *PROVIDE THAT SOLID WASTE MANAGEMENT PERMITS ARE NOT TRANSFERABLE;* (5) *INCREASE THE PENALTIES THAT MAY BE IMPOSED FOR SOLID WASTE VIOLATIONS;* (6) *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;* (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 INTEREST IN THE APPLICANT IS SUBJECT TO FINANCIAL RESPONSIBILITY AND ENVIRONMENTAL COMPLIANCE REVIEW;* (9) *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;* (10) *CLARIFY THE CIRCUMSTANCES UNDER WHICH A UNIT OF LOCAL GOVERNMENT MAY COLLECT A SOLID WASTE AVAILABILITY FEE;* (11) *AUTHORIZE UNITS OF LOCAL GOVERNMENT TO HIRE LANDFILL LIAISONS;* (12) *DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO DEVELOP A PROPOSED RECYCLING PROGRAM FOR FLUORESCENT LAMPS;* (13) *DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE FRANCHISE OF SOLID WASTE MANAGEMENT FACILITIES BY UNITS OF LOCAL GOVERNMENT, TRANSPORTATION OF SOLID WASTE BY RAIL AND BARGE, AND SITING AND TECHNICAL STANDARDS FOR SOLID WASTE MANAGEMENT FACILITIES;* AND (14) *MAKE RELATED CLARIFYING, CONFORMING, AND TECHNICAL CHANGES.*

Moratorium. Effective August 1, 2007, extends the moratorium on new landfills from August 1, 2007, to September 1, 2008.

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. Deletes the prohibition on issuing a permit for a landfill to receive solid nonradioactive waste generated outside the state. Provides that a permit for a solid waste management facility is transferable if approved by DENR (the reference to a transfer in the title is incorrect). Requires DENR to require

a permit applicant to show financial responsibility and compliance. Also requires permit applicants and permit holders to show financial responsibility and compliance before DENR is required to review their application. Effective August 1, 2007, amends GS 130A-290(a) to include definitions of *business entity* and *Pre-1983 landfill* and makes technical corrections.

Enforcement. Effective August 1, 2007, amends GS 130A-22 to increase civil penalties for solid waste management violations, including the terms or conditions of a permit. Also 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 August 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 defining *financial assurance*, *financial qualification*, and *financial responsibility*. Allows 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. Provides for means of establishing financial responsibility, for allowing the establishment of financial responsibility for shorter periods of time, and for maintaining financial responsibility. 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. Amends GS 130A-309.27 to include any person designated as a joint permittee in those considered an owner or operator. Deletes provisions related to requirements for a landfill escrow account and makes conforming changes.

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 five 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. Requires a permit holder to notify DENR of any significant 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. Makes a conforming repeal of GS 130A-309.06(b).

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.

Fees. Effective August 1, 2007, amends GS 153A-292 and GS 160A-314.1 to clarify when counties and cities may charge an availability fee. 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 to employ a local government landfill liaison. Also provides that a landfill liaison entering land on which the landfill is located is not committing trespass or taking property

Commission for Health Services. 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.

Studies. Requires 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 Environmental Review Commission (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. Recodifies and makes technical and conforming changes to SL 2007-107 concerning hazardous waste facilities.

Contains a severability clause. Unless otherwise indicated, the act is effective when it becomes law.