

North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

**IN FULFILLMENT OF THE REQUIREMENTS
OF CERCLA 104(c)(9)**

Prepared by members of the Intergovernmental Committee
to Certify Compliance with Section 104 of SARA,
Linda W. Little, Ph.D., Coordinator

October 17, 1989

891 of 888

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North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

**IN FULFILLMENT OF THE REQUIREMENTS
OF CERCLA 104(c)(9)**

Changes and Inserts

Prepared by members of the Intergovernmental Committee
to Certify Compliance with Section 104 of SARA,
Linda W. Little, Ph.D., Coordinator

Original version submitted October 17, 1989

Amended May 23, 1991

Sample of letters sent to governors of South Carolina, Alabama, Tennessee, and Kentucky.



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES G. MARTIN
GOVERNOR

April 29, 1991

Governor Carroll A. Campbell
State Capitol
Columbia, South Carolina 29211

Dear Carroll:

As you are aware, it is the intent of the State of North Carolina to seek, at some future date, re-admission to the SARA Capacity Assurance Regional Agreement which now exists among South Carolina, Tennessee, Alabama and Kentucky.

To that end, North Carolina is continuing to pursue the siting and construction of a hazardous waste incinerator, solvent recovery unit, and an associated residual disposal facility. Currently, there are several pending proposals by private industry which may result in the application for permits and the eventual construction of such facilities. If the state does not receive such applications, the North Carolina Hazardous Waste Management Commission remains in existence and retains the authority to site and construct such facilities.

In addition, I want you to know that an aqueous inorganic treatment facility, which was only under interim status when our original agreement was signed, has now received its Part B permit. Finally, an application for a permit for a large metals recovery facility (120,000 T/yr) has been received from Recontek and is under review. It would be my hope that these developments would persuade you of our justification for readmission to the regional agreement, especially since the metals recovery permit is over twice the waste-handling capacity of the incinerator and potentially much more beneficial to our region.

As you are also no doubt aware, the United States Environmental Protection Agency has required the State of North Carolina to submit by May 6, 1991, an amended Capacity Assurance Plan (CAP) pursuant to 42 U.S.C. 9604(c)(9). This amended CAP is to address North Carolina's plans over the next five years to deal with any existing shortfalls in treatment capacity

(May 3, 1991)

Governor Carroll A. Campbell, Jr.
Page 2
April 29, 1991

created by the removal of North Carolina from the Regional Agreement. It is our plan to use the possibility of North Carolina's future membership in the existing agreement as one method by which North Carolina can meet the CAP requirements. In order to do this, however, we have been informed by the United States Environmental Protection Agency that North Carolina will need to secure and present to that agency assurances from the states in the current Regional Agreement that those states are willing to continue negotiations over North Carolina's possible future re-admission to that agreement. I am asking that you provide me such an assurance in the form of a letter.

Thank you for continued interest and patience in resolving this pressing problem of capacity assurance.

Sincerely,

James G. Martin

JGM

(May 3, 1991)



STATE OF NORTH CAROLINA
GOVERNOR'S WASTE MANAGEMENT BOARD

JAMES G. MARTIN
GOVERNOR

P.O. BOX 27687

LINDA W. LITTLE, PH.D.
EXECUTIVE DIRECTOR

RALEIGH, N. C. 27611

RALPH MCALISTER
CHAIRMAN

TELEPHONE
919 733-9000

May 28, 1991

Mr. William Reilly, Administrator
U.S. Environmental Protection Agency
Office of Solid Waste & Emergency Response
Mail Code OS-110
401 M Street, S.W.
Washington, D.C. 20460

Attention: Amended Capacity Assurance Plan

Dear Mr. Reilly:

North Carolina's Capacity Assurance Plan (CAP) prepared pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986, was filed as amended on May 3, 1991.

To assure you that North Carolina is progressing in its efforts to assure future capacity, we would like to submit the enclosed sample letter and its attachments, which were sent to the governors of Alabama, Kentucky, South Carolina, and Tennessee from Governor James G. Martin on May 23, 1991.

Sincerely,

A handwritten signature in cursive script that reads "Linda W. Little".

Linda W. Little
N.C. CAP Coordinator

LWL:RLS

(May 23, 1991)



Sample of letters sent to governors of ~~South Carolina~~, Alabama, Tennessee, and Kentucky.

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES G. MARTIN
GOVERNOR

May 23, 1991

The Honorable Carroll A. Campbell, Jr.
Governor of the State of South Carolina
State House
Columbia, South Carolina 29211

Dear Carroll:

As a followup to my letter to you of April 29, 1991, concerning North Carolina's readmission to the SARA Capacity Regional Agreement, I am pleased to provide to you the following information:

- (1) a letter of intent by ThermalKEM, stating its plan to site a hazardous waste management facility which will include incineration, solvent recovery, and residuals disposal and to apply for a permit for such a facility within the next month;
- (2) a resolution by the Town of Woodland inviting ThermalKEM to site the facility there; and
- (3) a summary of the other key elements of our revised CAP submitted May 6, 1991.

North Carolina wishes to continue negotiations over future readmission to the agreement, and I am looking forward to your response.

Sincerely,

A handwritten signature in cursive script that reads "Jim Martin".
James G. Martin

JGM:LWL:rs

Enclosures

(May 23, 1991)

ThermalKEM North Carolina

An American NuKEM Company

May 9, 1991

Linda Little, Ph.D.
Governor's Waste Management Board
Bath Building, 306 N. Wilmington Street
Raleigh, NC 27611

ThermalKEM Inc.
North Carolina
3125 Poolerwood Court
Suite 205
Raleigh, NC 27604
(919) 850-9777
Fax (919) 850-0026

Dear Dr. Little:

As you are aware, ThermalKEM North Carolina is actively working on the siting of a comprehensive Hazardous Waste Management Facility that the state of North Carolina specified. ThermalKEM is fully committed to building the facility that the state has requested.

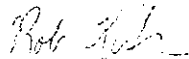
Since the time ThermalKEM was selected by North Carolina's Hazardous Waste Management Commission in May 1990, we have diligently worked in partnership with the state and local governments to begin the process of siting, engineering, permitting, constructing and operating a 50,000-ton per year rotary kiln incinerator, 15,000-ton per year solvent recovery facility, a residuals landfill, an expanded commercial laboratory, and a cogeneration facility.

ThermalKEM's intention is to build this facility in either Northampton County in the town of Woodland or in another currently unnamed county which has said that it will make its intentions public to have the facility sited there in about two weeks. I have enclosed a copy of the invitation of the town of Woodland to site the facility there.

We currently hold options to buy land in both counties. In fact, we control several separate parcels in Northampton County. In the yet unpublicized county, we have jointly settled upon one parcel with the endorsement of the county commissioners and county leaders. We expect to begin the RCRA permitting process within the next 30 days at one of these locations.

We look forward to our continuing partnership with the State of North Carolina. Please call me if you have questions or need additional information.

Sincerely,




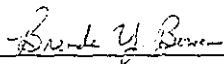
Bob Kirk
Director, New Business Development

Town of Woodland

P.O. BOX 297
Woodland, N.C. 27897
TEL. 587-7161

The Board of Commissioners of the Town of Woodland, in regular session on May 2, 1991, with all members present, voted unanimously to invite ThermalKEM to become part of, locate, and operate their facility in Woodland, North Carolina.


John H. Stanley, Mayor

Attest: 
Brenda V. Bowen, Clerk

(May 23, 1991)

SUMMARY

KEY ELEMENTS IN NORTH CAROLINA AMENDED CAP

1. Continue enhanced waste reduction program achieved through reorganization of waste reduction functions into Office of Waste Reduction.

Expected outcome: Encourage generators in North Carolina and the Southeast to meet or exceed current waste reduction plans in CAP's.

Date: Announced April 1990, effective July 1990.

2. Seek regional agreement(s) to best match North Carolina's current and projected import/export capacity needs.

Milestones

- Initiate contacts with other states in April 1991.
- Negotiate agreement by May 6, 1992.
- Ratify agreement(s) by August 1, 1992.

3. Pursue an aggressive on-site remediation program for cleanup of old sites under CERCLA/SARA.

4. Continue parallel approaches for siting needed capacity.

A Free market process.

Continue to place priority on current private sector/free market initiatives to site facilities which will address North Carolina's various shortfalls either (1) directly and/or (2) through providing certain excess capacity which will enable North Carolina to attract other states having complementary capacity into a regional agreement.

Current shortfalls in capacity include:

- metals recovery;
- solvent recovery;
- aqueous organic treatment, incineration, and stabilization/disposal.

Current excess capacity* includes:

- energy recovery (Carolina Solite/Oldover)
- aqueous inorganic treatment (has Part B permit) (Heritage Environmental Services)

Current announced private initiatives include:

- metals recovery 120,000 T/yr (would provide excess capacity) (Recontek)
- solvent recovery 15,000 T/yr (would match projected needs in North Carolina) (ThermalKEM)
- incineration (fixed facility) 50,000 T/yr (would provide excess capacity) (ThermalKEM)
- disposal 10,000 T/yr(tentative) (would not meet North Carolina's needs)(ThermalKEM)

Current interest by private sector

- mobile incineration for cleanup of old sites, either on-site or at several prepermitted "stations," and
- stabilization.

B Hazardous Waste Management Commission process.

Retain current state authority (G.S. 130B) to site facilities to address shortfalls directly and/or through attracting other states with needed capacity; actively continue site selection process.

C Milestones for siting needed capacity

- Site selection for any additional capacity needed to fulfill shortfalls in North Carolina relative to agreement(s). May 6, 1993
- Application(s) for RCRA Part B Permit(s) filed. May 6, 1993
- Permit(s) issued. May 6, 1994
- Necessary capacity in place and operable. December 31, 1994.

*North Carolina was a net importing state in 1989.

(May 23, 1991)



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES G. MARTIN
GOVERNOR

May 3, 1991

Mr. William Reilly, Administrator
U.S. Environmental Protection Agency
Office of Solid Waste & Emergency Response
Mail Code OS-110
401 M Street, S.W.
Washington, D.C. 20460

Attention: Amended Capacity Assurance Plan

Dear Mr. Reilly:

Thank you for your letter of March 8, 1991, regarding North Carolina's Capacity Assurance Plan (CAP) prepared pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986.

As you are aware, North Carolina submitted its CAP on October 17, 1989, and subsequent revisions through April 15, 1990, and the CAP was approved by EPA on April 15, 1990. Because a milestone in the CAP was not met, North Carolina, at your request, is now submitting this amended CAP describing how it intends to assure future capacity.

The attached planning documents demonstrate that:

1. The State of North Carolina understands and has documented and projected for twenty years the generation of hazardous wastes within the borders of the State, and understands and has documented and projected the disposition of these wastes, including export of these wastes to other states;
2. The State of North Carolina has considered and described the effects of waste minimization on such generation and has distinguished the availability of any commercial, captive, and on-site facilities; and

Mr. William Reilly
Page 2
May 3, 1991

3. The State of North Carolina is developing plans that assure access to facilities that will be needed to treat, destroy, or securely dispose of these wastes, including plans to create and to permit new or expanded facilities, and has described regulations, economic considerations, and other impediments to achieving these plans.

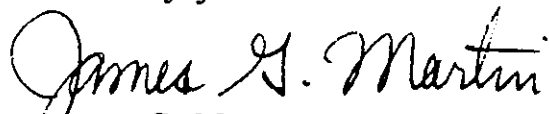
This State, in providing the required assurances, will rely upon facilities that are located in other states. In late 1989, this State completed negotiations with four other states in Region IV and reached a regional interstate agreement for hazardous waste management. This agreement provided for access to needed facilities so that all parties to the agreement would be assured of the availability of adequate treatment and disposal capacity as required by 42 U.S.C. Section 9604(c)(9)(B). The accompanying materials include that interstate agreement.

In December 1990 North Carolina failed to meet milestones set forth in the interstate agreement and as a consequence was automatically eliminated from that agreement.

This amended CAP provides documentation that North Carolina is continuing efforts to reduce waste generation and to site hazardous waste management facilities and has contacted other states regarding negotiations to reenter a regional agreement.

I hereby transmit these materials as the basis for the assurances required of this State under 42 U.S.C. Section 9604(c)(9) and as requested by you in your letter dated March 8, 1991.

Sincerely yours,


James G. Martin

SUMMARY

KEY ELEMENTS IN NORTH CAROLINA AMENDED CAP

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Expected outcome: Encourage generators in North Carolina and the Southeast to meet or exceed current waste reduction plans in CAP's.

Date: Announced April 1990, effective July 1990.

2. Seek regional agreement(s) to best match North Carolina's current and projected import/export capacity needs.

Milestones

- Initiate contacts with other states in April 1991.
- Negotiate agreement by May 6, 1992.
- Ratify agreement(s) by August 1, 1992.

3. Pursue an aggressive on-site remediation program for cleanup of old sites under CERCLA/SARA.

4. Continue parallel approaches for siting needed capacity.

A Free market process.

Continue to place priority on current private sector/free market initiatives to site facilities which will address North Carolina's various shortfalls either (1) directly and/or (2) through providing certain excess capacity which will enable North Carolina to attract other states having complementary capacity into a regional agreement.

Current shortfalls in capacity include:

- metals recovery,
- solvent recovery,
- aqueous organic treatment,
- incineration, and
- stabilization/disposal.

Current excess capacity* includes:

- energy recovery (Carolina Solite/Oldover)
- aqueous inorganic treatment (has Part B permit)
(Heritage Environmental Services)

Current announced private initiatives include:

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(Recontek)
- solvent recovery 15,000 T/yr (would match projected needs in
North Carolina) (ThermalKEM)
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Carolina's needs)(ThermalKEM)

Current interest by private sector

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several prepermitted "stations," and
- stabilization.

B. Hazardous Waste Management Commission process.

Retain current state authority (G.S. 130B) to site facilities to
address shortfalls directly and/or through attracting other states
with needed capacity; actively continue site selection process.

C. Milestones for siting needed capacity

- | | |
|---|--------------------|
| • Site selection for any additional capacity needed to fulfill shortfalls in North Carolina relative to agreement(s). | May 6, 1993 |
| • Application(s) for RCRA Part B Permit(s) filed. | May 6, 1993 |
| • Permit(s) issued. | May 6, 1994 |
| • Necessary capacity in place and operable. | December 31, 1994. |

*North Carolina was a net importing state in 1989.

SARA CAPACITY ASSURANCE SOUTHEASTERN STATES REGIONAL AGREEMENT

North Carolina believes that a regional approach to hazardous waste management, if done properly, will enable fair and equitable distribution of the burden of treating and disposing of wastes and enable the establishment of state-of-the-art hazardous waste management facilities, not merely those to treat and dispose, but also those which facilitate recycling, reuse, and recovery (both of materials and energy). North Carolina takes the position that aggressive waste minimization is as important, or more important, as building new facilities, and that the "SARA capacity assurance planning" is not just about siting more and bigger treatment and disposal facilities, but siting those facilities which are clearly needed to manage those wastes which cannot be prevented, recycled, reused, recovered, or reduced. North Carolina's Capacity Assurance Plan document reflects that philosophy.

At the current time no single state in the southeastern region has sufficient hazardous waste management capacity to "go-it-alone" in assuring Congress and the Environmental Protection Agency that it can manage all of its waste over the next 20 years. While some states have excess capacity in one or more categories of waste management, no state has within its borders the variety of waste management facilities to deal with the diverse wastes produced.

In June 1989, at the call of Alabama and South Carolina the states in the U.S. EPA Region IV convened in Atlanta. At that time representatives of Alabama and South Carolina indicated their interest in negotiating an interstate agreement with states in Region IV that could meet their needs with current capacity or that would agree to site such capacity, provided that South Carolina and Alabama would not be required to build new facilities or expand existing facilities. There was considerable interest among the eight states, all of which agreed to participate in further negotiation meetings to be chaired by a representative of South Carolina and to be facilitated by the staff of U.S. EPA Region IV.

In conjunction with the staff of U.S. EPA Region IV in Atlanta, the southeastern states determined that there are currently overall shortfalls in capacity in the following areas: aqueous treatment and solids incineration.

Representatives of the eight states in U.S. EPA Region IV met in Atlanta on June 29, July 20, August 31, September 15, and September 29. The North Carolina representatives, named by Governor Martin and fully authorized to negotiate on behalf of the State, included Dr. Linda W. Little, executive director of the Governor's Waste Management Board and coordinator of the state's Intergovernmental Committee to Certify Compliance with Section 104(c)(9) of SARA; William Meyer, director of Division of Solid Waste Management; Victoria Voight, Associate Attorney General assigned to Superfund Section of the Division of Solid Waste Management; and Darrell Hinnant, executive director of the Hazardous Waste Management Commission. Also, attending the August 31 meeting were William Pitchford, computer systems manager of the Division of Solid Waste Management; Roger Schecter, director of the Pollution Prevention Pays Program; George Givens, staff attorney of the Research Division of the Legislative Services Office; and Fred Aikens, senior fiscal analyst of the Fiscal Research Division of the Legislative Services Office. Pitchford, Schecter, and Givens also attended the September 15 and the September 29 meetings.

With the assistance of the staff of U.S. EPA Region IV, representatives of the states arrived at a plan to enable the states to jointly comply with SARA requirements. Interstate agreement language was drafted with the participation of all states.

On October 17, 1989, the four states already having substantial capacity at operational hazardous waste management facilities entered into a four-state agreement.

Efforts by North Carolina to join the interstate agreement continued, with active participation North Carolina Governor James G. Martin and the governors of the four states in the interstate agreement.

(May 3, 1991)

In late November negotiations were concluded, and North Carolina was made a party to the agreement, pending legislative approval. Legislative approval was given in an extra session of the General Assembly held December 7, 1989.

In December 1990 North Carolina failed to meet milestones set forth in the regional agreement and thus was automatically eliminated from that agreement.

Through a combination of waste minimization efforts and new hazardous waste management capacity, North Carolina wishes to participate in a regional plan to assure hazardous waste management capacity. Efforts are underway in the following areas: (1) private initiatives to site a large metals recovery facility and to site a new solids incineration/solvent recovery/residuals management facility; (2) state - mandated siting activities to site a management facility in the event that private initiatives fail, and (3) contacts with other states regarding readmission into an interstate agreement.

Inserted herein is a copy of the *SARA CAPACITY ASSURANCE SOUTHEASTERN STATES REGIONAL AGREEMENT* to which North Carolina was previously a party, as well as a sample copy of a letter sent by me to governors of those agreement states, requesting that they allow North Carolina to re-enter into negotiations. Terms of and parties to any new regional agreement(s) will not necessarily be the same.

(May 3, 1991)

PART II

STATE WASTE MINIMIZATION ACTIVITIES

This part documents waste minimization efforts, existing and planned, to be undertaken by the state and detailed information regarding how these waste minimization efforts have been taken into account in the projections of waste generation.

Through a combination of waste minimization efforts and hazardous waste management capacity, North Carolina wishes to participate in a regional plan to assure hazardous waste management capacity. North Carolina's offer consists of (1) a strong commitment to waste minimization and (2) a commitment to establish capacity to meet state and regional waste management needs. Below is a description of North Carolina's waste minimization activities, existing and planned. This description is followed by Forms I, II, and III.

WASTE MINIMIZATION

A key element in North Carolina's strategy to deal with hazardous waste is a strong waste minimization plan. The 1989 Capacity Assurance Plan projected that the amount of recurrent generation, not including wastewater, would be 210 million pounds in 1989. The actual amount of recurrent waste generated in 1989 was 126 million pounds. This is a 40% reduction from the projected amount. Examples of significant reductions include 50% for halogenated solvents (F001 and F002) and over 80% for electroplating sludges.

Below are outlined North Carolina's commitments to waste minimization as expressed in recent legislation and in planning for capacity assurance. *It should be emphasized that these build on the existing technical assistance and regulatory programs, which among other things require annual certification by hazardous waste generators that they have a waste minimization program.*

A. North Carolina's Waste Minimization Commitment as Expressed in Chapter 168 of the 1989 Session Laws ("Senate Bill 324").

On May 30, 1989, the N.C. General Assembly enacted Senate Bill 324 which provided for the management of hazardous waste in North Carolina, reorganized the North Carolina Hazardous Waste Treatment Commission as the North Carolina Hazardous Waste Management Commission, amended various statutes relating to the management of hazardous waste, and made conforming changes to other statutes.

In this new bill, the General Assembly also continued efforts in the areas of waste minimization, waste reduction, recycling, reuse and recovery. The following is a synopsis of these efforts.

The Act in its preamble recites that one of the most urgent problems facing North Carolina is the need to establish adequate facilities for the treatment and disposal of hazardous waste. In that same section, it states that cooperation and coordination are essential among the private sector, the general public, the State and local governments to assure the prevention of unnecessary waste and the establishment of a comprehensive and integrated system of adequate treatment and disposal facilities.

The Act goes on to state that while legislation had been passed in 1981 and 1984 which dealt with hazardous waste management, changed circumstances require adjustments in the state's hazardous waste management policy. Specifically, in this Act the General Assembly declares that the most practical approach to hazardous waste management, including compliance with the CERCLA/SARA capacity assurance requirements, is through a regional approach and that the development of a full range of comprehensive hazardous waste treatment and disposal facilities in North Carolina and every state is neither environmentally nor economically sound. Further minimization, and wherever possible elimination, of

hazardous waste generation, and hazardous waste reduction, recycling, and on-site treatment are preferable to off-site treatment and disposal. [GS 130B-3. Legislative findings]

The provisions of SB 324 related to waste minimization are highlighted and summarized in the following paragraphs.

Section 7, Chapter 113 of the General Statutes was amended to establish within the DEHNR a non-regulatory technical assistance program called the Pollution Prevention Pays Program. This program has been in operation since 1983, but this action provides statutory authority. The purpose of the program is to encourage voluntary waste and pollution reduction efforts through research and by providing information, technical assistance, and matching grants to businesses and industries interested in establishing or enhancing activities to prevent, reduce, or recycle waste. The Pollution Prevention Pays Program must coordinate its activities with the appropriate regulatory agencies and with the Governor's Waste Management Board. [GS 113-8.01. Pollution Prevention Pays Programs]

A new subsection was added to GS 130A-294. This subsection says that each person who generates hazardous waste who is required to pay a fee under G.S. 130A-294.1, and each operator of a hazardous waste treatment facility which treats waste generated on-site who is required to pay a fee under G.S. 130A-294.1, must submit to the Department of Environment, Health, and Natural Resources, at the time the fees are due, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste. [Sec.22. GS 130A-294(k)]

The Act also amended GS 130A-294.1(p), so that the DEHNR, in recommending adjustment in annual and tonnage fees, may propose fees which encourage reductions in the volume or quantity and toxicity of hazardous waste for hazardous waste generators and hazardous waste treatment facilities which treat waste generated on-site.

A new subsection was added to GS 143-215.1 stating that a person who is required to have a water quality permit under this section must submit to the DEHNR a written description of his current and projected plans to reduce the discharge of waste and pollutants under such permit by source reduction or recycling. This written description must accompany the payment of the annual permit fee. The written description must also accompany any application for a new permit, or for modification of an existing permit, under this section; however, the written description cannot be considered part of a permit application and cannot serve as the basis for permit denial or permit modification.

Another new subsection was added to GS 143-215.108. Any person who is required to have an air quality permit under this section must submit to the DEHNR a written description of his current and projected plans to reduce the emission of air contaminants under the permit by source reduction or recycling. A written description must accompany the payment of the annual permit fee. The description must also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description cannot be considered part of a permit application and cannot serve as the basis for permit denial or permit modification.

No hazardous waste facility will be established unless the Governor determines that such a facility is essential and in the best interests of the state. This determination must be based on a periodic review of current and projected hazardous waste generation from all sources within North Carolina, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reduction in the generation of hazardous waste, and other factors. [GS 130B-5(a). Powers and duties of the Governor]

The Governor is given the authority to enter into interstate agreements for the management of hazardous waste. Among other items, these agreements must encourage reductions in the volume or quantity and toxicity of hazardous waste. [GS 130B-5(c). Powers and duties of the Governor]

The Hazardous Waste Management Commission (HWMC), with the assistance of the Governor's Waste Management Board and the Solid Waste Management Division, must periodically review current and projected hazardous waste generation from all sources within the state, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reductions in the generation of hazardous waste, and other requirements. [GS 130B-7(a)(1). Powers and duties of the Commission]

In establishing and revising fee schedules, the HWMC may encourage reductions in the volume or quantity and toxicity of hazardous waste. [GS 130B-16(a). Fees]

If revenues from hazardous waste management facilities built under this statute exceed all costs, then part of the excess money is to be used to fund a portion of the cost of the Pollution Prevention Pays Program, the waste minimization program administered by the Technical Assistance and Support Unit of the Solid Waste Management Division of the Department of Environment, Health, and Natural Resources (DEHNR); other programs which foster multimedia waste prevention, reduction, reuse, and recycling; and programs which provide assistance to small quantity generators. [GS 130B-16(c)(2). Fees]

The Act defines and redefines a variety of terms, several of which deal with recycling, recovery, reuse, and reduction of hazardous waste. These terms include: hazardous waste facility; hazardous waste management; recycling; resource recovery; reuse; solid waste management; treatment; and others. [GS 130A-290(6), (9), (17), (19), (20), (28), (31). Definitions.]

The General Assembly added to the duties of the Governor's Waste Management Board. Among other things, the board must annually report to the Governor, the General Assembly, and the legislative Environmental Review Commission on the effectiveness of waste reduction programs in the state and must make recommendations on ways to improve these programs. [GS 143B.216.13(6a). Functions and powers of Board.] The first report was presented in 1990.

The General Assembly stated its intent that an aggressive program to minimize or reduce the volume and quantity or toxicity of hazardous waste and other pollutants, including the emission of air contaminants, be implemented. The Department of Environment, Health and Natural Resources must collect and analyze information so as to establish the data base necessary to plan, implement, and evaluate hazardous waste reduction programs and to assist the General Assembly in the development of a waste reduction policy. (Sec. 47 of Chapter 168) All information received from generators [as required in G.S. 130A-294(k), G.S. 143-215.1(g) and G.S. 143-215.108(c)] must be transmitted to the Solid Waste Management Division of the DEHNR for review and analysis. The Solid Waste Management Division must consider this information in the development of the comprehensive hazardous waste management plan required by G.S. 130A-294(i) and must prepare a report on the feasibility of incorporating waste reduction requirements into existing solid and hazardous waste permitting processes. The Solid Waste Management Division must report to the Environmental Review Commission as to progress in implementing this section on a quarterly basis beginning January 1, 1990. (Sec. 47 of Chapter 168)

Thus, with the passage of SB 324, the General Assembly made major strides in furthering the state's waste minimization efforts and laid the groundwork for even more aggressive efforts in the future.

B. Expanded Waste Reduction Effort in North Carolina

To increase the State's commitment to waste reduction, Governor Martin created the Office of Waste Reduction in April of 1990. This consolidated all major waste reduction activities in the Department of Environment, Health, and Natural Resources. This included the Pollution Prevention Program, hazardous waste minimization efforts from Technical Assistance Support Unit (TASU), and other solid waste reduction activities from the Solid Waste Branch. This allowed all waste reduction activities to be coordinated and utilized the limited resources to the maximum extent possible.

The Office of Waste Reduction is made up of two programs: (1) the Pollution Prevention Program which addresses multi-media industrial waste reduction and (2) the Solid Waste Reduction Program which deals with municipal and commercial waste. An organizational chart for the Office is shown in Figure 1.

The mission of the office is to provide technical, financial, and policy development assistance to industries, businesses, and state and local governments on waste reduction. The activities of the Pollution Prevention program are the same, but have been strengthened through the addition of state funded staff. Currently 5.5 technical and 1.5 clerical staff members are providing multi-media industrial waste reduction technical assistance to industry. This expansion has allowed the program to target resources to hazardous wastes for which there are capacity shortfalls in North Carolina. These include metal sludges and solvents. Currently an analysis of data from the 1989 annual hazardous waste generator reports is being performed to identify and document the largest hazardous waste reducers. Additionally, trends in waste generation and reduction are being documented to identify areas in which to concentrate technical assistance activities.

Through an EPA three year state waste reduction grant the Pollution Prevention Program is also developing a multi-media waste reduction management system. This computer-based data system will contain all relevant environmental information reported by industry to the State. This includes air and water quality monitoring reports, hazardous waste annual reports, and SARA Title III Toxic Chemical Release Inventory. This data base will allow the office to track multi-media waste generation and reduction, allowing the program to target resources to specific facilities, industrial categories, or regions.

North Carolina is also home to two nationally recognized waste reduction centers, the Waste Reduction Resource Center, and the Center for Waste Minimization and Management. Both of these centers are federally funded, but do draw on state funding resources and expertise. Both programs are discussed below:

The Office of Waste Reduction also houses the Waste Reduction Resource Center. This center was established by the EPA REgion IV and TVA in 1989 to provide technical assistance and training to waste reduction programs in all Region IV states. North Carolina was selected for the location of the center because of the large collection of information and expertise accumulated by the Pollution Prevention Program. The five senior engineers and one secretary of the center's staff provide information, on-site assistance, training, and publications as required by the state programs, industry, EPA, and TVA. The center enables the Pollution Prevention Program to have access to extensive regional and national information, resources, and expertise.

The EPA has established the Center for Waste Minimization and Management located at North Carolina State University. This is a three university consortium headed by North Carolina State University with the University of North Carolina at Chapel Hill and Texas A & M University as active partners. This research center is performing innovative research and technology transfer activities on waste reduction and management. Many of the technologies being developed could have significant impact on waste reduction in North Carolina industries. Working with the center, the Office of Waste Reduction and North Carolina industries have direct access to state-of-the-art waste reduction research and resources.

The waste reduction effort in North Carolina is an integrated approach utilizing technical assistance, education, research, and recognition. The Office of Waste Reduction, working with the Governor's Waste Management Board, and North Carolina State University will continue to have a positive impact on waste reduction in North Carolina in the upcoming years.

C. An Aggressive Waste Minimization Plan for North Carolina in the Coming 20 Years

In estimating hazardous waste management capacity needs for the next 20 years, the staffs of the Office of Waste Reduction and the Solid Waste Management Division have assumed

Office of Waste Reduction Organizational Chart

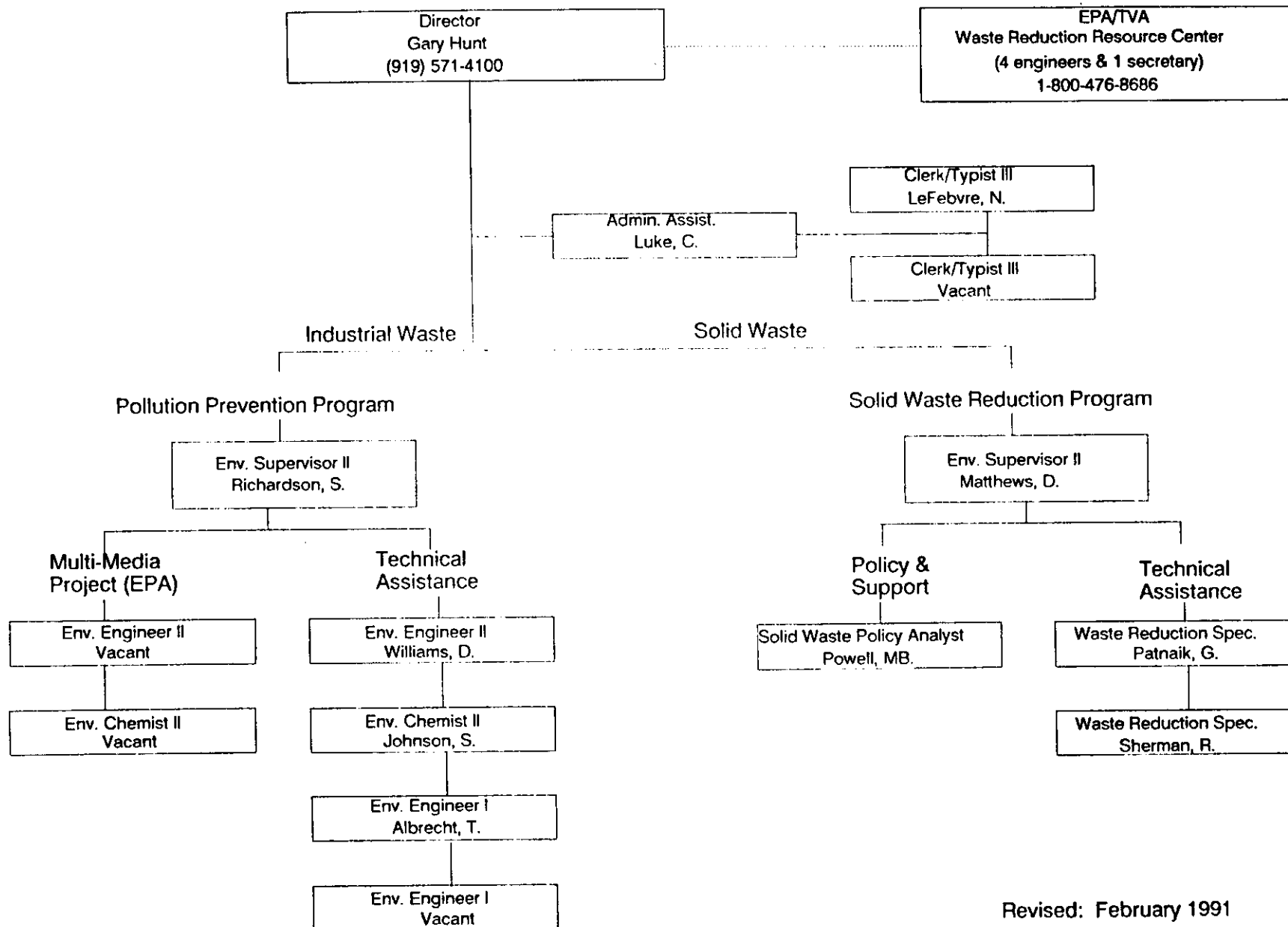


Figure 1.

May 3, 1991

Revised: February 1991

a continuing and expanded effort to reduce the amount of waste generated per unit of product or service produced. Estimations were based on the best available information about future economic growth and on potential for waste reduction for the specific types of waste streams in North Carolina.

The forms and their attachments, below, especially the document entitled *Methodology and Calculation of Waste Reduction Factors for North Carolina's Capacity Assurance Plan*, describe in detail how the estimates of waste generation and minimization were derived.

It is projected that with an aggressive waste minimization plan waste generation can be held to approximately current levels through 1999 and to modest increases after that time, despite projections of substantial economic growth.

Form I: LEGISLATIVE AUTHORITY

All states should fill out this form. States should copy and complete the form and include it and any additional necessary documentation. Please attach additional information if more space is needed to answer any question.

Name of Respondent **Gary Hunt, Director
Office of Waste Reduction**

Telephone Number **(919) 571-4100**

Address **Department of Environment, Health, and Natural
Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

1. Does legislative authority exist to implement a waste minimization program in your state? If authority exists through general broad authority, please answer yes and cite the authority if known.

Yes No

- 1a. If yes, what are the titles of the legislation and when was it enacted.

SB 324, Chapter 168 of the 1989 Session Laws "An Act to Provide for the Management of Hazardous Waste in North Carolina", particularly Section 1 (130B-3), (130B-5(a)), (130A-5(c)); Section 7 (113-8.01); Section 17 (130A-294(e)); Section 22 (130A-294(k)); Section 23 (130A-294.1(p)); Section 29 (143-215.1); Section 30 (143-215.108); Section 46(b) and Section 47. (See attached bill.) See also G.S. 291(a) and G.S. 130(a)-294.1(b)(1).

- 1b. Is future legislation anticipated, and when does the state plan to have it enacted?

SB 324, Section 46, gives certain powers to the legislative Environmental Review Commission with respect to the review of various hazardous waste management issues in the State. In addition, SB 324, Section 47, requires that the Division of Solid Waste Management incorporate waste reduction requirements into its current permitting process. Either of these activities could generate additional legislation.

2. Indicate which of the following waste minimization program components are specifically in use or authorized in your state:

<u>In Use</u>	<u>Authorized</u>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Technical Assistance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Economic Incentives
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Waste Exchange
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Research and Development
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Regulatory Requirements
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Education

X _____ All programs are authorized under a broad legislative enactment

 X _____ Other
Governor's Award for Excellence in Waste Management
(see attached notice of 1989 awards program)

3. In your state, are there any pending statutes, or regulations relating to waste minimization that are expected to be enacted within the next two years?

_____ Yes X No

3a. Please briefly describe the anticipated changes and their expected impacts on waste minimization in your state.

Not Applicable

4. What administrative agency or agencies implement(s) your state's waste minimization program (list all applicable agencies and the waste minimization component they are responsible for).

<u>Agency</u>	<u>Component</u>
Department of Environment, Health, and Natural Resources	
Division of Solid Waste Mgmt.	Technical assistance, education, economic incentives, regulatory requirements
Office of Waste Reduction	Technical assistance, education, economic incentives, research and development
Governor's Waste Mgmt. Board	Education, Governor's Award for Excellence in Waste Management, annual review of waste minimization efforts in the State.
Southeast Waste Exchange (located at UNC-Charlotte)	Waste exchange

5. What is the amount of funding received from the following sources (in thousands of dollars per year) for your waste minimization program?*

 \$550.0 General revenues

 0.0 Dedicated taxes (e.g., waste end, feedstock)

 0.0 Tipping fees

 100.0 Federal Grants

 0.0 Other _____

*Does not include the staff and state and federal funds for the Pollution Prevention Program, in the Office of Waste Reduction. Does not include staff or funds for the Waste Reduction Resource Center or the Center for Waste Minimization.

6. Please estimate the number of person-years of staff supported by the state working on waste minimization.*

<u>6.0</u>	State professionals on staff
<u>0.0</u>	Consultants
<u>3.5</u>	Other (Administrative and federal supported professionals on staff)

***Does not include the staff and state and federal funds for the Pollution Prevention Program, in the Office of Waste Reduction. Does not include staff or funds for the Waste Reduction Resource Center or the Center for Waste Minimization.**

PART III

**PROJECTIONS OF HAZARDOUS WASTE GENERATION AND THE DEMAND FOR
MANAGEMENT CAPACITY**

Name of Respondent 1 **William Pitchford, Computer Systems Manager
Division of Solid Waste Management**

Telephone Number **(919) 733-4996**

Address **Department of Environment, Health, and Natural
Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

Name of Respondent 2 **Marge Howell, Acting Director
Hazardous Waste Management Commission**

Telephone Number **(919) 733-5420**

Address **Hazardous Waste Management Commission
430 North Salisbury Street
Raleigh, North Carolina 27611**

This part contains projections of generation and of available capacity at facilities within and outside the state to treat, destroy, or securely dispose of wastes, including assessment of capacity shortfalls.

The information is presented as follows:

YEAR 1989

- Table 89-1 Summary of In-State Generation by Waste Type in 1989
- Table 89-2 Summary of Waste Quantities Exported in 1989 by SARA Management Category and Importing State
- Table 89-3 Summary of Waste Quantities Imported in 1989 by SARA Management Category and Exporting State
- Table 89-4 1989 In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities
- Table 89-4A 1989 In-State Waste Managed by Waste Type and SARA Management Categories at Captive Facilities
- Table 89-4B 1989 In-State Waste Managed by Waste Type and SARA Management Categories at Commercial Facilities
- Table 89-4C 1989 In-State Waste Managed by Waste Type and SARA Management Categories at Onsite Facilities
- Table 89-5 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's
- Table 89-5A Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities

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Table 89-5B Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities

Table 89-5C Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Onsite Facilities

YEAR 1995

Table 95-1 Summary of In-State Generation by Waste Type in 1995

Table 95-2 Summary of Waste Quantities Exported in 1995 by SARA Management Category and Importing State

Table 95-3 Summary of Waste Quantities Imported in 1995 by SARA Management Category and Exporting State

Table 95-4 1995 In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities

Table 95-4A 1995 In-State Waste Managed by Waste Type and SARA Management Categories at Captive Facilities

Table 95-4B 1995 In-State Waste Managed by Waste Type and SARA Management Categories at Commercial Facilities

Table 95-4C 1995 In-State Waste Managed by Waste Type and SARA Management Categories at Onsite Facilities

PART IV

STATE PLANS FOR INCREASING IN-STATE CAPACITY

This part contains descriptions of plans to create and to permit additional facilities and descriptions of action taken to remove regulatory barriers that might have prevented or impeded the establishment of necessary hazardous waste management facilities.

Through a combination of waste minimization efforts and new treatment capacity, North Carolina wishes to participate in a regional plan to assure hazardous waste management capacity. North Carolina's offer consists of (1) a strong commitment to waste minimization and (2) a commitment to establish commercial hazardous waste management capacity to meet state and regional waste management needs. Below is a description of the plan to establish the incineration, solvent distillation and recovery and residuals management capacities pursuant to North Carolina's participation in a Regional Agreement with the States of Alabama, Kentucky, South Carolina and Tennessee. This Regional Agreement was negotiated by Governor James G. Martin and approved by the North Carolina General Assembly on December 7, 1989. However, in late 1990 North Carolina failed to meet certain milestones set forth in that agreement and consequently by the terms of the agreement was expelled automatically from it. North Carolina wishes to participate in a regional agreement and is continuing siting efforts and pursuing negotiations with other states to participate in an agreement.

Forms I, II, and III follow the description of current plans for increasing in-state capacity.

A. Parallel Approaches for Siting Needed Capacity

The State of North Carolina will pursue parallel processes for siting hazardous waste management capacity, i.e., a private initiative/free market process and a state siting process.

1. Private Company Initiatives/Free Market Process

Continue to place priority on current private sector/free market initiatives to site facilities which will address North Carolina's various shortfalls either (1) directly and/or (2) through providing certain excess capacity which will enable North Carolina to attract other states having complementary capacity into a regional agreement.

a. Metals Recovery Capacity

As was indicated in the 1989 discussions in Region IV and as pointed out in North Carolina's Capacity Assurance Plan, while quantitatively there is substantial current regional capacity for metals recovery, this recovery capacity exists only for lead-containing wastes. North Carolina generators must rely on states in other regions, primarily Pennsylvania and New Jersey, for metals recovery.

In 1990, Recontek announced plans to locate a large (120,000 T/yr) multi-metal recovery facility in North Carolina. Community response has been favorable. In January 1991 Recontek submitted its application for a Part B permit. (See insert, next page.)

This facility when operable will provide substantial excess capacity relative to North Carolina's needs and will make available a type of capacity currently unavailable in this region. Such capacity -- for recovery and reuse -- is consistent with North Carolina's statutory policy

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RECONTEK OF NORTH CAROLINA

The projected Recontek facility will be capable of recycling approximately 120,000 tons of metal bearing wastes per year. The facility will be able to process solid, liquid and semi-solid materials through a combination of distillation, crystallization and electrowinning.

A Part B permit application for this facility was submitted in January, 1991 and is currently going through the standard permitting process.

EPA WASTE NUMBERS EXPECTED TO BE ACCEPTED

F006	25,000,000 GALLONS/YEAR
D002	5,000,000 GALLONS/YEAR
D006	5,000,000 GALLONS/YEAR
D007	5,000,000 GALLONS/YEAR
D008	5,000,000 GALLONS/YEAR
D011	5,000,000 GALLONS/YEAR
K061	5,000,000 GALLONS/YEAR
K062	5,000,000 GALLONS/YEAR

The following wastes are "possible contaminants to the previously cited waste codes. In each case levels will not exceed 500 ppm except arsenic, barium, and mercury will not exceed 1,000 ppm."

D004	Arsenic	D014	Methoxychlor
D005	Barium	D035	Methyl ethyl ketone
D009	Mercury	D036	Nitrobenzene
D018	Benzene	D037	Pentachlorophenol
D019	Carbon Tetrachloride	D038	Pyridine
D020	Chlordane	D010	Selenium
D021	Chlorobenzene	D039	Tetrachloroethylene
D022	Chloroform	D015	Toxaphene
D023	o-Cresol	D040	Trichloroethylene
D024	m-Cresol	D041	2,4,5-Trichlorophenol
D025	p-Cresol	D042	2,4,6-Trichlorophenol
D026	Cresol	D017	2,4,5-TP Silvex
D016	2,4-D	D043	Vinyl chloride
D027	1,4-Dichlorobenzene		
D028	1,2-Dichloroethane		
D029	1,1-Dichloroethylene		
D030	2,4-Dinitrotoluene		
D012	Endrin		
D031	Heptachlor (and its epoxide)		
D032	Hexachlorobenzene		
D033	Hexachlorobutadiene		
D034	Hexachloroethane		
D013	Lindane		

of emphasizing prevention, reduction, recovery, and reuse as the most desirable approaches to hazardous waste management.

b. Solids Incineration, Solvent Distillation and Recovery, and Residuals Management Capacity

During 1989 EPA consultants studied the existing capacity for liquids and solids incineration in the region and projected a regional shortfall of 152,472 tons for 1995. The size of the incinerator was determined, first, according to the state's projected need for incineration in 1995 and second, according to a portion of the projected regional need for incineration.

The Hazardous Waste Management Commission had previously recommended that the State use a rotary kiln incinerator for the incineration of hazardous waste solids, pending the development of more advanced incineration technology. [It should be noted that solids incinerators are generally designed to burn liquids as well as solids.]

The rotary kiln incinerator is recommended by the Environmental Protection Agency as the best technology for solids incineration. It has been tried, tested and proven over many years of operation in many different industries. The kiln can accommodate variable fuels, necessary in hazardous waste incineration. Its operating efficiencies are high, and its downtime for maintenance and repair is low. With its associated pollution control devices, the rotary kiln allows operating levels that are significantly better than EPA requirements. It can achieve a higher (100 to 1000 times higher) destruction and removal efficiency of principal organic hydrocarbon compounds than the EPA requires, and it can limit particulate emissions, making the unit three to five times cleaner burning than EPA requirements.

Pursuant to the 1989 regional agreement the Hazardous Waste Management Commission proposed that North Carolina establish the following hazardous waste treatment facilities:

- 1) A 50,000 tons per year rotary kiln incinerator and thermal treatment unit which is capable of combusting liquid and solid hazardous waste and treating ("roasting") contaminated soils.
- 2) A 15,000 tons per year solvent distillation and recovery unit which is capable of treating and recycling hazardous solvents.
- 3) A 10,000 tons per year residuals management unit which is capable of disposing of incinerator ash and solvent distillation still bottoms remaining from the rotary kiln incinerator and the solvent distillation and recovery facility.

In December 1990 it was disclosed that discussions were underway between ThermalKEM and Northampton County regarding a private initiative to locate the proposed facility in that county. On February 4, 1991, by a split, but legal, vote, the Northampton County Commissioners invited ThermalKEM to site the facility there. As of May 3, ThermalKEM was in the process of acquiring options on land in Northampton County for an incinerator and solvent recovery facility, and possibly a residuals management facility.

Other private companies also have expressed interest in providing incineration capacity for North Carolina, both for CERCLA and RCRA

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wastes, and discussions are underway on the feasibility of using several "fixed" and permitted sites which could accommodate mobile incineration units.

c. Aqueous Treatment Capacity

The interim status aqueous treatment capacity offered by North Carolina in its 1989 CAP received its Part B RCRA permit in September 1990.

d. Energy Recovery

In regard to energy recovery capacity, it should be noted that the aggregate kiln providing this capacity has indicated its intent to continue to burn hazardous waste and to obtain the necessary permits required under the new boiler industrial furnace rules. This kiln burns large quantities of waste from through the southeast, and in fact during 1989 this kiln was the major factor in North Carolina's being a net importer of hazardous waste.

2. Hazardous Waste Management Commission Process

In response to legislation passed in May 1989 by the North Carolina General Assembly, Governor James G. Martin was authorized to negotiate for North Carolina's participation in a Regional Agreement with the States in EPA Region IV. The State of North Carolina's participation in the Regional Agreement previously made among the State of Alabama, Kentucky, South Carolina and Tennessee was agreed upon by all member states. Pursuant to an expansion of the existing Agreement and approval by the North Carolina General Assembly, the Governor authorized the North Carolina Hazardous Waste Management Commission to proceed with the establishment of the following facilities according to the schedule submitted in the Regional Agreement, to provide hazardous waste management and treatment capacity for the State of North Carolina for the next 20 years:

North Carolina proposed the following:

- a. *A 50,000 tons per year rotary kiln incinerator and thermal treatment unit which is capable of combusting liquid and solid hazardous waste and treating ("roasting") contaminated soils.*
- b. *A 15,000 tons per year solvent distillation and recovery unit which is capable of treating and recycling hazardous solvents.*
- c. *A 10,000 tons per year residuals management unit which is capable of disposing of incinerator ash and solvent distillation still bottoms remaining from the rotary kiln incinerator and the solvent distillation and recovery facility.*

North Carolina will site and construct these facilities according to the following schedule:

<i>Site Selection</i>	<i>May 1990</i>
<i>Part B Permit Submitted</i>	<i>December 1990</i>
<i>Part B Permit Issued and Construction Begun</i>	
<i> With No Adverse Litigation Pending</i>	<i>July 1991</i>
<i>Facility Operational</i>	<i>December 1991</i>

In addition, North Carolina agrees to endorse on-site remediation of remaining Superfund cleanup sites.

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After extensive opportunities for citizen input from across the state, the Hazardous Waste Management Commission adopted rules for site selection and conducted a state-wide screening process to identify potentially suitable sites. The Hazardous Waste Management Commission selected ThermalKEM, Inc., to establish and operate the proposed facility. On May 1, 1990 it announced two sites for further study, both located on privately-held property, one in Granville County and one on the border of Rowan and Iredell counties. Extensive opposition and legal actions led to the recommendation by a member of the Council of State that state owned properties be reevaluated and if any were suitable, that they be given preference. The Hazardous Waste Management Commission conducted this reevaluation and on December 4, 1990, announced a preferred state-owned site in Granville County. On December 13, 1990, the Council of State, which consists of ten officers elected statewide and which has jurisdiction over uses and transfers of state-owned land, voted against use of the property for a hazardous waste management facility. Consequently, the Hazardous Waste Management Commission could not meet either the May 1990 or December 1990 milestones.

The Hazardous Waste Management Commission remains in operation pending further instructions from the General Assembly, regarding site selection activities.

North Carolina proposes to retain current state authority (G.S. 130B) to site facilities to address shortfalls directly and/or through attracting other states with needed capacity and to actively continue the site selection process when further guidance is provided.

B. Revised Milestones for Increasing In-State Capacity

- April 1991 RCRA Part B Permit application under review for metals recovery facility.
- April 1991 Begin negotiations with other states toward joining an interstate agreement (or agreements) to address shortfalls directly and/or through attracting other states with needed capacity.
- May 1992 Negotiate agreement(s) with other states.
- August 1992 Ratify agreement(s) with other states.
- May 6, 1993 Site(s) selected for any additional capacity needed to fulfill shortfalls in North Carolina's relative to agreement(s).
- May 6, 1993 Applications for RCRA Part B permit(s) filed.
- May 6, 1994 RCRA Part B permit(s) issued.
- Dec. 31, 1994 Capacity in place and operable.

- c) **Long Term Care Fund.** A long term care fund, supported in part by facility fees, must be established to address issues such as emergency response and post-closure monitoring, maintenance and care. (G.S. 130B-17)
- d) **Interagency Committee.** An interagency committee on hazardous waste has been established to share information and coordinate efforts in establishing the facility. (G.S. 130B-22)

The State siting process, being independent from and in addition to the State permitting process, has no appeals process. Challenges to the siting effort are limited to challenges to the issuance of a permit. Challenges to the issuance or denial of a permit are through the State's Administrative Procedures Act (Chapter 150B of the North Carolina General Statutes) and involve an administrative hearing and a right of appeal to State superior court. Additionally, the State provides a mechanism whereby the owner or operator of a hazardous waste facility can challenge a local ordinance which prohibits or has the effect of prohibiting the establishment or operation of the facility. (G.S. 130A-293). An appeal is filed with the Governor's Waste Management Board, which, upon a finding of certain facts, can preempt all or part of the ordinance.

- 3a. If possible, please construct a flowchart showing the major steps of the siting process as described in your narrative. Where known, indicate the time necessary for an application to proceed through each required step. See attachment.
4. Please describe (in a brief narrative) the outcome of siting applications since 1986.

North Carolina's siting process does not involve the receipt of siting applications.

5. The following questions address basic laws and rules that may affect the siting or expansion of new facilities. When answering the following questions, please note the relevant law or rule (if applicable) and briefly describe any special circumstances or constraints that apply.

- 5a. Do local governments in your state have the authority to approve RCRA permits?

_____ Yes X No

If yes, please list the applicable regulation or authority.

- 5b. Do local governments in your state have the power to prohibit facility siting by the use of zoning ordinances?

_____ Yes X No

If yes, please list the applicable regulation or authority.

- 5c. Does your state have the power to override local zoning authority and/or preempt local zoning powers?

 X Yes _____ No

If yes, please list the applicable regulation or authority.

G.S. 130A-293 (See SB 324 Section 13)

- 3) **The HWMC determines the sequence of tasks required to be accomplished in order to site, design, finance, construct and place into operation the authorized facility, develops a schedule for the development of such facility for presentation to the Governor, and develops an estimate of the resources required to accomplish those tasks for presentation to the Governor and the General Assembly. (G.S. 130B-7 (a)(3))**
- 4) **The Governor approves the schedule for developing the facility and the resources needed to accomplish the identified tasks. (G.S. 130B-5(b))**
- 5) **The General Assembly appropriates sufficient monies to accomplish the identified tasks.**
- 6) **The HWMC sites the facility. Major tasks to be accomplished in siting the facility include:**
 - a) **developing siting rules;**
 - b) **actively seeking communities interested in hosting the facility;**
 - c) **selecting suitable sites for evaluation;**
 - d) **selecting a preferred site;**
 - e) **acquiring the preferred site. (G.S. 130B-7&11)**
- 7) **The HWMC recommends to the Governor the technology and design capacity of each component of the facility. (G.S. 130B-7)**
- 8) **The Governor approves the technology and design capacity. (G.S. 130B-5(b))**
- 9) **The HWMC prepares detailed designs and specifications, operating procedures, safety plans and closure plans. (G.S. 130B-14&15)**
- 10) **The HWMC prepares and submits all necessary permit applications. (G.S. 130B-14)**

At any stage in the above referenced process, a qualified private company could step in and assume responsibility for siting, constructing and operating the facility. However, the State would assume responsibility for siting, constructing, and operating the facility if no qualified operator steps forward.

Because the facility has the potential for being State owned and operated, a 130B facility must meet a number of additional requirements not applicable to other hazardous waste facilities. A description of these requirements follows:

- a) **Public participation. Once a suitable site is selected for evaluation, the county in which it is located may appoint a site designation review committee which would be eligible to receive up to \$50,000.00 as a grant from the Governor's Waste Management Board (GWMB) to assist it in collecting and reviewing information relating to potential advantages and disadvantages associated with being selected as the host site for the facility. Upon selection of a preferred site, the county selected may establish a preferred site local advisory committee eligible to receive up to \$100,000 to defray expenses associated with evaluating the burdens and benefits associated with hosting the proposed facility, participating in the permitting processes, preparing and participating in negotiations with the HWMC and/or facility operator regarding compensations or incentives, facility appearance, operational concerns, etc. (G.S. 130B-19&20)**
- b) **Gross Receipts Tax. A special gross receipts tax of 2.5% is to be collected and distributed to the local governments where the facility is located. The HWMC is to develop and recommend to the General Assembly a revenue package and distribution formula. (G.S. 130B-18)**

Rates for support of resident inspectors (new North Carolina law in 1990; see attached proposed rules 15A NCAC 13A).

Commercial hazardous waste storage, treatment, or disposal facility other than a special purpose facility:
 \$41/hr of operation
 Special purpose commercial hazardous waste facility:
 \$3/T of waste received plus \$888-2664 per month based on frequency of inspections

- 6c. Does your state have the power to establish differential fees on waste that is imported for treatment and/or disposal?

_____ Yes X No (**Hazardous Waste**)

If yes, please explain.

- 6d. Are any limits placed on the size of the differential fee?

_____ Yes _____ No (**Not Applicable**)

If yes, please explain.

- 6e. Do local or county governments have the power to establish differential fees on waste that is treated and/or disposed of in their jurisdiction?

_____ Yes X No (**Hazardous Waste**)

If yes, please explain.

- 5d. Does your state have the power to override and/or preempt any other local authorities that could prohibit or restrict capacity development?

Yes No

If yes. Please list the applicable regulation or authority.

G.S. 130A-293 (See SB 324, Section 13)

- 5e. Are there state restrictions on the size or number of new or expanded facilities?

Yes No

Must be needed to meet a state or regional need.

If yes, please list the applicable regulation or authority.

G.S. 130A-295(c) (See SB 324, Section 24)

- 5f. Does the state allow facilities to be built that have greater capacity than that needed to treat in-state waste?

Yes No

If no, please list the applicable regulation or authority.

6. The following pertain to laws and regulations that affect interstate transportation of hazardous waste.

Rates set by statute (G.S. 130A-294.1). Rates are set out below.

- 6a. Does your state assess a fee on the generation of hazardous waste?

Yes No

If yes, please explain.

Rate for Generators:

Base fee of \$500 plus tonnage at \$0.50/ton = fee.

(Tonnage maximum of 25,000 tons)

Rate for Small Generators:

Base fee of \$25 = fee.

Rate for Transporters:

Base fee of \$600 = fee.

- 6b. Does your state assess a fee for the treatment or disposal of hazardous waste?

Yes No

If yes, please explain.

Rate for On-site Treater, Storer, or Disposer:

Base fee of \$1200 each activity = fee.

Rate for Off-Site Treater or Storer:

Base fee of \$1200 each activity plus tonnage at

\$1.75/ton = fee

PART V

MIXED WASTES

Name of Respondent 1 **Dayne H. Brown, Director**
 Division of Radiation Protection

Telephone Number **(919) 571-4141**

Address **Department of Environment, Health, and Natural**
 Resources
 Post Office Box 27687
 Raleigh, North Carolina 27611-7687

Name of Respondent 2 **Jerome H. Rhodes, Chief**
 Hazardous Waste Section
 Division of Solid Waste Management

Telephone Number **(919) 733-2178**

Address **Department of Environment, Health, and Natural**
 Resources
 Post Office Box 27687
 Raleigh, North Carolina 27611-7687

This part contains the information currently available on mixed waste generation and management in North Carolina and some information on mixed waste generated in the other Southeast Compact Commission states. This part also describes current efforts to better define the hazardous characteristics of mixed wastes, since it is recognized that at the present time there is inadequate information on the amount and form of such wastes. Finally, this part describes efforts to identify existing and proposed commercial mixed waste management capacity. There is widespread acknowledgement that at the current time there is a severe shortage of such capacity.

A. Introduction

The North Carolina Division of Solid Waste Management (SWM) received authorization (54 FR 38993) effective November 21, 1989 to regulate mixed waste as a hazardous waste. Current information on the type and volume of mixed waste managed in North Carolina and across the country is incomplete. On November 16, 1989 the SWM issued a memorandum to potential generators and handlers of mixed wastes in North Carolina notifying them of the applicability of RCRA hazardous waste requirements to certain radioactive wastes. Any facility treating, storing, or disposing of mixed waste, or any such facility at which construction commenced by the effective date of November 21, 1989, and requiring but not holding the appropriate RCRA permits, was instructed to file for interim status. The following applied for facilities generating mixed waste and requesting interim status for mixed wastes:

- Existing RCRA facilities with interim status for hazardous waste had to submit a revised Part A permit application to the Division within six months of the State's published authorization for mixed waste; i.e., by March 22, 1990. [See 40 CFR 270.10(e)(1)]
- Existing facilities without interim status for hazardous waste that treat mixed waste, or store mixed waste for greater than 90 days (180 days for those that generate greater than 220 pounds and less than 2200 pounds of mixed waste per month) had to submit a Part A permit application to the Division within six months of the State's published authorization for mixed waste, i.e., by March 22,

(May 3, 1991)

1990. In addition, these facilities, including generators and transporters, had to obtain an EPA Identification Number.

Existing facilities with a RCRA permit were required to submit a request for a permit modification per 40 CFR 270.42(g).

In April 1990, SWM issued a survey to obtain information to assist the state, the U.S. EPA, and the U.S. Nuclear Regulatory Commission in determining the need and availability of treatment, storage, and disposal capacities. The survey requests for each generator a general description of the facility and type(s) of mixed wastes generated; the quantity of mixed waste in storage on November 21, 1989; the amount generated in the 1989 calendar year and how much of that was treated; whether treatment was on-site or off-site; and the name and location of any off-site treatment facility used. This information is to be reported in terms of volume (lb) and activity (mCi). The type of storage is divided into three areas: storage for decay; storage due to lack of disposal outlet; and storage for other reasons. Respondents were also asked to help identify

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**ATTACHMENTS TO
Form I: GENERAL SITING DESCRIPTION**

- Schedule for hazardous waste management facility
- Ratified Senate Bill 324 (Chapter 168 of the Session Laws of the 1989 Session of the General Assembly of North Carolina)*
- Revisions to N. C. Hazardous Waste Management Rules Proposed for Consideration by the Commission for Health Services
- Rules for Collection of Fees from Commercial Hazardous Waste Facilities

***See Part II STATE WASTE MINIMIZATION ACTIVITIES, ATTACHMENTS TO Form I: LEGISLATIVE AUTHORITY, pp. 12-58.**

(May 3, 1991)

Form II: CAPACITY DEVELOPMENT PLANS

States that project a capacity shortfall in any projection year should complete this form. States should copy and complete the form and include it and any additional needed documentation. Please attach additional information if more space is needed to answer any question.

Name of Respondent 1 **Linda W. Little, Ph.D.**
Executive Director
Governor's Waste Management Board

Telephone Number **(919) 733-9020**

Address **Governor's Waste Management Board**
Post Office Box 27687
Raleigh, North Carolina 27611-7687

Name of Respondent 2 **Marge Howell**
Acting Director
Hazardous Waste Management Commission

Telephone Number **(919) 733-5420**

Address **Hazardous Waste Management Commission**
430 North Salisbury Street
Raleigh, North Carolina 27611

1. How much new commercial facility capacity will be needed to meet the shortfall anticipated for hazardous waste management capacity?

Below is a projection of the hazardous waste management capacity needs by SARA Management Category and by designated year:

	<u>1987</u>	<u>1989</u>	<u>1995</u>	<u>2009</u>
MR	2,941	6,39	0	0
SR	18,589	8,799	0	0
IL	1,218	3,016	0	0
IS	1,392	663	0	0
ER	2,790	0	0	0
AI	0	0	0	0
ST	578	27,646	9,194	9,612
LF	40,976	41,470	9,200	11,585

Key: MR - Metals recovery; SR - Solvents recovery; IL - Incineration-liquids; IS - Incineration-solids; ER - Energy recovery; AI - Aqueous inorganic treatment; ST - Stabilization; LF - Landfill

Council of State to formally request that the title to the Umstead farm Unit site be transferred from the North Carolina Department of Agriculture to the Hazardous Waste Management Commission for use as a facility site. The Council of State denied the Commission's request.

Since North Carolina was unable to meet the milestone date of December 1990 for submitting a Part B Permit application for the facility, North Carolina was automatically expelled from the regional agreement.

The Hazardous Waste Management Commission has requested that the 1991 North Carolina General Assembly, now in session, make alternative provisions for transferring title to the Umstead Farm Unit site. Whether this site or another will be pursued by the Hazardous Waste Management Commission is unclear at this time.

3. If you intend to meet new capacity needs by increasing waste exports beyond the 1987 levels, please explain why. Please indicate whether such plans are based on management planning efforts with other states, industries increasing exports to captive facilities, any environmental or economic considerations that restrict development of in-state capacity, or projections of current patterns.

We expect waste exports to remain at a level roughly the same as the 1987 level. However, we expect that any increases in waste exports, especially in the short-term (through 1994) would be handled by access to existing waste management facilities in other states, either with or without an interstate agreement.

- 3a. Are you participating in a multi-state hazardous waste management planning effort?

Yes No (But see answer to 2, above)

- 3b. Please list the participating states.

Alabama, Kentucky, South Carolina, and Tennessee.

4. Does your state have siting criteria?

Yes No

If Yes, please attach information describing your siting criteria and their regulatory status.

The Hazardous Waste Management Commission adopted siting procedures and three sets of site-selection criteria. The siting procedures and criteria have been adopted as the rules of the Commission. These procedures and criteria were used in a statewide screening for suitable sites for the facility. They were also used to determine the suitability of state-owned properties for a facility site.

(Please see attached: North Carolina Administrative Code, Title 4, Department of Economic and Community Development, Chapter 18, North Carolina Hazardous Waste Management Commission, Sections .0100, .0200, and .0300)

5. Are any of the following methods used in your state to select sites or encourage site development (check all that apply)?

State selection of specific site

State purchase of specific site

(Please see attached: Hazardous Waste Management Commission Recommendations to the Governor, Authorization Letter of September 20, 1989 from Governor James G. Martin)

As a result of continuing negotiations with the EPA Region IV States of Alabama, Kentucky, South Carolina, and Tennessee, the Governor subsequently modified the schedule for completion of the facility to adhere to those established by the Regional Agreement, as is his prerogative under North Carolina law:

Site Selection	May 1990
Part B Permit Submitted	December 1990
Part B Permit Issued and Construction Begun With No Adverse Litigation Pending	July 1991
Facility Operational	December 1991

According to the agreement, North Carolina proposed to establish the following hazardous waste treatment facilities:

- A. 50,000 tons/year rotary kiln incinerator
- B. 15,000 tons/year solvent distillation and recovery unit
- C. 10,000 tons/year residuals management unit

In addition, North Carolina agreed to endorse on-site remediation of remaining Superfund cleanup sites.

The agreement further provided that if North Carolina was unable to meet the milestone dates set forth, "North Carolina will be eliminated automatically from the agreement."

Following the approval of the Regional Agreement by the General Assembly on December 7, 1989, the Governor withdrew his authorization of September 20, 1989, to the Hazardous Waste Management Commission and submitted a new authorization to the Commission on December 20, 1989, to proceed with the establishment of the facilities outlined in the Expansion of the Regional Agreement and according to the schedule contained in that Agreement.

(Please see attached: Authorization Letter of December 20, 1989, from Governor James G. Martin)

The Hazardous Waste Management Commission developed site selection criteria, held public hearings on the criteria, and conducted a statewide screening for suitable sites. On May 1, 1990, the Commission designated two privately owned sites as suitable for the facility. Unable to gain access to the sites for geologic testing, the Commission was urged by citizens and government leaders to review state-owned properties for compliance with the site selection criteria.

On-site evaluations were conducted on two state-owned properties which met the siting criteria. As a result of these evaluations, the Commission designated the state-owned Umstead Farm Unit site in Granville County, North Carolina, as a suitable site on October 2, 1990. Following the receipt of additional test results and public comments on the site, the Commission designated the Umstead Farm Unit site as a preferred site for the facility on December 4, 1990.

According to North Carolina law, the Hazardous Waste Management Commission is required to hold title to the facility site. The transfer of title to state properties is the duty of the North Carolina Council of State (consisting of the 10 statewide elected Constitutional officers of the state). On December 13, 1990, the Hazardous Waste Management Commission appeared before the

(May 3, 1991)

Siting applicant
(for preferred site)

_____ Other, please explain _____

7b. What is the maximum amount of funding a community may receive?

\$ 150,000 (up to \$50,000 for a site designated as potentially suitable; up to \$100,000 for a preferred site)

7c. Are there any restrictions on the use of the funds?

Yes _____ No

If yes, what are they?

No funds shall be used for litigation purposes. To receive funds a local committee representing diverse interests in the community must be established to oversee the studies funded by the grants. All funds must be accounted for.

Grants to communities where potential sites are designated may be used for the following purposes:

- (1) Collect information on site suitability;
- (2) Monitor the site evaluation and site selection process;
- (3) Conduct socioeconomic and environmental assessments of the proposed facility;
- (4) Participate in any meetings, hearings, or other events related to the site selection process;
- (5) Study the cost and benefits of the facility being located at the site under consideration; and
- (6) Reimburse members for their expenses.

8. Does your state use negotiation in its siting process?

Yes _____ No

If yes, please explain.

For the Hazardous Waste Management Commission process, the State of North Carolina has made provisions in legislation passed in May 1989 for negotiation to be used in the siting of hazardous waste facilities.

Any local government in the county or counties where a hazardous waste facility is proposed to be located may negotiate with the Commission any issue except the need for the facility, a reduction of the duties of the Commission permitted by law or by facility permit, any act or decision of the Governor, or any decision by the Commission regarding site selection, contractor selection or technology.

The Commission may negotiate in good faith with any local government of a location where a facility is proposed and, upon agreement by the Commission and the local government, a mediator may be used for the negotiations. The Governor's Waste Management Board may appoint a mediator if the Commission and the local government cannot agree on the selection of one. The mediator should encourage a voluntary settlement of unresolved negotiable issues.

If the Commission and the local government have not reached agreement by negotiation within six months after selection of the preferred site, several issues may be submitted to arbitration.

- State inventory of suitable sites
- Private nomination of site
- Local nomination of site
- Permit fast tracking
- Other, please list:

The State of North Carolina, according to legislation passed by its General Assembly in May 1989, authorized the N.C. Hazardous Waste Management Commission to undertake a site selection process by establishing criteria which will identify suitable sites for a hazardous waste facility. The Commission is authorized to select a specific site for the facility to be purchased by the State.

Legislation enacted in May 1989 established an Inter-Agency Committee to assist the Commission in the siting, development, permitting and construction of the facility. The Inter-Agency Committee coordinates effort among all pertinent state departments and permitting agencies to facilitate the overall establishment of the facility.

6. How is the public allowed to participate in the siting process in order to affect the siting decision?

- Adjudicatory public hearings
- Informational public hearings
- Local advisory committee
- Local representatives on siting board
- Other, please explain

The citizens of North Carolina are allowed to participate in the siting process through procedures set forth in legislation enacted in May 1989 and through public education and participation policies adopted by the Hazardous Waste Management Commission. The legislation provides for informational public hearings and the establishment of local advisory committees for areas identified as suitable sites and for the area identified as the specific site for the facility.

7. Is financial assistance provided to the local community to allow it to review the siting application and conduct an environmental or health assessment?

Yes No

[For Hazardous Waste Management Commission process; for private initiatives, the Governor's Waste Management Board provides limited funding (up to \$5,000 per county) for technical assistance grants to support independent citizen analysis of site suitability.]

If Yes,

- 7a. Who supplies the funds?

State
(for site designated as potentially suitable)

For private initiatives, negotiation is encouraged. By statute, the Governor's Waste Management Board maintains a list of persons interested in and qualified for environmental dispute resolution.

Table 09-3. Summary of Waste Quantities Imported in 2009
by SARA Management Category and Exporting State

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Tmt.	Stabilization	Landfill	
Agreement States				26,000		17,712			43,712
TOTAL	0	0	0	26,000	0	17,712	0	0	43,712

**ATTACHMENTS TO
Form II: CAPACITY DEVELOPMENT PLANS**

- Letter from Hazardous Waste Management Commission to Governor James G. Martin dated September 19, 1989, regarding authorization of the establishment of a hazardous waste facility, with attached letter of the Commission to the Governor on August 25, 1989.
- Letter from Governor James G. Martin to Hazardous Waste Management Commission dated September 20, 1989, regarding establishment of a hazardous waste facility.
- Letter from Governor James G. Martin to Hazardous Waste Management Commission dated December 20, 1989, authorizing the establishment of a hazardous waste facility.
- Siting rules of the North Carolina Hazardous Waste Management Commission: North Carolina Administrative Code, Title 4, Department of Economic and Community Development, Chapter 18, North Carolina Hazardous Waste Management Commission, Sections .0100, .0200, and .0300

North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

CONTENTS

Transmittal Letter

Current Status of Negotiations Towards an Agreement for the Eight States in Region IV

Part I. Status of Generation, Imports, and Management Capacity

Part II. State Waste Minimization Activities

Part III. Projections of Hazardous Waste Generation and the Demand for Management Capacity

Part IV. State Plans for Increasing In-State Capacity



STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

JAMES G. MARTIN
GOVERNOR

October 17, 1989

Mr. William Reilly, Administrator
U.S. Environmental Protection Agency
Office of Solid Waste & Emergency Response
Mail Code OS-110
401 M Street, S.W.
Washington, D.C. 20460

Attention: Capacity Assurance Plan

Dear Mr. Reilly:

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986 requires as a condition for providing remedial actions that states assure the availability of treatment and disposal facilities that have the capacity to treat, destroy, or securely dispose of the wastes generated within their borders for twenty years [42 U.S.C. Section 9604(c)(9)]. The accompanying materials are submitted to you to provide you with a basis for evaluating the assurances of the State of North Carolina in this regard, which assurances are to be contained in a contract or cooperative agreement that will incorporate these materials by reference.

The attached planning documents demonstrate that:

1. The State of North Carolina understands and has documented and projected for twenty years the generation of hazardous wastes within the borders of the State, and understands and has documented and projected the disposition of these wastes, including export of these wastes to other states;
2. The State of North Carolina has considered and described the effects of waste minimization on such generation and has distinguished the availability of any commercial, captive, and onsite facilities; and

3. The State of North Carolina is developing plans that assure access to facilities that will be needed to treat, destroy, or securely dispose of these wastes, including plans to create and to permit new or expanded facilities, and has described regulations, economic considerations, and other impediments to achieving these plans.

This State, in providing the required assurances, will rely upon facilities that are located in other states. This State has been engaged in good faith negotiations with the other seven states in Region IV for several months in an effort to reach a regional interstate agreement for hazardous waste management. When completed, this agreement will provide for access to needed facilities so that all parties to the agreement are assured of the availability of adequate treatment and disposal capacity as required by 42 U.S.C. Section 9604(c)(9)(B). The accompanying materials include a proposed interstate agreement. This document reflects the current status of negotiations towards an agreement including all eight states in Region IV and will commit this State to taking the actions described in the planning materials. Although a final agreement has not yet been reached, the State of North Carolina is committed to this process and discussions are continuing. I have initialed the enclosed draft interstate agreement on behalf of the State as evidence of our commitment to a regional approach to hazardous waste management.


Note that North Carolina General Statutes Section 130B-5(c) requires that a regional agreement must be approved by our General Assembly. It is my intention to convene an extra session of the General Assembly for this purpose as soon as a final agreement has been reached. To this end I have already consulted with our Council of State on this matter as required by clause (7) of Section 5 of Article III of the Constitution of North Carolina.

Finally, it is our position that the Commerce Clause (clause 3 of Section 8 of Article I of the Constitution of the United States) prohibits any state from restricting access to commercial waste management facilities located in that state by generators of waste located in other states on the basis of the out-of-state origin of that waste unless the Congress has consented to such restrictions. Consequently we maintain that commercial waste treatment and disposal capacity located outside our borders is available to us, and that such capacity located in North Carolina is available to generators in other states, even in the absence of an interstate agreement. While we remain confident that a satisfactory interstate agreement will be reached, we continue to rely on the constitutional guarantee of unimpeded interstate commerce and specifically reserve all such rights.

Mr. William Reilly
October 17, 1989
Page 3

I hereby transmit these materials as the basis for the assurances
required of this State under 42 U.S.C. Section 9604(c)(9).

Sincerely yours,


James G. Martin

North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

**CURRENT STATUS OF NEGOTIATIONS
TOWARDS AN AGREEMENT FOR THE EIGHT
STATES IN REGION IV**

CURRENT STATUS OF NEGOTIATIONS TOWARDS AN AGREEMENT FOR THE EIGHT STATES IN REGION IV

North Carolina believes that a regional approach to hazardous waste management, if done properly, will enable fair and equitable distribution of the burden of treating and disposing of wastes and enable the establishment of state-of-the-art hazardous waste management facilities, not merely those to treat and dispose, but also those which facilitate recycling, reuse, and recovery (both of materials and energy). North Carolina takes the position that aggressive waste minimization is as important, or more important, as building new facilities, and that the "SARA capacity assurance planning" is not just about siting more and bigger treatment and disposal facilities, but siting those facilities which are clearly needed to manage those wastes which cannot be prevented, recycled, reused, recovered, or reduced. North Carolina's Capacity Assurance Plan document reflects that philosophy.

At the current time no single state in the southeastern region has sufficient hazardous waste management capacity to "go-it-alone" in assuring Congress and the Environmental Protection Agency that it can manage all of its waste over the next 20 years. While some states have excess capacity in one or more categories of waste management, no state has within its borders the variety of waste management facilities to deal with the diverse wastes produced.

In June 1989, at the call of Alabama and South Carolina the states in the U.S. EPA Region IV convened in Atlanta. At that time representatives of Alabama and South Carolina indicated their interest in negotiating an interstate agreement with states in Region IV that could meet their needs with current capacity or that would agree to site such capacity, provided that South Carolina and Alabama would not be required to build new facilities or expand existing facilities. There was considerable interest among the eight states, all of which agreed to participate in further negotiation meetings to be chaired by a representative of South Carolina and to be facilitated by the staff of U.S. EPA Region IV.

In conjunction with the staff of U.S. EPA Region IV in Atlanta, the southeastern states have determined that there are currently overall shortfalls in capacity in the following areas: aqueous treatment and solids incineration.

Representatives of the eight states in U.S. EPA Region IV met in Atlanta on June 29, July 20, August 31, September 15, and September 29.

The North Carolina representatives, named by Governor Martin and fully authorized to negotiate on behalf of the State, included Dr. Linda W. Little, executive director of the Governor's Waste Management Board and coordinator of the state's Intergovernmental Committee to Certify Compliance with Section 104(c)(9) of SARA: William Meyer, director of Division of Solid Waste Management; Victoria Voight, Associate Attorney General assigned to Superfund Section of the Division of Solid Waste Management; and Darrell Hinnant, executive director of the Hazardous Waste Management Commission. Also, attending the August 31 meeting were William Pitchford, computer systems manager of the Division of Solid Waste Management; Roger Schecter, director of the Pollution Prevention Pays Program; George Givens, staff attorney of the Research Division of the Legislative Services Office; and Fred Aikens, senior fiscal analyst of the Fiscal Research Division of the Legislative Services Office. Pitchford, Schecter, and Givens also attended the September 15 and the September 29 meetings.

With the assistance of the staff of U.S. EPA Region IV, representatives of the states arrived at a plan to enable the states to jointly comply with SARA requirements. Interstate agreement language was drafted with the participation of all states.

At the September 29 meeting for the first time Alabama took the position that it would enter into an agreement only with states which had existing capacity or capacity which was permitted and under construction, such capacity to be of an amount and of a management category deemed acceptable by Alabama. Energy recovery, metals recovery, and solvent recovery were indicated to be non-acceptable management methods from the standpoint of negotiations. Aqueous treatment and incineration were defined as acceptable. In regard to amount, no figure was given. However, discussions have indicated that it is more than 50,000 tons/yr for each management method for North Carolina.

The states have not met as a region since September 29, but there are on-going discussions among the various states as to possible groupings. Of the eight states, only Alabama, South Carolina, Kentucky, and Tennessee appear to satisfy Alabama's current criteria, whereas North Carolina, Georgia, Mississippi, and Florida do not. There is some doubt, however, that the four "have" states can comply with SARA in regard to land disposal capacity considering prospective plans of South Carolina and Alabama to place limits on access to their land disposal facilities.

The Governor of North Carolina continues to strongly favor a regional eight-state agreement and this document reflects the four months of planning toward such an agreement. We observe that a similar regional approach for low-level radioactive waste management, involving seven of the eight Region IV states, has worked well. We observe further that, under the Southeast Interstate Low-Level Radioactive Waste Management Compact, North Carolina has agreed to establish a low-level radioactive waste disposal facility to meet the needs of the southeastern states for the 20-year period beginning in 1993. This facility will supersede a facility now operating in South Carolina, and North Carolina has undertaken its establishment in expectation that another southeastern state will assume the "host state" responsibility after two decades.

Through a combination of waste minimization efforts and new treatment capacity, North Carolina wishes to participate in a regional plan to assure hazardous waste management capacity. North Carolina's offer consists of (1) a strong commitment to waste minimization and (2) a commitment to establish new solids incineration capacity to meet state and regional waste management needs.

Overleaf is inserted a copy of the most recent draft of the *SARA CAPACITY ASSURANCE SOUTHEASTERN STATES REGIONAL AGREEMENT*.

**SARA CAPACITY ASSURANCE
SOUTHEASTERN STATES REGIONAL AGREEMENT**

This Agreement is entered into, by and between the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee (hereinafter referred to as the Party States).

Witness That:

Whereas, it is a requirement under Section 104(c)(9) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended, (hereinafter referred to as CERCLA), as a condition of receiving non-emergency federal remedial action funding after October 17, 1989, that each State assure that it has adequate capacity to manage the hazardous waste generated in the State and expected to be generated in the State for the next twenty (20) years;

Whereas, current projections for hazardous waste generated in each Party State demonstrate that no single Party State will likely be able to assure compliance with CERCLA Section 104(c)(9) without access to and availability of additional facilities;

Whereas, it is of the utmost concern of all Party States that waste reduction be promoted, and when appropriate required, to minimize the need for hazardous waste treatment or disposal;

Whereas, the Party States recognize that not all hazardous waste can be eliminated and in those cases the waste must be properly treated or disposed;

Whereas, land disposal is the least preferred method of managing hazardous wastes and in order to reduce potential risk to human health and the environment, reliance on land disposal should be minimized or eliminated;

Whereas each Party State acknowledges that the presence of land disposal units in certain Party States has resulted in a disproportionately large volume of hazardous wastes being shipped to those states;

Whereas, the siting of a hazardous waste management facility within any Party State impacts the other Party States and is of regional concern for the continued proper management of hazardous waste generated within the Southeastern region;

Whereas, public health, environmental well-being, and continued economic growth in the Party States are predicated upon the availability of proper and adequate hazardous waste management facilities;

Whereas, it is of utmost concern to the Party States that proper facilities for the management of hazardous waste be provided while recognizing the individual needs, concerns and constraints of each Party State;

Whereas, each Party State acknowledges that currently its generators rely on facilities located inside and outside of its boundaries;

Whereas, the Party States recognize that hazardous waste is primarily managed by private companies which are regulated by the Party States; and

Whereas, the Party States recognize that the proper management of hazardous waste will require concerted action by all of the Party States.

Now, therefore, each Party State signing this Agreement agrees to the following terms and conditions :

1. Capacity

Each Party State agrees to provide current or proposed capacity as set forth in its respective capacity assurance plan. These commitments are summarized in the tables of existing capacity , proposed capacity, and timetable for establishing proposed capacity attached hereto and incorporated herein by reference.

2. Access

Each Party State agrees to allow hazardous waste generators located within the borders of any other Party State to utilize hazardous waste management facilities located within its borders.

3. Waste Minimization

Each Party State agrees to implement its program to encourage source reduction and recycling of hazardous waste generated within its borders.

4. Termination for Cause

If, through any cause, a Party State fails to meet its obligations under this Agreement, as set forth in the attached tables, it will be terminated from this agreement. However, that State may be allowed to re-enter the Agreement based on a renegotiation with the remaining Party States.

5. Periodic Right of Renegotiation

Consistent with EPA's requirement that each state update its capacity assurance plan every two years, these plans may be renegotiated every two years, beginning two years after the initial CERCLA 104(c)(9) capacity assurance certification deadline (October 17, 1989).

6. Meetings

The Party States shall meet at least annually to discuss their progress toward meeting the goals and projections contained in their individual capacity assurance plans and specifically any activities or events which might impact their ability to provide the current or proposed capacity set forth in Paragraph 1.

7. Residuals Management

Consistent with federal and state laws, the Party States agree to establish a Planning Committee to address the issue of residuals management. The recommendations of the Planning Committee will be forwarded to the Party States not later than one year after this agreement becomes effective.

8. Notification Address

Any notification issued pursuant to this Agreement shall be sent by registered or certified mail to the Governor of the Party State and to the person designated by the Governor of the Party State as the appropriate environmental official.

Nothing in this Agreement shall be construed to affect the rights and powers of any Party State to regulate any hazardous waste or hazardous waste facility within its borders or to affect the rights and powers of any Party State to tax or impose fees on hazardous waste managed at any hazardous waste facility within its borders, or to affect the rights and powers of any Party State to enter into a separate interstate agreement with any State or group of states other than the Party States so long as the capacity obligated under this Agreement is not further obligated.

In Witness Whereof, the Party States have caused this Agreement to be executed for and on their behalf by their duly authorized officials.

This agreement shall become effective at the time duplicate originals are signed by the Governor or authorized official of every Party State.

State of Alabama

Governor

Date

State of Florida

Governor

Date

State of Georgia

Governor

Date

State of Kentucky

Governor

Date

State of Mississippi

Governor

Date

State of North Carolina

Jim Martin

Governor

10-17-89

Date

State of South Carolina

Governor

Date

State of Tennessee

Governor

Date

REGION IV
HAZARDOUS WASTE MANAGEMENT CAPACITY
1988

	TONS/YEAR							
	<u>Materials Recovery</u>		<u>Incineration</u>		Energy Recovery	Aqueous Treatment	Stabilization	Residuals Mgmt.
	Metals	Solvents	Liquid	Solids				
ALABAMA	103,600	38,100		2,000	29,400		170,000	500,500*
FLORIDA	30,030	50,000			42,624			
GEORGIA	26,400	22,900					185,388	
KENTUCKY		11,400	42,765	58,057	22,485			
MISSISSIPPI		13,000						
NORTH CAROLINA		3,242			35,416	50,000		
SOUTH CAROLINA	28,511	55,406	39,420	19,500	184,732		123,187	135,000*
TENNESSEE	334,625	231,468				194,252		
REGION IV TOTAL EXISTING CAPACITY	523,166	425,516	82,005	79,557	314,657	244,252	478,575	635,500

*Landfill

10/4/89-1550

**REGION IV
HAZARDOUS WASTE MANAGEMENT
PROPOSED CAPACITY**

	TONS/YEAR							Residuals Mgmt.
	<u>Materials Recovery</u>		<u>Incineration</u>		<u>Energy</u>	<u>Aqueous</u>	<u>Stabilization</u>	
	<u>Metals</u>	<u>Solvents</u>	<u>Liquid</u>	<u>Solids</u>	<u>Recovery</u>	<u>Treatment</u>		
ALABAMA								
FLORIDA			10,000	30,000		40,000		
GEORGIA			20,000	25,000				80,000 ¹
KENTUCKY			15,624	79,821				
MISSISSIPPI	50,000/ 20,000 ²				188,000	20,000 ³		See note ⁴
NORTH CAROLINA			15,000	25,000				
SOUTH CAROLINA								
TENNESSEE		5,000	31,115	46,673		387,463		
REGION IV TOTAL PROPOSED CAPACITY	50,000/ 20,000	5,000	91,739	206,494	188,000	447,463	0	80,000+

¹Above Ground Storage

²Zinc recovery/other metals recovery

³For metals-bearing waste waters

⁴Management of any residuals from proposed metals recovery and aqueous treatment

10/4/89-1700

REGION IV
HAZARDOUS WASTE MANAGEMENT
SCHEDULE FOR DEVELOPMENT OF PROPOSED CAPACITY

STATE/FACILITY	MILESTONES			
	SITE SELECTION (STATE FACILITY ONLY)	PART B RECEIVED	PART B ISSUED	FACILITY OPERATIONAL
<u>FLORIDA</u>				
• First Florida Processing (incinerator/aqueous treatment)	-	June 1989	Jan. 1990	Jan. 1993
• State Facility* (incinerator/aqueous treatment)		Jan. 1991	Jan. 1992	Aug. 1994
<u>GEORGIA</u>				
• State Facility (incinerator/above ground storage)	Completed 1988	Sept. 1991	Sept. 1992	Dec. 1993
<u>KENTUCKY</u>				
• LWD, Inc.** (incinerator)	-			June 1990
<u>MISSISSIPPI</u>				
• State Facility (metals recovery/ aqueous treatment/residuals management)				Dec. 1993 (tentative)
<u>NORTH CAROLINA</u>				
• State Facility (incinerator)	May 1990	Dec. 1990	July 1991	Dec. 1991
<u>TENNESSEE</u>				
• SCA (incinerator)	-	July 1988	June 1990	June 1992
• OSCO (aqueous treatment)	-		Nov. 1989	Nov. 1990
• Chemical OSCO (solvent recovery)	-			

- This facility will be built only if Part B Permit is not issued to First Florida Processing by January 31, 1990.
 ** Ownership subject to change.

10/6/89-1035

North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

Part I

**STATUS OF GENERATION, IMPORTS, AND
MANAGEMENT CAPACITY**

PART I

STATUS OF GENERATION, IMPORTS, EXPORTS, AND MANAGEMENT CAPACITY

Name of Respondent **William Pitchford, Computer Systems Manager
Division of Solid Waste Management**

Telephone Number **(919) 733-4996**

Address **Department of Environment, Health, and
Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

This part contains detailed information describing past (baseyear) waste generation and treatment, destruction, and disposal capacity available at facilities within and outside North Carolina.

The information for baseyear 1987 is presented as follows:

- Table 87-1 Summary of In-State Generation by Waste Type in Baseyear (1987)
- Table 87-2 Summary of Waste Quantities Exported in Baseyear (1987) by SARA Management Category and Importing State
- Table 87-3 Summary of Waste Quantities Imported in Baseyear (1987) by SARA Management Category and Exporting State
- Table 87-4 Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities
- Table 87-4A Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management Categories at Captive Facilities
- Table 87-4B Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management at Commercial Facilities

Table 87-4C	Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management Categories at Onsite Facilities
Table 87-5	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's
Table 87-5A	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities
Table 87-5B	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities
Table 87-5C	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Onsite Facilities

Methodology Used for Developing Tables for the Capacity Assurance Plan

A. Introduction

The basis of the data tables of the Capacity Assurance Plan is the 1987 "Annual Report of North Carolina Hazardous Waste Generation, Storage, Treatment and Disposal" which is produced by the Hazardous Waste Section of the North Carolina Solid Waste Management Division.

This report is generated from individual annual reports submitted by large generators and TSD facilities. Data are captured in the old biennial report format and thus some form of the low option methodology must be used to complete the Capacity Assurance tables.

All baseyear data tables for the Capacity Assurance Plan were completed following the models provided in the technical reference manual and the guidance document. The following is a brief description of North Carolina's implementation of this guidance in preparation of the baseyear tables.

B. Assignment of SARA Waste Types and SARA Management Categories

SARA wastes types were assigned manually to each waste stream. This method was used in lieu of the "National Profile" as it is considered to be more accurate.

Individual assignments were made based on a comparison of the RCRA waste code, a description of the waste, the SIC code of the generating facility, and the final treatment methodology of the waste.

A SARA management category was assigned to each waste stream based on the treatment methods available at the receiving TSD facility. Available treatment methods were determined using the "Current Capacity" reports provided by EPA. Management data were compiled to form a North Carolina version of the national waste management profile.

C. Recurrent vs. One Time Generation

The annual report allows for one-time generation to be identified in two ways: RCRA remedial actions and one time cleanups. All other waste streams were assumed to be recurrent generation. These data are summarized in Table 87-1.

D. Import/Export Data

Export data for the baseyear were derived using the figures for "total shipped offsite" from all generators and TSD facilities. These data are presented in Table 87-2 for the baseyear. Import data for the baseyear were compiled from the annual reports of North Carolina TSD facilities. These data are summarized in baseyear Table 87-3.

E. Instate Management

Management of waste generated instate and imports is summarized in baseyear Table 87-4. This table is based on the annual reports of NC TSD facilities. Using the TSD annual reports, rather than generator reports, to complete these tables is a better measure of total management in that it includes small generator waste.

Wastewaters treated in onsite NPDES processes are included on Table 87-4 in the "exempt treatment" column. Wastewaters treated in NPDES processes are exempt from RCRA permit requirements and do not affect instate permitted capacity but must be considered in the CAP analysis. This column is derived from those streams described as wastewater and reported on the 1987 hazardous waste annual report.

As an additional effort to address this issue, a study was initiated to estimate the total amounts of potentially hazardous wastewater generated in North Carolina. The results of this survey will be used for future capacity reports and to provide consistency in wastewater reporting requirements.

F. Demand vs. Instate Capacity

Table 87-5 compares management demand as calculated for Table 87-4 with available management capacity in the baseyear. Available capacity was calculated from permit limits and from conversations with TSD facilities.

Findings

An analysis of these data shows that substantial capacity shortfalls exist for landfill disposal (approx. 40,000 tons) and solvent recovery (approx. 13,000 tons). Smaller capacity shortfalls exist for several other management categories, but if imports are excluded, these shortfalls become inconsequential.

**Table 87-1 Summary of In-State Generation by Waste Type in Baseyear (1987)
(Tons/Year)**

Waste Type	Recurrent Generation	One-time Generation	Total Generation
1. Contaminated Soil	1,137	149	1,285
2. Halogenated Solvents	5,633	0	5,633
3. Nonhalogenated Solvents	4,794	0	4,794
4. Halogenated Organic Liquids	82	0	82
5. Nonhalogenated Organic Liquids	9,373	88	9,460
6. Organic Liquids, unspecified	0	0	0
7. Mixed Organic/Inorganic Liquids	3,142	0	3,142
8. Inorganic Liquids with Organics	5,527	185	5,713
9. Inorganic Liquids with Metals	421,958	326	422,284
10. Inorganic Liquids, NEC	905,470	472	905,942
11. Inorganic Liquids with Organics	74	2,011	2,085
12. Nonhalogenated Organic Sludges/Solids	3,701	0	3,701
13. Organic Sludges/Solids, Unspecified	10	0	10
14. Mixed Organic/Inorganic Sludges/Solids	609	1,042	1,651
15. Inorganic Sludges/Solids with Metals	15,849	15,296	31,145
16. Inorganic Sludges/Solids, NEC	1,223	60	1,284
17. Other Wastes, NEC	137	0	137
TOTAL	1,378,719	19,629	1,398,347

NEC - Not elsewhere classified.

Table 87-2. Summary of Waste Quantities Exported in Baseyear (1987)
by SARA Management Category and Importing State (Tons/Year)

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Alabama	81	475	0	12	717	15	0	1,827	3,126
Arkansas	0	0	455	61	0	0	0	0	516
Connecticut	0	0	0	0	5	0	0	0	5
Florida	0	0	0	0	114	0	0	0	114
Foreign Countries	36	0	0	0	0	0	0	0	36
Georgia	0	545	0	0	99	0	124	0	768
Illinois	185	417	13	20	0	53	0	0	688
Indiana	0	0	0	0	312	177	0	0	488
Kansas	0	0	0	0	46	0	0	0	46
Kentucky	0	1,061	100	127	0	0	0	0	1,289
Louisiana	0	0	74	9	2,462	0	0	455	2,999
Maryland	0	557	0	0	0	789	0	0	1,346
Michigan	9	0	0	0	0	64	0	0	73
New Jersey	0	330	1,191	72	17	3,529	0	0	5,138
New York	0	0	0	37	0	105	13	57	212
Ohio	0	1,372	63	0	300	519	35	198	2,488
Oklahoma	0	10	0	0	0	0	0	0	10
Pennsylvania	2,257	0	0	0	104	365	144	0	2,871
South Carolina	373	8,392	1,859	1,055	310	10	0	38,440	50,438
Tennessee						277	262		538
Virginia		1,555			2,518				4,074
TOTAL	2,941	14,715	3,755	1,392	7,003	5,903	578	40,976	77,263

Table 87-3. Summary of Waste Quantities Imported in Baseyear (1987)
by SARA Management Category and Exporting State (Tons/Year)

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Alabama			74		7,809				7,883
Arkansas			136		0				137
Connecticut		393	174		403				969
Florida			301		0				301
Georgia	420	14	108		4,301				4,842
Hawaii			64		0				64
Illinois					63				63
Louisiana			13						13
Maryland			39		1,578				1,618
Michigan					93				93
Mississippi			18						18
New Hampshire			51						
New Jersey		596	147		1,715				2,458
New York		5			41				46
Ohio		18	182		5,953				6,154
Pennsylvania					194				194
Puerto Rico			52						52
Rhode Island			125						
South Carolina		199	1,510		4,604				6,313
Tennessee			48		101	259			408
Virginia		236	1,093		170				1,498
Washington			98						98
TOTAL	420	1,460	4,234	0	27,025	259	0	0	33,398

Table 87-4. Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES									TOTAL
	Exempt Treatment	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Contaminated Soil	0			0		0				
Halogenated Solvents	398		1,161	632		1,966				
Nonhalogenated Solvents	209		519	579		3,881	21			
Halogenated Organic Liquids	70			0		0				
Nonhalogenated Organic Liquids	131		176	5,090		5,853	36			
Organic Liquids, unspecified	0			0		0				
Mixed Organic/Inorganic Liquids	417		54	1,039		7,831	28			
Inorganic Liquids with Organics	223		34	104		8,181	202			
Inorganic Liquids with Metals	415,732			192		0	1,071			
Inorganic Liquids, NEC	901,960			98		0				
Inorganic Liquids with Organics	0			0		0				
Nonhalogenated Organic Sludges/Solids	80		121	3,085	97	3,988				
Organic Sludges/Solids, Unspecified	0			0		0				
Mixed Organic/Inorganic Sludges/Solids	0			0		0				
Inorganic Sludges/Solids with Metals	95	420		140		0	780			
Inorganic Sludges/Solids, NEC	7			0		0				
Other Wastes, NEC	0			0		0				
TOTAL	1,319,322	420	2,066	10,959	97	31,699	2,139	0	0	1,366,701

Table 87-4A. Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management Categories at Captive Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							TOTAL	
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Treat.	Stabilization		Landfill
Contaminated Soil					0				
Halogenated Solvents					0				
Nonhalogenated Solvents					111				
Halogenated Organic Liquids					0				
Nonhalogenated Organic Liquids					277				
Organic Liquids, unspecified					0				
Mixed Organic/Inorganic Liquids					109				
Inorganic Liquids with Organics					0				
Inorganic Liquids with Metals					0				
Inorganic Liquids, NEC					0				
Inorganic Liquids with Organics					0				
Nonhalogenated Organic Sludges/Solids				97					
Organic Sludges/Solids, Unspecified					0				
Mixed Organic/Inorganic Sludges/Solids					0				
Inorganic Sludges/Solids with Metals					0				
Inorganic Sludges/Solids, NEC					0				
Other Wastes, NEC					0				
TOTAL	0	0	0	97	496	0	0	0	594

Table 87-48. Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management Categories at Commercial Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Contaminated Soil									
Halogenated Solvents		1,161	632		1,966				
Nonhalogenated Solvents		519	579		3,769	21			
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids		176	2,522		5,576	36			
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids		54	1,039		7,723	28			
Inorganic Liquids with Organics		34	104		8,181	202			
Inorganic Liquids with Metals			192			1,071			
Inorganic Liquids, NEC			55						
Inorganic Liquids with Organics									
Nonhalogenated Organic Sludges/Solids		121	3,085		3,988				
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals	420		140			780			
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL	420	2,066	8,348	0	31,203	2,139	0	0	44,175

Table 87-4C. Baseyear (1987) In-State Waste Managed by Waste Type and SARA Management Categories at Onsite Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization Landfill	
Contaminated Soil			0					
Halogenated Solvents			0					
Nonhalogenated Solvents			0					
Halogenated Organic Liquids			0					
Nonhalogenated Organic Liquids			2,568					
Organic Liquids, unspecified			0					
Mixed Organic/Inorganic Liquids			0					
Inorganic Liquids with Organics			0					
Inorganic Liquids with Metals			0					
Inorganic Liquids, NEC			43					
Inorganic Liquids with Organics			0					
Nonhalogenated Organic Sludges/Solids			0					
Organic Sludges/Solids, Unspecified			0					
Mixed Organic/Inorganic Sludges/Solids			0					
Inorganic Sludges/Solids with Metals			0					
Inorganic Sludges/Solids, NEC			0					
Other Wastes, NEC			0					
TOTAL	0	0	2,611	0	0	0	0	2,611

Table 87-5 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's (Tons/Year)

SARA Management Category	Baseyear 1987 Maximum Capacity	Baseyear 1987 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	420	3,361			3,361	(2,941)
Solvents Recovery	3,242	16,781			16,781	(13,539)
Incineration - Liquids	13,496	14,714			14,714	(1,218)
Incineration - Solids	300	1489			1,489	(1,392)
Energy Recovery	35,955	38702			38,702	(2,790)
Aqueous Inorganic Treatment	50,000	8,042			8,042	41,958
Stabilization	0	578			578	(578)
Landfill	0	40,976			40,976	(40,976)

() - Denotes a capacity shortfall

Table 87-5A Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities (Tons/Year)

SARA Management Category	Baseyear 1987 Maximum Capacity	<u>Baseyear 1987 Management Demand</u>			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	0				0	0
Incineration - Solids	300	97			97	203
Energy Recovery	539	496			496	43
Aqueous Inorganic Treatment	0				0	0
Stabilization	0				0	0
Landfill	0				0	0

() - Denotes a capacity shortfall

Table 87-58 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities (Tons/Year)

SARA Management Category	Baseyear 1987 Maximum Capacity	Baseyear 1987 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	420	3,361			3,361	(2,941)
Solvents Recovery	3,242	16,781			16,781	(13,539)
Incineration - Liquids	9,777	12,103			12,103	(2,326)
Incineration - Solids	0	1,392			1,392	(1,392)
Energy Recovery	35,416	38,206			38,206	(2,790)
Aqueous Inorganic Treatment	50,000	8,042			8,042	41,958
Stabilization	0	578			578	(578)
Landfill	0	40,976			40,976	(40,976)

() - Denotes a capacity shortfall

Table 87-5C Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Onsite Facilities (Tons/Year)

SARA Management Category	Baseyear 1987 Maximum Capacity	Baseyear 1987 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	3,719	2,611			2,611	1,108
Incineration - Solids	0				0	0
Energy Recovery	0				0	0
Aqueous Inorganic Treatment	0				0	0
Stabilization	0				0	0
Landfill	0				0	0

() - Denotes a capacity shortfall

North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

Part II

STATE WASTE MINIMIZATION ACTIVITIES

PART II

STATE WASTE MINIMIZATION ACTIVITIES

This part documents waste minimization efforts, existing and planned, to be undertaken by the state and detailed information regarding how these waste minimization efforts have been taken into account in the projections of waste generation.

Through a combination of waste minimization efforts and new treatment capacity, North Carolina wishes to participate in a regional plan to assure hazardous waste management capacity. North Carolina's offer consists of (1) a strong commitment to waste minimization and (2) a commitment to establish new solids incineration capacity to meet state and regional waste management needs. Below is a description of North Carolina's waste minimization activities, existing and planned. This description is followed by Forms I, II, and III.

WASTE MINIMIZATION

A key element in North Carolina's strategy to deal with hazardous waste is a strong waste minimization plan. Below are outlined North Carolina's commitments to waste minimization as expressed in recent legislation and in planning for capacity assurance. *It should be emphasized that these build on the existing technical assistance and regulatory programs, which among other things require annual certification by hazardous waste generators that they have a waste minimization program.*

A. North Carolina's Waste Minimization Commitment as Expressed in Chapter 168 of the 1989 Session Laws ("Senate Bill 324").

On May 30, 1989, the N.C. General Assembly enacted Senate Bill 324 which provided for the management of hazardous waste in North Carolina, reorganized the North Carolina Hazardous Waste Treatment Commission as the North Carolina Hazardous Waste Management Commission, amended various statutes relating to the management of hazardous waste, and made conforming changes to other statutes.

In this new bill, the General Assembly also continued efforts in the areas of waste minimization, waste reduction, recycling, reuse and recovery. The following is a synopsis of these efforts.

The Act in its preamble recites that one of the most urgent problems facing North Carolina is the need to establish adequate facilities for the treatment and disposal of hazardous waste. In that same section, it states that cooperation and coordination are essential among the private sector, the general public, the State and local governments to assure the prevention of unnecessary waste and the establishment of a comprehensive and integrated system of adequate treatment and disposal facilities.

The Act goes on to state that while legislation had been passed in 1981 and 1984 which dealt with hazardous waste management, changed circumstances require adjustments in the state's hazardous waste management policy. Specifically, in this Act the General Assembly declares that the most practical approach to hazardous waste management, including compliance with the CERCLA/SARA capacity assurance requirements, is through a regional approach and that the development of a full range of comprehensive hazardous waste treatment and disposal facilities in North Carolina and every state is neither environmentally nor economically sound. Further minimization, and wherever possible elimination, of hazardous waste generation, and hazardous waste reduction, recycling, and on-site treatment are preferable to off-site treatment and disposal. (GS 130B-3. Legislative findings)

The provisions of SB 324 related to waste minimization are highlighted and summarized in the following paragraphs.

No hazardous waste facility will be established unless the Governor determines that such a facility is essential and in the best interests of the state. This determination must be based on a periodic review of current and projected hazardous waste generation from all sources within North Carolina, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reduction in the generation of hazardous waste, and other factors. [GS 130B-5(a). Powers and duties of the Governor]

The Governor is given the authority to enter into interstate agreements for the management of hazardous waste. Among other items, these agreements must encourage reductions in the volume or quantity

and toxicity of hazardous waste. [GS 130B-5(c). Powers and duties of the Governor]

The Hazardous Waste Management Commission (HWMC), with the assistance of the Governor's Waste Management Board and the Solid Waste Management Division, must periodically review current and projected hazardous waste generation from all sources within the state, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reductions in the generation of hazardous waste, and other requirements. [GS 130B-7(a)(1). Powers and duties of the Commission]

In establishing and revising fee schedules, the HWMC may encourage reductions in the volume or quantity and toxicity of hazardous waste. [GS 130B-16(a). Fees]

If revenues from hazardous waste management facilities built under this statute exceed all costs, then part of the excess money is to be used to fund a portion of the cost of the Pollution Prevention Pays Program, the waste minimization program administered by the Technical Assistance and Support Unit of the Solid Waste Management Division of the Department of Environment, Health, and Natural Resources (DEHNR); other programs which foster multimedia waste prevention, reduction, reuse, and recycling; and programs which provide assistance to small quantity generators. [GS 130B-16(c)(2). Fees]

Section 7, Chapter 113 of the General Statutes was amended to establish within the DEHNR a non-regulatory technical assistance program called the Pollution Prevention Pays Program. This program has been in operation since 1983, but this action provides statutory authority. The purpose of the program is to encourage voluntary waste and pollution reduction efforts through research and by providing information, technical assistance, and matching grants to businesses and industries interested in establishing or enhancing activities to prevent, reduce, or recycle waste. The Pollution Prevention Pays Program must coordinate its activities with the appropriate regulatory agencies and with the Governor's Waste Management Board. [GS 113-8.01. Pollution Prevention Pays Programs]

The Act defines and redefines a variety of terms, several of which deal with recycling, recovery, reuse, and reduction of hazardous waste. These terms include: hazardous waste facility; hazardous waste management; recycling; resource recovery; reuse; solid waste management;

treatment; and others. [GS 130A-290(6), (9), (17), (19), (20), (28), (31). Definitions.]

A new subsection was added to GS 130A-294. This subsection says that each person who generates hazardous waste who is required to pay a fee under G.S. 130A-294.1, and each operator of a hazardous waste treatment facility which treats waste generated on-site who is required to pay a fee under G.S. 130A-294.1, must submit to the Department of Environment, Health, and Natural Resources, at the time the fees are due, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste. [Sec.22. GS 130A-294(k)]

The Act also amended GS 130A-294.1(p), so that the DEHNR, in recommending adjustment in annual and tonnage fees, may propose fees which encourage reductions in the volume or quantity and toxicity of hazardous waste for hazardous waste generators and hazardous waste treatment facilities which treat waste generated on-site.

A new subsection was added to GS 143-215.1 stating that a person who is required to have a permit under this section must submit to the DEHNR a written description of his current and projected plans to reduce the discharge of waste and pollutants under such permit by source reduction or recycling. This written description must accompany the payment of the annual permit fee. The written description must also accompany any application for a new permit, or for modification of an existing permit, under this section; however, the written description cannot be considered part of a permit application and cannot serve as the basis for permit denial or permit modification.

Another new subsection was added to GS 143-215.108. Any person who is required to have a permit under this section must submit to the DEHNR a written description of his current and projected plans to reduce the emission of air contaminants under the permit by source reduction or recycling. A written description must accompany the payment of the annual permit fee. The description must also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description cannot be considered part of a permit application and cannot serve as the basis for permit denial or permit modification.

The General Assembly added to the duties of the Governor's Waste Management Board. Among other things, the board must annually report to the Governor, the General Assembly, and the legislative Environmental

Review Commission on the effectiveness of waste reduction programs in the state and must make recommendations on ways to improve these programs. [GS 143B.216.13(6a). Functions and powers of Board.] The first report is due in 1990.

The General Assembly stated its intent that an aggressive program to minimize or reduce the volume and quantity or toxicity of hazardous waste and other pollutants, including the emission of air contaminants, be implemented. The Department of Environment, Health and Natural Resources must collect and analyze information so as to establish the data base necessary to plan, implement, and evaluate hazardous waste reduction programs and to assist the General Assembly in the development of a waste reduction policy. (Sec. 47 of Chapter 168) All information received from generators [as required in G.S. 130A-294(k), G.S. 143-215.1(g) and G.S. 143-215.108(c)] must be transmitted to the Solid Waste Management Division of the DEHNR for review and analysis. The Solid Waste Management Division must consider this information in the development of the comprehensive hazardous waste management plan required by G.S. 130A-294(i) and must prepare a report on the feasibility of incorporating waste reduction requirements into existing solid and hazardous waste permitting processes. The Solid Waste Management Division must report to the Environmental Review Commission as to progress in implementing this section on a quarterly basis beginning January 1, 1990. (Sec. 47 of Chapter 168)

Thus, with the passage of SB 324, the General Assembly made major strides in furthering the state's waste minimization efforts and laid the groundwork for even more aggressive efforts in the future.

B. An Aggressive Waste Minimization Plan for North Carolina in the Coming 20 Years

In estimating hazardous waste management capacity needs for the next 20 years, the staffs of the Pollution Prevention Pays Program and the Solid Waste Management Division have assumed a continuing and expanded effort to reduce the amount of waste generated per unit of product or service produced. Estimations were based on the best available information about future economic growth and on potential for waste reduction for the specific types of waste streams in North Carolina. The Solid Waste Management Division is initiating a program to verify waste reduction/minimization efforts, using actual cases and using 1988 as the base year.

The forms and their attachments, below, especially the document entitled *Methodology and Calculation of Waste Reduction Factors for North Carolina's Capacity Assurance Plan*, describe in detail how the estimates of waste generation and minimization were derived.

It is projected that with an aggressive waste minimization plan waste generation can be held to approximately current levels through 1999 and to modest increases after that time, despite projections of substantial economic growth.

Form I: LEGISLATIVE AUTHORITY

All states should fill out this form. States should copy and complete the form and include it and any additional necessary documentation. Please attach additional information if more space is needed to answer any question.

Name of Respondent 1 **Roger N. Schecter, Director
N.C. Pollution Prevention Pays Program**

Telephone Number **(919) 733-7015**

Address **Department of Environment, Health, and
Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

Name of Respondent 2 **Judy Lund, Supervisor
Technical Assistance Unit
Division of Solid Waste Management**

Telephone Number **(919) 733-2178**

Address **Department of Environment, Health, and
Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

1. Does legislative authority exist to implement a waste minimization program in your state? If authority exists through general broad authority, please answer yes and cite the authority if known.

 X Yes No

- 1a. If yes, what are the titles of the legislation and when was it enacted.

SB 324, Chapter 168 of the 1989 Session Laws "An Act to Provide for the Management of Hazardous Waste in North Carolina", particularly Section 1 (130B-3), (130B-5(a)), (130A-5(c); Section 7 (113-8.01); Section 17 (130A-294(e)); Section 22 (130A-294(k)); Section

23 (130A-294.1(p); Section 29 (143-215.1); Section 30 (143-215.108); Section 46(b) and Section 47. (See attached bill.) See also G.S. 291(a) and G.S. 130(a)-294.1(b)(1).

- 1b. Is future legislation anticipated, and when does the state plan to have it enacted?

SB 324, Section 46, gives certain powers to the legislative Environmental Review Commission with respect to the review of various hazardous waste management issues in the State. In addition, SB 324, Section 47, requires that the Division of Solid Waste Management incorporate waste reduction requirements into its current permitting process. Either of these activities could generate additional legislation.

2. Indicate which of the following waste minimization program components are specifically in use or authorized in your state:

<u>In Use</u>	<u>Authorized</u>	
<u>X</u>	_____	Technical Assistance
<u>X</u>	_____	Economic Incentives
<u>X</u>	_____	Waste exchange
<u>X</u>	_____	Research and Development
<u>X</u>	_____	Regulatory Requirements
<u>X</u>	_____	Education
<u>X</u>	_____	All programs are authorized under a broad legislative enactment
<u>X</u>	_____	Other <u>Governor's Award for Excellence in Waste Management</u> (see attached notice of 1989 awards program)

3. In your state, are there any pending statutes, or regulations relating to waste minimization that are expected to be enacted within the next two years?

_____ Yes X No

- 3a. Please briefly describe the anticipated changes and their expected impacts on waste minimization in your state.

Not Applicable

4. What administrative agency or agencies implement(s) your state's waste minimization program (list all applicable agencies and the waste minimization component they are responsible for).

<u>Agency</u>	<u>Component</u>
Department of Environment, Health, and Natural Resources	
Division of Solid Waste Mgmt.	Technical assistance, education, economic incentives, regulatory requirements
Pollution Prevention Program	Technical assistance, education, economic incentives, research and development
Governor's Waste Mgmt. Board	Education, Governor's Award for Excellence in Waste Management, annual review of waste minimization efforts in the State.
Southeast Waste Exchange (located at UNC-Charlotte)	Waste exchange

5. What is the amount of funding received from the following sources (in thousands of dollars) for your waste minimization program?

<u>\$490.9</u>	General revenues
<u>42.1</u>	Dedicated taxes (e.g., waste end, feedstock)
<u>0.0</u>	Tipping fees
<u>162.0</u>	Federal Grants
<u>0.0</u>	Other_____

6. Please estimate the number of person-years of staff supported by the state working on waste minimization.

<u>5.5</u>	State professionals on staff
<u>0.0</u>	Consultants
<u>1.0</u>	Other (Administrative)

**ATTACHMENTS TO
Form I: LEGISLATIVE AUTHORITY**

- Ratified Senate Bill 324 (Chapter 168 of the Session Laws of the 1989 Session of the General Assembly of North Carolina)
- Announcement of 1989 Governor's Award of Excellence for Outstanding Achievement in Waste Management

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION
RATIFIED BILL

CHAPTER 168
SENATE BILL 324

AN ACT TO PROVIDE FOR THE MANAGEMENT OF HAZARDOUS WASTE IN NORTH CAROLINA, TO REORGANIZE THE NORTH CAROLINA HAZARDOUS WASTE TREATMENT COMMISSION AS THE NORTH CAROLINA HAZARDOUS WASTE MANAGEMENT COMMISSION, TO AMEND VARIOUS STATUTES RELATING TO THE MANAGEMENT OF HAZARDOUS WASTE, AND TO MAKE CONFORMING CHANGES TO OTHER STATUTES.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

"Chapter 130B.

"Hazardous Waste Management Commission.

"§ 130B-1. Title; applicability.

(a) This Chapter shall be known and may be cited as the 'North Carolina Hazardous Waste Management Commission Act of 1989'.

(b) The provisions of this Chapter shall not be construed to apply to any hazardous waste facility other than hazardous waste facilities established pursuant to this Chapter.

"§ 130B-2. Definitions.

(a) Unless a different meaning is required by the context, the definitions set out in G.S. 130A-290 shall apply throughout this Chapter.

(b) Unless a different meaning is required by the context, the following definitions shall apply throughout this Chapter:

(1) 'Authorized hazardous waste facility' means a hazardous waste facility authorized by the Governor as provided in G.S. 130B-5(a) and G.S. 130B-5(b)(1).

(2) 'Board' means the Governor's Waste Management Board established pursuant to Part 27 of Article 3 of Chapter 143B of the General Statutes.

(3) 'Commission' means the North Carolina Hazardous Waste Management Commission established pursuant to this Chapter or any successor thereto.

(4) 'Department' means the Department of Human Resources.

"§ 130B-3. Legislative findings.

The General Assembly of North Carolina hereby finds that the safe management of hazardous waste, and particularly the timely establishment of adequate facilities for the treatment and disposal of hazardous waste, is one of the most urgent problems facing North Carolina. The safe management of hazardous waste is essential to protect public health and safety and the environment and to continued economic growth. Consequently, cooperation and coordination among the private sector, the

general public, the State, and local governments to assure the prevention of unnecessary waste and the establishment of a comprehensive and integrated system of adequate treatment and disposal facilities are essential.

The General Assembly of North Carolina finds that prevention, recycling, detoxification, and reduction of hazardous waste should be encouraged and promoted. These alternatives reduce the quantity and toxicity of hazardous waste requiring treatment or disposal and thus lessen the risk posed by hazardous waste to human health and the environment. When these alternatives are not technologically or economically feasible, retrievable storage may be preferable to other means of disposal until appropriate methods for recycling or detoxification of the stored wastes are found.

Hazardous waste should be treated prior to long-term storage or disposal. Disposal of the residue or ash of treated hazardous waste should occur only when its toxicity is reduced to the point that there would be no significant risk to public health and safety or to the environment in the event of leakage from the disposal facility. Hazardous waste that cannot be detoxified, stabilized, or destroyed so as to present no significant risk to the public health or safety or to the environment should be placed in retrievable storage until satisfactory treatment processes become available. Hazardous waste in retrievable storage should be detoxified as soon as it is determined that it is technologically possible to do so at a reasonable cost. Hazardous waste disposal facilities and polychlorinated biphenyl landfill facilities should be detoxified as soon as it is technologically and economically feasible to do so.

The General Assembly further finds that while the foregoing findings, which were articulated in similar form in legislation enacted in 1981 and 1984, continue to hold true, circumstances have changed since that time which require adjustments in the State's hazardous waste management policy. Specifically, the General Assembly finds that the most practical approach to hazardous waste management, including compliance with the CERCLA/SARA capacity assurance requirements, is through a regional approach. The General Assembly finds that the development of a full range of comprehensive hazardous waste treatment and disposal facilities in this and every state is neither environmentally nor economically sound. The General Assembly finds that minimization, and wherever possible elimination, of hazardous waste generation, and hazardous waste reduction, recycling, and on-site treatment are preferable to off-site treatment and disposal.

The General Assembly of North Carolina finds that local governments have an important role in promoting public health and safety, encouraging planned and orderly land use development, and in providing services to meet the needs of educational and health institutions, business, and industry. The General Assembly of North Carolina further finds that the reasonable concerns and reasonable decisions of local authorities should be considered in the siting, permitting, and operation of hazardous waste facilities.

"§ 130B-4. Purpose.

It is the purpose of this Chapter to provide for the siting, construction, and operation of hazardous waste facilities to the end that hazardous waste may be treated or disposed of in the most cost-effective manner, while protecting public health and safety and the environment. It is the purpose of this Chapter to promote a regional approach to hazardous waste management. It is the purpose of this Chapter to provide a mechanism to assess the need for hazardous waste treatment and disposal in this State and in the region, to determine the scope and capacity of hazardous waste facilities needed in this State in order that North Carolina is in a position to assume its fair share in the management of hazardous waste so that the benefits and burdens of hazardous waste management are equitably shared by all

states, and to cause to come into existence such facilities as are needed. It is the purpose of this Chapter to promote interstate agreements for the management of hazardous waste which will assure access to hazardous waste facilities on a regional basis. It is the purpose of this Chapter to encourage the development of hazardous waste facilities which are needed in this State through the efforts of private enterprise. It is the purpose of this Chapter to create a commission to assist private enterprise with the development of needed hazardous waste facilities through the performance of those tasks which private enterprise is unable to undertake or accomplish. It is the purpose of this Chapter to authorize the Commission, when authorized by the Governor, to site, design, finance, construct, operate, oversee, acquire, hold, sell, lease, or convey needed hazardous waste facilities to the extent that private enterprise fails to provide such facilities.

It is also the purpose of the General Assembly through powers granted to the Governor's Waste Management Board to limit the extent to which units of local government may regulate the management of hazardous waste by means of local acts, laws, resolutions, ordinances, rules, or regulations, including but not limited to those relating to taxes and fees, local land use including zoning and other restrictions on the use of property, building codes, fire protection, civil defense, preparation for and response to emergencies, and public health.

Furthermore, it is the purpose of this Chapter to establish an effective and comprehensive policy of negotiation and arbitration between the Commission or other applicant for a permit to operate a hazardous waste facility pursuant to this Chapter and a committee representing the affected local government(s) to assure that:

- (1) The legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and, if need be, arbitrated with the Commission in a fair manner and reduced to a written document that is legally binding; and
- (2) Environmentally sound and economically viable hazardous waste facilities will be established.

"§ 130B-5. Powers and duties of the Governor.

(a) No hazardous waste facility shall be established pursuant to this Chapter unless the Governor determines that such facility is essential and is in the best interests of the State. Such determination shall be based on a periodic review of current and projected hazardous waste generation from all sources within the State, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reductions in the generation of hazardous waste, current and projected availability and adequacy of facilities for the management of hazardous waste within and outside the State, whether and to what extent private enterprise will provide needed hazardous waste facilities, capacity assurance requirements under CERCLA/SARA, the extent to which agreements can be negotiated for the management of hazardous waste outside the State, and the extent to which the State should obligate itself to provide facilities for the management of hazardous waste generated outside the State. The Governor shall take into consideration the comprehensive waste management plan developed pursuant to G.S. 130A-294(i) in making any determination under this subsection. Such determination shall be made in writing and shall specify the functions, technologies, and design capacities of the hazardous waste facility to be established.

(b) With respect to each hazardous waste facility to be established pursuant to this Chapter the Governor shall:

- (1) Authorize the establishment of the facility as provided in subsection (a) of this section;
- (2) Approve and modify as necessary a schedule for selection of the preferred and alternate sites for the facility;

- (3) Approve and modify as necessary a schedule for the development of the facility; and
- (4) Approve the technology and design capacity of each component of the facility.

(c) The Governor is authorized to enter into interstate agreements for the management of hazardous waste. Such agreements shall provide for access to suitable facilities for management of hazardous waste; encourage reductions in the volume or quantity and toxicity of hazardous waste; distribute the costs, benefits, and obligations of hazardous waste management equitably among the party states; and provide for protection of human health and the environment in a manner that is both ecologically and economically sound. In negotiating such agreements, the Governor may request such assistance as he deems appropriate from the Attorney General, the Solid Waste Management Division of the Department, the Governor's Waste Management Board, and the Commission. The Governor shall submit any such agreement to the General Assembly for its approval, and no such agreement shall be effective until approved by the General Assembly.

"§ 130B-6. Organization and administration of the Commission.

(a) Creation. -- The North Carolina Hazardous Waste Management Commission is hereby created as follows:

- (1) The Commission shall be located within the Department of Commerce. The Commission shall exercise all of its powers independently of the Secretary of Commerce and, notwithstanding any other provision of law, shall be subject to the direction and supervision of the Secretary of Commerce only with respect to the management functions of coordinating and reporting.
- (2) The Commission shall continue until its existence shall be terminated by law. Upon the termination of the existence of the Commission, all of its rights and properties shall pass to and be vested in the State.
- (3) The Department of Commerce and the Department of Administration shall provide such technical, clerical, and other support services and personnel as the Commission may require in the performance of its functions. The Commission shall reimburse the Departments for such services from its revenues or from other funding sources.

(b) Membership. -- The Commission shall be composed of nine members. Members of the General Assembly, the Board, the Commission for Health Services, and members or employees of any State or federal agency, board, or commission which exercises regulatory authority with respect to any activity of the Commission shall be ineligible for appointment to membership on the Commission.

(c) Appointments. -- Appointments to the Commission shall be made as follows:

- (1) The Governor shall appoint five members.
- (2) The General Assembly shall appoint four members in accordance with G.S. 120-121, two upon recommendation of the Speaker of the House of Representatives and two upon recommendation of the President Pro Tempore of the Senate.
- (3) Successors shall be appointed by the appointing authority making the original appointment.
- (4) Vacancies in appointments shall be filled for the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.
- (5) Members of the Commission shall include persons with expertise in the technical, legal, financial, and other aspects of hazardous

waste management and shall represent, insofar as practicable, the diverse interests and geographic regions of the State. Not more than three members of the Commission may be persons who derive any significant portion of their income from persons who generate or transport hazardous waste or who operate hazardous waste facilities. For purposes of this subdivision, faculty members and health care professionals employed by a nonprofit institution and employees of any governmental entity shall not be regarded as deriving a significant portion of their income from a generator or transporter of hazardous waste or from a hazardous waste facility operator by reason of such employment. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall consult with one another to insure that the requirements of this subdivision are met. Each appointing authority shall require adequate disclosure of potential conflicts of interest by members of the Commission.

(d) Terms.

- (1) All appointments made by the Governor, other than initial appointments, shall be for a term of four years. The Governor shall have the power to remove, in accordance with G.S. 143B-13, any member appointed by the Governor.
- (2) All appointments made by the General Assembly, other than initial appointments, shall be for a term of two years. The General Assembly shall have the power to remove, in accordance with G.S. 143B-13, any member appointed by the General Assembly.
- (3) Terms shall expire on 30 June as provided by this subsection, except that members of the Commission shall serve until their successors are appointed and duly qualified as provided by G.S. 128-7.
- (4) Of the initial appointments made by the Governor, one term shall expire 30 June 1990, one term shall expire 30 June 1991, one term shall expire 30 June 1992, and two terms shall expire 30 June 1993. Successors shall be appointed to serve four-year terms.
- (5) Of the initial appointments made by the General Assembly on recommendation of the Speaker of the House of Representatives, one term shall expire 30 June 1991, and one term shall expire 30 June 1992. Of the initial appointments made by the General Assembly on recommendation of the President Pro Tempore of the Senate, one term shall expire 30 June 1991, and one term shall expire 30 June 1992.

(e) Officers. -- The Governor shall appoint from the members of the Commission the Chairman and Vice-Chairman of the Commission. The Executive Director of the Commission shall serve as Secretary of the Commission.

(f) Meetings. -- The Commission shall meet at least quarterly at such time and at any place within the State as the Commission may provide. The Commission shall meet upon the call of its Chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. Members of the Commission who are State employees shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are not State employees shall be reimbursed for their expenses in accordance with G.S. 138-5 except that the per diem rate as defined in G.S. 138-5(a)(1) shall be one hundred fifty dollars (\$150.00) per day of service.

(g) Executive Director and Staff. -- The Commission shall be assisted by an Executive Director and staff who shall be subject to provisions of law applicable to State employees generally, including Chapters 126 and 135 of the General Statutes, except as such provisions are modified by this Chapter.

- (1) The Commission shall appoint an Executive Director, who shall report to the Commission and serve at its pleasure. The Executive Director shall be the chief administrative officer of the Commission. The Commission shall set, subject to consultation with the Advisory Budget Commission, and pay the compensation of the Executive Director.
- (2) The Executive Director shall be assisted by such senior professional staff members as may be necessary to carry out the provisions of this Chapter, who shall be appointed by the Commission on nomination of the Executive Director. The Commission shall set, subject to consultation with the Advisory Budget Commission, and pay the compensation of the staff members it appoints.
- (3) In addition, the Executive Director shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter. The staff complement shall be established by the Commission on recommendation of the Executive Director. Such other employees shall be appointed by the Commission upon the recommendation of the Executive Director and shall be compensated by the Commission pursuant to the provisions of Chapter 126 of the General Statutes.

"§ 130B-7. Powers and duties of the Commission.

(a) To carry out the purposes of this Chapter, the Commission:

- (1) Shall (i) with the assistance of the Board and the Solid Waste Management Division of the Department, periodically review current and projected hazardous waste generation from all sources within the State, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reductions in the generation of hazardous waste, current and projected availability and adequacy of facilities for the management of hazardous waste within and outside the State, whether and to what extent private enterprise will provide needed hazardous waste facilities, and capacity assurance requirements under CERCLA/SARA, (ii) determine whether additional facilities for the management of hazardous waste may be needed in this State, and (iii) make appropriate recommendations to the Governor and the General Assembly;
- (2) Shall, at the request of the Governor and under his direction, assist with the negotiation of interstate agreements for the management of hazardous waste;
- (3) Shall determine the sequence of tasks required to be accomplished in order to site, design, finance, construct, and place into operation each authorized hazardous waste facility, determine the time likely to be required to accomplish those tasks, develop a proposed schedule for the development of each such facility and submit such schedule to the Governor for approval, and estimate the resources required to accomplish those tasks and submit such estimate to the Governor and the General Assembly;

- (4) Shall site, design, finance, construct, and operate authorized hazardous waste facilities;
- (5) Shall adopt, consistent with the rules of the Commission for Health Services and pursuant to Chapter 150B of the General Statutes, rules specifying the criteria and procedures for evaluating alternative locations for, and siting of, hazardous waste facilities;
- (6) May employ consultants and contractors to provide services including site selection, design, construction, operation, closure, and perpetual care of hazardous waste facilities, necessary, desirable, or convenient to carry out the purposes of this Chapter, and to fix and pay their compensation;
- (7) May acquire by deed, purchase, lease, contract, gift, devise, condemnation, or otherwise, any real or personal property, structures, rights-of-way, franchises, easements, and other interests in land which is necessary and convenient for the construction or operation of hazardous waste facilities, upon such terms and conditions as it deems advisable, hold, mortgage, pledge, or otherwise encumber the same, and lease, sell, convey, or otherwise dispose of the same in such manner as may be necessary or desirable to carry out the purposes of this Chapter;
- (8) May exercise the powers of a body corporate, including the power to sue and be sued, and may adopt and use a common seal and alter the same as may be deemed expedient;
- (9) May make all necessary contracts and arrangements with other officials or agencies in this State and other states, including compact commissions, for any of the purposes of this Chapter;
- (10) Shall establish an office or offices for the transaction of its business at such place or places as, in the opinion of the Commission, shall be advisable or necessary in carrying out the purposes of this Chapter;
- (11) May create and operate any divisions it deems necessary or useful;
- (12) Shall pay all costs of the formation and organization of the Commission, and incident to its administration and operation, and may pay all other costs necessary in carrying out the purposes of this Chapter;
- (13) May develop and implement schedules of fees and other charges, including user charges, penalties, and surcharges applicable to hazardous waste facilities operated by the Commission;
- (14) Shall make recommendations to the Governor as to the technology, design capacity, operational features, and post-closure requirements of authorized hazardous waste facilities, and shall implement such recommendations upon approval by the Governor;
- (15) Shall pay, or assure that permittees and operators pay, all applicable taxes and fees;
- (16) May apply for, accept, and expend loans and grants of money from any federal or State agency or any political subdivision thereof, from a compact commission, or from any other public or private source for any of the purposes authorized by this Chapter, and to give any evidences of indebtedness as may be required. Except as may hereafter be authorized by the General Assembly, no indebtedness of any kind incurred or created by the Commission shall constitute an indebtedness of the State or any of its political subdivisions, and no such indebtedness shall involve or be secured

by the faith, credit, or taxing power of the State or any of its political subdivisions. At no time may the total outstanding indebtedness of the Commission, excluding bond indebtedness, exceed a total of five hundred thousand dollars (\$500,000) without prior approval of the Governor, after receiving the advice of the Advisory Budget Commission;

- (17) May issue revenue bonds from time to time pursuant to The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, and such bonds may be sold at public or private sale pursuant to G.S. 159-123;
- (18) Shall, if it elects to issue bonds, select and retain, subject to approval of the Local Government Commission, financial consultants, underwriters, and bond attorneys to assist with the issuance of such bonds and to pay for services rendered;
- (19) May pledge revenues from hazardous waste facilities to the benefit of bondholders, or for other purposes necessary to secure financing;
- (20) Shall make such plans, surveys, studies, and investigations as may be necessary or desirable with respect to the acquisition, development, and use of real property and the design, construction, operation, closure, and long-term care of hazardous waste facilities;
- (21) Shall receive all field data, charts, maps, tracings, laboratory test data, soil and rock samples, and such other records as the Commission deems appropriate, collected or produced by its employees, contractors, or consultants pursuant to siting, operating, or closing of hazardous waste facilities. All such data and materials shall become the property of the State and shall not be disposed of except in accordance with G.S. 132-3 except that soil and rock samples may be subjected to tests and reduced in volume for purposes of storage in a manner approved by the Commission. The Commission may enter into agreements with other State agencies for the purpose of storage and preservation of data and materials;
- (22) May procure and keep in force adequate insurance or otherwise provide for the indemnification of itself and its members, officers, agents, employees, and the general public against loss or liability resulting from any act or omission by or on behalf of the Commission, and for the protection of its property, provided that procurement of insurance by the Commission shall not be deemed a waiver of any immunity from liability otherwise available under any provision of law;
- (23) May adopt bylaws for the regulation of its affairs and the conduct of its business;
- (24) May adopt rules, in accordance with the provisions of Chapter 150B of the General Statutes, with respect to any of its powers and duties; and
- (25) May do anything else necessary to carry out the purposes of this Chapter not otherwise prohibited by law.

"§ 130B-8. Commission may exempt itself from certain laws.

(a) Neither the Commission nor any contractor performing services on behalf of the Commission shall be subject to the following provisions of the General Statutes:

- (1) Article 3 of Chapter 143 (Purchases and Contracts);

- (2) Article 3C of Chapter 143 (Contracts to Obtain Consultant Services);
- (3) Article 3D of Chapter 143 (Procurement of Architectural and Engineering Services);
- (4) Article 8 of Chapter 143 (Public Contracts);
- (5) Article 8B of Chapter 143 (State Building Commission);
- (6) G.S. 143-341 (Powers and Duties of the Department of Administration);
- (7) Chapter 146 (State Lands); and
- (8) Article 2 of Chapter 150B shall not apply to contractor selection or technology selection pursuant to G.S. 130B-13 and G.S. 130B-14. Articles 3 and 3A of Chapter 150B shall not apply to final decisions regarding site selection, contractor selection or technology selection pursuant to G.S. 130B-11, 130B-13, and 130B-14.

(b) Subdivisions (1) through (7) of subsection (a) of this section shall apply only when the Commission determines that exemption from a particular provision of the General Statutes is in the best interest of the State. Each such determination by the Commission shall be set out in the official minutes of the Commission and shall state with particularity (i) the provision or provisions of the General Statutes from which the Commission exempts itself pursuant to this section, (ii) the action or activities covered by such exemption, and (iii) the justification for such exemption, taking into account the purposes of such provisions of the General Statutes and of this Chapter.

"§ 130B-9. Compliance with laws and rules relating to hazardous waste management and to protection of public health, safety, or the environment.

This Chapter shall not be construed as amending, repealing, or in any manner abridging or interfering with any law or rule relating to the management of hazardous waste or to protection of public health, safety, or the environment, nor shall the provisions of this Chapter be construed as being applicable to or in any way affecting the authority of State agencies and commissions to control hazardous waste or the discharge of environmental pollutants and wastes into the air, soil, or waters of the State. The Commission, its members, officers, employees, agents, contractors, and any person who operates any hazardous waste facility pursuant to this Chapter shall comply with all federal and State laws, including statutes, regulations, and rules, applicable to hazardous waste management and to protection of public health, safety, and the environment. The Commission shall be considered a State agency for purposes of the North Carolina Environmental Policy Act, G.S. 113A-1 et seq. To the extent that an application for a permit for a hazardous waste facility and the review thereof provides the functional equivalent of the statement required by G.S. 113A-4(2), a separate statement under G.S. 113A-4(2) is not required.

"§ 130B-10. Liability, defense, and legal representation.

(a) The provisions of Article 31 of Chapter 143 (Tort Claims Against State Departments and Agencies) shall apply to the Commission. No member, officer, or employee of the Commission, while acting within the scope of their authority, shall be subject to any personal liability or accountability by reason of any act or omission in connection with the exercise of any power or performance of any duty, whether express or implied, pursuant to this Chapter.

(b) The provisions of Article 31A of Chapter 143 of the General Statutes shall apply to current or former members, officers, agents, or employees of the Commission.

(c) The Attorney General shall be the legal representative of the Commission and shall provide legal advice and counsel to the Commission. The Commission and the Department of Justice shall enter into an appropriate contract or make other

mutually satisfactory arrangements for legal services, including reimbursement of the Department of Justice for any costs incurred other than routine or minor costs. The Commission may employ or retain other legal counsel with the prior approval of the Attorney General.

"§ 130B-11. Site selection.

(a) The Commission shall actively seek communities interested in hosting hazardous waste facilities. The Commission shall give first priority to the evaluation of potential sites located in communities interested in hosting a hazardous waste facility. Potential sites shall meet all applicable hazardous waste facility permit requirements and all minimum technical and other requirements established by the Commission for facility siting. However, with respect to any potential site located in a county interested in volunteering to host a facility, the Commission may waive any site selection criteria only if such criteria relate solely to preferences in site location which are discretionary with the Commission, if such waiver would not have a significant impact on the economic viability of the facility, and if such waiver would not adversely affect public health or safety or the environment.

(b) The Commission shall develop procedures and criteria for selecting sites for hazardous waste facilities whenever it appears such facilities are needed. Site selection procedures and criteria shall be specifically adapted to take into account the technologies and design capacities of each authorized hazardous waste facility. Site selection procedures and criteria shall be developed with, and provide for, public participation; shall be incorporated into rules; shall include a written justification for each criterion; shall be consistent with all applicable federal and State law, including statutes, regulations and rules; shall be developed and revised in light of the best available scientific data; and shall be based on consideration of at least the following factors:

- (1) Hydrological and geological factors, including flood plains, depth to water table, groundwater travel time, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines, and climate;
- (2) Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds;
- (3) Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites;
- (4) Local land uses;
- (5) Transportation factors, including proximity to waste generators, route safety, and method of transportation;
- (6) Aesthetic factors, including the visibility, appearance, and noise level of the facility;
- (7) Availability and reliability of public utilities; and
- (8) Availability of emergency response personnel and equipment.

(c) In addition to any other site selection criteria adopted by the Commission, the following criteria shall apply to the selection of sites for hazardous waste treatment facilities:

- (1) A site shall be accessible to the Interstate Highway System by a highway having not less than two travel lanes in each direction (four-lane highway).
- (2) In evaluating potential sites, the Commission shall give preference to those sites which minimize the travel distance between the site and the Interstate Highway System.

- (3) A site shall not be located in or on wetlands, existing State or national parks or forests, existing historical sites, and existing wildlife refuges.
- (4) A site shall not be located in or on land on which a fish hatchery is located, Indian reservations, or federal military reservations.

(c1) With respect to any potential site located in a county interested in volunteering to host a facility, the site selection criteria set out in subdivisions (1) and (2) of subsection (c) of this section are discretionary with the Commission in that they may be waived as provided in subsection (a) of this section.

(d) The Commission shall develop a proposed schedule for evaluation and selection of the preferred and alternate sites for each authorized hazardous waste facility. The proposed site selection schedule shall provide for public education regarding the proposed facility and for public involvement in the site selection process. The Commission shall submit proposed site selection schedules to the Governor for approval.

(e) The Commission shall select suitable sites for evaluation and shall select the preferred site for each hazardous waste facility in accordance with a site selection schedule adopted by the Commission. Upon selection of a preferred site the Commission shall begin proceedings to purchase or if necessary, condemn property for the site under the State's power of eminent domain. The procedure for condemnation by the Commission shall be as set out in Article 9 of Chapter 136 of the General Statutes, except that the Commission shall have the same rights, powers, duties, and responsibilities as are set out for the Department of Transportation. The General Assembly finds that the protection of public health, safety, and welfare, including protection of the environment, requires that facilities for the management of hazardous waste be established. The acquisition of real property for the management of hazardous waste is therefore declared to be for the use and benefit of the public, and to serve a public purpose. Fee simple title to real property shall be vested in the Commission. The Commission may substitute an alternate site for the preferred site in the event that it is determined that any permit or license necessary for the construction or operation of the proposed facility cannot be obtained if the facility is located at the preferred site.

(f) The Commission may request information and assistance from any State agency which has data or expertise which would assist the Commission in the identification of sites for hazardous waste facilities, provided that no agency which has authority to issue any license or permit required for the construction or operation of the facility shall participate in the site selection process in any way that would result in an actual or apparent conflict of interest.

(g) The Commission may in its discretion contract for the services of independent, qualified consultants to assist in the development and implementation of procedures and criteria for site screening and selection. Such consultants shall be eligible to subsequently design, construct, or operate a hazardous waste facility on behalf of the Commission.

"§ 130B-12. Annexation prohibited.

From the time a site is selected pursuant to G.S. 130B-11(d) or from the time a county, by resolution of the board of county commissioners, proposes a specific site or area for a hazardous waste facility, notwithstanding the provisions of Article 4A of Chapter 160A, no city may annex the site or area except upon a valid petition signed by the Commission. If a previously selected site or area is abandoned, then it shall once again be subject to annexation in accordance with Article 4A of Chapter 160A.

"§ 130B-13. Facility construction and operation.

(a) The Commission shall actively seek qualified private contractors to construct and operate authorized hazardous waste facilities. A contractor may both construct and operate a facility.

(b) The Commission shall select and employ qualified contractors to construct and operate each hazardous waste facility, or shall construct the facility itself and/or designate itself as the operator.

(c) The Commission shall enter into and enforce an agreement with each contractor for each hazardous waste facility which shall incorporate such terms and conditions as the Commission determines are necessary and consistent with the purposes of this Chapter. Such agreement shall contain adequate assurances of contractor performance through the use of bonds, insurance, and shall require substantial compliance with all applicable federal and State law, including statutes, regulations, and rules. The Commission shall provide for an independent annual audit of the collection of all fees and other charges.

(d) The Commission may, in its discretion, seek the advice and assistance of other State agencies or private consultants in selecting contractors.

(e) The Commission may suspend or terminate its agreement with any contractor for a hazardous waste facility for any breach thereof. In the event of suspension or termination of an agreement, the Commission may select an interim or replacement contractor, or may operate the facility itself, to ensure that the facility is properly maintained and operated in compliance with all applicable federal and State laws, including statutes, rules, and regulations.

(f) The Commission shall periodically review and amend its agreement with the operating contractor of each hazardous waste facility to reflect necessary changes in fees or other charges, new environmental requirements, additional bonding or insurance requirements, or other alterations deemed necessary or appropriate.

"§ 130B-14. Technology, design capacity, and license application.

(a) The Commission shall, with the assistance of other State agencies or private consultants it deems appropriate, recommend to the Governor the technology and design capacity of each component of each hazardous waste facility to be operated pursuant to this Chapter. Upon approval of technologies and design capacities by the Governor, the Commission shall prepare, or direct the operator to prepare subject to approval by the Commission, detailed designs and specifications, operating procedures, safety plans, closure plans and other plans necessary for hazardous waste facilities operated pursuant to this Chapter.

(b) Each operator of a hazardous waste facility established pursuant to this Chapter shall, under the supervision of the Commission, prepare and submit applications for all permits and licenses required for the facility to the appropriate regulatory agencies.

(c) The Department is designated as the lead State agency for overall coordination of the review of the application process and ensuring that decisions by the affected State agencies are rendered in a timely manner.

"§ 130B-15. Facility closure; post-closure control.

(a) The Commission shall enter into an agreement with the operator of each hazardous waste facility established under this Chapter for the safe and proper closure of the facility.

(b) The Commission shall, with the assistance of other State agencies and private consultants it deems necessary, approve the operator's site closure plan. The approval of the Commission under this section is in addition to the approval of the Department in accordance with the rules and regulations of the Commission for Health Services. The Commission may employ an independent contractor to do anything necessary to properly close a hazardous waste facility and to ensure that the site is stabilized.

(c) The Commission shall provide for such post-closure physical surveillance and environmental monitoring of each hazardous waste facility or facility site operated pursuant to this Chapter as may be required by the Department or by agreement with the host community.

(d) The Commission shall reimburse, or assure that the operator reimburses, appropriate State agencies for the costs of physical surveillance and environmental monitoring or other post-closure services rendered.

(e) The Commission shall provide through its own personnel, private contractors, cooperative agreement with other governmental agencies, or any combination thereof, any active maintenance or remedial actions that may be required. Payment for the cost thereof shall be made from the Long-Term Care Fund established pursuant to G.S. 130B-16.

"§ 130B-16. Fees.

(a) It is the intent of the General Assembly that all costs associated with the development of hazardous waste facilities pursuant to this Chapter be borne by the waste generators served by such facilities. The General Assembly recognizes that the extent to which costs can be passed to hazardous waste generators is determined in part by market forces, since hazardous waste facilities must operate in a competitive market. In establishing and revising schedules of fees, the Commission shall seek to secure the greatest possible revenue for the State and units of local government consistent with environmentally safe and economically sound facility operation. In establishing and revising schedules of fees, the Commission may seek to encourage reductions in the volume or quantity and toxicity of hazardous waste. For facilities which it operates, the Commission shall establish, and revise as necessary, schedules of fees and other charges, including user charges, penalties, and surcharges. For facilities which are operated by private enterprise pursuant to this Chapter, the Commission shall establish, and revise as necessary, schedules of franchise fees. The terms and conditions under which facilities are operated by private enterprise pursuant to this Chapter shall be governed by appropriate contracts between the Commission and the private operators. Such contracts shall provide for the payment of franchise fees and for the periodic adjustment thereof.

(b) In establishing and revising schedules of fees the Commission shall consider and shall seek to recover to the maximum extent possible, the following costs:

- (1) Establishment and operation of the Commission;
- (2) Reimbursement of State agencies for costs incurred on behalf of the Commission or in support of its activities, including the costs of any services performed pursuant to G.S. 130B-15;
- (3) Establishment and administration of the Long-Term Care Fund under G.S. 130B-17;
- (4) Repayment to the State with interest at rates which are equal to those set by the State Treasurer with respect to savings certificates and certificates of deposit, at the varying rates applicable for the period between expenditures and repayment, of all funds expended from the General Fund to develop hazardous waste facilities pursuant to this Chapter;
- (5) Funding of the State's share of the costs associated with any interstate agreement or compact for hazardous waste management to which the State may become a party;
- (6) Compensation of contractors and consultants employed by the Commission;
- (7) Other expenses incurred by the Commission, the State or its agencies in furtherance of the purposes of this Chapter; and

- (8) Compensation of any property owner for any loss in value of property directly resulting from the siting or operation of a hazardous waste facility.

(c) In the event that revenues exceed all costs set out in subsection (b) of this section and all other costs and charges for which the Commission is liable, such excess funds shall be paid into the General Fund. It is the intent of the General Assembly that such excess funds be appropriated for the following purposes:

- (1) Funding of a portion of the State's share of the costs for remediation of inactive hazardous sites under Part 3 of Article 9 of Chapter 130A of the General Statutes and under CERCLA/SARA; and
- (2) Funding of a portion of the cost of the Pollution Prevention Pays Program, the waste minimization program administered by the Technical Assistance and Support Unit of the Solid Waste Management Division of the Department, other programs which foster multimedia waste prevention, reduction, reuse, and recycling, and programs which provide assistance to small quantity generators.

(d) The Commission shall prepare, on a quarterly basis, a detailed financial statement showing its current fee schedules, income from all sources, indebtedness, and expenses for the quarter and fiscal year to date. This statement, and any other information regarding the operation or activities of the Commission which may be requested, shall be submitted to the chairmen of the House and Senate committees on Finance and Appropriations, the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, the Research Division, and the Fiscal Research Division of the General Assembly.

(e) An operator of a hazardous waste facility may serve as the collection agent for the Commission, in which case, funds collected by the operator shall be transferred to the Commission on a timely basis, and deposited with the State Treasurer, as directed by the Commission.

(f) All Commission accounts shall be audited pursuant to the provisions of Article 5A of Chapter 147 of the General Statutes.

"§ 130B-17. Long-Term Care Fund.

(a) For hazardous waste facilities owned or operated by the Commission, there is hereby established under the control and direction of the Commission a nonreverting Long-Term Care Fund, to be administered by the State Treasurer, which may be used for:

- (1) Administration of the Fund;
- (2) Emergency response and decontamination at facilities operated by the Commission; or
- (3) Post-closure physical surveillance, environmental monitoring, maintenance, care, custody, and remedial action at hazardous waste facility site(s) operated by the Commission.

(b) The Long-Term Care Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) In addition to any money that may be appropriated or otherwise made available to it, the Fund may be maintained by fees and other charges including user charges, penalties, surcharges, or other money paid to or recovered by or on behalf of the Commission under the provisions of this Chapter. Fees and other charges shall at all times be sufficient to build and maintain the Fund balance at a level determined by the Commission, with the concurrence of the Commission for Health Services, to be adequate for the purposes stated in this section.

(d) The establishment of this Fund shall in no way be construed to relieve or reduce the liability of any facility operator, contractor, or other person for damages resulting from the operation of a hazardous waste facility.

"§ 130B-18. Taxes; other compensation to the State and local governments.

(a) Hazardous waste facilities or portions of such facilities which are owned by the Commission shall be exempt from ad valorem property taxes; provided however, that the Commission shall, in lieu of such property taxes pay to any governmental body authorized to levy such property taxes the amount that would be assessed as taxes on real and personal property of such facilities if such facilities were otherwise subject to valuation and assessment by local taxing unit. In addition, the Commission shall reimburse the county, city, or other local taxing unit for the loss of ad valorem property tax revenues from any property located on any parcel or tract that abuts the property upon which such facilities are located and which is shown to have diminished in value as the direct result of the siting and operation of such facilities. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the case of taxes on other property. Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law. Administrative buildings, associated land, and other real and personal property owned by the Commission and not located at a hazardous waste facility shall be exempt from property taxes as provided in G.S. 105-278.1.

(b) Except as authorized in G.S. 153A-152.1, G.S. 160A-211.1 and this Chapter, no county, city, or other local taxing unit may impose any tax, fee, assessment, or levy of any kind or description upon the Commission or the operator of a hazardous waste facility or any portion thereof which is owned by the Commission. Any hazardous waste facility or portion thereof which is separately taxable and which is not owned by the Commission may be taxed on the same basis as any other property. To the extent that any law, ordinance, or portion thereof is in conflict with this subsection, such law, ordinance, or portion thereof is hereby invalidated.

(c) The Commission shall collect and deposit with the State Treasurer, on behalf of local governments where hazardous waste facilities are located pursuant to this Chapter, a tax on the gross receipts of each such facility in the amount of two and one-half percent (2.5%) of the gross receipts of such facility per annum, to be distributed to local governments as the General Assembly shall provide. The Commission shall develop and recommend to the General Assembly a proposed revenue package and revenue distribution formula which the General Assembly shall consider in providing for distribution of this tax and such other revenues as may be collected.

"§ 130B-19. Site designation review committees.

(a) The board of commissioners of each county in which there is located a site identified for evaluation pursuant to G.S. 130B-11(d) may appoint a site designation review committee for a hazardous waste facility. The committee shall consist of 11 members representing, insofar as possible, local government, environmental, health, engineering, business and industry, academic, public interest, and emergency response groups. The committee shall elect a chairman, vice-chairman, and a secretary. Vacancies shall be filled by the county board of commissioners using the same criteria employed in the original appointment. Members shall be reimbursed by the committee for reasonable and necessary expenses incurred in connection with their duties. The county shall provide the committee with necessary support staff.

(b) The committee shall advise the county board of commissioners on matters relating to the siting of a hazardous waste facility.

(c) All site designation review committees shall terminate upon the designation of the preferred site by the Commission.

(d) Subject to appropriation by the General Assembly, the Board may provide technical assistance grants of up to fifty thousand dollars (\$50,000) to each site designation review committee. In the event that a proposed site is located in more than one county, or that one or more site designation review committees are appointed pursuant to subsection (h) of this section, the Board may provide technical grants to a site designation review committee in each county, provided that the maximum amount the Board may grant to all site designation review committees for a particular site is seventy-five thousand dollars (\$75,000).

(e) Grant funds may be used by the committee to:

- (1) Collect information on site suitability;
- (2) Monitor the site evaluation and site selection process;
- (3) Conduct socioeconomic and environmental assessments of the proposed facility;
- (4) Participate in any meetings, hearings, or other events related to the site selection process;
- (5) Study the cost and benefits of the facility being located at the site under consideration; and
- (6) Reimburse members for their expenses as provided in subsection (a) of this section.

(f) Any reviews or studies funded with grant monies shall be completed prior to the date set by the Commission for nomination of a preferred site.

(g) The Commission shall consider in its decision-making process recommendations or other information of the site designation review committee as may be transmitted to the Commission by the county board of commissioners.

(h) A site designation review committee may also be appointed as provided by this section by the board of commissioners of any county whenever the board of commissioners determines that the county may be affected by the siting of a hazardous waste facility in another county.

(i) No grant funds shall be used for litigation expenses. Each site designation review committee shall properly account for all funds. Unexpended funds shall revert to the Board, and at the end of the biennium shall revert to the General Fund.

"§ 130B-20. Preferred site local advisory committees.

(a) Upon designation of a preferred site for a hazardous waste facility pursuant to G.S. 130B-11(d) the board of commissioners of each county within whose jurisdiction the site is located may appoint a preferred site local advisory committee. The committee shall consist of 11 members representing insofar as possible local government, environmental, health, engineering, business and industry, academic, public interest, and emergency response groups. The committee shall elect a chairman, vice-chairman, and a secretary. Vacancies shall be filled by the county board of commissioners using the same criteria employed in the original appointment. Members shall be reimbursed by the committee for reasonable and necessary expenses incurred in connection with their duties. The county shall provide the committee with necessary support staff.

(b) The preferred site local advisory committee may:

- (1) Study the costs and benefits associated with the proposed facility;
- (2) Review all permit and license applications and related documents concerning the proposed facility;
- (3) Hire program, technical, and legal consultants to assist in the review process;
- (4) Collect and review information required for issuance of a special or conditional use zoning permit;
- (5) Assess the potential local environmental and socioeconomic impacts of the proposed facility;

- (6) Promote public education, information, and participation in the permitting process;
- (7) Develop and propose agreements between the Commission, the hazardous waste facility operator, local governments, and other persons;
- (8) Develop and present recommendations concerning permit conditions, operational requirements, compensation, and incentives related to the proposed facility;
- (9) Hire a mediator to facilitate negotiations among the Commission, the hazardous waste facility operator, local governments, and other persons; and
- (10) Reimburse committee members for reasonable and necessary expenses.

(c) An applicant for a permit to operate a hazardous waste facility pursuant to this Chapter shall pay a one-time local application fee of one hundred thousand dollars (\$100,000) to the Board. The Board shall distribute not less than sixty-five thousand dollars (\$65,000) of the local application fee to the county or counties where the site of the proposed facility is located. If the site lies in more than one county, the local application fee will be distributed to the counties in which the site is located in equal amounts. If the board of commissioners appoints a preferred site local advisory committee the local application fee shall be used to support the work of the committee.

(d) A preferred site local advisory committee may also be appointed as provided by this section by the board of commissioners of any county whenever the board of commissioners determines that the county may be affected by the siting of a hazardous waste facility in another county. If a preferred site local advisory committee is appointed pursuant to this subsection, the committee may apply to the Board for a portion of the local application fee to support the work of the committee. The Board may allocate up to twenty-five thousand dollars (\$25,000) to each preferred site local advisory committee appointed pursuant to this subsection, provided that the maximum amount that the Board may allocate to all preferred site local advisory committees appointed pursuant to this subsection for a particular site is thirty-five thousand dollars (\$35,000). The Board shall base allocations under this subsection on the likelihood that the proposed hazardous waste facility will have a significant effect in the county, taking distance to the facility and other factors into account. Decisions of the Board regarding allocations under this subsection are final. Any portion of the local application fee which is not allocated by the Board under this subsection shall be distributed by the Board to the county or counties where the site of the proposed facility is located as provided in subsection (c) of this section.

(e) Each preferred site local advisory committee shall properly account for all funds. Any unexpended funds shall revert to the general fund of the county which appointed the preferred site local advisory committee. No portion of the local application fee shall be used to finance litigation expenses.

"§ 130B-21. Negotiation, mediation, and arbitration.

(a) Any local government in the county or counties where a hazardous waste facility is proposed to be located pursuant to this Chapter may negotiate with the Commission with respect to any issue relating to the facility except:

- (1) The need for the facility;
- (2) Any proposal to reduce the duties of the Commission under this Chapter or under any permit or license issued for the facility;
- (3) Any proposal to reduce the duties of the Commission for Health Services or the Department, or to make less stringent any rule of the Commission for Health Services;

- (4) Any proposal to reduce the duties of the Board;
- (5) Any act or decision of the Governor pursuant to G.S. 130B-5; or
- (6) Any decision of the Commission regarding site selection, contractor selection, or technology pursuant to G.S. 130B-11, 130B-13, and 130B-14.

(b) The Commission shall negotiate in good faith with any local government in the county or counties where a hazardous waste facility is proposed to be located. A local government may designate itself or any other person to negotiate on its behalf.

(c) Negotiations may be conducted with the assistance of a mediator if mediation is requested by both the Commission and a local government. The function of the mediator is to encourage a voluntary settlement of unresolved negotiable issues. The Board shall provide the Commission and the local government with the names and qualifications of persons willing to serve as mediators. If the Commission and a local government cannot agree on the selection of a mediator, the Commission and the local government may request the Board to appoint a mediator.

(d) If the Commission and a local government have not reached agreement on all issues by negotiation within six months after selection of the preferred site pursuant to G.S. 130B-11(d), the following issues may be submitted to arbitration pursuant to the provisions of Article 45A of Chapter 1 of the General Statutes (Uniform Arbitration Act):

- (1) Compensation to any local government for substantial economic impacts which are a direct result of the siting and operation of a hazardous waste facility and for which adequate compensation is not otherwise provided;
- (2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities under this section;
- (3) Screening, fencing, and other matters related to the appearance of a facility;
- (4) Operational concerns other than design capacity and regulatory issues;
- (5) Traffic flows and patterns which result from the operation of a facility;
- (6) Uses of the site where a facility is located after the facility is closed;
- (7) The applicability or nonapplicability of any local ordinance;
- (8) Emergency response capabilities, including training and resources;
- (9) Access to facility records and monitoring data; and
- (10) Ongoing health surveys of persons living in the area around the facility.

(e) In addition to those issues set out in subsection (d), upon petition to the Board by a local government in the county or counties where a hazardous waste facility is proposed to be located, any other issue may be submitted for arbitration except:

- (1) Those issues excluded from negotiation under subsection (a) of this section;
- (2) Any issue relating to the imposition by the General Assembly of a tax, or the imposition of a fee not authorized by this Chapter; and
- (3) Any issue requiring an appropriation by the General Assembly.

(f) The Board shall serve as the arbitrator of any issue submitted for arbitration under this section.

"§ 130B-22. Inter-Agency Committee on Hazardous Waste.

(a) To assist the Commission in the performance of its responsibilities under this Chapter and to advise the General Assembly, there is created the Inter-Agency

Committee on Hazardous Waste (herein called the 'Committee'). The members shall be: the Chairman of the Board; the Chairman of the Board's Technical Committee on Hazardous Waste; the Director of the Solid Waste Management Division of the Department or his designee; the Chief of the Hazardous Waste Management Section of the Solid Waste Management Division or his designee; one additional representative of the Solid Waste Management Division with expertise in CERCLA/SARA capacity assurance requirements appointed by the Director of the Division, the Chairman of the Commission or his designee; one additional member of the Commission appointed by the Chairman of the Commission; the Executive Director of the Commission; the Director of the Pollution Prevention Pays Program; four representatives of the Department of Natural Resources and Community Development with expertise in geology, groundwater, water quality, and air quality; the representative of the Attorney General's office who provides legal services to the Commission; and a representative of the Attorney General's office who provides legal services to the Solid Waste Management Division designated by the Director of the Solid Waste Management Division with the approval of the Attorney General. The Chairman of the Board shall serve as the Chairman of the Committee, and the Board shall provide professional and clerical support to the Committee.

(b) The purpose of the Committee is to share information and coordinate efforts in the siting, design, financing, permitting, construction, and operation of hazardous waste facilities.

(c) The Committee shall report to the Governor, the General Assembly, and the Research and Fiscal Research Divisions of the General Assembly from time to time regarding any changes in the present law it may deem appropriate to expedite siting, design, financing, permitting, construction, and operation of hazardous waste facilities. Such reports shall not be subject to review by the departments, agencies, boards, or commissions from whose membership the Committee is drawn. Notwithstanding any rule or resolution to the contrary, proposed legislation to implement any recommendation made by the Committee may be introduced and considered during any session of the General Assembly.

(d) Consistent with existing law, each department, agency, board, or commission from whose membership the Committee is drawn shall be responsible for any expenses incident to the participation of its members in the work of the Committee, including per diem, travel, and subsistence, from funds otherwise appropriated to it.

"§ 130B-23. Volunteer host counties.

(a) A county which wishes to volunteer to host a hazardous waste facility to be operated pursuant to this Chapter may propose to do so by the adoption of a resolution by a majority vote of the board of commissioners. The Commission shall determine the adequacy of any proposal to voluntarily host a hazardous waste facility and must accept such proposal before any funds which may be appropriated for the benefit of volunteer host counties may be disbursed. Once a proposal to volunteer to host a hazardous waste facility has been accepted by the Commission, the resolution making such proposal may not be rescinded by the board of commissioners.

(b) A board of commissioners shall hold a minimum of two public hearings regarding any proposal to volunteer to host a hazardous waste facility pursuant to this Chapter. The last such hearing shall be held not less than 30 days following the first such hearing. Notice of each hearing shall be given as provided in G.S. 143-318.12(b)(2)."

Sec. 2. (a) Part 11A of Article 10 of Chapter 143B of the General Statutes is repealed.

(b) The North Carolina Hazardous Waste Treatment Commission as established by Part 11A of Article 10 of Chapter 143B of the General Statutes is reorganized and continued as the North Carolina Hazardous Waste Management

Commission. The Hazardous Waste Treatment Commission's records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting and purchasing, are transferred to the Hazardous Waste Management Commission established pursuant to this act. The rights and obligations of any contract to which the Hazardous Waste Treatment Commission is a party are transferred to the Hazardous Waste Management Commission.

(c) Initial appointments pursuant to G.S. 130B-6(d) shall be made within 45 days of the date this act becomes effective. The North Carolina Hazardous Waste Management Commission shall begin operation upon the appointment of all of its members, provided that the Commission shall begin operation 45 days after the date this act becomes effective, notwithstanding the failure of any of the appointing authorities to make appointments.

(d) Current and former members of the Hazardous Waste Treatment Commission may be appointed as members of the Hazardous Waste Management Commission. In making initial appointments to the Hazardous Waste Management Commission, the appointing authorities shall consider the experience gained by those persons who are members of the Hazardous Waste Treatment Commission at the time this act becomes effective in light of the requirements of G.S. 130B-6(c)(5) regarding expertise in hazardous waste management. Persons appointed as members of the Hazardous Waste Management Commission who have served on the Hazardous Waste Treatment Commission shall be eligible to serve and to be reappointed notwithstanding any limitation on length of service in effect prior to repeal of G.S. 143B-470.3.

(e) Subsections (a) and (b) of this section shall be effective on the day the North Carolina Hazardous Waste Management Commission begins operation.

Sec. 3. G.S. 20-111(c)(9) reads as rewritten:

"(9) Fully enclosed motor vehicles designed specifically for collecting, compacting and hauling garbage from residences or from garbage dumpsters shall, when operating for those purposes, be exempt from the light-traffic road limitation as provided by G.S. 20-118(b)(4). This exemption shall not apply to vehicles transporting hazardous waste as defined in G.S. ~~130A-290(4)~~, 130A-290, spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5(9a), or radioactive material as defined in G.S. 104E-5(14)."

Sec. 4. G.S. 20-111(c)(10) reads as rewritten:

"(10) Fully enclosed motor vehicles designed specifically for collecting, compacting and hauling garbage from residences, or from garbage dumpsters shall, when operating for those purposes, be allowed a single axle weight not to exceed 23,500 pounds on the steering axle on vehicles equipped with a boom, or on the rear axle on vehicles loaded from the rear. This exemption shall not apply to vehicles transporting hazardous waste as defined in G.S. ~~130A-290(4)~~, 130A-290, spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5(9a), or radioactive material as defined in G.S. 104E-5(14)."

Sec. 5. G.S. 105-164.14(c) reads as rewritten:

"(c) Upon receipt of timely applications for refund, the Secretary of Revenue shall make refunds annually to all governmental entities, as hereinafter defined, of sales and use tax paid under this Article, except under G.S. 105-164.4(4a) and G.S. 105-164.4(c), by said governmental entities on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by such governmental entities on building materials, supplies, fixtures and equipment which shall become a part of

or annexed to any building or structure being erected, altered or repaired which is owned or leased by such governmental entities shall be construed as sales or use tax liability incurred on direct purchases by such governmental entities, and such entities may obtain refunds of such taxes indirectly paid. The refund provisions contained in this subsection shall not apply to any governmental entities not specifically named herein. In order to receive the refund herein provided for, governmental entities shall file a written request for said refund within six months of the close of the fiscal year of the governmental entities seeking said refund, and such request for refund shall be substantiated by such records, receipts and information as the Secretary may require. No refunds shall be made on applications not filed within the time allowed by this section and in such manner as the Secretary may otherwise require. The term 'governmental entities,' for the purposes of this subsection, shall mean all counties, incorporated cities and towns, water and sewer authorities created and existing under the provisions of Chapter 162A of the General Statutes, lake authorities created by a board of county commissioners pursuant to an act of the General Assembly, sanitary districts, regional councils of governments created pursuant to G.S. 160A-470, area mental health, mental retardation, and substance abuse authorities (other than single-county area authorities) established pursuant to Article 4 of Chapter 122C of the General Statutes, district health departments, regional planning and economic development commissions created pursuant to G.S. 158-14, regional economic development commissions created pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S. 153A-391, metropolitan sewerage districts and metropolitan water districts in this State, the North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes, and the North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes."

Sec. 6. G.S. 105-275 is amended by adding a new subsection to read:

"(38) Real and personal property belonging to the North Carolina Hazardous Waste Management Commission created under Chapter 130B of the General Statutes."

Sec. 7. Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-8.01. Pollution Prevention Pays Programs.

There is established within the Department a non-regulatory technical assistance program to be known as the Pollution Prevention Pays Program. The purpose of this program is to encourage voluntary waste and pollution reduction efforts through research and by providing information, technical assistance, and matching grants to businesses and industries interested in establishing or enhancing activities to prevent, reduce, or recycle waste. The Pollution Prevention Pays Program shall coordinate its activities with the appropriate regulatory agencies and with the Governor's Waste Management Board."

Sec. 8. G.S. 120-123 is amended by adding a new subsection to read:

"(56) The North Carolina Hazardous Waste Management Commission, as established by G.S. 130B-6."

Sec. 9. G.S. 126-5(c1) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

- (1) Constitutional officers of the State.
- (2) Officers and employees of the Judicial Department.
- (3) Officers and employees of the General Assembly.
- (4) Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.

- (5) Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
- (6) Employees of the Office of the Governor that the Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
- (7) Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
- (8) Instructional and research staff, physicians, and dentists of The University of North Carolina.
- (9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-1(5) [116-11(5)], and 116-14.
- (10) Employees of community colleges whose salaries are fixed in accordance with the provisions of G.S. 115D-5 and G.S. 115D-20.
- (11) North Carolina School of Science and Mathematics' employees whose salaries are fixed in accordance with the provisions of G.S. 116-235(c)(1) and G.S. 116-235(c)(2).
- (12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).
- (13) Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2)."

Sec. 10. G.S. 130-166.21D is repealed.

Sec. 11. G.S. 130A-290 reads as rewritten:

"§ 130A-290. Definitions.

The following definitions shall apply throughout this Article:

- ~~(1) 'Comprehensive hazardous waste treatment facility' means a facility designated as such by the Governor's Waste Management Board, meeting the following criteria:~~
 - ~~a. It is a commercial facility that accepts hazardous waste from the general public for treatment;~~
 - ~~b. It has the capacity and capability to treat and dispose of hazardous waste on at least an intrastate regional basis; and~~
 - ~~c. Its location will substantially facilitate treatment of hazardous waste for the State of North Carolina.~~
- ~~(1a) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.~~
- (1) 'CERCLA/SARA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601 et seq., as amended, and the Superfund Amendments

- and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended.
- (1b) (2) 'Commercial' when applied to a hazardous waste facility, means a hazardous waste facility that accepts hazardous waste from the general public or from another person for a fee.
- ~~(2) 'Federal act' means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended.~~
- (3) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- (3) (4) 'Garbage' means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
- (4) (5) 'Hazardous waste' means a solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:
- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (5) (6) 'Hazardous waste facility' means a facility for the ~~storage~~, collection, storage, processing, treatment, recycling, ~~recovery~~ recovery, or disposal of hazardous waste.
- (6) (7) 'Hazardous waste generation' means the act or process of producing hazardous waste.
- (7) (8) 'Hazardous waste ~~landfill~~ disposal facility' means any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules adopted under this Article.
- ~~(7a) 'Hazardous waste long-term storage facility' means a facility as defined in G.S. 143B-470.2(5).~~
- ~~(7b) 'Hazardous waste management program' means the program and activities within the Department pursuant to Part 2 of this Article, for hazardous waste management.~~
- (8) (9) 'Hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.
- ~~(8a) 'Hazardous waste treatment facility' means a facility as defined in G.S. 143B-470.2(3).~~
- (10) 'Hazardous waste management program' means the program and activities within the Department pursuant to Part 2 of this Article, for hazardous waste management.
- (8b) (11) 'Landfill' means a disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an

- injection well, a hazardous waste long-term storage facility or a surface storage facility.
- ~~(8e)~~ ~~'Long term retrievable storage' means storage in closed containers in facilities (either above or below ground) with (i) adequate lights, (ii) impervious cement floors, (iii) strong visible shelves or platforms, (iv) passageways to allow inspection at any time, (v) adequate ventilation if underground or in closed buildings, (vi) protection from the weather, (vii) accessible to monitoring with signs on both individual containers and sections of storage facilities, and (viii) adequate safety and security precautions for facility personnel, inspectors and invited or permitted members of the community.~~
- (9) (12) 'Manifest' means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.
- (10) (13) 'Natural resources' means all materials which have useful physical or chemical properties which exist, unused, in nature.
- (11) (14) 'Open dump' means a solid waste disposal site which is not a sanitary landfill.
- (12) (15) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.
- (16) 'RCRA' means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq., as amended.
- (13) (17) 'Recycling' means the process by which recovered resources are transformed into new products so that the original products lose their identity.
- (14) (18) 'Refuse' means all nonputrescible waste.
- (15) (19) 'Resource recovery' means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing the solid waste for recycling.
- (15a) (20) 'Reuse' means a process by which resources are reused or rendered usable.
- (16) (21) 'Sanitary landfill' means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article.
- (16a) (22) 'Septage' means solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic origin which is removed from a septic tank system.
- (16b) (23) 'Septage management firm' means a person engaged in the business of pumping, transporting, storing, treating or disposing septage. The term does not include public or community sanitary sewage systems that treat or dispose septage.

- (17) (24) 'Sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.
- (18) (25) 'Solid waste' means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:
- a. Fecal waste from fowls and animals other than humans;
 - b. Solid or dissolved material in:
 1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;
 2. Irrigation return flows; and
 3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the ~~Federal Water Pollution Control Act~~, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under ~~the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, RCRA~~ shall also be a solid waste for the purposes of this Article;
 - c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under ~~the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, RCRA~~ shall also be a solid waste for the purposes of this Article;
 - d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
 - e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B- 290). However, any specific mining waste

that meets the criteria for hazardous waste under the ~~Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, RCRA~~ shall also be a solid waste for the purposes of this Article.

- (19) (26) 'Solid waste disposal site' means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.
- (20) (27) 'Solid waste generation' means the act or process of producing solid waste.
- (21) (28) 'Solid waste management' means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
- (22) (29) 'Solid waste management facility' means land, personnel and equipment used in the management of solid waste.
- (23) (30) 'Storage' means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.
- (24) (31) 'Treatment' means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any ~~solid hazardous~~ waste so as to neutralize ~~the~~ such waste or so as to render ~~the~~ such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. ~~The term 'Treatment'~~ includes any activity or processing designed to change the physical form or chemical composition of ~~solid hazardous~~ waste so as to render it nonhazardous.
- (25) (32) 'Unit of local government' means a county, city, town or incorporated village."

Sec. 12. G.S. 130A-292 reads as rewritten:

"§ 130A-292. Conveyance of land used for commercial hazardous waste landfill disposal facility to the State.

(a) No land may be used for a commercial hazardous waste ~~landfill disposal~~ landfill disposal facility until fee simple title to the land has been conveyed to this State. In consideration for the conveyance, the State shall enter into a lease agreement with the grantor for a term equal to the estimated life of the facility in which the State will be the lessor and the grantor the lessee. The lease agreement shall specify that for an annual rent of fifty dollars (\$50.00), the lessee shall be allowed to use the land for the development and operation of a hazardous waste ~~landfill disposal~~ landfill disposal facility. The lease agreement shall provide that the lessor or any person authorized by the lessor shall at all times have the right to enter without a search warrant or permission of the lessee upon any and all parts of the premises for monitoring, inspection and all other purposes necessary to carry out the provisions of this Article. The lessee shall remain fully liable for all damages, losses, personal injury or property damage which may result or arise out of the lessee's operation of the facility, and for compliance with regulatory requirements concerning insurance, bonding for closure and post-closure costs, monitoring and other financial or health and safety requirements as required by applicable law and rules. The State, as lessor, shall be immune from liability except as otherwise provided by statute. The lease shall be transferable with the written consent of the lessor and the consent will not be unreasonably withheld. In the case of a transfer of the lease, the transferee shall be subject to all terms and conditions that the State deems necessary to ensure compliance with applicable laws and rules.

If the lessee or any successor in interest fails in any material respect to comply with any applicable law, rule or permit condition, or with any term or condition of the lease, the State may terminate the lease after giving the lessee written notice specifically describing the failure to comply and upon providing the lessee a reasonable time to comply. If the lessee does not effect compliance within the reasonable time allowed, the State may reenter and take possession of the premises.

(b) Notwithstanding the termination of the lease by either the lessee or the lessor for any reason, the lessee shall remain liable for, and be obligated to perform, all acts necessary or required by law, rule, permit condition or the lease for the permanent closure of the site until the site has either been permanently closed or until a substituted operator has been secured and has assumed the obligations of the lessee.

(c) In the event of changes in laws or rules applicable to the facility which make continued operation by the lessee impossible or economically infeasible, the lessee shall have the right to terminate the lease upon giving the State reasonable notice of not less than six months, in which case the lessor shall have the right to secure a substitute lessee and operator.

(d) In the event of termination of the lease by the lessor as provided in subsection (a) of this section, or by the lessee as provided in subsection (c) of this section, the lessee shall be paid the fair market value of any improvements made to the leased premises less the costs to the lessor resulting from termination of the lease and securing a substitute lessee and operator. However, the lessor shall have no obligation to secure a substitute lessee or operator and may require the lessee to permanently close the facility."

Sec. 13. G.S. 130A-293 reads as rewritten:

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

(a) Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ~~ordinances, ordinances~~ (including but not limited to those imposing taxes, fees, ~~charges, or charges~~ or regulating health, environment, ~~and~~ or land use), any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility which the Governor's Waste Management Board (~~herein called 'Board'~~ hereinafter 'the Board') has preempted pursuant to subsections (b) through ~~(g)~~ (f) of this section, shall be invalid ~~only~~ to the extent necessary to effectuate the purposes of this Chapter ~~and Part 11A of Article 10 of Chapter 143B or Chapter 130B~~ of the General Statutes. For the purpose of this section, the Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the ~~local governing body~~ board of commissioners of the county in which the facility is or is to be located. If the facility is or is to be located in more than one county, or if the facility is or is to be located within the boundaries of a city, the governing body of each city and county in which any portion of the facility is or is to be located shall have one appointment. Failure of a local governing body to make an appointment within 30 days after receipt of written notice from the Board to do so shall be deemed a vacancy in an unexpired term and shall be filled by appointment ~~of a majority of the Board members~~ by the Board. The terms of the members appointed by ~~the local governing body~~ bodies shall end upon the final determination of the Board under this section, and such members shall serve as members of the Board only for the ~~purposes~~ purpose of this section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance(s), the operator of the proposed facility or the North Carolina Hazardous Waste Treatment Management Commission established pursuant to Chapter 130B of the General Statutes (hereinafter 'the Commission') may petition the Board to review the matter. After

receipt of a petition, the Board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

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

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested such notice. The Board shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. ~~Service by mail is complete upon placing the notice, enclosed in a wrapper addressed to the person to be served with sufficient postage prepaid and addressed to the party at his designated address.~~ Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address which appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Any interested ~~persons~~ person may appear before the Board at the hearing to offer testimony. In addition to testimony before the Board, any interested ~~persons~~ person may submit written evidence to the Board for its consideration. At least 20 days ~~will~~ shall be allowed for receipt of written comment following the hearing.

(d) The Board shall determine whether or to what extent to preempt ~~the local ordinance~~ ordinance(s) so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Board shall preempt a local ordinance only if it makes all five of the following findings:

- (1) That there is a local ordinance which would prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility;
- (2) That the proposed facility is needed in order to establish adequate capability ~~for the management of hazardous waste generated in this State to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party and therefore serves the interest interests~~ of the citizens of the State as a whole;
- (3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance(s);
- (4) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and
- (5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator or ~~Treatment~~ the Commission

has taken or consented to take ~~any~~ reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with ~~and [any]~~ any applicable local ordinance(s).

If the Board does not make all five findings set out above, the Board shall not preempt the challenged local ordinance(s). The Board's decision shall be in writing and shall identify the evidence submitted to the Board plus any additional evidence used in arriving at the decision.

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

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error ~~or~~ of law; or
- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for such reversal or modification.

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

~~(g) The provisions of this section shall not apply to the siting of a hazardous waste landfill facility until the rules for the operation applicable to a hazardous waste landfill have been adopted by the appropriate State agencies."~~

Sec. 14. G.S. 104E-6.2 reads as rewritten:

"§ 104E-6.2. Local ordinances prohibiting low-level radioactive waste facilities invalid; petition to preempt local ordinance.

(a) Notwithstanding any authority ~~heretofore~~ granted to counties, municipalities, or other local authorities to adopt local ~~ordinances~~, ordinances (including but not limited to those imposing taxes, fees, ~~charges~~, or charges or regulating health, environment, ~~and or~~ land use), any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a low-level radioactive waste facility which the Governor's Waste Management Board (~~herein called 'Board'~~ hereinafter 'the Board') has preempted pursuant to ~~the procedures in~~ subsections (b) through (f) of this section, shall be invalid ~~from 26 June 1981, but only~~ to the extent necessary to effectuate the purposes of this Chapter ~~and or~~ Chapter 104G of the General Statutes. For the purpose of this section, the Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the ~~governing body~~ board of commissioners of the county in which the facility is or is to be located. If the facility is or is to be located in more than one county, or if the ~~proposed site is~~ facility is or is to be located within the boundaries of a city, the governing body of each city and county in which any portion of the facility is or is to be located shall

have one appointment. Failure of a local governing body to make an appointment within 30 days after receipt of written notice from the Board to do so shall be deemed a vacancy in an unexpired term and shall be filled by appointment ~~of a majority of the Board members~~ by the Board. The terms of members appointed by local governing bodies shall end upon the final determination of the Board under this section, and such members shall serve as members of the Board only for the ~~purposes~~ purpose of this section.

(b) When a low-level radioactive waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance(s), the ~~North Carolina Low-Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes (herein called 'Authority')~~ or operator of the proposed facility or the North Carolina Low-Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes (hereinafter 'the Authority') may petition the Board to review the matter. After receipt of a petition, the Board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

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

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested such notice. The Board shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. ~~Service by mail is complete upon placing the notice, enclosed in a wrapper addressed to the party to be served at his designated address with sufficient postage prepaid. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address which appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.~~

Any interested ~~persons~~ person may appear before the Board at the hearing to offer testimony. In addition to testimony before the Board, any interested person may submit written evidence to the Board for its consideration. At least 20 days ~~will~~ shall be allowed for receipt of written comment following the hearing.

(d) The Board shall determine whether or to what extent to preempt ~~the local ordinance~~ ordinance(s) so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Board shall preempt a local ordinance only if it makes all five of the following findings:

- (1) That there is a local ordinance which would prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility;
- (2) That the proposed facility is needed in order to establish adequate capability for the management of low-level radioactive waste to meet the current or projected low-level radioactive waste management needs of this State or to comply with the terms of any

interstate agreement for the management of low-level radioactive waste to which the State is a party and therefore serves the interest interests of the citizens of the State as a whole:

- (3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance(s);
- (4) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and
- (5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility ~~operator, or Authority, operator or the Authority~~ has taken or consented to take ~~any~~ reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with any applicable local ~~ordinances.~~ ordinance(s).

If the Board does not make all five findings set out above, the Board shall not preempt the challenged local ordinance(s). The Board's decision shall be in writing and shall identify the evidence submitted to the Board plus any additional evidence used in arriving at the decision.

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

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error ~~or~~ of law; or
- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for such reversal or modification.

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

Sec. 15. G.S. 130A-294(a)(6) reads as rewritten:

- "(6) The Department is authorized to charge and collect fees from operators of hazardous waste ~~landfill disposal~~ facilities. The fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during

which the facility operator is required by applicable State and federal statutes, regulations or rules to remain responsible for post-closure monitoring and care. In establishing the fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility."

Sec. 16. G.S. 130A-294(c) reads as rewritten:

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

- (1) Establishing criteria for hazardous waste, identifying the characteristics of hazardous waste and listing particular hazardous waste;
- (1a) Establishing criteria for hazardous constituents, identifying the characteristics of hazardous constituents and listing particular hazardous constituents;
- (2) Record-keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste facilities;
- (3) Proper labeling of hazardous waste containers;
- (4) Use of appropriate containers for hazardous waste;
- (5) A manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been issued;
- (6) Proper transportation of hazardous waste;
- (7) Treatment, storage and disposal standards of performance and techniques to be used by hazardous waste facilities;
- (8) Location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste ~~landfill~~ disposal facility or polychlorinated biphenyl ~~landfill~~ disposal facility shall be located within 25 miles of any other hazardous waste ~~landfill~~ disposal facility or polychlorinated biphenyl ~~landfill~~ disposal facility;
- (9) Plans to minimize unanticipated damage from treatment, storage or disposal of hazardous waste: and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the State;
- (10) Proper maintenance and operation of hazardous waste facilities, including requirements for ownership by any person or the State, financial responsibility (including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures through the use of a letter of credit, insurance, surety, trust agreement, financial test, or financial test and corporate guarantee), training of personnel, continuity of operation and procedures for establishing and maintaining hazardous waste facilities;
- (11) Monitoring by owners or operators of hazardous waste facilities;
- (12) Inspection or copying of records required to be kept;
- (13) Obtaining and analyzing hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste facilities;

- (14) A permit system governing the establishment and operation of hazardous waste facilities; ~~and~~
- (15) Additional requirements as necessary for the effective management of hazardous ~~waste~~; waste;
- (16) The operator of the hazardous waste ~~landfill~~ disposal facility shall maintain adequate insurance to cover foreseeable claims arising from the operation of the facility. The Board shall determine what constitutes an adequate amount of ~~insurance~~; insurance;
- (17) The bottom of a hazardous waste ~~landfill~~ disposal facility shall be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the ~~environment~~; environment; ~~and~~
- (18) The operator of a hazardous waste ~~landfill~~ disposal facility shall make monthly reports to the Governor's Waste Management Board and to the board of county commissioners of the county in which the facility is located on the kinds and amounts of hazardous wastes in the facility."

Sec. 17. G.S. 130A-294(e) reads as rewritten:

~~"(e) The rules adopted under this section shall be no less stringent than the most recent regulations adopted under the federal act and may be amended. Rules adopted under this section may incorporate standards and restrictions which exceed and are more comprehensive than comparable federal regulations."~~

Sec. 18. G.S. 130A-294(f) reads as rewritten:

~~"(f) Within five 10 days of receiving an application for a permit or for an amendment to an existing permit for a hazardous waste facility, the Department shall notify the clerk to of the county board of commissioners of the county or counties in which the facility is proposed to be located or is located and, or, if the facility is proposed to be located or is located within a city, the city clerk of the governing board of the city, where the facility is proposed to be located, that the application has been filed, and shall file a copy of the application with the clerk. Prior to the issuance of a permit or an amendment of an existing permit for a hazardous waste facility, the Department Secretary or his designee shall issue public notice and conduct a public hearing in any the county, or in one of the counties in which a the hazardous waste facility is proposed to be located or is located. Notice and public hearings shall be in accordance with the appropriate federal regulations adopted pursuant to the federal act and with Chapter 150B of the General Statutes. The Secretary or his designee shall give notice of the hearing, and the public hearing shall be in accordance with applicable federal regulations adopted pursuant to RCRA and with Chapter 150B of the General Statutes. Where the provisions of the federal regulations and Chapter 150B of the General Statutes are inconsistent, the federal regulations shall apply.~~

~~Within 180 days after receiving a complete application for a permit or for an amendment to an existing permit for a comprehensive hazardous waste treatment facility, the Department shall approve or disapprove the application. In acting upon the application, the Department shall consider land use, zoning, buffer zones, utility availability, proximity to sources of waste, civil defense, fire safety, transportation and access, existing road network, general considerations of the public's health and safety, and any other objective factors reasonably related and relevant to the proper siting and operation of the comprehensive hazardous waste treatment facility. The Department may impose conditions in a permit in response to these factors. The Department's denial of an application shall be in writing, shall state the reasons for the denial, and shall inform the applicant of the right to appeal the denial."~~

Sec. 19. G.S. 130A-294(g) reads as rewritten:

~~"(g) The Commission shall develop and adopt criteria and standards to be considered in location and permitting of a hazardous waste facility by January 31, 1985. The standards and criteria shall be developed through public participation, shall be enforced by the Department and shall include, in addition to all applicable State and federal rules and regulations, consideration of:~~

- ~~(1) Acceptability within the community where the facility is to be located or steps which should be taken if community acceptance is not forthcoming;~~
- ~~(2) Hydrological and geological factors such as flood plains, depth to water table, groundwater travel time, proximity to public water supply watersheds, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines and climate;~~
- ~~(3) Natural resources such as wetlands, endangered species habitats, proximity to parks, forests, wilderness areas and historical sites, and air quality;~~
- ~~(4) Local land use whether residential, industrial, commercial, recreational, agricultural, and proximity to incompatible structures such as schools and airports;~~
- ~~(5) Transportation factors, such as proximity to waste generators and to population, route safety and method of transportation; and~~
- ~~(6) Aesthetic factors such as the visibility, appearance and noise level of the facility.~~

The Commission shall develop and adopt standards for permitting of hazardous waste facilities. Such standards shall be developed with, and provide for, public participation; shall be incorporated into rules; shall be consistent with all applicable federal and State law, including statutes, regulations and rules; shall be developed and revised in light of the best available scientific data; and shall be based on consideration of at least the following factors:

- (1) Hydrological and geological factors, including flood plains, depth to water table, groundwater travel time, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines, and climate;
- (2) Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds;
- (3) Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites;
- (4) Local land uses;
- (5) Transportation factors, including proximity to waste generators, route safety, and method of transportation;
- (6) Aesthetic factors, including the visibility, appearance, and noise level of the facility;
- (7) Availability and reliability of public utilities; and
- (8) Availability of emergency response personnel and equipment."

Sec. 20. G.S. 130A-294(h) reads as rewritten:

"(h) Rules adopted by the Commission shall be subject to the following requirements:

- (1) ~~No hazardous waste landfill shall be established until at least one comprehensive hazardous waste treatment facility is fully operational in North Carolina.~~

- (2) Hazardous waste shall be treated prior to disposal in North Carolina. ~~Long-term storage or disposal shall be used for the storage or disposal of the residual or ashes of hazardous waste which has been treated so the toxicity is low enough to present no significant health or safety hazard in the event of leakage from the facility. Hazardous waste that cannot be reduced, stabilized or destroyed to the extent which renders it sufficiently low in toxicity as to present no significant health or safety hazard in the event of leakage shall be stored in long term retrievable storage until such methods are found. Hazardous waste in long term retrievable storage shall be detoxified as soon as the Commission for Health Services determines based upon a preponderance of the evidence that the technology is available at a reasonable cost. The Commission shall determine the extent of waste treatment required before hazardous waste can be disposed of in a hazardous waste landfill disposal facility.~~
- (3) Any hazardous waste ~~landfill disposal~~ facility hereafter constructed in this State shall meet, at the minimum, the standards of construction imposed by federal regulations adopted under the ~~Federal Act~~ RCRA at the time the permit is issued.
- (4) No hazardous waste ~~landfill disposal~~ facility or polychlorinated biphenyl ~~landfill disposal~~ facility shall be located within 25 miles of any other hazardous waste ~~landfill disposal~~ facility or polychlorinated biphenyl ~~landfill disposal~~ facility.
- (5) No hazardous waste ~~landfill~~ facility operated pursuant to Chapter 130B of the General Statutes shall be located within 25 miles of a ~~or polychlorinated biphenyl landfill facility facility shall be permitted within 25 miles of a comprehensive hazardous waste treatment facility as defined in G.S. 130A-290(1).~~
- (6) The following will not be disposed of in a hazardous waste ~~landfill or long term retrievable storage disposal~~ facility: ignitables as defined in the ~~Federal Act, RCRA~~, polyhalogenated biphenyls of 50 ppm or greater concentration, and free liquids whether or not containerized.
- (7) ~~The underground storage of either a hazardous waste landfill or long term storage facility~~ Facilities for disposal or long-term storage of hazardous waste shall have at a minimum the following: a leachate collection and removal system above an artificial impervious liner of at least 30 mils in thickness, a minimum of five feet of clay or clay-like liner with a maximum permeability of 1.0×10^{-7} ~~10^{-7}~~ centimeters per second (cm/sec) below said artificial liner, and a leachate detection system immediately below the clay or clay-like liner.
- (8) Hazardous waste shall not be stored at a hazardous waste treatment facility for over 90 days prior to treatment or disposal.
- (9) The Commission shall consider any hazardous waste treatment process proposed to it, if the process lessens treatment cost or improves treatment over then current methods or standards required by the Commission."

Sec. 21. G.S.130A-294(i) reads as rewritten:

"(i) ~~The Department shall submit to the General Assembly by February 1, 1985,~~
plans:

- ~~(1) To monitor and regulate all generators of more than 100 kilograms per month of hazardous waste; and~~
- ~~(2) To locate, catalogue and monitor all existing hazardous waste impoundments and surface impoundments, including inactive hazardous waste disposal sites and "orphan dumps", including those owned or operated by units of State and local government, and shall submit to the General Assembly by February 1, 1985, a plan to bring all of these under legal requirements in effect on February 1, 1985, including a timetable for compliance. This plan shall include recordation of each of these sites in the office of the Register of Deeds in the county where it is located. The Department, in consultation with the Governor's Waste Management Board and the Division of Environmental Management of the Department of Natural Resources and Community Development, shall develop a comprehensive hazardous waste management plan for the State. This plan shall be completed by 1 July 1990 and shall be revised at two-year intervals thereafter."~~

Sec. 22. G.S. 130A-294 is amended by adding a new subsection to read:

"(k) Each person who generates hazardous waste who is required to pay a fee under G.S. 130A-294.1, and each operator of a hazardous waste treatment facility which treats waste generated on-site who is required to pay a fee under G.S. 130A-294.1, shall submit to the Department at the time such fees are due, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste."

Sec. 23. G.S. 130A-294.1(p) reads as rewritten:

"(p) The Department shall make an annual report to the General Assembly and its Fiscal Research Division on the cost of the hazardous waste management program. The report shall include, but is not limited to, beginning fund balance, fees collected under this section, anticipated revenue from all sources, total expenditures (by activities and categories) for the hazardous waste management program, ending fund balance, any recommended adjustments in the annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities which treat waste generated on-site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste."

Sec. 24. G.S. 130A-295 reads as rewritten:

"§ 130A-295. Additional requirements for hazardous waste facilities.

(a) An applicant for a permit for a hazardous waste facility shall satisfy the Department that:

- (1) Any hazardous waste facility constructed or operated by the applicant, or any parent or subsidiary corporation if the applicant is a corporation, has been operated in accordance, with sound waste management practices and in substantial compliance with federal and state laws, regulations and rules; and
- (2) The applicant, or any parent or subsidiary corporation if the applicant is a corporation, is financially qualified to operate the proposed hazardous waste facility.

~~(b) The operator shall deposit in trust with the city or county government one half of one percent (0.05%) of the income of the comprehensive hazardous waste~~

~~treatment facility, payable within 30 days of each calendar quarter, until the total shall equal an amount of two hundred fifty thousand dollars (\$250,000). As used herein, income means gross operating revenues less refunds, rebates and allowances. This fund shall be available to the city or county in which the comprehensive hazardous waste treatment facility is located for the purpose of defraying the cost of any cleanup which might be required at the comprehensive hazardous waste treatment facility. The city or county may, in its discretion, use up to fifty thousand dollars (\$50,000) of this total to establish an Emergency Response Team, trained and equipped to handle hazardous waste spills and to respond to accidents at hazardous waste treatment facilities. Financial records shall be subject to the audit of the local government for two years after any fee is paid. Any errors in the payment shall be corrected by credit or debit in the next payment or payments by the operator of the hazardous waste facility. If the North Carolina Hazardous Waste Treatment Commission owns and operates the facility, the North Carolina Hazardous Waste Treatment Commission, consistent with the resources available, shall compensate the local government for expenses incurred due to location of the facility. This compensation shall not exceed the amount of ad valorem tax revenues the local government would have received if the facility were privately owned. Nothing herein shall be construed to limit in any way funds which might be available to local government from other sources. An applicant for a permit for a hazardous waste facility shall satisfy the Department that he has met the requirements of subsection (a) of this section before the Department is required to otherwise review the application. In order to continue to hold a permit under this Chapter, a permittee must remain financially qualified and must provide any information requested by the Department to demonstrate that he continues to be financially qualified.~~

~~(c) Although no one is required to use a comprehensive hazardous waste treatment facility, use by North Carolina industry shall be encouraged. Nothing in this act shall be construed to prevent any hazardous waste or other waste generated or located in North Carolina from being removed from the State for disposal, treatment or storage. No permit for any new commercial hazardous waste treatment, storage, or disposal facility shall be issued or become effective, and no permit for a commercial hazardous waste treatment, storage, or disposal facility shall be modified until the applicant has satisfied the Department that such facility is needed to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party. The Commission shall adopt rules to implement this subsection.~~

Sec. 25. G.S. 130A-298 reads as rewritten:

"§ 130A-298. Hazardous waste fund.

A nonreverting hazardous waste fund is established within the Department which shall be available to defray the cost to the State for monitoring and care of hazardous waste ~~landfill~~ disposal facilities after the termination of the period during which the facility operator is required by applicable State and federal statutes, rules or regulations to remain responsible for post-closure monitoring and care. The establishment of this fund shall in no way be construed to relieve or reduce the liability of facility operators or any persons for damages caused by the facility. The fund shall be maintained by fees collected pursuant to the provisions of G.S. 130A-294(a)(6)."

Sec. 26. G.S. 130A-299 reads as rewritten:

"§ 130A-299. Single agency designation.

The Department is designated as the single State agency for purposes of ~~the federal act~~ RCRA or any State or federal legislation enacted to promote the proper management of solid waste."

Sec. 27. G.S. 130A-308 reads as rewritten:

"§ 130A-308. Continuing releases at permitted facilities.

Standards adopted under G.S. 130A-294(c) shall require, and a permit issued after November 8, 1984, shall require corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under G.S. 130A-294(c), regardless of the time at which waste was placed in such unit. Permits issued under G.S. 130A-294(c) which implement Section 3005 of the ~~Federal Act~~ RCRA (42 U.S.C. § 6925) shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action. Notwithstanding any other provision of this section, this section shall apply only to units, facilities, and permits that are covered by Section 3004(u) of the ~~Federal Act~~ RCRA (42 U.S.C. Section § 6924) (u)). Notwithstanding the foregoing, corrective action authorized elsewhere in this Chapter shall not be limited by this section."

Sec. 28. G.S. 130A-309 reads as rewritten:

"§ 130A-309. Corrective actions beyond facility boundary.

Standards adopted under G.S. 130A-294(c) shall require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner or operator of the facility concerned demonstrates to the satisfaction of the Department that, despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Such standards shall take effect upon adoption and shall apply to:

- (1) All facilities operating under permits issued under G.S. 130A-294(c); and
- (2) All ~~landfills,~~ disposal facilities, surface impoundments, and waste pile units (including any new units, replacements of existing units or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

Pending adoption of such rules, the Department shall issue corrective action orders for facilities referred to in (1) and (2), on a case-by-case basis, consistent with the purposes of this section. Notwithstanding any other provision of this section, this section shall apply only to units, facilities, and permits that are covered by Section 3004(v) of the ~~Federal Act~~ RCRA (42 U.S.C. Section § 6924(v)). Notwithstanding the foregoing, corrective action authorized elsewhere in this Chapter shall not be limited by this section."

Sec. 29. G.S. 143-215.1 is amended by adding a new subsection to read:

"(g) Any person who is required to hold a permit under this section shall submit to the Department a written description of his current and projected plans to reduce the discharge of waste and pollutants under such permit by source reduction or recycling. The written description shall accompany the payment of the annual permit fee. The written description shall also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification."

Sec. 30. G.S. 143-215.108 is amended by adding a new subsection to read:

"(c) Any person who is required to hold a permit under this section shall submit to the Department a written description of his current and projected plans to reduce the emission of air contaminants under such permit by source reduction or recycling. The written description shall accompany the payment of the annual permit fee. The written description shall also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description

required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification."

Sec. 31. G.S. 143B-216.11 reads as rewritten:

"§ 143B-216.11. Definitions.

Unless the context otherwise requires, the following definitions shall apply to this Part:

- (1) 'Board' means the Governor's Waste Management Board.
- (2) 'Hazardous waste' has the same meaning as in G.S. ~~130A-290(4)~~. 130A-290.
- (3) 'Hazardous waste facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~130A-290(5)~~. 130A-290.
- (4) 'Hazardous waste landfill facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~130A-290(7)~~. 130A-290.
- (5) 'Hazardous waste management' has the same meaning as ~~defined~~ in G.S. ~~130A-290(8)~~. 130A-290.
- (6) 'Low-level radioactive waste' has the same meaning as in G.S. ~~104E-5(9a)~~. 104E-5.
- (7) 'Low-level radioactive waste facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~104E-5(9b)~~. 104E-5.
- (8) 'Low-level radioactive waste landfill disposal facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~104E-5(9c)~~. 104E-5.
- (9) 'Low-level radioactive waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of low-level radioactive waste."

Sec. 32. G.S. 143B-216.13 reads as rewritten:

"§ 143B-216.13. Functions and powers of Board.

The Board shall perform the functions and be empowered as follows:

- (1) ~~The Board shall periodically evaluate and assess the volume, distribution, location, and physical and chemical characteristics of hazardous waste and low-level radioactive waste generated or disposed of in the State.~~
- (2) The Board shall periodically review the State's comprehensive waste management system and make recommendations to the Governor, cognizant State agencies, and the General Assembly on ways to improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste and low-level radioactive waste which must be disposed of.
- (3) The Board shall study and make recommendations on policy issues including but not limited to liability and financial responsibilities within the waste management area. ~~On or before January 1, 1983, the Board shall prepare and present to the Governor and General Assembly a report concerning the desirability of establishing by statute a standard of strict liability for persons involved in storage, transportation, treatment, or disposal of hazardous or low-level radioactive waste in North Carolina.~~
- (4) The Board shall promote research and development and disseminate information on state-of-the-art means of handling and disposing of hazardous waste and low-level radioactive waste. The Board is authorized to establish a waste information exchange for the State.

- (5) The Board shall promote public education and public involvement in the decision making process for the siting and permitting of proposed waste management facilities.
- (6) ~~The Board shall periodically evaluate and assess the type and number of hazardous waste facilities, hazardous waste landfill facilities, low-level radioactive waste facilities and low-level radioactive waste landfill facilities in existence, under construction or planned in the State and multi-State region and promote the development of additional facilities particularly retrievable aboveground storage facilities if existing or planned facilities are deemed inadequate or unavailable. The Board, in conjunction with the Solid Waste Management Division of the Department, shall assist the North Carolina Hazardous Waste Management Commission with the periodic review required by G.S. 130B-7(a)(1)(i).~~
- (6a) The Board shall annually report to the Governor, the General Assembly, and the Environmental Review Commission on the effectiveness of the waste reduction programs in the State and shall make recommendations on ways to improve such programs.
- (7) ~~The Board shall prepare and file jointly with both the Governor and the General Assembly an annual report describing the Board's activities and setting forth its recommendations for administrative or regulatory action required to improve the State's comprehensive waste management system or remedy noted defects in the system. improvements in the waste management system in the State. A special report shall be filed in January of 1983 which shall include an evaluation on the possible need to organize State agencies more efficiently to improve overall performance of waste management functions. The report should give consideration to the advantages and disadvantages of consolidating or centralizing administration of programs that are now in separate agencies. The Board shall provide a report to the General Assembly by February 1, 1985, to include:~~
- ~~a. An analysis of the size, type and number of hazardous waste facilities needed in North Carolina and a plan to meet these needs;~~
 - ~~b. An analysis of the system of collection of hazardous waste in North Carolina, recommendations as to how that system might be improved and a plan to implement these recommendations; and~~
 - ~~c. An analysis of the cost incurred by local government because of the presence of a hazardous waste facility, a hazardous waste landfill facility or a comprehensive hazardous waste treatment facility.~~
- (8) The Board shall each year recommend to the Governor a recipient for a 'Governor's Award of Excellence' which the Governor shall award for outstanding achievement by an industry or company in the area of hazardous waste or low-level radioactive waste management.
- (9) The Board shall, at the request of the Governor and under his direction, assist with the negotiation of interstate agreements for the management of hazardous waste. ~~promote and participate in discussion with other states concerning development of regional~~

~~hazardous waste and low level radioactive waste management agreements.~~

- (10) The Board shall assist localities in which facilities are proposed in collecting and receiving information relating to the suitability of the proposed site. At the request of a local government in which facilities are proposed, the Board shall direct the appropriate agencies of State government to develop such relevant data as that locality shall reasonably request.
- (11) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1082, s. 14.1.
- (12) The Board shall, in accordance with the procedures set forth in G.S. 160A-211.1 and G.S. 153A-152.1, review upon appeal specific privilege license tax rates which localities may apply to waste management facilities in their jurisdiction.
- (13) The Board may insure its members against personal liability for any actions they might take pursuant to the exercise of the functions and powers of the Board.
- (14) The Board may adopt, modify, or revoke any rules necessary to carry out the functions and powers as set forth in this Part.
- (15) The Board shall have any and all powers necessary or incidental to the exercise of the functions and powers enumerated herein.
- (16) The Board shall study the development of retrievable, aboveground storage facilities for hazardous wastes.
- (17) ~~The Board shall certify comprehensive hazardous waste treatment facilities which meet the criteria prescribed in G.S. 130A-290(1)."~~

Sec. 33. G.S. 150B-1(d) reads as rewritten:

- "(d) (1) The following are specifically exempted from the provisions of this Chapter:
- a. ~~the~~ The Administrative Rules Review Commission;
 - b. ~~the~~ The Employment Security Commission;
 - c. ~~the~~ The Industrial Commission;
 - d. ~~the~~ The Occupational Safety and Health Review Board in all actions that do not involve agricultural employers; employers; and
 - e. ~~the~~ The Utilities Commission.
- (2) The North Carolina National Guard is exempt from the provisions of this Chapter in exercising its court-martial jurisdiction.
 - (3) The Department of Human Resources is exempt from this Chapter in exercising its authority over the Camp Butner reservation granted in Article 6 of Chapter 122C of the General Statutes.
 - (4) The Department of Correction is exempt from the provisions of this Chapter, except for Article 5 of this Chapter and G.S. 150B-13 which shall apply.
 - (5) Articles 2 and 3 of this Chapter shall not apply to the Department of Revenue.
 - (6) Except as provided in Chapter 136 of the General Statutes, Articles 2 and 3 of this Chapter do not apply to the Department of Transportation.
 - (7) Article 4 of this Chapter, governing judicial review of final administrative decisions, shall apply to The University of North Carolina and its constituent or affiliated boards, agencies, and institutions, but The University of North Carolina and its constituent or affiliated boards, agencies, and institutions are

specifically exempted from the remaining provisions of this Chapter.

- (8) Article 4 of this Chapter shall not apply to the State Banking Commission, the Commissioner of Banks, the Savings and Loan Division of the Department of Commerce, and the Credit Union Division of the Department of Commerce.
- (9) Article 3 of this Chapter shall not apply to agencies governed by the provisions of Article 3A of this Chapter, as set out in G.S. 150B-38(a).
- (10) Articles 3 and 3A of this Chapter shall not apply to the Governor's Waste Management Board in administering the provisions of G.S. ~~104E-6.2~~, 104E-6.2 and G.S. 130A-293.
- (11) Article 2 of this Chapter shall not apply to the North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-10 and G.S. 104G-11. Articles 3 and 3A of this Chapter shall not apply to the North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.
- (12) Article 2 of this Chapter shall not apply to the North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14. Articles 3 and 3A of this Chapter shall not apply to the North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14."

Sec. 34. G.S. 153A-152.1 reads as rewritten:

"(a) Counties in which hazardous waste facilities as defined in G.S. ~~130A-290(5)~~ 130A-290 or low-level radioactive waste facilities as defined in G.S. 104E-5(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section."

Sec. 35. G.S. 160A-211.1 reads as rewritten:

"(a) Cities in which hazardous waste facilities as defined in G.S. ~~130A-290(5)~~ 130A-290 or low-level radioactive waste facilities as defined in G.S. 104E-5(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section."

Sec. 36. G.S. 104G-6(14) reads as rewritten:

"(14) May issue revenue bonds from time to time pursuant to The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General ~~Statutes~~, Statutes, and such bonds may be sold at public or private sale pursuant to G.S. 159-123;".

Sec. 37. G.S. 159-81(3) reads as rewritten:

- "(3) 'Revenue bond project' means any undertaking for the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any one or combination of the following revenue-producing utility or public service enterprise facilities or systems owned or leased as lessee by the issuing unit:
 - a. Water systems or facilities, including all plants, works, instrumentalities and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

- b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.
- c. Systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed) or electric energy for lighting, heating, or power for public and private uses, where gas systems shall include the purchase and/or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such gas systems may be located either within the State or without.
- d. Systems, facilities and equipment for the collection, treatment, or disposal of solid waste.
- e. Public transportation systems, facilities, or equipment, including but not limited to bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.
- f. Public parking lots, areas, garages, and other vehicular parking structures and facilities.
- g. Aeronautical facilities, including but not limited to airports, terminals, and hangars.
- h. Marine facilities, including but not limited to marinas, basins, docks, dry docks, piers, marine railways, wharves, harbors, warehouses, and terminals.
- i. Hospitals and other health-related facilities.
- j. Public auditoriums, gymnasiums, stadiums, and convention centers.
- k. Recreational facilities.
- l. In addition to the foregoing, in the case of the State of North Carolina, low-level radioactive waste facilities developed pursuant to Chapter 104G of the General Statutes, hazardous waste facilities developed pursuant to Chapter 130B of the General Statutes, and any other project authorized by the General Assembly.
- m. ~~(For applicability see note below)~~ [For applicability, see note below.] Economic development projects, including the acquisition and development of industrial parks, the acquisition and resale of land suitable for industrial or commercial purposes, and the construction and lease or sale of shell buildings in order to provide employment opportunities for citizens of the municipality.
- ~~(n)~~ n. Facilities for the use of any agency or agencies of the government of the United States of America.

The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with any of the foregoing utilities and enterprises; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which such structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project."

Sec. 38. G.S. 159-81(4) reads as rewritten:

"(4) 'Revenues' include all moneys received by the State or a municipality from, in connection with, or as a result of its ownership or operation of a revenue bond project or a utility or public service enterprise facility or system of which a revenue bond project is a part, including (to the extent deemed advisable by the State or a municipality) moneys received from the United States of America, the State of North Carolina, or any agency of either, pursuant to an agreement with the State or a municipality, as the case may be, pertaining to the project. 'Revenues' also include all moneys received by, or on behalf of, the North Carolina Low-Level Radioactive Waste Management Authority in connection with its financing of a low-level radioactive waste facility and all money received by, or on behalf of, the North Carolina Hazardous Waste Management Commission in connection with its financing of a hazardous waste facility."

Sec. 39. G.S. 159-83(a)(5) reads as rewritten:

"(5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying the cost of revenue bond projects, and to issue its revenue bonds or bond anticipation notes therefor, in the name of the State or a municipality, as the case may be, but no encumbrance, mortgage, or other pledge or real property of the State or a municipality may be created in any manner. Notwithstanding the foregoing, the North Carolina Low-Level Radioactive Waste Management Authority may create an encumbrance, mortgage, or other pledge of real property of the Authority in connection with its financing of a low-level radioactive waste facility and the North Carolina Hazardous Waste Management Commission may create an encumbrance, mortgage, or other pledge of real property of the Commission in connection with its financing of a hazardous waste facility."

Sec. 40. G.S. 159-83 is amended by adding a new subsection to read:

"(e) In the case of the State of North Carolina, any action to be taken by the Council of State pursuant to this section shall be taken (i) with respect to the issuance of revenue bonds by the North Carolina Low-Level Radioactive Waste Management Authority, by the governing board of the Authority and (ii) with respect to the issuance of revenue bonds by the North Carolina Hazardous Waste Management Commission, by the governing board of the Commission, and not by the Council of State."

Sec. 41: G.S. 159-85 is amended by adding a new subsection to read:

"(d) In the case of the State of North Carolina, any action to be taken by the State Treasurer pursuant to this section shall be taken (i) with respect to the issuance of revenue bonds by the North Carolina Low-Level Radioactive Waste Management Authority, by the governing board of the Authority and (ii) with respect to the issuance of revenue bonds by the North Carolina Hazardous Waste Management Commission, by the governing board of the Commission, and not by the State Treasurer."

Sec. 42. G.S. 159-88 is amended by adding a new subsection to read:

"(d) In the case of the State of North Carolina, any action to be taken by the Council of State pursuant to this section shall be taken (i) with respect to the issuance of revenue bonds by the North Carolina Low-Level Radioactive Waste Management Authority, by the governing board of the Authority and (ii) with respect to the issuance of revenue bonds by the North Carolina Hazardous Waste

Management Commission, by the governing board of the Commission, and not by the Council of State. Subsection (c) of this section shall not apply to the issuance of revenue bonds by North Carolina Low-Level Radioactive Waste Management Authority or by the North Carolina Hazardous Waste Management Commission."

Sec. 43. G.S. 159-94 reads as rewritten:

"§ 159-94. Limited liability.

(a) Revenue bonds shall be special obligations of the State or the municipality issuing them. The principal of and interest on revenue bonds shall not be payable from the general funds of the State or the municipality, as the case may be, nor shall they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the funds which are pledged under the bond order authorizing the bonds. Neither the credit nor the taxing power of the State or the municipality, as the case may be, are pledged for the payment of the principal or interest of revenue bonds, and no holder of revenue bonds has the right to compel the exercise of the taxing power by the State or the municipality, as the case may be, or the forfeiture of any of its property in connection with any default thereon. Every revenue bond shall recite in substance that the principal of and interest on the bond is payable solely from the revenues pledged to its payment and that the State or the municipality, as the case may be, is not obligated to pay the principal or interest except from such revenues.

(b) The provisions of this section relating to a legal or equitable pledge, charge, lien, or encumbrance upon real property or the forfeiture thereof shall not apply to revenue bonds issued by the North Carolina Low-Level Radioactive Waste Management Authority or by the North Carolina Hazardous Waste Management Commission."

Sec. 44. G.S. 159-96 reads as rewritten:

"§ 159-96. Limitation on extraterritorial operation of enterprises financed by revenue bonds.

(a) Each utility or public service enterprise listed in G.S. 159-81(3), if financed wholly or partially by revenue bonds issued under this Article, shall be owned or operated by the municipality for its own use and for the use of public and private consumers residing within its corporate limits. A utility or public service enterprise financed wholly or partially by revenue bonds, when operated primarily for the municipality's own use and for users within its corporate limits, may be operated incidentally for users outside its corporate limits. Provided, however, that revenue bonds may be issued for the purpose of financing in whole or in part mass transit systems, aeronautical facilities, marine facilities and systems, facilities and equipment for the collection, treatment or disposal of solid waste, notwithstanding that such systems, facilities or equipment may be operated for users outside the corporate limits of a municipality where the municipality finds that the system, facilities or equipment so financed would benefit the municipality.

(b) A revenue bond project financed wholly or partially by revenue bonds of the State may be located either within or without the State and, when operated primarily for the State's own use and for users within the State, may be operated incidentally for users outside the State.

(c) The provisions of subsection (b) of this section shall not apply to the financing of any revenue bond project by the North Carolina Low-Level Radioactive Waste Management Authority or by the North Carolina Hazardous Waste Management Commission."

Sec. 45. (a) The Environmental Management Commission shall develop and adopt ambient air quality standards for toxic pollutants and shall develop a program to meet such standards by 1 July 1990.

(b) The Environmental Management Commission shall develop and adopt emission standards for solid waste, hazardous waste, and medical waste incinerators by 1 July 1991.

Sec. 46. (a) The Hazardous Waste Management Commission shall submit monthly written reports as to its operation, activities, and progress to the Environmental Review Commission beginning on the first day of the month following the date this act becomes effective. The Hazardous Waste Management Commission shall lend assistance to and work in cooperation with the Environmental Review Commission in the discharge by the Environmental Review Commission of its powers and duties to exercise legislative oversight with respect to hazardous waste management.

(b) In addition to its general powers and duties, the Environmental Review Commission shall have the following powers and duties with respect to hazardous waste management:

- (1) To study the current and projected need for hazardous waste treatment, storage, and disposal capacity in the State in light of anticipated generation of hazardous waste and alternatives for hazardous waste treatment and disposal;
- (2) To evaluate the potential for the development of additional hazardous waste treatment, storage, and disposal capacity by the private sector;
- (3) To study the necessity for and scope of hazardous waste treatment, storage, and disposal facilities which are sited, owned, or operated by the State;
- (4) To review progress in securing a volunteer county to host a hazardous waste treatment facility;
- (5) To study incentives and compensation for the community which hosts, either voluntarily or involuntarily, a hazardous waste treatment facility, including any additional incentives and compensation which may be needed, whether there should be differential compensation for a volunteer county, options for use of funds by local governments, distribution of compensation among local governments, and methods of providing flexibility in the development of an incentives and compensation package for a particular local community;
- (6) To review progress in developing interstate agreements for the treatment, storage, and disposal of hazardous waste;
- (7) To assist in the development of cooperative, comprehensive regional approach to hazardous waste treatment and disposal;
- (8) To examine criteria and procedures for the selection of sites for hazardous waste treatment, storage, and disposal facilities which are adopted by the Hazardous Waste Management Commission and determine whether any modification is needed;
- (9) To analyze existing State law governing the Hazardous Waste Management Commission and determine whether any changes are needed;
- (10) To study the capacity assurance requirement under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 *et seq.*, as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended as it relates to the continued eligibility of North Carolina for remedial actions under Superfund;

- (11) To study alternatives available to the State for dealing with hazardous waste and the ramifications of those alternatives; and
- (12) To receive and evaluate reports of every State agency, board, and commission which has any power or duty with respect to hazardous waste management.

Sec. 47. (a) The provisions of G.S. 130B-2(b) shall apply to this section.

(b) It is the intent of the General Assembly that an aggressive program to minimize or reduce the volume and quantity or toxicity of hazardous waste and other pollutants, including the emission of air contaminants, be implemented. The Department shall collect and analyze information so as to establish the data base necessary to plan, implement, and evaluate hazardous waste reduction programs and to assist the General Assembly in the development of policy regarding waste reduction.

(c) All information received pursuant to G.S. 130A-294(k), G.S. 143-215.1(g) and G.S. 143-215.108(c) shall be transmitted to the Solid Waste Management Division of the Department for review and analysis. The Solid Waste Management Division shall consider this information in the development of the comprehensive hazardous waste management plan required by G.S. 130A-294(i) and shall prepare a report on the feasibility of incorporating waste reduction requirements into existing solid and hazardous waste permitting processes. The Solid Waste Management Division shall report to the Environmental Review Commission as to progress in implementing this section on a quarterly basis beginning 1 January 1990.

Sec. 48. Notwithstanding the provisions of G.S. 143-215(c), G.S. 143-215.107(a)(7), and G.S. 143-215.107(f), the Environmental Management Commission may adopt rules applicable to any facility which is sited or operated pursuant to Chapter 130B of the General Statutes which incorporate standards and restrictions which exceed and are more comprehensive than comparable federal regulations.

Sec. 49. The provisions of this act are severable, and if any provision of this act is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the act which can be given effect without the invalid provision.

Sec. 50. This act is effective upon ratification.

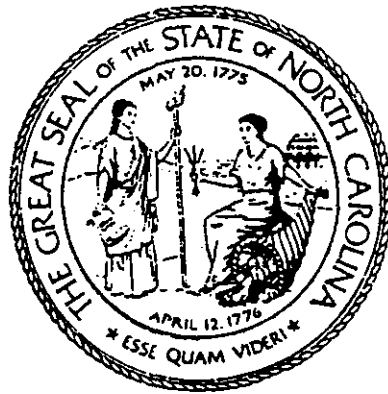
In the General Assembly read three times and ratified this the 30th day of May, 1989.

JAMES C. GARDNER

James C. Gardner
President of the Senate

J. L. MAVRETIC

J. L. Mavretic
Speaker of the House of Representatives



1989 GOVERNOR'S AWARD OF EXCELLENCE FOR OUTSTANDING ACHIEVEMENT IN WASTE MANAGEMENT

Eighth Annual Awards Program Call for Nominations

Each year the Governor's Award of Excellence for Outstanding Achievement in Waste Management is presented to large and small industries and institutions in North Carolina that have demonstrated outstanding commitment to protecting the state's environment and public health through innovative hazardous and low-level radioactive waste management practices. These include pollution prevention, waste minimization, recycling, resources recovery and other waste management strategies.

RECOGNITION

The awards are presented in a special ceremony in the spring of each year. Winners receive a plaque, as well as certificates recognizing the individuals responsible for the project.

JUDGING

A panel of six judges chosen by the Governor's Waste Management Board will review applications, select finalists, and recommend winners to the Board and the Governor. There are categories for both large and small businesses. The judges evaluate the applications and recommend winners based on:

- amount of waste reduction achieved
- documented cost savings
- innovative pollution prevention technologies,
- environmental benefits
- commitment by management
- innovative remedial actions taken to correct problems caused by previous waste management activities

SUBMITTING ENTRIES

To enter, fill out the entry form provided by the Governor's Waste Management Board. Prepare a two-page summary of the project. Explain what the company did, how it was done, and the result of the efforts. Attach the two-page summary to the entry form which includes the name, address and phone number of a contact person for the organization. *Note: All entries are public records.*

Entries should be submitted to:

Community Relations Coordinator
Governor's Waste Management Board
P. O. Box 27687
Raleigh, North Carolina 27611-7687
Telephone: (919)733-9020

All entries must be *received* by **January 12, 1990**.

PREVIOUS RECIPIENTS

- 1982 - **Burlington Industries, Inc.** -- Furniture Division, Lexington
- 1983 - **Stanadyne, Inc.** -- Moen Division, Sanford
Duke Power Company -- McGuire Nuclear Station, Charlotte
- 1984 - **IBM Corporation** - Communications Products Division, Research Triangle Park
- 1985 - **Stanadyne, Inc.** -- Four North Carolina Plants, Sanford, New Bern, Jacksonville, and Washington
- 1986 - **General Electric Company** -- Nuclear Fuel and Components Manufacturing, Wilmington
Carolina Solite Corporation -- Aquadale
- 1987 - **Newton Instruments** -- Butner
Rexham Corporation -- Industrial Division, Matthews
- 1988 - **Burke Mills, Inc.** -- Frank Gaddy Yarn Division, Valdese
Corning Glass Works -- Telecommunications Products Division, Wilmington
University of North Carolina/Chapel Hill -- Health and Safety Office, Chapel Hill

ENTRY FORM

**GOVERNOR'S AWARD OF EXCELLENCE
FOR OUTSTANDING ACHIEVEMENT IN WASTE MANAGEMENT**

Please print or type

Name of Industry, Company or Institution		No. Employees	
Contact Person	Title		
Address	City	State	Zip
() _____			
Telephone			

In two typed pages or less, briefly address the following:

Description of the Project

Discuss the approach your company has taken in managing hazardous or low-level radioactive waste, what changes have been made, and why the projects were undertaken. State the project results and indicate to what extent you reduced the amount of waste generated, disposed of, or released into the environment.

Technological Significance of Project

Briefly describe any techniques, processes, equipment, or procedures used, and indicate what part your company played in the development of the technological advances, if any.

Economic Benefits

Discuss the costs and benefits of your project: How profitable was it to the firm to prevent or reduce the waste? What was the project's pay back period? What were the cost savings?

Environmental Significance of Project

Describe the environmental benefits resulting from implementation of your project.

Level of Commitment/Leadership

Describe the role your company's top management played in implementing waste reduction practices and efforts your company has made to share these advances with other industries. Describe your relationship to the community and any involvement the community has had in your waste management program. Also include any other relevant factors you believe should be considered in evaluating your entry.

Form II: WASTE MINIMIZATION ANALYSIS

States that incorporate waste minimization estimates in their capacity projections should complete this form. States should copy and complete the form and include it and any additional necessary documentation (in particular, tables of quantitative estimates for each year in which waste will be minimized and thus less capacity will be used as a result). Please attach additional information if more space is needed to answer any question.

Name of Respondent **Roger N. Schecter, Director
N.C. Pollution Prevention Pays Program**

Telephone Number **(919) 733-7015**

Address **Department of Environment, Health, and
Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

1. Please estimate the amount of waste expected to be reduced (in tons) by waste minimization for each of the SARA waste types for projection years 1989, 1995, and 2009. These estimates should be easy to incorporate into your waste projections and should build on the analyses described in Chapter III. They should not include anticipated changes in production rates, but should show only those reductions based on waste minimization efforts. States should explain how they have avoided duplication of reductions (from waste minimization) that already may be included in economic projection factors. Please summarize these estimates in Table IV-1. (Waste minimization projections for intermediate years used to evaluate capacity utilization need not be included).

Waste reduction factors were developed and applied to individual industrial and waste categories to indicate on-site reduction (source reduction and recycling) and off-site reduction (material recovery). Each factor was applied separately to projected annual waste generation figures to show annualized reductions. Cumulative reductions were calculated for the projection years 1989, 1995, 2009.

2. Please briefly describe the basis of your technical estimates. A list of bibliographic references and a short narrative describing how they were used is sufficient. Examples of appropriate material that might be used to develop waste minimization estimates include:

- State surveys of waste generation trends.
- Waste minimization plans prepared by industry in your state (Please describe or include these plans).
- Reports from Advisory Councils on the potential effects of waste minimization for the state.
- Reports from Federal Agencies and Trade and Technical Associations estimating trends in waste minimization applicable to the industries in your state.
- Engineering studies and analysis of potential waste stream changes applicable to industries in your state.
- Programs conducted by non-state agencies such as non-profit organizations that affect the industries in your state.

The amount of waste reduced by SARA waste type is shown for the projection years in Table IV-1. A detailed summary of how these quantities were estimated is given in the attachment "Methodology and Calculation of Waste Reduction Factors for NC Capacity Assurance Plan".

A discussion of the method used to obtain the waste reduction estimates is contained in the attachment "Technical Supplement: Procedures for Developing Annual Waste Reduction Factors for the CAP Process".

3. How do you measure the effectiveness of your program (such as by checking whether estimates were realized)? Please elaborate on your method.

_____ No other measures besides those obtained from EPA's Biennial Report.

 X Number of information requests handled

- Number of industries/plants participating
- Savings to industry (cost ratios)
- Change in waste quantity generated
- Change in ratios of waste generated per unit product
- Other: Specific information contained in the Annual Hazardous Waste Generators Reports, Certified Waste Minimization Reports, Annual Waste Reduction Reports, SARA Inventory Release Reports

A number of measures will be used to determine waste reduction effectiveness. Evaluation of the number and types of inquiries for information on waste reduction will help give an indication of current industrial waste reduction effort. This type of measure will give a quick, but rough, determination of industrial activities and needs. More detailed evaluation will be done by evaluating the specific information supplied by the annual Hazardous Waste Generator Reports, and Annual Waste Reduction Reports required of all hazardous waste generators, NPDES permit holders and air quality permit holders. These reports will supply a range of information including: current and past waste generation rates, production ratios, waste reduction techniques used, costs and sources of technical information used. Additionally, the waste reduction staff in the Department of Environment, Health and Natural Resources will be collecting case studies on waste reduction programs, conducting follow up reports on completed technical assistance projects and collecting additional information as needed.

4. How will you acquire this information?

- By examining waste minimization program records
- By conducting industry surveys
- New EPA Biennial Report

- Number of industries/plants participating
- Savings to industry (cost ratios)
- Change in waste quantity generated
- Change in ratios of waste generated per unit product
- Other: Specific information contained in the Annual Hazardous Waste Generators Reports, Certified Waste Minimization Reports, Annual Waste Reduction Reports, SARA Inventory Release Reports

A number of measures will be used to determine waste reduction effectiveness. Evaluation of the number and types of inquiries for information on waste reduction will help give an indication of current industrial waste reduction effort. This type of measure will give a quick, but rough, determination of industrial activities needs. More detailed evaluation will be done by evaluating the specific information supplied by the annual Hazardous Waste Generator Reports, and Annual Waste Reduction Reports required of all hazardous waste generators, NPDES permit holders and air quality permit holders. These reports will supply a range of information including: current and past waste generation rates, production ratios, waste reduction techniques used, costs and sources of technical information used. Additionally, the waste reduction staff in the Department of Environment, Health and Natural Resources will be collecting case studies on waste reduction programs, conducting follow up reports on completed technical assistance projects and collecting additional information as needed.

4. How will you acquire this information?

- By examining waste minimization program records
- By conducting industry surveys
- New EPA Biennial Report

X By examining state regulatory files

X Other: Annual Hazardous Generator Reports, Annual Waste Reduction Reports, Certified Waste Minimization Reports, Case Studies, Staff Contacts, SARA Inventory Release Reports

The data used to evaluate waste reduction effectiveness will come from a number of sources. Information on technical assistance contacts will be obtained from program records. Facility-specific data on waste generation, production ratio, waste reduction techniques used, etc. will be obtained from Annual Hazardous Waste Generation Reports, Waste Reduction Reports, and other regulatory information. Cost data will be obtained from the above sources plus staff contacts with industry.

- 5. Briefly describe your communication strategy with the industrial community.

The State of North Carolina has an active communication program to get information out to industries on waste reduction. This includes newsletters; contact by technical assistance staff and regulatory personnel; industrial workshops; outreach efforts to trade associations; citizen groups; industries and universities; mass mailing of announcements and waste reduction information; and a Governor's Award program.

- 6. In addition to your waste reduction estimates, are there any other activities in your state (announced programs by one or more key industries to reduce waste, pending legislation or regulations, component implementation schedule) that might be useful in evaluating your waste minimization projections?

<u>Date</u>	<u>Activity</u>
_____	_____
_____	_____
_____	_____

TABLE IV-1: CUMULATIVE PROJECTED WASTE REDUCTION FROM ON-SITE AND OFF-SITE
(TONS) BY SARA WASTE TYPE

SARA CODE & TYPE	1989 reduction tons	1995 reduction tons	2009 reduction tons
1 Contaminated Soil	58.99	363.21	786.01
2 Halogenated Solvents	325.37	2,241.63	4,897.81
3 Non-halogenated Solvents	313.48	2,050.18	4,196.69
4 Halogenated Org.Liquids	4.22	28.78	52.34
5 Non-halogen.Org.Liquids	516.72	3,105.18	6,292.10
6 Organic Liquids NEC	-	-	-
7 Mixed Organic/Inorganic Liquids	176.76	1,187.13	2,392.30
8 Inorganic Liquids with Organics	316.24	2,275.98	4,862.35
9 Inorganic Liquids with Metals	24,867.39	204,262.31	375,259.02
10 Inorg.Liquids,NEC	50,742.58	279,581.50	588,640.40
11 Halog.Org.Sldg/Solids	3.96	33.88	70.98
12 Non-halogen. Organic Sludges/Solids	230.32	1,330.65	2,601.69
13 Organic Sldg/Solids,NEC	0.56	3.09	6.51
14 Mixed Organic/Inorganic Sludges/Solids	33.08	192.11	372.22
15 Inorganic Sludges/ Solids with Metals	3,677.37	10,767.57	19,892.14
16 Inorganic Sludges/ Solids, NEC	68.28	407.48	857.20
17 Other Wastes	7.32	55.84	121.63
TOTAL	81,318.45	507,886.52	1,011,301.39

("NEC" is "not elsewhere classified".)



**ATTACHMENTS TO
Form II: WASTE MINIMIZATION ANALYSIS**

- *Methodology and Calculation of Waste Reduction Factors for North Carolina's Capacity Assurance Plan, Schecter, Hunt, and Pitchford*
- *Technical Supplement: Procedures for Developing Annual Waste Reduction Factors for the CAP Process*

METHODOLOGY AND CALCULATION OF WASTE REDUCTION FACTORS
FOR NORTH CAROLINA'S CAPACITY ASSURANCE PLAN

R. Schecter, G. Hunt, and W. Pitchford
October 10, 1989

N.C. Dept. of Environment, Health and Natural Resources

A. OVERVIEW

Waste reduction factors were developed and applied to individual industrial and waste categories to indicate on-site reduction (source reduction and recycling) and off-site reduction (material recovery). Each factor was applied separately to projected annual waste generation figures to show annualized reductions. Cumulative reductions were calculated for the target years 1989, 1991, and 2009 and will be evaluated at those target years and modified accordingly.

Section B and C describe the methodology for deriving annualized waste reduction factors for on-site and off-site respectively. Section D describes how these annualized factors were applied to calculate actual waste reduced on site for industrial categories and SARA waste type, and to calculate reallocations of waste shipped off site to recovery vs. treatment and landfill.

To indicate the relative reductions expected over the period, three summary tables are presented. Table A shows cumulative percentages for on-site reduction by industrial category (SIC or Standard Industrial Classification) for the target years. Average reductions over the seven-year period to 1995 over all SIC categories ranges from 18% to 34%. For those six SIC categories which account for 98% of all hazardous waste generated in 1987, the expected reduction is 26% to 34%. Note that the target year percentages are slightly less than summing up annual percentages from Tables D and E for repetitive industries. Statistically, percentages cannot be added or averaged so those in Table A are actual reduction for target years resulting from applying the on-site reduction factors sequentially for each year (See Section D). By 1995 total on-site waste is expected to be reduced by approximately 30%. Figure A graphically shows on-site waste generation with and without reduction through the year 2009.

Using EPA conversion factors the waste generation figures from SIC category were converted to SARA Waste Types. Table B shows on-site waste reduction factors as applied to waste type.

Table C presents total reductions expected from on-site and off-site factors. While the range of percentage reductions for the seventeen waste types by 1995 is 23% to 47%, the total reduction expected is about 26%. This percentage approximates on-site reduction because off-site waste accounts for less than 4% of total waste generated (see Section C).

The methodology and calculations for waste reduction factors for specific industrial categories and waste types are described in the following paragraphs. Detailed comparisons are described in attached Technical Supplement.

B. ON-SITE REDUCTION FACTORS

The first step in developing the on-site waste reduction factors was to review the literature and identify applicable reports. Most of the literature presents individual case studies or applications of waste reduction to a single waste stream for a one-time reduction. Using this type of data over a projected period would make overall industrial category-wide reduction factors very high. However, a few studies looked at overall reduction potential. These include:

1. Jacobs Engineering, Hazardous Waste Management Potential Workbook, California Department of Health Services, 1987.
2. EPA, Waste Minimization: Issues and Options, Vol. 1, EPA/530-SW-86-041, Office of Solid Waste, Washington, DC, 1986, pp. 3-15 to 3-21.
3. ERM, Update of New Jersey Hazardous Waste Facilities Plan. Chapter 5 "Expected Reduction in Manifested Waste", New Jersey Hazardous Waste Facilities Siting Commission, Trenton, NJ, 1989.
4. Battelle, Hazardous Waste in North Carolina: Analysis of the Collection System and of the Need for Waste Management Facilities, Governor's Waste Management Board, Raleigh, NC, 1985.

Industrial Categories and Published Data

Information on waste reduction for 17 industrial categories applicable to North Carolina was found. These industrial categories accounted for about 99% of the total waste generated in 1987, the base year. For each of these SIC categories, an achievable waste reduction potential which could be obtained by 1995 was developed. Reduction potential was based on the above references; the types of waste generated by each industry category; current management methods; and staff knowledge of waste reduction options and potential. Each potential value was divided into an annual waste reduction factor (shown in Table D) and were applied to projected annual waste generation figures as described in Section D.

A 1988 to 1995 planning period was used to enable a targeting of the State's resources to key measurable points. Beyond 1995 the waste reduction potential is difficult to estimate; thus, a 1% per year reduction factor for all SIC categories was assumed. The on-site reduction factors will be evaluated and modified as needed every two years beginning in 1991 as required by the Capacity Assurance Plan.

Industrial Categories with No Published Data

No published data were available for several SIC categories. Waste reduction factors were generated based on staff knowledge of waste reduction options for these categories and knowledge of the types of waste generated by specific categories (see Table E).

All categories were assumed to have the potential to achieve at least a 20% reduction through 1995. As was done for on-site reduction factors, these were divided into annual reduction factors. An additional 15% reduction

through 1995 was assumed for those SIC categories where 50% or more of the waste is from solvents used for cleaning or other uses. Again, these were divided down into annual reduction factors. For all years after 1995 a 1% per year reduction factor for each SIC category was assumed.

C. OFF-SITE RECOVERY FACTORS

Waste shipped off-site accounted for approximately 4% of total waste generated in 1987. Estimates of off-site recovery of halogenated solvents, non-halogenated solvents, inorganic liquid with metals, and inorganic sludges/solids with metals were made. Factors were based on best engineering judgments, effect of land ban, recovery potential and current management methods. These factors were used to reallocate waste from treatment/landfill categories to recovery categories. The estimated waste reduction factors and quantities applied to off-site recycling are shown in Table F.

D. PROJECTION OF WASTE REDUCTION FOR PLANNING PERIOD

To project waste generation through 2009, annualized economic growth factors for industrial categories were applied for each year, using waste generated in 1987 as the base year. Economic factors showed expansion in some years for some categories and declines in others; thus, increases or decreases in projected waste varied each year. At each year, the projected waste generation figures for specific industrial categories were reduced by the respective annual on-site waste reduction factors shown in Tables D and E. Graphically, the difference was shown in Figure A.

Using EPA conversion factors, waste generation and the industrial categories were converted to SARA Waste Types as required by the Capacity Assurance Plan. In this manner, cumulative reductions of on-site SARA waste type by target years could be calculated as shown in Table B. Off-site reductions by SARA waste type were calculated as shown in Table F.

Projected capacity needs for 1989, 1995 and 2009 were based on projected waste, adjusted for on-site reduction (Tables D & E), converted to SARA Waste Type, and further adjusted for off-site reduction (Table F). The total cumulative quantities and percentage reductions for North Carolina are shown in Table C.

Projected needs tables in the Capacity Assurance Plan reflect the reductions described by this methodology. The individual reduction factors and measurements of actual reductions will be evaluated separately for on-site and off-site reductions every two years for Capacity Assurance Plan update and, the reduction factors will be modified accordingly for future years.

TABLE A: CUMULATIVE ON-SITE WASTE REDUCTION FACTORS (%) BY INDUSTRIAL CATEGORY FOR TARGET YEARS

Category	SIC	1989	1991	1995
Coal	12	5	16	31
Oil extraction	13	5	16	31
Building	15	5	10	18
Construction	17	5	10	18
Food	20	5	16	31
Tobacco	21	5	16	31
Textile	22	5	16	31
Apparel	23	5	16	31
Lumber	24	5	14	26
*Furniture	25	5	14	26
Paper	26	5	16	31
Printing	27	5	14	26
*Chemicals	28	5	12	22
Petroleum	29	5	12	22
Rubber	30	5	14	26
Leather	31	5	10	18
Stone	32	5	10	18
Primary Metal	33	5	12	22
*Fabricated Metal	34	5	19	34
*Machinery	35	5	19	34
*Electrical	36	5	19	34
Transportation	37	5	19	34
*Measuring	38	5	19	34
Miscellaneous	39	5	14	26
Railroads	40	5	10	18
Buses	41	5	16	31
Motor Freight	42	5	16	31
Air Transportation	45	5	16	31
Pipe Lines	46	5	10	18
Communications	48	5	16	31
Electric	49	5	10	18
Wholesale	50	5	10	18
Wholesale	51	5	16	31
Misc. Retail	59	5	16	31
Hotels	70	5	16	31
Personal Services	72	5	10	18
Business Services	73	5	10	18
Auto Repair	75	5	16	31
Misc. Repair	76	5	10	18
Health	80	5	10	18
Legal	81	5	10	18
Education	82	5	16	31
Engineering	87	5	10	18
Government	91	5	10	18
Administration	96	5	10	18
National Security	97	5	16	31

* These six industrial categories account for 98% of total waste generated in 1987.

FIGURE A: CUMULATIVE EFFECT OF ON-SITE WASTE REDUCTION THROUGH 2009

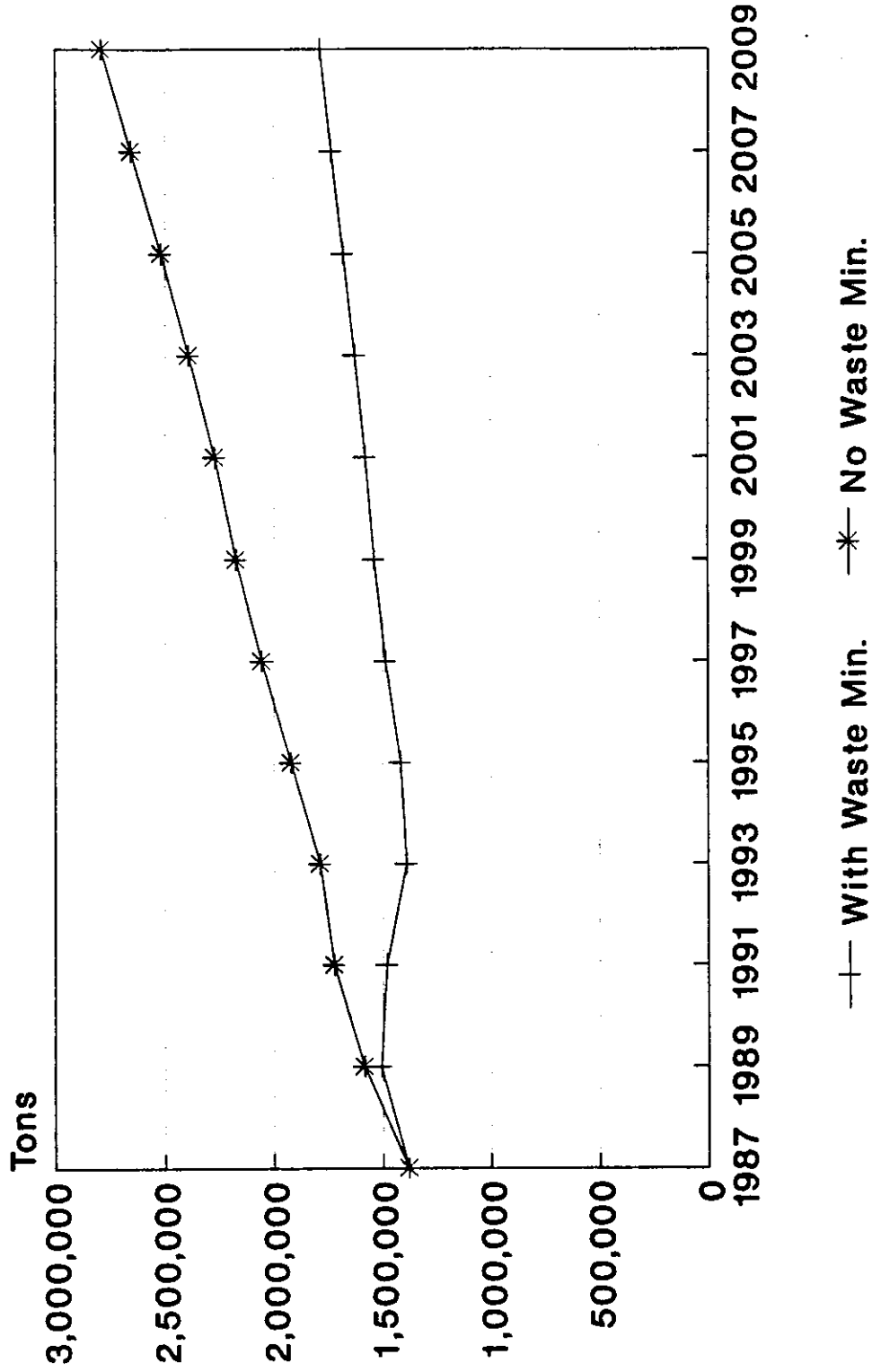


TABLE B: CUMULATIVE ON-SITE WASTE REDUCTION (%) BY SARA WASTE TYPES FOR TARGET YEARS

SARA TYPE	1989(%)	1991(%)	1995(%)	2009(%)
Contaminated Soil	5	13	24	35
Halogenated Solvents	5	15	27	37
Non-halogenated Solvents	5	15	27	37
Halogenated Organic Liquids	5	16	29	38
Non-halogenated Organic Liquids	5	13	25	35
Organic Liquids NEC	-	-	-	-
Mixed Organic/Inorganic Liquids	5	5	27	37
Inorganic Liquids with Organics	5	15	28	38
Inorganic Liquids with Metals	5	15	33	42
Inorganic Liquids, NEC	5	18	23	33
Halogenated Organic Sludges/Solids	5	12	31	41
Non-halogenated Organic Sldg/Slds	5	17	27	37
Organic Sludges/Solids, NEC	5	15	23	33
Mixed Organic/Inorganic Sldg/Slds	5	12	24	34
Inorganic Sludges/Solids w/Metals	5	13	31	40
Inorganic Sludges/Solids, NEC	5	17	24	34
Other Wastes	5	13	28	38

TABLE C: CUMULATIVE PROJECTED WASTE REDUCTION FROM ON-SITE AND OFF-SITE
(TONS AND %) BY SARA WASTE TYPE

SARA CODE & TYPE	1989 reduction	1995 reduction	2009 reduction
	tons (%)	tons (%)	tons (%)
1 Contaminated Soil	58.99 (5%)	363.21 (24%)	786.01 (35%)
2 Halogenated Solvents	325.37 (5%)	2,241.63 (28%)	4,897.81 (38%)
3 Non-halogenated Solvents	313.48 (7%)	2,050.18 (30%)	4,196.69 (41%)
4 Halogenated Org. Liquids	4.22 (5%)	28.78 (29%)	52.34 (38%)
5 Non-halogen. Org. Liquids	516.72 (5%)	3,105.18 (25%)	6,292.10 (35%)
6 Organic Liquids NEC	-	-	-
7 Mixed Organic/Inorganic Liquids	176.76 (5%)	1,187.13 (27%)	2,392.30 (37%)
8 Inorganic Liquids with Organics	316.24 (5%)	2,275.98 (28%)	4,862.35 (38%)
9 Inorganic Liquids with Metals	24,867.39 (5%)	204,262.31 (34%)	375,259.02 (42%)
10 Inorg. Liquids, NEC	50,742.58 (5%)	279,581.50 (23%)	588,640.40 (33%)
11 Halog. Org. Sldg/Solids	3.96 (5%)	33.88 (31%)	70.98 (41%)
12 Non-halogen. Organic Sludges/Solids	230.32 (5%)	1,330.65 (27%)	2,601.69 (37%)
13 Organic Sldg/Solids, NEC	0.56 (5%)	3.09 (23%)	6.51 (33%)
14 Mixed Organic/Inorganic Sludges/Solids	33.08 (5%)	192.11 (24%)	372.22 (34%)
15 Inorganic Sludges/ Solids with Metals	3,677.37 (20%)	10,767.57 (47%)	19,892.14 (59%)
16 Inorganic Sludges/ Solids, NEC	68.28 (5%)	407.48 (24%)	857.20 (34%)
17 Other Wastes	7.32 (5%)	55.84 (28%)	121.63 (38%)
TOTAL	81,318.45 (5%)	507,886.52 (26%)	1,011,301.39 (36%)

("NEC" is "not elsewhere classified".)

TABLE E: ANNUAL ON-SITE WASTE REDUCTION FACTORS FOR SELECTED INDUSTRIES

Industrial Groups

Building	SIC - 20
Construction	SIC - 17
Leather	SIC - 31
Stone	SIC - 32
Railroads	SIC - 40
Pipe Lines	SIC - 46
Electric	SIC - 49
Wholesale	SIC - 50
Personal Services	SIC - 72
Misc. Repairs	SIC - 76
Health	SIC - 80
Legal	SIC - 81
Engineering	SIC - 87
Government	SIC - 91
Administration	SIC - 96

Annual Minimum Waste Reduction Factors

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996-2009/year
Factor (%)	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	1

Industrial Groups Including Solvents

Coal	SIC-12
Oil extraction	SIC-13
Food	SIC-20
Tobacco	SIC-21
Textile	SIC-22
Apparel	SIC-23
Buses	SIC-41
Air Transportation	SIC-45
Communication	SIC-48
Wholesale	SIC-51
Miscellaneous Retail	SIC-59
Hotels	SIC-70
Auto Repair	SIC-75
Education	SIC-82
National Security	SIC-97

Annual Waste Reduction Factors

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996-2009/year
Factor (%)	2.5	2.5	5	7.5	7.5	5	2.5	2.5	1

TABLE F: CUMULATIVE OFF-SITE WASTE REDUCTION QUANTITIES
AND FACTORS (%) BY SARA WASTE TYPE

SARA CODE WASTE TYPE	TARGET YEAR SHIFT AND CUMULATIVE REDUCTIONS		
Reallocate from Liquid Incineration to Solvent Recovery			
	<u>1989</u>	<u>1995</u>	<u>2009</u>
2 Halogenated Solvents	14 (5%)	53 (20%)	111 (30%)
3 Non-halogenated Solvents	48 (5%)	185 (20%)	365 (30%)
Reallocate from Inorganic Aqueous Treatment to Metal Recovery			
	<u>1989</u>	<u>1995</u>	<u>2009</u>
9 Inorganic Liquids with Metals	252 (5%)	949 (20%)	1,802 (30%)
Reallocation from Landfill to Metal Recovery			
	<u>1989</u>	<u>1995</u>	<u>2009</u>
15 Inorganic Sludges and Solids with Metals	2,772 (20%)	3,790 (30%)	6,433 (40%)

TECHNICAL SUPPLEMENT:

PROCEDURES FOR DEVELOPING ANNUAL WASTE
REDUCTION FACTORS FOR THE CAP PROCESS

The first step in developing the on-site waste reduction factors was to review the literature and identify applicable reports. Most of the literature presents individual case studies or applications of waste reduction to a single waste stream for a one-time reduction. Using this type of data over a projected period would make overall industrial category-wide reduction factors very high. For example, while an 80% reduction for a single waste stream may be achieved, the overall facility reduction will be lower. However, a few current studies looked at overall waste reduction estimates for industrial categories. This information is shown below and discussed in Table 1.

1. Jacobs Engineering, Hazardous Waste Management Potential Workbook, California Department of Health Services, 1987.

This workbook estimates the amount of waste which could be reduced in 13 industrial categories and processes in California. The estimates were developed based on evaluation of the applicability of available waste reduction techniques to actual waste streams from a number of industrial processes. Specific case study information along with reduction techniques' effectiveness, extent of current use, and potential future use were all used in developing the reduction potential. These estimates represent the potential waste which could be reduced if all evaluated waste reduction techniques were implemented. No time frame for achieving this reduction was estimated.

2. EPA, Waste Minimization: Issues and Options, Vol. 1, EPA/530-SW-86-041, Office of Solid Waste, Washington, DC, 1986, pp.3-15 to 3-21.

A background document on EPA's Report to Congress on Waste Minimization contains waste reduction estimates for 12 industrial categories. They are based on an analysis of the potential waste reduction techniques for processes which are used in these 12 industrial categories. Actual case study information, literature reviews, and contacts with industry and trade associations were used in developing these estimates. The reduction factors represent a range of reduction potentials for the selected categories. These represent the potential waste which could be reduced if all evaluated methods were put into place. No time frame for achieving these results was estimated.

3. ERM, Update of New Jersey Hazardous Waste Facilities Plan. Chapter 5 "Expected Reduction in Manifested Waste", New Jersey Hazardous Waste Facilities Siting Commission, Trenton, NJ, 1989.

This study evaluated annual industrial waste minimization reports from NJ facilities for 1986 and 1987. The reports detail for each facility the quantity of waste generated, production information and methods used in reducing waste. The data was aggregated into 20 industrial categories, and average waste reduction estimates for the period were calculated. Additionally, based solely on successful reduction programs, a maximum waste reduction estimate was calculated for the same period for each category.

4. Battelle, Hazardous Waste in North Carolina: Analysis of the Collection System and of the Need for Waste Management Facilities, Governor's Waste Management Board, Raleigh, NC, 1985.

In this report the largest North Carolina generators of hazardous waste shipped off-site were interviewed and asked to estimate the quantity of waste, by type which would be reduced from 1983 to 1990. Eighteen plants were interviewed from a range of industrial categories and waste types. These estimates are for specific plants and waste streams and are not applicable to the whole industrial category.

Industrial Categories with Published Data

From the sources discussed above, waste reduction estimates for 17 industrial categories applicable to North Carolina were found. These categories account for 98% of the total waste generated in 1987. Waste reduction potentials for each category were developed using published information modified by North Carolina information on the types of waste generated in each industrial category, current management methods and staff experience of waste reduction options. These waste reduction potentials are shown in Table 2 and represent the percent of waste which could be reduced if industries in the category implement currently available reduction techniques for all waste streams. A specific discussion of how these reduction potentials were derived for the major waste generating industrial categories follows.

- ◆ Furniture (SIC-25): The major waste streams generated by this industry are solvents (F003 and F005) and ignitable waste (D001) from coating and finishing operations and electroplating waste (F006) from metal finishing operations. The major waste streams sent off-site for treatment/disposal were solvents (F003 and F005) and ignitable waste (D001). The waste reduction estimate reported in the literature were 24-51% (1) and 9% (over a 2 year period) (3). The two-year New Jersey estimates would equal about a 30% reduction for a 1987-1995 planning period. A waste reduction potential of 30% was selected based on North Carolina furniture facilities using more efficient coating techniques, improving operational procedures, on-site recycling of solvents and an extensive use of alternative coatings. This is the lower to mid-range of all reported estimates. The higher range was not considered applicable to North Carolina because it assumed a switch from solvent to water-based coatings.

This is not technologically feasible at most North Carolina furniture plants in the short term.

- ♦ Chemicals (SIC-28): The major waste streams generated by this industry are corrosive waste (D002), ignitable waste (D001), and solvent waste (F003 and F005). The major waste streams sent off-site for treatment/disposal are solvent waste (F005 and F003), ignitable waste (D001); distillation bottoms from aniline production (K083) and corrosive waste (D002). These waste streams can include by-products of the production process, cleaning waste, off-spec materials, tank bottoms, and clean up residue. The waste reduction estimates reported in the literature were 15-25% (2), 10% and 18% (over a 2-year period) (3) and 50% (by 1990) (4). The average New Jersey two-year estimate would be about a 34% reduction for North Carolina industry over a period from 1987-1995. A waste reduction factor of 25% was selected for this category. This is based on the maximum value of the EPA study (2). This reduction factor is based on a number of production processes in the industrial category. The values from NJ (3) were deemed high for NC mix of firms, and the estimates reported by four NC chemical companies (4) was based on a limited number of specific waste streams. The techniques which can be used to meet a 25% reduction potential include inventory control, improved operational/maintenance procedures, process modification, and on-site recovery.
- ♦ Fabricated metals (SIC-34), Machinery (SIC-35) and Electrical (SIC-36).

All of these industrial categories use the same basic production processes which include electroplating, surface coating, metal forming and machining. The major waste streams generated and shipped off-site by these production processes include electroplating wastewater treatment sludge (F006), chromium and lead waste (D007 and D008) and Solvents (F001). A number of waste reduction estimates were reported in the literature for these industrial categories and processes as shown in Table 1. A waste reduction potential of 40% was selected for these three industrial categories which is the high end of the estimates reported in the literature. This is based on using source reduction and on-site recycling techniques to reduce the quantity of process chemicals leaving the plating line, reducing water usage, decreasing the quantity of wastewater treatment sludge generated and reduce/eliminate solvent use for cleaning and coating operations.

These estimates do not include a time frame for achieving the reduction potential. In order to achieve these goals, a 1988 to 1995 planning period was selected which will enable the targeting of the States resources to key measurable points. Thus the reduction potentials were divided into annual waste reduction factors over this planning period as shown in Table 3. The factors started at 2.5% in 1988 and, depending on the category, increased to a maximum in 1992 and then decreased to 2.5% in 1995. Factors were annualized to be compatible with the economic projections and to provide a milestone for tracking the waste reduction potential. Beyond 1995 the waste reduction

potential is difficult to estimate; thus, a 1% per year reduction factor for all SIC categories was assumed. The on-site reduction factors will be evaluated and modified as needed every two years beginning in 1991 as required by the Capacity Assurance Plan.

Industrial Categories with No Published Data

Industry-wide waste reduction estimates were not available for several SIC categories. Waste reduction factors were generated based on staff knowledge of waste reduction options for these categories and knowledge of the types of waste generated by specific categories. All categories were assumed to have the potential to achieve at least a 20% reduction through 1995. (See Table 4). This can be accomplished through improved operation and maintenance, inventory control and simple proven modifications. Case studies, literature reports and staff knowledge show that these types of good management practices can reduce waste by at least 20%. As was done for on-site reduction factors, these were divided into annual reduction factors. An additional 15% reduction through 1995 was assumed for those SIC categories where 50% or more of the waste is from solvents used for cleaning, coating or other uses. Switching to water based products, improved operational and maintenance procedures, and process modification can be used to reduce solvent use by this level. Again, these were divided down into annual reduction factors. For all years after 1995 a 1% per year reduction factor for each SIC category was assumed.

OFF-SITE RECOVERY FACTORS

Waste shipped off-site accounted for approximately 4% of total waste generated in 1987. Estimates of off-site recovery of halogenated solvents, non-halogenated solvents, inorganic liquid with metals, and inorganic sludges/solids with metals were made. Factors were based on best engineering judgments, effect of land ban, recovery potential and current management methods. These factors were used to reallocate waste from treatment/landfill categories to recovery categories. The estimated waste reduction factors and quantities applied to off-site recycling are shown in Table 5.

REFERENCES

1. Jacobs Engineering, Hazardous Waste Management Potential Workbook, California Department of Health Services, 1987.
2. EPA, Waste Minimization: Issues and Options, Vol. 1, EPA/530-SW-86-041, Office of Solid Waste, Washington, DC, 1986, pp. 3-15 to 3-21.
3. ERM, Update of New Jersey Hazardous Waste Facilities Plan. Chapter 5 "Expected Reduction in Manifested Waste", New Jersey Hazardous Waste Facilities Siting Commission, Trenton, NJ, 1989.
4. Battelle, Hazardous Waste in North Carolina: Analysis of the Collection System and of the Need for Waste Management Facilities, Governor's Waste Management Board, Raleigh, NC, 1985.

TABLE 1: SUMMARY OF PUBLISHED REDUCTION ESTIMATES

Category/Process	SIC Code	On-Site Reduction Potential (%)	Source
Lumber	24	11-31	1
		13-40	2
		20 (b)	3
Furniture	25	24-51	1
		9 (a)	3
Pulp & Paper	26	24 (a)	3
		17 (b)	3
Printing	27	15-37	1
		18-35	2
		9 (a)	3
Chemical	2851	12-30	1
	2879	22-31	1
	28	15-25	2
	28	18 (a)	3
	28	10 (b)	3
	28	50	4
Refinery	29	10-27	1
		15-43	2
Rubber & Plastic	30	18-35	2
		30 (a)	3
		10 (b)	3
Primary Metals	33	15-25	2
		21 (b)	3
Fabricated Metal	34	28-38	2
		29 (a)	3
		19 (b)	3
Plating	34	17-42	1
Etching	34	15-35	1
Parts Cleaning	34-38	25-58	1
Painting	34-38	24-51	1
Machinery	35	23-35	2
		12 (a)	3
		3 (b)	3

Electrical	36	20-42	1
		15-33	2
		26 (a)	3
		3 (b)	3
		44	4
Transportation	37	23-35	2
		29 (a)	3
		3 (b)	3
Measuring	38	16 (a)	3
		8 (b)	3
Miscellaneous	39	23-35	2
		14 (a)	3
		3 (b)	3
Motor Freight	42	33-43	1
Wholesale	51	15 (b)	3
Business Services	73	19 (b)	3

(a): two years maximum

(b): two year average

TABLE 2: Waste Reduction Potentials for N.C. Industrial Categories

Category	SIC Code	On-Site Reduction Potential (%) *
Lumber	24	30
Furniture	25	30
Pulp & Paper	26	35
Printing	27	30
Chemical	28	25
Refinery	29	25
Rubber & Plastic	30	30
Primary Metals	33	25
Fabricated Metals	34	40
Machinery	35	40
Electrical	36	40
Transportation	37	40
Measuring	38	40
Miscellaneous	39	30
Motor Freight	42	35
Wholesale	51	35
Business Services	73	20

* for the period 1987-1995

TABLE 4: ANNUAL ON-SITE WASTE REDUCTION FACTORS FOR SELECTED INDUSTRIES

Industrial Groups

Building	SIC - 20
Construction	SIC - 17
Leather	SIC - 31
Stone	SIC - 32
Railroads	SIC - 40
Pipe Lines	SIC - 46
Electric	SIC - 49
Wholesale	SIC - 50
Personal Services	SIC - 72
Misc. Repairs	SIC - 76
Health	SIC - 80
Legal	SIC - 81
Engineering	SIC - 87
Government	SIC - 91
Administration	SIC - 96

Annual Minimum Waste Reduction Factors

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996-2009/year
Factor (%)	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	1

Industrial Groups Including Solvents

Coal	SIC-12
Oil extraction	SIC-13
Food	SIC-20
Tobacco	SIC-21
Textile	SIC-22
Apparel	SIC-23
Buses	SIC-41
Air Transportation	SIC-45
Communication	SIC-48
Wholesale	SIC-51
Miscellaneous Retail	SIC-59
Hotels	SIC-70
Auto Repair	SIC-75
Education	SIC-82
National Security	SIC-97

Annual Waste Reduction Factors

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996-2009/year
Factor (%)	2.5	2.5	5	7.5	7.5	5	2.5	2.5	1

TABLE 5: CUMULATIVE OFF-SITE WASTE REDUCTION QUANTITIES
AND FACTORS (%) BY SARA WASTE TYPE

SARA CODE TARGET YEAR SHIFT AND CUMULATIVE REDUCTIONS
WASTE TYPE

Reallocate from Liquid Incineration to Solvent Recovery

	<u>1989</u>	<u>1995</u>	<u>2009</u>
2 Halogenated Solvents	14 (5%)	53 (20%)	111 (30%)
3 Non-halogenated Solvents	48 (5%)	185 (20%)	365 (30%)

Reallocate from Inorganic Aqueous Treatment to Metal Recovery

	<u>1989</u>	<u>1995</u>	<u>2009</u>
9 Inorganic Liquids with Metals	252 (5%)	949 (20%)	1,802 (30%)

Reallocation from Landfill to Metal Recovery

	<u>1989</u>	<u>1995</u>	<u>2009</u>
15 Inorganic Sludges and Solids with Metals	2,772 (20%)	3,790 (30%)	6,433 (40%)

Form III: DESCRIPTION OF PROGRAM

States that incorporate waste minimization estimates in their capacity projections should complete this form. This section requests information on the specific components of your waste minimization program described in Form I, Question 2. Please complete the sections that are applicable to your state program. Questions on different waste minimization components are presented separately so that they may be distributed to different program officials if necessary. States should copy and complete the form and include it and any additional documentation. Please attach additional information if more space is needed to answer any question.

Form III includes the following:

- III-a Technical Assistance
- III-b Economic Incentives
- III-c Waste Exchange
- III-d Research and Development
- III-e Regulatory Requirements
- III-f Education

Respondents to each set of questions in this form should attach their name and telephone number should additional information be required.

Name of Respondent	Roger N. Schecter, Director Pollution Prevention Pays Program
Telephone Number	(919) 733-7015
Address	Department of Environment, Health, and Natural Resources Post Office Box 27687 Raleigh, North Carolina 27611

1. Please indicate the approximate emphasis that your state places on the following waste minimization components as a percent of your waste minimization budget.

<u>Component</u>	<u>Approximate Percent of the Budget*</u>
Technical Assistance	33 Staff time
Economic Incentives	24 Grant funds
Waste Exchange	0 No state funding
Research and Development	20 Grant funds
Regulatory Requirements	2 Staff time
Education	17 Grant funds/staff time
Other (Outreach)	3 Staff time
Total	100 %

* Does not include two-year \$300,000 multi-media grant.

** Does not include additional resources available through the National Waste Minimization and Management Research Center at North Carolina State University.

III-a TECHNICAL ASSISTANCE

1. Indicate which of the following Technical Assistance components are currently in use or proposed for use in your waste minimization program.

Technical Assistance

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u>X</u>	_____	Onsite assistance
<u>X</u>	_____	Information clearinghouse/Library
<u>X</u>	_____	Technical workshops
<u>X</u>	_____	Feasibility studies
<u>X</u>	_____	Other: Technical Publications

2. For Technical Assistance, please provide the following information for existing programs or proposed programs:

- 2a. Describe the specific target of the Technical Assistance program (e.g., waste streams, industry categories, or both)

The Technical Assistance Program targets all industrial categories and wastestreams. Particular emphasis will be given to major waste generating categories (SIC-25, 28, 37, 35, & 36), and solvent and metal bearing waste sent off-site for treatment/disposal. See documents "Methodology and Waste Reduction Factors for North Carolina Capacity Assurance Plan" and Technical Supplement," attached to Form II, for more information.

- 2b. Why did you choose to implement this program?

Technical assistance is the major element of the North Carolina's waste reduction efforts. Direct technical

assistance for specific wastestreams is the most successful way to help industries reduce waste generation.

- 2c. **What problems to implementing the Technical Assistance program do you anticipate or have you experienced?**

None.

- 2d. **What quantities of waste do you expect to reduce through Technical Assistance? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1]**

The quantities of waste reduced specifically by the Technical Assistance portion of the North Carolina waste reduction efforts cannot be separately quantified from other program elements. The program is an integrated effort which depends on the success of all its elements.

III-b ECONOMIC INCENTIVES

1. Indicate which of the following Economic Incentives components are currently in use or proposed for use in your waste minimization program.

Economic Incentives

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Awards/matching grants
<u> X </u>	_____	Taxes/Fees (e.g., waste-end, front-end, point-of use)
_____	_____	Low-interest loans
<u> X </u>	_____	Tax credits
_____	_____	Other

2. For Economic Incentives, please provide the following information for existing or proposed programs:

- 2a. Indicate the number of grants provided in the baseyear as part of this component.

In 1987 twelve (12) matching grants were awarded for a total of \$60,000 in State funds. The companies match for the grants amounted to \$105,800 for a total of \$165,800 spent on waste reduction projects. Since 1985 this public-private partnership has provided over \$1,000,000 for 68 pollution prevention and waste reduction projects.

- 2b. What is the current (or projected) annual budget for grants provided in your waste minimization program as part of Economic Incentives (in thousands of dollars)?

\$150,000 in State funds.

- 2c. If taxes or fees are imposed, describe the tax (\$ per ton, for example) and the amount of revenues generated by the tax in the most recent state fiscal year.

A. \$0.50 per ton fee is assessed each generator of over 1,000 kg/month of hazardous waste to a maximum of 25,000 ton (\$12,500). Also, there is a \$500 annual fee for generation of more than 1,000 kg/month of hazardous waste and a \$25 annual fee for generators of less than 1,000 kg/month. The total amount of money collected by all of these fees in FY 89 was \$488,000.

- 2d. Why did you choose to implement this program?

Economic incentives have been an important element of North Carolina's waste reduction efforts. Providing these types of incentives helps firms overcome some of the barriers to implementing waste reduction programs.

- 2e. How effective have each of your economic incentives been in minimizing wastes?

Matching grants projects for particular wastestreams have generally shown a 20-30% reduction. Fees on hazardous waste generation have encouraged large quantity hazardous waste generators to try to reduce their generation rates to save money on fees or eliminate the fee by becoming a small quantity generator.

- 2f. What quantities of waste do you expect to reduce through economic incentives? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by economic incentives cannot be separately quantified from other program elements. The program is an integrated effort which depends for its success on all elements.

III-c WASTE EXCHANGE

1. Indicate which of the following Waste Exchange components are currently in use or proposed for use in your waste minimization program.

Waste Exchange

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u>X</u>	_____	State-promoted
_____	_____	State-managed
_____	_____	State-financed
<u>X</u>	_____	Regional or multi-state effort
_____	_____	Other

2. For Waste Exchange, please provide the following information for existing programs or proposed programs:
- 2a. What is the current (or projected) annual contribution to the Waste Exchange (in thousands of dollars) that you participate in?
- In FY 88 and 89 a total of \$33,000 was provided by the State.
- 2b. What is the name of the Waste Exchange that you participate in?
- Southeast Waste Exchange
- 2c. Which states participate in this Waste Exchange (Please list)?
- Primary area states are North Carolina, South Carolina, Alabama, Georgia, Virginia, Kentucky, Tennessee, Mississippi, and Florida. The North American network is used to link to other waste exchanges.

- 2d. Describe the specific target of the Waste Exchange program (e.g., waste streams, industry categories, or both).

Wastestream targets include: acids, alkalis, other inorganics, solvents, other organics, oils/waxes, plastics, rubber, textiles, leather, wood/paper, metal/metal sludges. All industries are targeted as well as government agencies.

- 2e. Why did you choose to implement this program?

Need by companies to use recycling as a waste management option, save and/or earn money.

- 2f. What problems do implementing the Waste Exchange program do you anticipate or have you experienced?

Funding levels vary annually. No baseline state funding.

- 2g. What quantities of waste do you expect to reduce through waste exchange? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by waste exchange cannot be separately quantified from the program elements. The program is an integrated effort which depends for its success on all elements.

III-d RESEARCH and DEVELOPMENT

1. Indicate which of the following Research and Development components are currently in use or proposed for use in your waste minimization program.

Research and Development

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Options development/feasibility studies
<u> X </u>	_____	Pilot scale or demonstration projects
<u> X </u>	_____	Economic or policy analysis
<u> X </u>	_____	Manuals for audits or technology implementation
<u> X </u>	_____	Other: Technical workshops/conferences, joint projects with the National Waste Minimization and Management Research Center.

2. For Research and Development, please provide the following information for existing programs or proposed programs:
- 2a. What is the current (or projected) annual budget for Research and Development (in thousands of dollars)?
- \$125,000 in State Funds.**

- 2b. Describe the specific target of the Research and Development program (e.g., waste streams, industry categories, or both).

The Research and Development Program targets all industrial categories and wastestreams. Particular emphasis will be given to major waste generating categories (SIC-25, 28, 37, 35 and 36), and solvent and metal-bearing waste sent off-site for treatment/disposal. See documents "Methodology and Waste Reduction Factors for NC Capacity Assurance Plan" and "Technical Supplement," attached to Form II, for more information.

- 2c. Why did you choose to implement this program?

Research and Development has been an important element of the North Carolina waste reduction effort. This program allows the state to develop and evaluate waste reduction techniques applicable to North Carolina-specific wastestreams.

- 2d. What problems to implementing the Research and Development program do you anticipate or have you experienced?

None

- 2e. What quantities of waste do you expect to reduce through research and development? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by research and development cannot be separately quantified from other program elements. The program is an integrated effort which depends on its success in all elements.

III-e REGULATORY REQUIREMENTS

1. Indicate which of the following Regulatory Requirement components are currently in use or proposed for use in your waste minimization program.

Regulatory Requirements

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Reporting requirements
_____	_____	Reduction standards
_____	_____	Design or operating standards (e.g., required chemical substitutions)
_____	_____	Management standards (e.g., mandatory waste reduction audits, listing on waste exchanges)
<u> X </u>	_____	Other: Inspection and Enforcement

2. For Regulatory Requirements, please provide the following information for existing programs or proposed programs:

2a. Describe the specific target of the Regulatory Requirements program (e.g., wastestreams, industry categories, or both).

All industries and wastestreams in North Carolina.

2b. Why did you choose to implement this program?

State and Federal regulatory requirements. See Form I for more details of North Carolina's legislative requirements.

- 2c. What problems to implementing the Regulatory Requirements program do you anticipate or have you experienced?

None

- 2d. What quantities of waste do you expect to reduce through regulatory requirements? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by this portion of North Carolina waste reduction programs cannot be separately quantified from the program elements. The program is an integrated effort which depends on its success in all elements.

2b. Why did you choose to implement this program?

Education has been an important element of North Carolina's waste reduction efforts. Education programs help insure that North Carolina industries can be supplied with current information needed to reduce waste generation.

2c. What problems to implementing the education program do you anticipate or have you experienced?

None.

2d. What quantities of waste do you expect to reduce through education? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by education cannot be separately quantified from the program elements. The program is an integrated effort which depends on its success in all elements.

III-f EDUCATION

1. Indicate which of the following Education components are currently in use or proposed for use in your waste minimization program.

Education

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u>X</u>	_____	Governor's or other award programs
<u>X</u>	_____	Public education (e.g., seminars, workshops, pamphlets)
<u>X</u>	_____	Outreach
<u>X</u>	_____	Feasibility studies
<u>X</u>	_____	Other: Student interns, college curriculum, Hazardous Waste Generator Workshops and Small Quantity Generator Workshops.

2. For education, please provide the following information for existing programs or proposed programs:

- 2a. Describe the specific target of the education program (e.g., wastestreams, industry categories, or both).

The education program targets all industrial categories and wastestreams. Particular emphasis will be given to major waste generating categories (SIC-25, 28, 37, 35 and 36), and solvent and metal bearing wastes sent off-site for treatment/disposal. See documents "Methodology and Waste Reduction Factors for North Carolina Capacity Assurance Plan" and "Technical Supplements," attached to Form II, for more information.

North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

Part III

**PROJECTIONS OF HAZARDOUS WASTE
GENERATION AND THE DEMAND FOR
MANAGEMENT CAPACITY**

PART III

PROJECTIONS OF HAZARDOUS WASTE GENERATION AND THE DEMAND FOR MANAGEMENT CAPACITY

Name of Respondent 1 **William Pitchford, Computer Systems Manager
Division of Solid Waste Management**

Telephone Number **(919) 733-4996**

Address **Department of Environment, Health, and
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Post Office Box 27687
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Name of Respondent 2 **Darrell Hinnant, Executive Director
Hazardous Waste Management Commission**

Telephone Number **(919) 733-5420**

Address **Hazardous Waste Management Commission
430 North Salisbury Street
Raleigh, North Carolina 27611**

This part contains projections of generation and of available capacity at facilities within and outside the state to treat, destroy, or securely dispose of wastes, including assessment of capacity shortfalls.

The information is presented as follows:

YEAR 1989

Table 89-1 Summary of In-State Generation by Waste Type in 1989

Table 89-2 Summary of Waste Quantities Exported in 1989 by SARA Management Category and Importing State

Table 89-3 Summary of Waste Quantities Imported in 1989 by SARA Management Category and Exporting State

Table 89-4 1989 In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities

Table 89-4A	1989 In-State Waste Managed by Waste Type and SARA Management Categories at Captive Facilities
Table 89-4B	1989 In-State Waste Managed by Waste Type and SARA Management Categories at Commercial Facilities
Table 89-4C	1989 In-State Waste Managed by Waste Type and SARA Management Categories at Onsite Facilities
Table 89-5	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's
Table 89-5A	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities
Table 89-5B	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities
Table 89-5C	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Onsite Facilities

YEAR 1995

Table 95-1	Summary of In-State Generation by Waste Type in 1995
Table 95-2	Summary of Waste Quantities Exported in 1995 by SARA Management Category and Importing State
Table 95-3	Summary of Waste Quantities Imported in 1995 by SARA Management Category and Exporting State
Table 95-4	1995 In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities
Table 95-4A	1995 In-State Waste Managed by Waste Type and SARA Management Categories at Captive Facilities
Table 95-4B	1995 In-State Waste Managed by Waste Type and SARA Management Categories at Commercial Facilities
Table 95-4C	1995 In-State Waste Managed by Waste Type and SARA Management Categories at Onsite Facilities

Table 95-5	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's
Table 95-5A	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities
Table 95-5B	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities
Table 95-5C	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Onsite Facilities

YEAR 2009

Table 09-1	Summary of In-State Generation by Waste Type in 2009
Table 09-2	Summary of Waste Quantities Exported in 2009 by SARA Management Category and Importing State
Table 09-3	Summary of Waste Quantities Imported in 2009 by SARA Management Category and Exporting State
Table 09-4	2009 In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities
Table 09-4A	2009 In-State Waste Managed by Waste Type and SARA Management Categories at Captive Facilities
Table 09-4B	2009 In-State Waste Managed by Waste Type and SARA Management Categories at Commercial Facilities
Table 09-4C	2009 In-State Waste Managed by Waste Type and SARA Management Categories at Onsite Facilities
Table 09-5	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's
Table 09-5A	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities
Table 09-5B	Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities

Table 09-5C Comparison of Maximum Hazardous Waste Management
Capacity with Utilized Capacity for Onsite Facilities

Methodology Used for Projection Year Data Collection

A. Industrial Growth Factors

The basis for the projection calculations was the forecast of manufacturing output growth over the 20-year planning period based on 2-digit SIC code. These factors were prepared by the North Carolina State Budget Office using the techniques by which the state forecasts economic growth for other purposes.

These yearly industrial growth factors were adjusted by another factor to consider the effects of onsite waste minimization (see section on methodology used for waste minimization projections). The adjusted yearly growth factors were applied to the baseyear recurrent generation figures to obtain projected recurrent generation amounts.

These wastes were assigned to SARA management categories based on the NC management profile already established. This profile was designed to take into account the regional approach agreed on by the Region IV states.

After assignment to management category, offsite waste minimization efforts were applied. The next step was to take into account the effects of regulatory changes such as the "Land Bans." This resulted in a net shift away from management in landfills.

B. Projections for One-Time Generation

One-time generation was calculated based on estimates from the North Carolina Superfund Section of yearly Superfund cleanups, under- ground storage tank removals and an estimate of accidental one-time spill cleanups. Accidental spills were estimated based on a profile of the baseyear one-time generation, discounting RCRA remedial actions.

These one-time generation amounts were added to the recurrent generation to produce an estimate of total primary generation.

C Secondary Treatment

The need for secondary treatment was focused on residuals from incineration, both liquid and solid. The management path for this residual was stabilization followed by landfilling. All amounts sent to stabilization were adjusted by a factor of 1.5 to account for expansion before landfilling.

D. Projection Year Tables

Tables for the individual projection years were calculated in the same manner as the baseyear tables, taking into account the following factors:

Regional agreement in place for all eight Region IV states

Regional shortfall of solids incineration capacity in 1989

New instate capacity coming on-line by 1995.

Findings

An analysis of the projection year data shows for all projection years substantial capacity shortfalls in the areas of stabilization and landfill disposal, with lesser shortfalls in the areas of metals and solvents recovery. For the 1989 projection year, there is also a shortfall in incineration capacity, which will be eliminated by establishment of incineration capacity no later than 1994.

Table 09-1 Summary of In-State Generation by Waste Type in 1989
(Tons/Year)

Waste Type	Recurrent Generation	One-time Generation	Total Generation
1. Contaminated Soil	5,613	2,000	7,613
2. Halogenated Solvents	6,622		6,622
3. Nonhalogenated Solvents	5,618		5,618
4. Halogenated Organic Liquids	89		89
5. Nonhalogenated Organic Liquids	7,115		7,115
6. Organic Liquids, unspecified	0		0
7. Mixed Organic/Inorganic Liquids	3,373		3,373
8. Inorganic Liquids with Organics	6,218		6,218
9. Inorganic Liquids with Metals	471,334		471,334
10. Inorganic Liquids, NEC	975,126		975,126
11. Halogenated Organic Sludges/Solids	2,194	2,000	4,194
12. Nonhalogenated Organic Sludges/Solids	8,037		8,037
13. Organic Sludges/Solids, Unspecified	27		27
14. Mixed Organic/Inorganic Sludges/Solids	3,079	1,000	4,079
15. Inorganic Sludges/Solids with Metals	37,283	2,000	39,283
16. Inorganic Sludges/Solids, NEC	3,249		3,249
17. Other Wastes, NEC	190		190
TOTAL	1,535,166	7,000	1,542,166

NEC - Not elsewhere classified.

Table 89-2. Summary of Waste Quantities Exported in 1989
by SARA Management Category and Importing State (Tons/Year)

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Alabama									0
Florida									0
Georgia									0
Kentucky									0
Mississippi									0
Tennessee	6,394								6,394
South Carolina		8,799	7,786	663			27,646	41,470	86,364
TOTAL	6,394	8,799	7,786	663	0	0	27,646	41,470	92,758

Table 89-3. Summary of Waste Quantities Imported in 1989
by SARA Management Category and Exporting State (Tons/Year)

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Alabama									0
Florida									0
Georgia						11,570			11,570
Kentucky						17,065			17,065
Mississippi									0
Tennessee									0
South Carolina						13,100			13,100
TOTAL	0	0	0	0	0	41,735	0	0	41,735

Table 89-4. 1989 In-State Waste Managed by Waste Type
and SARA Management Categories for All Facilities (Tons/Year)

SARA MANAGEMENT CATEGORIES

Waste Types	Exempt Treatment	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	TOTAL
Contaminated Soil			0			0	0			
Halogenated Solvents	417		1,100			332	55			
Nonhalogenated Solvents	217		2,142			877	144			
Halogenated Organic Liquids	69		0			0	0			
Nonhalogenated Organic Liquids	136		0	2,750		6,510	67			
Organic Liquids, unspecified			0			0	0			
Mixed Organic/Inorganic Liquids	505		0			329	0			
Inorganic Liquids with Organics	230		0			930	2,384			
Inorganic Liquids with Metals	463,368		0			135	4,746			
Inorganic Liquids, NEC	965,193		0	46		35	346			
Halogenated Organic Sludges/Solids			0			0	0			
Nonhalogenated Organic Sludges/Solids	82		0		97	296	0			
Organic Sludges/Solids, Unspecified			0			0	0			
Mixed Organic/Inorganic Sludges/Solids			0			0	0			
Inorganic Sludges/Solids with Metals	115		0			0	515			
Inorganic Sludges/Solids, NEC	7		0			0	0			
Other Wastes, NEC			0			6	0			
TOTAL	1,430,337	0	3,242	2,796	97	9,450	8,256	0	0	1,454,178

Table 89-4A. 1989 In-State Waste Managed by Waste Type
and SARA Management Categories at Captive Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt. Stabilization		Landfill	
Contaminated Soil									
Halogenated Solvents									
Nonhalogenated Solvents					111				
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids					276				
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids					108				
Inorganic Liquids with Organics									
Inorganic Liquids with Metals									
Inorganic Liquids, NEC									
Halogenated Organic Sludges/Solids									
Nonhalogenated Organic Sludges/Solids				97					
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals									
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL				97	496				593

Table 89-48. 1989 In-State Waste Managed by Waste Type
and SARA Management Categories at Commercial Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Contaminated Soil		0			0	0			
Halogenated Solvents		1,100			332	55			
Nonhalogenated Solvents		2,142			766	144			
Halogenated Organic Liquids		0			0	0			
Nonhalogenated Organic Liquids		0			6,233	67			
Organic Liquids, NEC		0			0	0			
Mixed Organic/Inorganic Liquids		0			221	0			
Inorganic Liquids with Organics		0			930	2,384			
Inorganic Liquids with Metals		0			135	4,746			
Inorganic Liquids, NEC		0			35	346			
Halogenated Organic Sludges/Solids		0			0	0			
Nonhalogenated Organic Sludges/Solids		0			296	0			
Organic Sludges/Solids, Unspecified		0			0	0			
Mixed Organic/Inorganic Sludges/Solids		0			0	0			
Inorganic Sludges/Solids with Metals		0			0	515			
Inorganic Sludges/Solids, NEC		0			0	0			
Other Wastes, NEC		0			6	0			
TOTAL		3,242			8,954	8,256			20,452

Table 89-4C. 1989 In-State Waste Managed by Waste Type
and SARA Management Categories at Onsite Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization Landfill	
Contaminated Soil								
Halogenated Solvents								
Nonhalogenated Solvents								
Halogenated Organic Liquids								
Nonhalogenated Organic Liquids			2,750					
Organic Liquids, unspecified								
Mixed Organic/Inorganic Liquids								
Inorganic Liquids with Organics								
Inorganic Liquids with Metals								
Inorganic Liquids, NEC				46				
Halogenated Organic Sludges/Solids								
Nonhalogenated Organic Sludges/Solids								
Organic Sludges/Solids, Unspecified								
Mixed Organic/Inorganic Sludges/Solids								
Inorganic Sludges/Solids with Metals								
Inorganic Sludges/Solids, NEC								
Other Wastes, NEC								
TOTAL			2,796					2,796

Table 89-5 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's (Tons/Year)

SARA Management Category	1989 Maximum Capacity	1989 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0	6,394			6,394	(6,394)
Solvents Recovery	3,242	12,041			12,041	(8,799)
Incineration - Liquids	3,719	5,813			5,813	(2,094)
Incineration - Solids	300	760			760	(460)
Energy Recovery	35,955	9,450			9,450	26,505
Aqueous Inorganic Treatment	50,000	49,991			49,991	9
Stabilization	0	27,645			27,645	(27,645)
Landfill	0	41,470			41,470	(41,470)

() - Denotes a capacity shortfall

Table 89-5A Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities (Tons/Year)

SARA Management Category	1989 Maximum Capacity	1989 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	0				0	0
Incineration - Solids	300	97			97	203
Energy Recovery	539	496			496	43
Aqueous Inorganic Treatment	0				0	0
Stabilization	0	34			34	(34)
Landfill	0	51			51	(51)

() - Denotes a capacity shortfall

**Table 89-58 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities
(Tons/Year)**

SARA Management Category	1989 Maximum Capacity	1989 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0	6,394			6,394	(6,394)
Solvents Recovery	3,242	12,041			12,041	(8,799)
Incineration - Liquids	0	3,017			3,017	(3,017)
Incineration - Solids	0	663			663	(663)
Energy Recovery	35,416	8,954			8,954	26,462
Aqueous Inorganic Treatment	50,000	49,991			49,991	9
Stabilization	0	26,867			26,867	(26,867)
Landfill	0	40,303			40,303	(40,303)

() - Denotes a capacity shortfall

**Table 89-5C Comparison of Maximum Hazardous Waste Management Capacity with
Utilized Capacity for Onsite Facilities
(Tons/Year)**

SARA Management Category	1989 Maximum Capacity	1989 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	3,719	2,796			2,796	923
Incineration - Solids	0				0	0
Energy Recovery	0				0	0
Aqueous Inorganic Treatment	0				0	0
Stabilization	0	744			744	(744)
Landfill	0	1,116			1,116	(1,116)

() - Denotes a capacity shortfall

**Table 95-1 Summary of In-State Generation by Waste Type in 1995
(Tons/Year)**

Waste Type	Recurrent Generation	One-time Generation	Total Generation
1. Contaminated Soil	1,084	2000	3,084
2. Halogenated Solvents	5,584		5,584
3. Nonhalogenated Solvents	4,751		4,751
4. Halogenated Organic Liquids	67		67
5. Nonhalogenated Organic Liquids	9,108		9,108
6. Organic Liquids, unspecified	0		0
7. Mixed Organic/Inorganic Liquids	3,070		3,070
8. Inorganic Liquids with Organics	5,604		5,604
9. Inorganic Liquids with Metals	389,272		389,272
10. Inorganic Liquids, NEC	928,731		928,731
11. Halogenated Organic Sludges/Solids	74	2000	2,074
12. Nonhalogenated Organic Sludges/Solids	3,422		3,422
13. Organic Sludges/Solids, Unspecified	10		10
14. Mixed Organic/Inorganic Sludges/Solids	577	1000	1,577
15. Inorganic Sludges/Solids with Metals	31,155	2000	33,155
16. Inorganic Sludges/Solids, NEC	16,783		16,783
17. Other Wastes, NEC	137		137
TOTAL	1,399,430	7000	1,406,430

NEC - Not elsewhere classified.

Table 95-2. Summary of Waste Quantities Exported in 1995
by SARA Management Category and Importing State (Tons/Year)

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Alabama	7,581								7,581
Florida									0
Georgia									0
Kentucky									0
Mississippi									0
Tennessee		8,066							8,066
South Carolina							17,238	25,857	43,095
TOTAL	7,581	8,066	0	0	0	0	17,238	25,857	58,742

**Table 95-3. Summary of Waste Quantities Imported in 1995
by SARA Management Category and Exporting State (Tons/Year)**

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Alabama									0
Florida					6,957				6,957
Georgia									0
Kentucky									0
Mississippi			2,174	13,041					15,215
Tennessee									0
South Carolina									0
TOTAL	0	0	2,174	13,041	6,957	0	0	0	22,172

Table 95-4. 1995 In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							Landfill	TOTAL
	Exempt Treatment	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.		
Contaminated Soil	0			130	2,954	0	0		
Halogenated Solvents	406		1,100	621	0	311	52		
Nonhalogenated Solvents	203		2,142	1,024	0	807	134		
Halogenated Organic Liquids	55			12	0	0	0		
Nonhalogenated Organic Liquids	113			2,824	0	5,927	61		
Organic Liquids, unspecified	0								
Mixed Organic/Inorganic Liquids	469			25	0	293	0		
Inorganic Liquids with Organics	206			810	0	864	2,213		
Inorganic Liquids with Metals	383,064			1,242	0	124	3,675		
Inorganic Liquids, NEC	925,801			2,151	29	29	289		
Halogenated Organic Sludges/Solids	0			0	2,074	0	0		
Nonhalogenated Organic Sludges/Solids	70			65	2,534	262	0		
Organic Sludges/Solids, Unspecified	0			0	10	0	0		
Mixed Organic/Inorganic Sludges/Solids	0			0	1,577	0	0		
Inorganic Sludges/Solids with Metals	106			0	305	0	457		
Inorganic Sludges/Solids, NEC	5			0	25	0	0		
Other Wastes, NEC	0			0	33	5	0		
TOTAL	1,310,498	0	3,242	8,905	9,541	8,621	6,881	0	1,347,687

Table 95-4A. 1995 In-State Waste Managed by Waste Type
and SARA Management Categories at Captive Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							Landfill	TOTAL	
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization			
Contaminated Soil										
Halogenated Solvents										
Nonhalogenated Solvents					94					
Halogenated Organic Liquids										
Nonhalogenated Organic Liquids					235					
Organic Liquids, unspecified										
Mixed Organic/Inorganic Liquids					92					
Inorganic Liquids with Organics										
Inorganic Liquids with Metals										
Inorganic Liquids, NEC										
Halogenated Organic Sludges/Solids										
Nonhalogenated Organic Sludges/Solids					83					
Organic Sludges/Solids, Unspecified										
Mixed Organic/Inorganic Sludges/Solids										
Inorganic Sludges/Solids with Metals										
Inorganic Sludges/Solids, NEC										
Other Wastes, NEC										
TOTAL	0	0	0	0	83	421	0	0	0	504

**Table 95-48. 1995 In-State Waste Managed by Waste Type
and SARA Management Categories at Commercial Facilities (Tons/Year)**

Waste Types	SARA MANAGEMENT CATEGORIES							Landfill	TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous			
						Inorg. Trmt.	Stabilization		
Contaminated Soil			130	2,954	0		0		
Halogenated Solvents		1,100	621	0	311		52		
Nonhalogenated Solvents		2,142	1,024	0	713		134		
Halogenated Organic Liquids			12	0	0		0		
Nonhalogenated Organic Liquids			184	0	5,692		61		
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids			25	0	201		0		
Inorganic Liquids with Organics			810	0	864		2,213		
Inorganic Liquids with Metals			1,242	0	124		3,675		
Inorganic Liquids, NEC			2,107	29	29		289		
Halogenated Organic Sludges/Solids			0	2,074	0		0		
Nonhalogenated Organic Sludges/Solids			65	2,452	262		0		
Organic Sludges/Solids, Unspecified			0	10	0		0		
Mixed Organic/Inorganic Sludges/Solids			0	1,577	0		0		
Inorganic Sludges/Solids with Metals			0	305	0		457		
Inorganic Sludges/Solids, NEC			0	25	0		0		
Other Wastes, NEC			0	33	5		0		
TOTAL	0	3,242	6,220	9,458	8,200	6,881	0	0	34,001

Table 95-4C. 1995 In-State Waste Managed by Waste Type
and SARA Management Categories at Onsite Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Treat.	Landfill	
Contaminated Soil								
Halogenated Solvents								
Nonhalogenated Solvents								
Halogenated Organic Liquids								
Nonhalogenated Organic Liquids			2,640					
Organic Liquids, unspecified								
Mixed Organic/Inorganic Liquids								
Inorganic Liquids with Organics								
Inorganic Liquids with Metals								
Inorganic Liquids, NEC								44
Halogenated Organic Sludges/Solids								
Nonhalogenated Organic Sludges/Solids								
Organic Sludges/Solids, Unspecified								
Mixed Organic/Inorganic Sludges/Solids								
Inorganic Sludges/Solids with Metals								
Inorganic Sludges/Solids, NEC								
Other Wastes, NEC								
TOTAL	0	0	2,684	0	0	0	0	2,684

Table 95-5 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's (Tons/Year)

SARA Management Category	1995 Maximum Capacity	1995 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0	7,581			7,581	(7,581)
Solvents Recovery	3,242	11,308			11,308	(8,066)
Incineration - Liquids	18,719	11,078			11,078	7,641
Incineration - Solids	25,300	22,582			22,582	2,718
Energy Recovery	35,955	15,578			15,578	20,377
Aqueous Inorganic Treatment	50,000	6,881			6,881	43,119
Stabilization	0	17,238			17,238	(17,238)
Landfill	0	25,857			25,857	(25,857)

() - Denotes a capacity shortfall

Table 95-5A Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities (Tons/Year)

SARA Management Category	1995 Maximum Capacity	1995 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	0				0	0
Incineration - Solids	300	83			83	217
Energy Recovery	539	421			421	118
Aqueous Inorganic Treatment	0				0	0
Stabilization	0	29			29	(29)
Landfill	0	44			44	(44)

() - Denotes a capacity shortfall

Table 95-58 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities (Tons/Year)

SARA Management Category	1995 Maximum Capacity	1995 Management Demand				Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous			
Metals Recovery	0	7,581			7,581	(7,581)	
Solvents Recovery	3,242	11,308			11,308	(8,066)	
Incineration - Liquids	15,000	8,394			8,394	6,606	
Incineration - Solids	25,000	22,499			22,499	2,501	
Energy Recovery	35,416	15,157			15,157	20,259	
Aqueous Inorganic Treatment	50,000	6,881			6,881	43,119	
Stabilization	0	16,672			16,672	(16,672)	
Landfill	0	25,008			25,008	(25,008)	

() - Denotes a capacity shortfall

Table 95-5C Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Onsite Facilities (Tons/Year)

SARA Management Category	1995 Maximum Capacity	1995 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	3,719	2,684			2,684	1,035
Incineration - Solids	0				0	0
Energy Recovery	0				0	0
Aqueous Inorganic Treatment	0				0	0
Stabilization	0	537			537	(537)
Landfill	0	805			805	(805)

() - Denotes a capacity shortfall

**Table 09-1 Summary of In-State Generation by Waste Type in 2009
(Tons/Year)**

Waste Type	Recurrent Generation	One-time Generation	Total Generation
1. Contaminated Soil	1,356	2,000	3,356
2. Halogenated Solvents	7,344		7,344
3. Nonhalogenated Solvents	5,840		5,840
4. Halogenated Organic Liquids	80		80
5. Nonhalogenated Organic Liquids	10,692		10,692
6. Organic Liquids, unspecified	0		0
7. Mixed Organic/Inorganic Liquids	3,690		3,690
8. Inorganic Liquids with Organics	7,218		7,218
9. Inorganic Liquids with Metals	465,278		465,278
10. Inorganic Liquids, NEC	1,077,922		1,077,922
11. Halogenated Organic Sludges/Solids	95	2,000	2,095
12. Nonhalogenated Organic Sludges/Solids	3,994		3,994
13. Organic Sludges/Solids, Unspecified	12		12
14. Mixed Organic/Inorganic Sludges/Solids	642	1,000	1,642
15. Inorganic Sludges/Solids with Metals	34,867	2,000	36,867
16. Inorganic Sludges/Solids, NEC	16,604		16,604
17. Other Wastes, NEC	178		178
TOTAL	1,635,812	7,000	1,642,812

NEC - Not elsewhere classified.

Table 09-2. Summary of Waste Quantities Exported in 2009
by SARA Management Category and Importing State (Tons/Year)

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Alabama	11,175					17,480		27,861	56,516
Florida									0
Georgia									0
Kentucky									0
Mississippi									0
Tennessee		11,018							11,018
South Carolina									0
TOTAL	11,175	11,018	0	0	0	17,480	0	27,861	67,534

Table 09-4. 2009 In-State Waste Managed by Waste Type and SARA Management Categories for All Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES									TOTAL
	Exempt Treatment	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trmt.	Stabilization	Landfill	
Contaminated Soil	0		0	163	3,193	0	0			
Halogenated Solvents	622		1,100	773	0	403	67			
Nonhalogenated Solvents	247		2,142	1,152	0	985	165			
Halogenated Organic Liquids	63			17	0	0	0			
Nonhalogenated Organic Liquids	132			3,282	0	6,989	72			
Organic Liquids, unspecified	0			0	0	0	0			
Mixed Organic/Inorganic Liquids	649			29	0	340	0			
Inorganic Liquids with Organics	237			1,047	0	1,117	2,862			
Inorganic Liquids with Metals	457,888			1,478	0	148	3,828			
Inorganic Liquids, NEC	1,074,421			2,570	35	35	345			
Halogenated Organic Sludges/Solids	0			0	2,095	0	0			
Nonhalogenated Organic Sludges/Solids	83			76	2,957	305	0			
Organic Sludges/Solids, Unspecified	0			0	12	0	0			
Mixed Organic/Inorganic Sludges/Solids	0			0	0	0	0			
Inorganic Sludges/Solids with Metals	147			0	369	0	553			
Inorganic Sludges/Solids, NEC	6			0	29	0	0			
Other Wastes, NEC	0			0	43	7	0			
TOTAL	1,534,496	0	3,242	10,587	8,732	10,329	7,893	0	0	1,575,279

Table 09-4A. 2009 In-State Waste Managed by Waste Type
and SARA Management Categories at Captive Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Treat.	Stabilization	Landfill	
Contaminated Soil									
Halogenated Solvents									
Nonhalogenated Solvents					107				
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids					267				
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids					105				
Inorganic Liquids with Organics									
Inorganic Liquids with Metals									
Inorganic Liquids, NEC									
Halogenated Organic Sludges/Solids									
Nonhalogenated Organic Sludges/Solids				94					
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals									
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL	0	0	0	94	479	0	0	0	573

Table 09-48. 2009 In-State Waste Managed by Waste Type
and SARA Management Categories at Commercial Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Treat.	Stabilization	Landfill	
Contaminated Soil		0	163	3,193	0	0			
Halogenated Solvents		1,100	773	0	403	67			
Nonhalogenated Solvents		2,142	1,152	0	878	165			
Halogenated Organic Liquids			17	0	0	0			
Nonhalogenated Organic Liquids			217	0	6,722	72			
Organic Liquids, unspecified			0	0	0	0			
Mixed Organic/Inorganic Liquids			29	0	235	0			
Inorganic Liquids with Organics			1,047	0	1,117	2,862			
Inorganic Liquids with Metals			1,478	0	148	3,828			
Inorganic Liquids, NEC			2,519	35	35	345			
Halogenated Organic Sludges/Solids			0	2,095	0	0			
Nonhalogenated Organic Sludges/Solids			76	2,863	305	0			
Organic Sludges/Solids, Unspecified			0	12	0	0			
Mixed Organic/Inorganic Sludges/Solids			0	0	0	0			
Inorganic Sludges/Solids with Metals			0	369	0	553			
Inorganic Sludges/Solids, NEC			0	29	0	0			
Other Wastes, NEC			0	43	7	0			
TOTAL	0	3,242	7,471	8,638	9,850	7,893	0	0	37,093

Table 09-4C. 2009 In-State Waste Managed by Waste Type
and SARA Management Categories at Onsite Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Inorg. Trwt.	Stabilization	Landfill	
Contaminated Soil									
Halogenated Solvents									
Nonhalogenated Solvents									
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids			3,065						
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids									
Inorganic Liquids with Organics									
Inorganic Liquids with Metals									
Inorganic Liquids, NEC			51						
Halogenated Organic Sludges/Solids									
Nonhalogenated Organic Sludges/Solids									
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals									
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL	0	0	3,116	0	0	0	0	0	3,116

Table 09-5 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for All TSD's (Tons/Year)

SARA Management Category	2009 Maximum Capacity	2009 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0	11,175			11,175	(11,175)
Solvents Recovery	3,242	14,260			14,260	(11,018)
Incineration - Liquids	18,719	13,389			13,389	5,330
Incineration - Solids	25,300	25,082			25,082	218
Energy Recovery	35,955	10,329			10,329	25,626
Aqueous Inorganic Treatment	50,000	7,893			7,893	42,107
Stabilization	0	17,480			17,480	(17,480)
Landfill	0	27,861			27,861	(27,861)

() - Denotes a capacity shortfall

Table 09-5A Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Captive Facilities (Tons/Year)

SARA Management Category	2009 Maximum Capacity	2009 Management Demand				Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous			
Metals Recovery	0				0	0	
Solvents Recovery	0				0	0	
Incineration - Liquids	0				0	0	
Incineration - Solids	300	94			94	206	
Energy Recovery	539	479			479	60	
Aqueous Inorganic Treatment	0				0	0	
Stabilization	0	33			33	(33)	
Landfill	0	49			49	(49)	

() - Denotes a capacity shortfall

**Table 09-58 Comparison of Maximum Hazardous Waste Management Capacity with Utilized Capacity for Commercial Facilities
(Tons/Year)**

SARA Management Category	2009 Maximum Capacity	2009 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non-Hazardous		
Metals Recovery	0	11,175			11,175	(11,175)
Solvents Recovery	3,242	14,260			14,260	(11,018)
Incineration - Liquids	15,000	10,273			10,273	4,727
Incineration - Solids	25,000	24,988			24,988	12
Energy Recovery	35,416	9,850			9,850	25,566
Aqueous Inorganic Treatment	50,000	7,893			7,893	42,107
Stabilization	0	16,823			16,823	(16,823)
Landfill	0	26,877			26,877	(26,877)

() - Denotes a capacity shortfall

**Table 09-5C Comparison of Maximum Hazardous Waste Management Capacity with
Utilized Capacity for Onsite Facilities
(Tons/Year)**

SARA Management Category	2009 Maximum Capacity	2009 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	3,719	3,116			3,116	603
Incineration - Solids	0				0	0
Energy Recovery	0				0	0
Aqueous Inorganic Treatment	0				0	0
Stabilization	0	623			623	(623)
Landfill	0	935			935	(935)

() - Denotes a capacity shortfall

North Carolina

HAZARDOUS WASTE CAPACITY ASSURANCE PLAN

Part IV

**STATE PLANS FOR INCREASING
IN-STATE CAPACITY**

PART IV

STATE PLANS FOR INCREASING IN-STATE CAPACITY

This part contains descriptions of plans to create and to permit additional facilities and descriptions of action taken to remove regulatory barriers that might have prevented or impeded the establishment of necessary hazardous waste management facilities.

Through a combination of waste minimization efforts and new treatment capacity, North Carolina wishes to participate in a regional plan to assure hazardous waste management capacity. North Carolina's offer consists of (1) a strong commitment to waste minimization and (2) a commitment to establish new solids incineration capacity to meet state and regional waste management needs. Below is a description of the plan to establish the incineration capacity, as recommended by the North Carolina Hazardous Waste Management Commission and approved by Governor James G. Martin. This description is followed by Forms I, II, and III.

Solids Incineration: Recommendations of the North Carolina Hazardous Waste Management Commission

In response to a request from the Governor, the N.C. Hazardous Waste Management Commission recommends the following plan for providing hazardous waste management and treatment capacity for the State of North Carolina for the next 20 years:

(1) The Commission recommends that the State of North Carolina participate in a regional approach for future hazardous waste management capacity.

(2) The Commission recommends that the State of North Carolina install an incinerator(s) for treating solids incinerable hazardous waste from North Carolina and the Southeast region.

There appears to be no additional need for solvent recovery, fuel blending, aggregate and cement kilns and solvent distillation within the region. Additionally, the Southeast region possesses an excess of hazardous waste landfill capacity with operating landfills located in Alabama and South Carolina. The expansion of an existing aqueous treatment facility has already been submitted at regional meetings as Tennessee's contribution to the regional need. Therefore, the Commission

recommends incineration as a choice for North Carolina. Further, an incinerator offers the state a way of handling other, non-hazardous waste streams that are currently going to North Carolina's solid waste landfills and have the potential to pollute groundwater. [It should be noted that solids incinerators are generally designed to burn liquids as well as solids.]

(3) Based on the needs of the eight states, the Commission recommends that the solids incinerator have a capacity not to exceed 40,000 tons/year of hazardous waste.

EPA consultants have studied the existing capacity for liquids and solids incineration in the region and have projected a regional shortfall of 152,472 for 1995. The Commission is recommending that North Carolina determine the size of the incinerator, first, according to the state's projected need for incineration in 1995 and, second, to provide a portion of the projected uncommitted regional need for incineration. The uncommitted projected need is divided among four states: North Carolina, Florida, Georgia and Mississippi. North Carolina's commitment totals 40,137 tons. Therefore, the Commission proposes that the hazardous waste incinerator have a capacity not to exceed 40,000 tons/year. *[North Carolina will consider additional incineration capacity if a regional need is demonstrated.]*

(4) The Commission recommends that the State use a rotary kiln incinerator for the incineration of hazardous waste solids, pending the development of more advanced incinerator technology.

The rotary kiln incinerator is recommended by the Environmental Protection Agency as the best technology for solids incineration. It has been tried, tested and proven over many years of operation in many different industries. The kiln can accommodate variable fuels, necessary in hazardous waste incineration. Its operating efficiencies are high, and its downtime for maintenance and repair is low. With its associated pollution control devices, the rotary kiln allows operating levels that are significantly better than EPA requirements. It can achieve a higher (100 to 1000 times higher) destruction and removal efficiency of principal organic hydrocarbon compounds than the EPA requires, and it can limit particulate emissions, making the unit three to five times cleaner burning than EPA requirements.

(5) The Commission recommends that the State pursue a completion date of February 1994 for operation of a 40,000 tons/year solids

incinerator. *[Note: If required as part of a regional agreement, the completion date can be as early as December 1991.]*

(6) The Commission recommends a thorough investigation of special wastes in North Carolina that can be handled in conjunction with our regional facility or in an in-state system of collection centers located at one or more sites around the state.

The Commission believes that the capabilities of a regional facility could offer adjunct services and facilities for managing several categories of special and community-produced wastes. The Commission plans to study the viability of operating a statewide system of collection centers which might provide for the collection and treatment of such wastes as: metals recovery and recycling, leaking underground storage tank cleanups, grey wastes, and household hazardous wastes. The Commission believes that the integration of such needed services with a solids incineration unit would have the support of the environmental community and the general public.

Form I: GENERAL SITING DESCRIPTION

All states should fill out this form. States should copy and complete the form and include it an any additional needed documentation. Please attached additional information if more space is needed to answer any question.

Name of Respondent 1 **Darrell Hinnant, Executive Director
Hazardous Waste Management Commission**

Telephone Number **(919) 733-5420**

Address **Hazardous Waste Management Commission
430 North Salisbury Street
Raleigh, North Carolina 27611**

Name of Respondent 2 **Victoria Voight, Associate Attorney General
Superfund**

Telephone Number **(919) 733-2801**

Address **Department of Environment, Health, and
Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

1. Does your state have a formal hazardous waste management facility siting process in addition to the RCRA permitting process?

Yes No

If Yes,

- 1a. What are the titles of the legislative authorities and when were they enacted?

**SB 324; Chapter 168, Section 1, of the 1989 Session Laws;
Chapter 130B of the North Carolina General Statutes. See
attachment.**

2. Does your state have a siting agency that is distinct from the RCRA regulatory agency?

Yes No

If Yes,

- 2a. What are the titles of the legislative authorities and when were they enacted?

Currently, SB 324 (N.C.G.S. 130B-6&7) enacted in 1989. Previously Chapter 143B, Article 10 of the North Carolina General Statutes.

3. Please describe (in a brief narrative) the procedure used to review facility applications, select sites (if applicable), review permits, and provide public comment. Please indicate the time required to complete major steps, such as the time required between permit application and approval/denial. Include an explanation of the appeals process available to the siting applicant, the host community, and siting opponents. (Where applicable, please note how a particular activity differs for expansion of existing facilities compared to siting of new facilities. If the process is significantly different for new sitings and expansions, please prepare two separate descriptions.)

The following is a brief narrative of the State-funded siting process (G.S. 130B) which is wholly independent of the State hazardous waste permitting process:

- 1) **The Hazardous Waste Management Commission (HWMC) makes a determination that additional facilities for the management of hazardous waste may be needed and makes a recommendation to the Governor and the General Assembly regarding same. (G.S. 130B-7(a)(1))**
- 2) **The Governor concurs that such a facility is needed. (G.S. 130B-5(a) and (b)(1))**
- 3) **The HWMC determines the sequence of tasks required to be accomplished in order to site, design, finance, construct and place into operation the authorized facility, develops a schedule for the development of such facility for presentation to the Governor, and develops an estimate of the resources required to accomplish those tasks for presentation to the Governor and the General Assembly. (G.S. 130B-7 (a)(3))**
- 4) **The Governor approves the schedule for developing the facility and the resources needed to accomplish the identified tasks. (G.S. 130B-5(b))**
- 5) **The General Assembly appropriates sufficient monies to accomplish the identified tasks.**

- 6) **The HWMC sites the facility. Major tasks to be accomplished in siting the facility include:**
 - a) **developing siting rules;**
 - b) **actively seeking communities interested in hosting the facility;**
 - c) **selecting suitable sites for evaluation;**
 - d) **selecting a preferred site;**
 - e) **acquiring the preferred site. (G.S. 130B-7&11)**
- 7) **The HWMC recommends to the Governor the technology and design capacity of each component of the facility. (G.S. 130B-7)**
- 8) **The Governor approves the technology and design capacity. (G.S. 130B-5(b))**
- 9) **The HWMC prepares detailed designs and specifications, operating procedures, safety plans and closure plans. (G.S. 130B-14&15)**
- 10) **The HWMC prepares and submits all necessary permit applications. (G.S. 130B-14)**

At any stage in the above referenced process, a qualified private company could step in and assume responsibility for siting, constructing and operating the facility. However, the State would assume responsibility for siting, constructing, and operating the facility if no qualified operator steps forward.

Because the facility has the potential for being State owned and operated, a 130B facility must meet a number of additional requirements not applicable to other hazardous waste facilities. A description of these requirements follows:

- a) **Public participation. Once a suitable site is selected for evaluation, the county in which it is located may appoint a site designation review committee which would be eligible to receive up to \$50,000.00 as a grant from the Governor's Waste Management Board (GWMB) to assist it in collecting and reviewing information relating to potential advantages and disadvantages associated with being selected as the host site for the facility. Upon selection of a preferred site, the county selected may establish a preferred site local advisory committee eligible to receive up to \$100,000 to defray expenses associated with evaluating the burdens and benefits associated with hosting the proposed facility, participating in the permitting processes, preparing and participating in negotiations with the HWMC and/or facility operator regarding compensations or incentives,**

facility appearance, operational concerns, etc. (G.S. 130B-19&20)

- b) **Gross Receipts Tax. A special gross receipts tax of 2.5% is to be collected and distributed to the local governments where the facility is located. The HWMC is to develop and recommend to the General Assembly a revenue package and distribution formula. (G.S. 130B-18)**
- c) **Long Term Care Fund. A long term care fund, supported in part by facility fees, must be established to address issues such as emergency response and post-closure monitoring, maintenance and care. (G.S. 130B-17)**
- d) **Interagency Committee. An interagency committee on hazardous waste has been established to share information and coordinate efforts in establishing the facility. (G.S. 130B-22)**

The State siting process, being independent from and in addition to the State permitting process, has no appeals process. Challenges to the siting effort are limited to challenges to the issuance of a permit. Challenges to the issuance or denial of a permit are through the State's Administrative Procedures Act (Chapter 150B of the North Carolina General Statutes) and involve an administrative hearing and a right of appeal to State superior court. Additionally, the State provides a mechanism whereby the owner or operator of a hazardous waste facility can challenge a local ordinance which prohibits or has the effect of prohibiting the establishment or operation of the facility. (G.S. 130A-293). An appeal is filed with the Governor's Waste Management Board, which, upon a finding of certain facts, can preempt all or part of the ordinance.

3a. If possible, please construct a flowchart showing the major steps of the siting process as described in your narrative. Where known, indicate the time necessary for an application to proceed through each required step. **See attachment.**

- 4. Please describe (in a brief narrative) the outcome of siting applications since 1986.

North Carolina's siting process does not involve the receipt of siting applications.

- 5. The following questions address basic laws and rules that may affect the siting or expansion of new facilities. When answering the following questions, please note the relevant law or rule (if applicable) and briefly describe any special circumstances or constraints that apply.

5a. Do local governments in your state have the authority to approve RCRA permits?

_____ Yes X No

If yes, please list the applicable regulation or authority.

5b. Do local governments in your state have the power to prohibit facility siting by the use of zoning ordinances?

_____ Yes X No

If yes, please list the applicable regulation or authority.

5c. Does your state have the power to override local zoning authority and/or preempt local zoning powers?

 X Yes _____ No

If yes, please list the applicable regulation or authority.

G.S. 130A-293 (See SB 324 Section 13)

5d. Does your state have the power to override and/or preempt any other local authorities that could prohibit or restrict capacity development?

 X Yes _____ No

If yes. Please list the applicable regulation or authority.

G.S. 130A-293 (See SB 324. Section 13)

5e. Are there state restrictions on the size or number of new or expanded facilities?

 X Yes _____ No

Must be needed to meet a state or regional need.

If yes, please list the applicable regulation or authority.

G.S. 130A-295(c) (See SB 324, Section 24)

5f. Does the state allow facilities to be built that have greater capacity than that needed to treat in-state waste?

 X Yes _____ No

If no, please list the applicable regulation or authority.

6. The following pertain to laws and regulations that affect interstate transportation of hazardous waste.

Rates set by statute (G.S. 130A-294.1). Rates are set out below.

- 6a. Does your state assess a fee on the generation of hazardous waste?

Yes No

If yes, please explain.

Rate for Generators:

**Base fee of \$500 plus tonnage at \$0.50/ton = fee.
(Tonnage maximum of 25,000 tons)**

Rate for Small Generators:

Base fee of \$25 = fee.

Rate for Transporters:

Base fee of \$600 = fee.

- 6b. Does your state assess a fee for the treatment or disposal of hazardous waste?

Yes No

If yes, please explain.

Rate for On-site Treater, Storer, or Disposer:

Base fee of \$1200 each activity = fee.

Rate for Off-Site Treater or Storer:

**Base fee of \$1200 each activity plus tonnage at
\$1.75/ton = fee**

- 6c. Does your state have the power to establish differential fees on waste that is imported for treatment and/or disposal?

Yes No (Hazardous Waste)

If yes, please explain.

- 6d. Are any limits placed on the size of the differential fee?

Yes No (Not Applicable)

If yes, please explain.

- 6e. Do local or county governments have the power to establish differential fees on waste that is treated and/or disposed of in their jurisdiction?

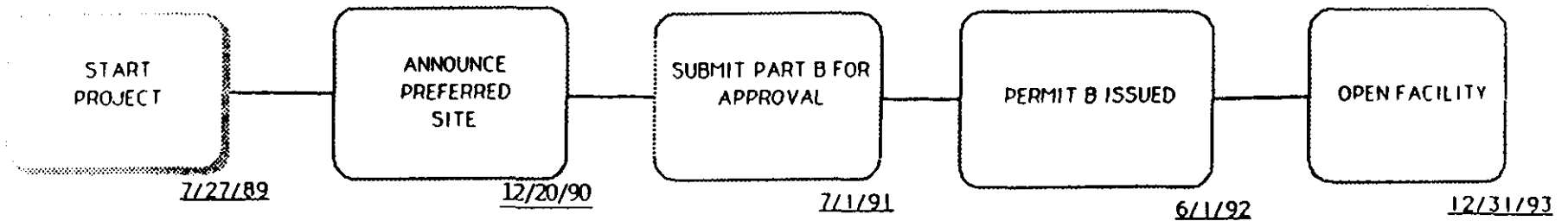
_____ Yes **X** No (**Hazardous Waste**)

If yes, please explain.

**ATTACHMENTS TO
Form I: GENERAL SITING DESCRIPTION**

- Schedule for hazardous waste management facility
- Ratified Senate Bill 324 (Chapter 168 of the Session Laws of the 1989 Session of the General Assembly of North Carolina)

HIGHLIGHTS OF TENTATIVE SCHEDULE (9/14/89) FOR HAZARDOUS WASTE MANAGEMENT FACILITY



PREPARED BY:
HAZARDOUS WASTE MANAGEMENT COMMISSION
9/89

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION
RATIFIED BILL

CHAPTER 168
SENATE BILL 324

AN ACT TO PROVIDE FOR THE MANAGEMENT OF HAZARDOUS WASTE IN NORTH CAROLINA, TO REORGANIZE THE NORTH CAROLINA HAZARDOUS WASTE TREATMENT COMMISSION AS THE NORTH CAROLINA HAZARDOUS WASTE MANAGEMENT COMMISSION, TO AMEND VARIOUS STATUTES RELATING TO THE MANAGEMENT OF HAZARDOUS WASTE, AND TO MAKE CONFORMING CHANGES TO OTHER STATUTES.

The General Assembly of North Carolina enacts:

Section 1. A new Chapter is added to the General Statutes to read:

"Chapter 130B.

"Hazardous Waste Management Commission.

"§ 130B-1. Title; applicability.

(a) This Chapter shall be known and may be cited as the 'North Carolina Hazardous Waste Management Commission Act of 1989'.

(b) The provisions of this Chapter shall not be construed to apply to any hazardous waste facility other than hazardous waste facilities established pursuant to this Chapter.

"§ 130B-2. Definitions.

(a) Unless a different meaning is required by the context, the definitions set out in G.S. 130A-290 shall apply throughout this Chapter.

(b) Unless a different meaning is required by the context, the following definitions shall apply throughout this Chapter:

- (1) 'Authorized hazardous waste facility' means a hazardous waste facility authorized by the Governor as provided in G.S. 130B-5(a) and G.S. 130B-5(b)(1).
- (2) 'Board' means the Governor's Waste Management Board established pursuant to Part 27 of Article 3 of Chapter 143B of the General Statutes.
- (3) 'Commission' means the North Carolina Hazardous Waste Management Commission established pursuant to this Chapter or any successor thereto.
- (4) 'Department' means the Department of Human Resources.

"§ 130B-3. Legislative findings.

The General Assembly of North Carolina hereby finds that the safe management of hazardous waste, and particularly the timely establishment of adequate facilities for the treatment and disposal of hazardous waste, is one of the most urgent problems facing North Carolina. The safe management of hazardous waste is essential to protect public health and safety and the environment and to continued economic growth. Consequently, cooperation and coordination among the private sector, the

general public, the State, and local governments to assure the prevention of unnecessary waste and the establishment of a comprehensive and integrated system of adequate treatment and disposal facilities are essential.

The General Assembly of North Carolina finds that prevention, recycling, detoxification, and reduction of hazardous waste should be encouraged and promoted. These alternatives reduce the quantity and toxicity of hazardous waste requiring treatment or disposal and thus lessen the risk posed by hazardous waste to human health and the environment. When these alternatives are not technologically or economically feasible, retrievable storage may be preferable to other means of disposal until appropriate methods for recycling or detoxification of the stored wastes are found.

Hazardous waste should be treated prior to long-term storage or disposal. Disposal of the residue or ash of treated hazardous waste should occur only when its toxicity is reduced to the point that there would be no significant risk to public health and safety or to the environment in the event of leakage from the disposal facility. Hazardous waste that cannot be detoxified, stabilized, or destroyed so as to present no significant risk to the public health or safety or to the environment should be placed in retrievable storage until satisfactory treatment processes become available. Hazardous waste in retrievable storage should be detoxified as soon as it is determined that it is technologically possible to do so at a reasonable cost. Hazardous waste disposal facilities and polychlorinated biphenyl landfill facilities should be detoxified as soon as it is technologically and economically feasible to do so.

The General Assembly further finds that while the foregoing findings, which were articulated in similar form in legislation enacted in 1981 and 1984, continue to hold true, circumstances have changed since that time which require adjustments in the State's hazardous waste management policy. Specifically, the General Assembly finds that the most practical approach to hazardous waste management, including compliance with the CERCLA/SARA capacity assurance requirements, is through a regional approach. The General Assembly finds that the development of a full range of comprehensive hazardous waste treatment and disposal facilities in this and every state is neither environmentally nor economically sound. The General Assembly finds that minimization, and wherever possible elimination, of hazardous waste generation, and hazardous waste reduction, recycling, and on-site treatment are preferable to off-site treatment and disposal.

The General Assembly of North Carolina finds that local governments have an important role in promoting public health and safety, encouraging planned and orderly land use development, and in providing services to meet the needs of educational and health institutions, business, and industry. The General Assembly of North Carolina further finds that the reasonable concerns and reasonable decisions of local authorities should be considered in the siting, permitting, and operation of hazardous waste facilities.

"§ 130B-4. Purpose.

It is the purpose of this Chapter to provide for the siting, construction, and operation of hazardous waste facilities to the end that hazardous waste may be treated or disposed of in the most cost-effective manner, while protecting public health and safety and the environment. It is the purpose of this Chapter to promote a regional approach to hazardous waste management. It is the purpose of this Chapter to provide a mechanism to assess the need for hazardous waste treatment and disposal in this State and in the region, to determine the scope and capacity of hazardous waste facilities needed in this State in order that North Carolina is in a position to assume its fair share in the management of hazardous waste so that the benefits and burdens of hazardous waste management are equitably shared by all

states, and to cause to come into existence such facilities as are needed. It is the purpose of this Chapter to promote interstate agreements for the management of hazardous waste which will assure access to hazardous waste facilities on a regional basis. It is the purpose of this Chapter to encourage the development of hazardous waste facilities which are needed in this State through the efforts of private enterprise. It is the purpose of this Chapter to create a commission to assist private enterprise with the development of needed hazardous waste facilities through the performance of those tasks which private enterprise is unable to undertake or accomplish. It is the purpose of this Chapter to authorize the Commission, when authorized by the Governor, to site, design, finance, construct, operate, oversee, acquire, hold, sell, lease, or convey needed hazardous waste facilities to the extent that private enterprise fails to provide such facilities.

It is also the purpose of the General Assembly through powers granted to the Governor's Waste Management Board to limit the extent to which units of local government may regulate the management of hazardous waste by means of local acts, laws, resolutions, ordinances, rules, or regulations, including but not limited to those relating to taxes and fees, local land use including zoning and other restrictions on the use of property, building codes, fire protection, civil defense, preparation for and response to emergencies, and public health.

Furthermore, it is the purpose of this Chapter to establish an effective and comprehensive policy of negotiation and arbitration between the Commission or other applicant for a permit to operate a hazardous waste facility pursuant to this Chapter and a committee representing the affected local government(s) to assure that:

- (1) The legitimate concerns of nearby residents and affected municipalities can be expressed in a public forum, negotiated and, if need be, arbitrated with the Commission in a fair manner and reduced to a written document that is legally binding; and
- (2) Environmentally sound and economically viable hazardous waste facilities will be established.

"§ 130B-5. Powers and duties of the Governor.

(a) No hazardous waste facility shall be established pursuant to this Chapter unless the Governor determines that such facility is essential and is in the best interests of the State. Such determination shall be based on a periodic review of current and projected hazardous waste generation from all sources within the State, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reductions in the generation of hazardous waste, current and projected availability and adequacy of facilities for the management of hazardous waste within and outside the State, whether and to what extent private enterprise will provide needed hazardous waste facilities, capacity assurance requirements under CERCLA/SARA, the extent to which agreements can be negotiated for the management of hazardous waste outside the State, and the extent to which the State should obligate itself to provide facilities for the management of hazardous waste generated outside the State. The Governor shall take into consideration the comprehensive waste management plan developed pursuant to G.S. 130A-294(i) in making any determination under this subsection. Such determination shall be made in writing and shall specify the functions, technologies, and design capacities of the hazardous waste facility to be established.

(b) With respect to each hazardous waste facility to be established pursuant to this Chapter the Governor shall:

- (1) Authorize the establishment of the facility as provided in subsection (a) of this section;
- (2) Approve and modify as necessary a schedule for selection of the preferred and alternate sites for the facility;

- (3) Approve and modify as necessary a schedule for the development of the facility; and
- (4) Approve the technology and design capacity of each component of the facility.

(c) The Governor is authorized to enter into interstate agreements for the management of hazardous waste. Such agreements shall provide for access to suitable facilities for management of hazardous waste; encourage reductions in the volume or quantity and toxicity of hazardous waste; distribute the costs, benefits, and obligations of hazardous waste management equitably among the party states; and provide for protection of human health and the environment in a manner that is both ecologically and economically sound. In negotiating such agreements, the Governor may request such assistance as he deems appropriate from the Attorney General, the Solid Waste Management Division of the Department, the Governor's Waste Management Board, and the Commission. The Governor shall submit any such agreement to the General Assembly for its approval, and no such agreement shall be effective until approved by the General Assembly.

"§ 130B-6. Organization and administration of the Commission.

(a) Creation. -- The North Carolina Hazardous Waste Management Commission is hereby created as follows:

- (1) The Commission shall be located within the Department of Commerce. The Commission shall exercise all of its powers independently of the Secretary of Commerce and, notwithstanding any other provision of law, shall be subject to the direction and supervision of the Secretary of Commerce only with respect to the management functions of coordinating and reporting.
- (2) The Commission shall continue until its existence shall be terminated by law. Upon the termination of the existence of the Commission, all of its rights and properties shall pass to and be vested in the State.
- (3) The Department of Commerce and the Department of Administration shall provide such technical, clerical, and other support services and personnel as the Commission may require in the performance of its functions. The Commission shall reimburse the Departments for such services from its revenues or from other funding sources.

(b) Membership. -- The Commission shall be composed of nine members. Members of the General Assembly, the Board, the Commission for Health Services, and members or employees of any State or federal agency, board, or commission which exercises regulatory authority with respect to any activity of the Commission shall be ineligible for appointment to membership on the Commission.

(c) Appointments. -- Appointments to the Commission shall be made as follows:

- (1) The Governor shall appoint five members.
- (2) The General Assembly shall appoint four members in accordance with G.S. 120-121, two upon recommendation of the Speaker of the House of Representatives and two upon recommendation of the President Pro Tempore of the Senate.
- (3) Successors shall be appointed by the appointing authority making the original appointment.
- (4) Vacancies in appointments shall be filled for the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.
- (5) Members of the Commission shall include persons with expertise in the technical, legal, financial, and other aspects of hazardous

waste management and shall represent, insofar as practicable, the diverse interests and geographic regions of the State. Not more than three members of the Commission may be persons who derive any significant portion of their income from persons who generate or transport hazardous waste or who operate hazardous waste facilities. For purposes of this subdivision, faculty members and health care professionals employed by a nonprofit institution and employees of any governmental entity shall not be regarded as deriving a significant portion of their income from a generator or transporter of hazardous waste or from a hazardous waste facility operator by reason of such employment. The Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate shall consult with one another to insure that the requirements of this subdivision are met. Each appointing authority shall require adequate disclosure of potential conflicts of interest by members of the Commission.

(d) Terms.

- (1) All appointments made by the Governor, other than initial appointments, shall be for a term of four years. The Governor shall have the power to remove, in accordance with G.S. 143B-13, any member appointed by the Governor.
- (2) All appointments made by the General Assembly, other than initial appointments, shall be for a term of two years. The General Assembly shall have the power to remove, in accordance with G.S. 143B-13, any member appointed by the General Assembly.
- (3) Terms shall expire on 30 June as provided by this subsection, except that members of the Commission shall serve until their successors are appointed and duly qualified as provided by G.S. 128-7.
- (4) Of the initial appointments made by the Governor, one term shall expire 30 June 1990, one term shall expire 30 June 1991, one term shall expire 30 June 1992, and two terms shall expire 30 June 1993. Successors shall be appointed to serve four-year terms.
- (5) Of the initial appointments made by the General Assembly on recommendation of the Speaker of the House of Representatives, one term shall expire 30 June 1991, and one term shall expire 30 June 1992. Of the initial appointments made by the General Assembly on recommendation of the President Pro Tempore of the Senate, one term shall expire 30 June 1991, and one term shall expire 30 June 1992.

(e) Officers. -- The Governor shall appoint from the members of the Commission the Chairman and Vice-Chairman of the Commission. The Executive Director of the Commission shall serve as Secretary of the Commission.

(f) Meetings. -- The Commission shall meet at least quarterly at such time and at any place within the State as the Commission may provide. The Commission shall meet upon the call of its Chairman or a majority of its members. A majority of its members shall constitute a quorum for the transaction of business. Members of the Commission who are State employees shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are not State employees shall be reimbursed for their expenses in accordance with G.S. 138-5 except that the per diem rate as defined in G.S. 138-5(a)(1) shall be one hundred fifty dollars (\$150.00) per day of service.

(g) Executive Director and Staff. -- The Commission shall be assisted by an Executive Director and staff who shall be subject to provisions of law applicable to State employees generally, including Chapters 126 and 135 of the General Statutes, except as such provisions are modified by this Chapter.

- (1) The Commission shall appoint an Executive Director, who shall report to the Commission and serve at its pleasure. The Executive Director shall be the chief administrative officer of the Commission. The Commission shall set, subject to consultation with the Advisory Budget Commission, and pay the compensation of the Executive Director.
- (2) The Executive Director shall be assisted by such senior professional staff members as may be necessary to carry out the provisions of this Chapter, who shall be appointed by the Commission on nomination of the Executive Director. The Commission shall set, subject to consultation with the Advisory Budget Commission, and pay the compensation of the staff members it appoints.
- (3) In addition, the Executive Director shall be assisted by such other employees as may be needed to carry out the provisions of this Chapter. The staff complement shall be established by the Commission on recommendation of the Executive Director. Such other employees shall be appointed by the Commission upon the recommendation of the Executive Director and shall be compensated by the Commission pursuant to the provisions of Chapter 126 of the General Statutes.

"§ 130B-7. Powers and duties of the Commission.

(a) To carry out the purposes of this Chapter, the Commission:

- (1) Shall (i) with the assistance of the Board and the Solid Waste Management Division of the Department, periodically review current and projected hazardous waste generation from all sources within the State, the current and projected effect of efforts to minimize and reduce the generation of hazardous waste, the potential for further reductions in the generation of hazardous waste, current and projected availability and adequacy of facilities for the management of hazardous waste within and outside the State, whether and to what extent private enterprise will provide needed hazardous waste facilities, and capacity assurance requirements under CERCLA/SARA, (ii) determine whether additional facilities for the management of hazardous waste may be needed in this State, and (iii) make appropriate recommendations to the Governor and the General Assembly;
- (2) Shall, at the request of the Governor and under his direction, assist with the negotiation of interstate agreements for the management of hazardous waste;
- (3) Shall determine the sequence of tasks required to be accomplished in order to site, design, finance, construct, and place into operation each authorized hazardous waste facility, determine the time likely to be required to accomplish those tasks, develop a proposed schedule for the development of each such facility and submit such schedule to the Governor for approval, and estimate the resources required to accomplish those tasks and submit such estimate to the Governor and the General Assembly;

- (4) Shall site, design, finance, construct, and operate authorized hazardous waste facilities;
- (5) Shall adopt, consistent with the rules of the Commission for Health Services and pursuant to Chapter 150B of the General Statutes, rules specifying the criteria and procedures for evaluating alternative locations for, and siting of, hazardous waste facilities;
- (6) May employ consultants and contractors to provide services including site selection, design, construction, operation, closure, and perpetual care of hazardous waste facilities, necessary, desirable, or convenient to carry out the purposes of this Chapter, and to fix and pay their compensation;
- (7) May acquire by deed, purchase, lease, contract, gift, devise, condemnation, or otherwise, any real or personal property, structures, rights-of-way, franchises, easements, and other interests in land which is necessary and convenient for the construction or operation of hazardous waste facilities, upon such terms and conditions as it deems advisable, hold, mortgage, pledge, or otherwise encumber the same, and lease, sell, convey, or otherwise dispose of the same in such manner as may be necessary or desirable to carry out the purposes of this Chapter;
- (8) May exercise the powers of a body corporate, including the power to sue and be sued, and may adopt and use a common seal and alter the same as may be deemed expedient;
- (9) May make all necessary contracts and arrangements with other officials or agencies in this State and other states, including compact commissions, for any of the purposes of this Chapter;
- (10) Shall establish an office or offices for the transaction of its business at such place or places as, in the opinion of the Commission, shall be advisable or necessary in carrying out the purposes of this Chapter;
- (11) May create and operate any divisions it deems necessary or useful;
- (12) Shall pay all costs of the formation and organization of the Commission, and incident to its administration and operation, and may pay all other costs necessary in carrying out the purposes of this Chapter;
- (13) May develop and implement schedules of fees and other charges, including user charges, penalties, and surcharges applicable to hazardous waste facilities operated by the Commission;
- (14) Shall make recommendations to the Governor as to the technology, design capacity, operational features, and post-closure requirements of authorized hazardous waste facilities, and shall implement such recommendations upon approval by the Governor;
- (15) Shall pay, or assure that permittees and operators pay, all applicable taxes and fees;
- (16) May apply for, accept, and expend loans and grants of money from any federal or State agency or any political subdivision thereof, from a compact commission, or from any other public or private source for any of the purposes authorized by this Chapter, and to give any evidences of indebtedness as may be required. Except as may hereafter be authorized by the General Assembly, no indebtedness of any kind incurred or created by the Commission shall constitute an indebtedness of the State or any of its political subdivisions, and no such indebtedness shall involve or be secured

- by the faith, credit, or taxing power of the State or any of its political subdivisions. At no time may the total outstanding indebtedness of the Commission, excluding bond indebtedness, exceed a total of five hundred thousand dollars (\$500,000) without prior approval of the Governor, after receiving the advice of the Advisory Budget Commission;
- (17) May issue revenue bonds from time to time pursuant to The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes, and such bonds may be sold at public or private sale pursuant to G.S. 159-123;
- (18) Shall, if it elects to issue bonds, select and retain, subject to approval of the Local Government Commission, financial consultants, underwriters, and bond attorneys to assist with the issuance of such bonds and to pay for services rendered;
- (19) May pledge revenues from hazardous waste facilities to the benefit of bondholders, or for other purposes necessary to secure financing;
- (20) Shall make such plans, surveys, studies, and investigations as may be necessary or desirable with respect to the acquisition, development, and use of real property and the design, construction, operation, closure, and long-term care of hazardous waste facilities;
- (21) Shall receive all field data, charts, maps, tracings, laboratory test data, soil and rock samples, and such other records as the Commission deems appropriate, collected or produced by its employees, contractors, or consultants pursuant to siting, operating, or closing of hazardous waste facilities. All such data and materials shall become the property of the State and shall not be disposed of except in accordance with G.S. 132-3 except that soil and rock samples may be subjected to tests and reduced in volume for purposes of storage in a manner approved by the Commission. The Commission may enter into agreements with other State agencies for the purpose of storage and preservation of data and materials;
- (22) May procure and keep in force adequate insurance or otherwise provide for the indemnification of itself and its members, officers, agents, employees, and the general public against loss or liability resulting from any act or omission by or on behalf of the Commission, and for the protection of its property, provided that procurement of insurance by the Commission shall not be deemed a waiver of any immunity from liability otherwise available under any provision of law;
- (23) May adopt bylaws for the regulation of its affairs and the conduct of its business;
- (24) May adopt rules, in accordance with the provisions of Chapter 150B of the General Statutes, with respect to any of its powers and duties; and
- (25) May do anything else necessary to carry out the purposes of this Chapter not otherwise prohibited by law.

"§ 130B-8. Commission may exempt itself from certain laws.

(a) Neither the Commission nor any contractor performing services on behalf of the Commission shall be subject to the following provisions of the General Statutes:

- (1) Article 3 of Chapter 143 (Purchases and Contracts);

- (2) Article 3C of Chapter 143 (Contracts to Obtain Consultant Services);
- (3) Article 3D of Chapter 143 (Procurement of Architectural and Engineering Services);
- (4) Article 8 of Chapter 143 (Public Contracts);
- (5) Article 8B of Chapter 143 (State Building Commission);
- (6) G.S. 143-34] (Powers and Duties of the Department of Administration);
- (7) Chapter 146 (State Lands); and
- (8) Article 2 of Chapter 150B shall not apply to contractor selection or technology selection pursuant to G.S. 130B-13 and G.S. 130B-14, Articles 3 and 3A of Chapter 150B shall not apply to final decisions regarding site selection, contractor selection or technology selection pursuant to G.S. 130B-11, 130B-13, and 130B-14.

(b) Subdivisions (1) through (7) of subsection (a) of this section shall apply only when the Commission determines that exemption from a particular provision of the General Statutes is in the best interest of the State. Each such determination by the Commission shall be set out in the official minutes of the Commission and shall state with particularity (i) the provision or provisions of the General Statutes from which the Commission exempts itself pursuant to this section, (ii) the action or activities covered by such exemption, and (iii) the justification for such exemption, taking into account the purposes of such provisions of the General Statutes and of this Chapter.

§ 130B-9. Compliance with laws and rules relating to hazardous waste management and to protection of public health, safety, or the environment.

This Chapter shall not be construed as amending, repealing, or in any manner abridging or interfering with any law or rule relating to the management of hazardous waste or to protection of public health, safety, or the environment, nor shall the provisions of this Chapter be construed as being applicable to or in any way affecting the authority of State agencies and commissions to control hazardous waste or the discharge of environmental pollutants and wastes into the air, soil, or waters of the State. The Commission, its members, officers, employees, agents, contractors, and any person who operates any hazardous waste facility pursuant to this Chapter shall comply with all federal and State laws, including statutes, regulations, and rules, applicable to hazardous waste management and to protection of public health, safety, and the environment. The Commission shall be considered a State agency for purposes of the North Carolina Environmental Policy Act, G.S. 113A-1 et seq. To the extent that an application for a permit for a hazardous waste facility and the review thereof provides the functional equivalent of the statement required by G.S. 113A-4(2), a separate statement under G.S. 113A-4(2) is not required.

§ 130B-10. Liability, defense, and legal representation.

(a) The provisions of Article 31 of Chapter 143 (Tort Claims Against State Departments and Agencies) shall apply to the Commission. No member, officer, or employee of the Commission, while acting within the scope of their authority, shall be subject to any personal liability or accountability by reason of any act or omission in connection with the exercise of any power or performance of any duty, whether express or implied, pursuant to this Chapter.

(b) The provisions of Article 31A of Chapter 143 of the General Statutes shall apply to current or former members, officers, agents, or employees of the Commission.

(c) The Attorney General shall be the legal representative of the Commission and shall provide legal advice and counsel to the Commission. The Commission and the Department of Justice shall enter into an appropriate contract or make other

mutually satisfactory arrangements for legal services, including reimbursement of the Department of Justice for any costs incurred other than routine or minor costs. The Commission may employ or retain other legal counsel with the prior approval of the Attorney General.

"§ 130B-11. Site selection.

(a) The Commission shall actively seek communities interested in hosting hazardous waste facilities. The Commission shall give first priority to the evaluation of potential sites located in communities interested in hosting a hazardous waste facility. Potential sites shall meet all applicable hazardous waste facility permit requirements and all minimum technical and other requirements established by the Commission for facility siting. However, with respect to any potential site located in a county interested in volunteering to host a facility, the Commission may waive any site selection criteria only if such criteria relate solely to preferences in site location which are discretionary with the Commission, if such waiver would not have a significant impact on the economic viability of the facility, and if such waiver would not adversely affect public health or safety or the environment.

(b) The Commission shall develop procedures and criteria for selecting sites for hazardous waste facilities whenever it appears such facilities are needed. Site selection procedures and criteria shall be specifically adapted to take into account the technologies and design capacities of each authorized hazardous waste facility. Site selection procedures and criteria shall be developed with, and provide for, public participation; shall be incorporated into rules; shall include a written justification for each criterion; shall be consistent with all applicable federal and State law, including statutes, regulations and rules; shall be developed and revised in light of the best available scientific data; and shall be based on consideration of at least the following factors:

- (1) Hydrological and geological factors, including flood plains, depth to water table, groundwater travel time, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines, and climate;
- (2) Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds;
- (3) Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites;
- (4) Local land uses;
- (5) Transportation factors, including proximity to waste generators, route safety, and method of transportation;
- (6) Aesthetic factors, including the visibility, appearance, and noise level of the facility;
- (7) Availability and reliability of public utilities; and
- (8) Availability of emergency response personnel and equipment.

(c) In addition to any other site selection criteria adopted by the Commission, the following criteria shall apply to the selection of sites for hazardous waste treatment facilities:

- (1) A site shall be accessible to the Interstate Highway System by a highway having not less than two travel lanes in each direction (four-lane highway).
- (2) In evaluating potential sites, the Commission shall give preference to those sites which minimize the travel distance between the site and the Interstate Highway System.

- (3) A site shall not be located in or on wetlands, existing State or national parks or forests, existing historical sites, and existing wildlife refuges.
- (4) A site shall not be located in or on land on which a fish hatchery is located, Indian reservations, or federal military reservations.

(c) With respect to any potential site located in a county interested in volunteering to host a facility, the site selection criteria set out in subdivisions (1) and (2) of subsection (c) of this section are discretionary with the Commission in that they may be waived as provided in subsection (a) of this section.

(d) The Commission shall develop a proposed schedule for evaluation and selection of the preferred and alternate sites for each authorized hazardous waste facility. The proposed site selection schedule shall provide for public education regarding the proposed facility and for public involvement in the site selection process. The Commission shall submit proposed site selection schedules to the Governor for approval.

(e) The Commission shall select suitable sites for evaluation and shall select the preferred site for each hazardous waste facility in accordance with a site selection schedule adopted by the Commission. Upon selection of a preferred site the Commission shall begin proceedings to purchase or if necessary, condemn property for the site under the State's power of eminent domain. The procedure for condemnation by the Commission shall be as set out in Article 9 of Chapter 136 of the General Statutes, except that the Commission shall have the same rights, powers, duties, and responsibilities as are set out for the Department of Transportation. The General Assembly finds that the protection of public health, safety, and welfare, including protection of the environment, requires that facilities for the management of hazardous waste be established. The acquisition of real property for the management of hazardous waste is therefore declared to be for the use and benefit of the public, and to serve a public purpose. Fee simple title to real property shall be vested in the Commission. The Commission may substitute an alternate site for the preferred site in the event that it is determined that any permit or license necessary for the construction or operation of the proposed facility cannot be obtained if the facility is located at the preferred site.

(f) The Commission may request information and assistance from any State agency which has data or expertise which would assist the Commission in the identification of sites for hazardous waste facilities, provided that no agency which has authority to issue any license or permit required for the construction or operation of the facility shall participate in the site selection process in any way that would result in an actual or apparent conflict of interest.

(g) The Commission may in its discretion contract for the services of independent, qualified consultants to assist in the development and implementation of procedures and criteria for site screening and selection. Such consultants shall be eligible to subsequently design, construct, or operate a hazardous waste facility on behalf of the Commission.

§ 130B-12. Annexation prohibited.

From the time a site is selected pursuant to G.S. 130B-11(d) or from the time a county, by resolution of the board of county commissioners, proposes a specific site or area for a hazardous waste facility, notwithstanding the provisions of Article 4A of Chapter 160A, no city may annex the site or area except upon a valid petition signed by the Commission. If a previously selected site or area is abandoned, then it shall once again be subject to annexation in accordance with Article 4A of Chapter 160A.

§ 130B-13. Facility construction and operation.

(a) The Commission shall actively seek qualified private contractors to construct and operate authorized hazardous waste facilities. A contractor may both construct and operate a facility.

(b) The Commission shall select and employ qualified contractors to construct and operate each hazardous waste facility, or shall construct the facility itself and/or designate itself as the operator.

(c) The Commission shall enter into and enforce an agreement with each contractor for each hazardous waste facility which shall incorporate such terms and conditions as the Commission determines are necessary and consistent with the purposes of this Chapter. Such agreement shall contain adequate assurances of contractor performance through the use of bonds, insurance, and shall require substantial compliance with all applicable federal and State law, including statutes, regulations, and rules. The Commission shall provide for an independent annual audit of the collection of all fees and other charges.

(d) The Commission may, in its discretion, seek the advice and assistance of other State agencies or private consultants in selecting contractors.

(e) The Commission may suspend or terminate its agreement with any contractor for a hazardous waste facility for any breach thereof. In the event of suspension or termination of an agreement, the Commission may select an interim or replacement contractor, or may operate the facility itself, to ensure that the facility is properly maintained and operated in compliance with all applicable federal and State laws, including statutes, rules, and regulations.

(f) The Commission shall periodically review and amend its agreement with the operating contractor of each hazardous waste facility to reflect necessary changes in fees or other charges, new environmental requirements, additional bonding or insurance requirements, or other alterations deemed necessary or appropriate.

§ 130B-14. Technology, design capacity, and license application.

(a) The Commission shall, with the assistance of other State agencies or private consultants it deems appropriate, recommend to the Governor the technology and design capacity of each component of each hazardous waste facility to be operated pursuant to this Chapter. Upon approval of technologies and design capacities by the Governor, the Commission shall prepare, or direct the operator to prepare subject to approval by the Commission, detailed designs and specifications, operating procedures, safety plans, closure plans and other plans necessary for hazardous waste facilities operated pursuant to this Chapter.

(b) Each operator of a hazardous waste facility established pursuant to this Chapter shall, under the supervision of the Commission, prepare and submit applications for all permits and licenses required for the facility to the appropriate regulatory agencies.

(c) The Department is designated as the lead State agency for overall coordination of the review of the application process and ensuring that decisions by the affected State agencies are rendered in a timely manner.

§ 130B-15. Facility closure; post-closure control.

(a) The Commission shall enter into an agreement with the operator of each hazardous waste facility established under this Chapter for the safe and proper closure of the facility.

(b) The Commission shall, with the assistance of other State agencies and private consultants it deems necessary, approve the operator's site closure plan. The approval of the Commission under this section is in addition to the approval of the Department in accordance with the rules and regulations of the Commission for Health Services. The Commission may employ an independent contractor to do anything necessary to properly close a hazardous waste facility and to ensure that the site is stabilized.

(c) The Commission shall provide for such post-closure physical surveillance and environmental monitoring of each hazardous waste facility or facility site operated pursuant to this Chapter as may be required by the Department or by agreement with the host community.

(d) The Commission shall reimburse, or assure that the operator reimburses, appropriate State agencies for the costs of physical surveillance and environmental monitoring or other post-closure services rendered.

(e) The Commission shall provide through its own personnel, private contractors, cooperative agreement with other governmental agencies, or any combination thereof, any active maintenance or remedial actions that may be required. Payment for the cost thereof shall be made from the Long-Term Care Fund established pursuant to G.S. 130B-16.

"§ 130B-16. Fees.

(a) It is the intent of the General Assembly that all costs associated with the development of hazardous waste facilities pursuant to this Chapter be borne by the waste generators served by such facilities. The General Assembly recognizes that the extent to which costs can be passed to hazardous waste generators is determined in part by market forces, since hazardous waste facilities must operate in a competitive market. In establishing and revising schedules of fees, the Commission shall seek to secure the greatest possible revenue for the State and units of local government consistent with environmentally safe and economically sound facility operation. In establishing and revising schedules of fees, the Commission may seek to encourage reductions in the volume or quantity and toxicity of hazardous waste. For facilities which it operates, the Commission shall establish, and revise as necessary, schedules of fees and other charges, including user charges, penalties, and surcharges. For facilities which are operated by private enterprise pursuant to this Chapter, the Commission shall establish, and revise as necessary, schedules of franchise fees. The terms and conditions under which facilities are operated by private enterprise pursuant to this Chapter shall be governed by appropriate contracts between the Commission and the private operators. Such contracts shall provide for the payment of franchise fees and for the periodic adjustment thereof.

(b) In establishing and revising schedules of fees the Commission shall consider and shall seek to recover to the maximum extent possible, the following costs:

- (1) Establishment and operation of the Commission;
- (2) Reimbursement of State agencies for costs incurred on behalf of the Commission or in support of its activities, including the costs of any services performed pursuant to G.S. 130B-15;
- (3) Establishment and administration of the Long-Term Care Fund under G.S. 130B-17;
- (4) Repayment to the State with interest at rates which are equal to those set by the State Treasurer with respect to savings certificates and certificates of deposit, at the varying rates applicable for the period between expenditures and repayment, of all funds expended from the General Fund to develop hazardous waste facilities pursuant to this Chapter;
- (5) Funding of the State's share of the costs associated with any interstate agreement or compact for hazardous waste management to which the State may become a party;
- (6) Compensation of contractors and consultants employed by the Commission;
- (7) Other expenses incurred by the Commission, the State or its agencies in furtherance of the purposes of this Chapter; and

- (8) Compensation of any property owner for any loss in value of property directly resulting from the siting or operation of a hazardous waste facility.

(c) In the event that revenues exceed all costs set out in subsection (b) of this section and all other costs and charges for which the Commission is liable, such excess funds shall be paid into the General Fund. It is the intent of the General Assembly that such excess funds be appropriated for the following purposes:

- (1) Funding of a portion of the State's share of the costs for remediation of inactive hazardous sites under Part 3 of Article 9 of Chapter 130A of the General Statutes and under CERCLA/SARA; and
- (2) Funding of a portion of the cost of the Pollution Prevention Pays Program, the waste minimization program administered by the Technical Assistance and Support Unit of the Solid Waste Management Division of the Department, other programs which foster multimedia waste prevention, reduction, reuse, and recycling, and programs which provide assistance to small quantity generators.

(d) The Commission shall prepare, on a quarterly basis, a detailed financial statement showing its current fee schedules, income from all sources, indebtedness, and expenses for the quarter and fiscal year to date. This statement, and any other information regarding the operation or activities of the Commission which may be requested, shall be submitted to the chairmen of the House and Senate committees on Finance and Appropriations, the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission, the Research Division, and the Fiscal Research Division of the General Assembly.

(e) An operator of a hazardous waste facility may serve as the collection agent for the Commission, in which case, funds collected by the operator shall be transferred to the Commission on a timely basis, and deposited with the State Treasurer, as directed by the Commission.

(f) All Commission accounts shall be audited pursuant to the provisions of Article 5A of Chapter 147 of the General Statutes.

§ 130B-17. Long-Term Care Fund.

(a) For hazardous waste facilities owned or operated by the Commission, there is hereby established under the control and direction of the Commission a nonreverting Long-Term Care Fund, to be administered by the State Treasurer, which may be used for:

- (1) Administration of the Fund;
- (2) Emergency response and decontamination at facilities operated by the Commission; or
- (3) Post-closure physical surveillance, environmental monitoring, maintenance, care, custody, and remedial action at hazardous waste facility site(s) operated by the Commission.

(b) The Long-Term Care Fund shall be treated as a special trust fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2 and G.S. 147-69.3.

(c) In addition to any money that may be appropriated or otherwise made available to it, the Fund may be maintained by fees and other charges including user charges, penalties, surcharges, or other money paid to or recovered by or on behalf of the Commission under the provisions of this Chapter. Fees and other charges shall at all times be sufficient to build and maintain the Fund balance at a level determined by the Commission, with the concurrence of the Commission for Health Services, to be adequate for the purposes stated in this section.

(d) The establishment of this Fund shall in no way be construed to relieve or reduce the liability of any facility operator, contractor, or other person for damages resulting from the operation of a hazardous waste facility.

"§ 130B-18. Taxes; other compensation to the State and local governments.

(a) Hazardous waste facilities or portions of such facilities which are owned by the Commission shall be exempt from ad valorem property taxes; provided however, that the Commission shall, in lieu of such property taxes pay to any governmental body authorized to levy such property taxes the amount that would be assessed as taxes on real and personal property of such facilities if such facilities were otherwise subject to valuation and assessment by local taxing unit. In addition, the Commission shall reimburse the county, city, or other local taxing unit for the loss of ad valorem property tax revenues from any property located on any parcel or tract that abuts the property upon which such facilities are located and which is shown to have diminished in value as the direct result of the siting and operation of such facilities. Such payments in lieu of taxes shall be due and shall bear interest if unpaid, as in the case of taxes on other property. Payments in lieu of taxes made hereunder shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law. Administrative buildings, associated land, and other real and personal property owned by the Commission and not located at a hazardous waste facility shall be exempt from property taxes as provided in G.S. 105-278.1.

(b) Except as authorized in G.S. 153A-152.1, G.S. 160A-211.1 and this Chapter, no county, city, or other local taxing unit may impose any tax, fee, assessment, or levy of any kind or description upon the Commission or the operator of a hazardous waste facility or any portion thereof which is owned by the Commission. Any hazardous waste facility or portion thereof which is separately taxable and which is not owned by the Commission may be taxed on the same basis as any other property. To the extent that any law, ordinance, or portion thereof is in conflict with this subsection, such law, ordinance, or portion thereof is hereby invalidated.

(c) The Commission shall collect and deposit with the State Treasurer, on behalf of local governments where hazardous waste facilities are located pursuant to this Chapter, a tax on the gross receipts of each such facility in the amount of two and one-half percent (2.5%) of the gross receipts of such facility per annum, to be distributed to local governments as the General Assembly shall provide. The Commission shall develop and recommend to the General Assembly a proposed revenue package and revenue distribution formula which the General Assembly shall consider in providing for distribution of this tax and such other revenues as may be collected.

"§ 130B-19. Site designation review committees.

(a) The board of commissioners of each county in which there is located a site identified for evaluation pursuant to G.S. 130B-11(d) may appoint a site designation review committee for a hazardous waste facility. The committee shall consist of 11 members representing, insofar as possible, local government, environmental, health, engineering, business and industry, academic, public interest, and emergency response groups. The committee shall elect a chairman, vice-chairman, and a secretary. Vacancies shall be filled by the county board of commissioners using the same criteria employed in the original appointment. Members shall be reimbursed by the committee for reasonable and necessary expenses incurred in connection with their duties. The county shall provide the committee with necessary support staff.

(b) The committee shall advise the county board of commissioners on matters relating to the siting of a hazardous waste facility.

(c) All site designation review committees shall terminate upon the designation of the preferred site by the Commission.

(d) Subject to appropriation by the General Assembly, the Board may provide technical assistance grants of up to fifty thousand dollars (\$50,000) to each site designation review committee. In the event that a proposed site is located in more than one county, or that one or more site designation review committees are appointed pursuant to subsection (h) of this section, the Board may provide technical grants to a site designation review committee in each county, provided that the maximum amount the Board may grant to all site designation review committees for a particular site is seventy-five thousand dollars (\$75,000).

(e) Grant funds may be used by the committee to:

- (1) Collect information on site suitability;
- (2) Monitor the site evaluation and site selection process;
- (3) Conduct socioeconomic and environmental assessments of the proposed facility;
- (4) Participate in any meetings, hearings, or other events related to the site selection process;
- (5) Study the cost and benefits of the facility being located at the site under consideration; and
- (6) Reimburse members for their expenses as provided in subsection (a) of this section.

(f) Any reviews or studies funded with grant monies shall be completed prior to the date set by the Commission for nomination of a preferred site.

(g) The Commission shall consider in its decision-making process recommendations or other information of the site designation review committee as may be transmitted to the Commission by the county board of commissioners.

(h) A site designation review committee may also be appointed as provided by this section by the board of commissioners of any county whenever the board of commissioners determines that the county may be affected by the siting of a hazardous waste facility in another county.

(i) No grant funds shall be used for litigation expenses. Each site designation review committee shall properly account for all funds. Unexpended funds shall revert to the Board, and at the end of the biennium shall revert to the General Fund.
§ 130B-20. Preferred site local advisory committees.

(a) Upon designation of a preferred site for a hazardous waste facility pursuant to G.S. 130B-11(d) the board of commissioners of each county within whose jurisdiction the site is located may appoint a preferred site local advisory committee. The committee shall consist of 11 members representing insofar as possible local government, environmental, health, engineering, business and industry, academic, public interest, and emergency response groups. The committee shall elect a chairman, vice-chairman, and a secretary. Vacancies shall be filled by the county board of commissioners using the same criteria employed in the original appointment. Members shall be reimbursed by the committee for reasonable and necessary expenses incurred in connection with their duties. The county shall provide the committee with necessary support staff.

(b) The preferred site local advisory committee may:

- (1) Study the costs and benefits associated with the proposed facility;
- (2) Review all permit and license applications and related documents concerning the proposed facility;
- (3) Hire program, technical, and legal consultants to assist in the review process;
- (4) Collect and review information required for issuance of a special or conditional use zoning permit;
- (5) Assess the potential local environmental and socioeconomic impacts of the proposed facility;

- (6) Promote public education, information, and participation in the permitting process;
- (7) Develop and propose agreements between the Commission, the hazardous waste facility operator, local governments, and other persons;
- (8) Develop and present recommendations concerning permit conditions, operational requirements, compensation, and incentives related to the proposed facility;
- (9) Hire a mediator to facilitate negotiations among the Commission, the hazardous waste facility operator, local governments, and other persons; and
- (10) Reimburse committee members for reasonable and necessary expenses.

(c) An applicant for a permit to operate a hazardous waste facility pursuant to this Chapter shall pay a one-time local application fee of one hundred thousand dollars (\$100,000) to the Board. The Board shall distribute not less than sixty-five thousand dollars (\$65,000) of the local application fee to the county or counties where the site of the proposed facility is located. If the site lies in more than one county, the local application fee will be distributed to the counties in which the site is located in equal amounts. If the board of commissioners appoints a preferred site local advisory committee the local application fee shall be used to support the work of the committee.

(d) A preferred site local advisory committee may also be appointed as provided by this section by the board of commissioners of any county whenever the board of commissioners determines that the county may be affected by the siting of a hazardous waste facility in another county. If a preferred site local advisory committee is appointed pursuant to this subsection, the committee may apply to the Board for a portion of the local application fee to support the work of the committee. The Board may allocate up to twenty-five thousand dollars (\$25,000) to each preferred site local advisory committee appointed pursuant to this subsection, provided that the maximum amount that the Board may allocate to all preferred site local advisory committees appointed pursuant to this subsection for a particular site is thirty-five thousand dollars (\$35,000). The Board shall base allocations under this subsection on the likelihood that the proposed hazardous waste facility will have a significant effect in the county, taking distance to the facility and other factors into account. Decisions of the Board regarding allocations under this subsection are final. Any portion of the local application fee which is not allocated by the Board under this subsection shall be distributed by the Board to the county or counties where the site of the proposed facility is located as provided in subsection (c) of this section.

(e) Each preferred site local advisory committee shall properly account for all funds. Any unexpended funds shall revert to the general fund of the county which appointed the preferred site local advisory committee. No portion of the local application fee shall be used to finance litigation expenses.

§ 130B-21. Negotiation, mediation, and arbitration.

(a) Any local government in the county or counties where a hazardous waste facility is proposed to be located pursuant to this Chapter may negotiate with the Commission with respect to any issue relating to the facility except:

- (1) The need for the facility;
- (2) Any proposal to reduce the duties of the Commission under this Chapter or under any permit or license issued for the facility;
- (3) Any proposal to reduce the duties of the Commission for Health Services or the Department, or to make less stringent any rule of the Commission for Health Services;

- (4) Any proposal to reduce the duties of the Board;
- (5) Any act or decision of the Governor pursuant to G.S. 130B-5; or
- (6) Any decision of the Commission regarding site selection, contractor selection, or technology pursuant to G.S. 130B-11, 130B-13, and 130B-14.

(b) The Commission shall negotiate in good faith with any local government in the county or counties where a hazardous waste facility is proposed to be located. A local government may designate itself or any other person to negotiate on its behalf.

(c) Negotiations may be conducted with the assistance of a mediator if mediation is requested by both the Commission and a local government. The function of the mediator is to encourage a voluntary settlement of unresolved negotiable issues. The Board shall provide the Commission and the local government with the names and qualifications of persons willing to serve as mediators. If the Commission and a local government cannot agree on the selection of a mediator, the Commission and the local government may request the Board to appoint a mediator.

(d) If the Commission and a local government have not reached agreement on all issues by negotiation within six months after selection of the preferred site pursuant to G.S. 130B-11(d), the following issues may be submitted to arbitration pursuant to the provisions of Article 45A of Chapter 1 of the General Statutes (Uniform Arbitration Act):

- (1) Compensation to any local government for substantial economic impacts which are a direct result of the siting and operation of a hazardous waste facility and for which adequate compensation is not otherwise provided;
- (2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities under this section;
- (3) Screening, fencing, and other matters related to the appearance of a facility;
- (4) Operational concerns other than design capacity and regulatory issues;
- (5) Traffic flows and patterns which result from the operation of a facility;
- (6) Uses of the site where a facility is located after the facility is closed;
- (7) The applicability or nonapplicability of any local ordinance;
- (8) Emergency response capabilities, including training and resources;
- (9) Access to facility records and monitoring data; and
- (10) Ongoing health surveys of persons living in the area around the facility.

(e) In addition to those issues set out in subsection (d), upon petition to the Board by a local government in the county or counties where a hazardous waste facility is proposed to be located, any other issue may be submitted for arbitration except:

- (1) Those issues excluded from negotiation under subsection (a) of this section;
- (2) Any issue relating to the imposition by the General Assembly of a tax, or the imposition of a fee not authorized by this Chapter; and
- (3) Any issue requiring an appropriation by the General Assembly.

(f) The Board shall serve as the arbitrator of any issue submitted for arbitration under this section.

"§ 130B-22. Inter-Agency Committee on Hazardous Waste.

(a) To assist the Commission in the performance of its responsibilities under this Chapter and to advise the General Assembly, there is created the Inter-Agency

Committee on Hazardous Waste (herein called the 'Committee'). The members shall be: the Chairman of the Board; the Chairman of the Board's Technical Committee on Hazardous Waste; the Director of the Solid Waste Management Division of the Department or his designee; the Chief of the Hazardous Waste Management Section of the Solid Waste Management Division or his designee; one additional representative of the Solid Waste Management Division with expertise in CERCLA/SARA capacity assurance requirements appointed by the Director of the Division, the Chairman of the Commission or his designee; one additional member of the Commission appointed by the Chairman of the Commission; the Executive Director of the Commission; the Director of the Pollution Prevention Pays Program; four representatives of the Department of Natural Resources and Community Development with expertise in geology, groundwater, water quality, and air quality; the representative of the Attorney General's office who provides legal services to the Commission; and a representative of the Attorney General's office who provides legal services to the Solid Waste Management Division designated by the Director of the Solid Waste Management Division with the approval of the Attorney General. The Chairman of the Board shall serve as the Chairman of the Committee, and the Board shall provide professional and clerical support to the Committee.

(b) The purpose of the Committee is to share information and coordinate efforts in the siting, design, financing, permitting, construction, and operation of hazardous waste facilities.

(c) The Committee shall report to the Governor, the General Assembly, and the Research and Fiscal Research Divisions of the General Assembly from time to time regarding any changes in the present law it may deem appropriate to expedite siting, design, financing, permitting, construction, and operation of hazardous waste facilities. Such reports shall not be subject to review by the departments, agencies, boards, or commissions from whose membership the Committee is drawn. Notwithstanding any rule or resolution to the contrary, proposed legislation to implement any recommendation made by the Committee may be introduced and considered during any session of the General Assembly.

(d) Consistent with existing law, each department, agency, board, or commission from whose membership the Committee is drawn shall be responsible for any expenses incident to the participation of its members in the work of the Committee, including per diem, travel, and subsistence, from funds otherwise appropriated to it.

"§ 130B-23. Volunteer host counties.

(a) A county which wishes to volunteer to host a hazardous waste facility to be operated pursuant to this Chapter may propose to do so by the adoption of a resolution by a majority vote of the board of commissioners. The Commission shall determine the adequacy of any proposal to voluntarily host a hazardous waste facility and must accept such proposal before any funds which may be appropriated for the benefit of volunteer host counties may be disbursed. Once a proposal to volunteer to host a hazardous waste facility has been accepted by the Commission, the resolution making such proposal may not be rescinded by the board of commissioners.

(b) A board of commissioners shall hold a minimum of two public hearings regarding any proposal to volunteer to host a hazardous waste facility pursuant to this Chapter. The last such hearing shall be held not less than 30 days following the first such hearing. Notice of each hearing shall be given as provided in G.S. 143-318.12(b)(2)."

Sec. 2. (a) Part 11A of Article 10 of Chapter 143B of the General Statutes is repealed.

(b) The North Carolina Hazardous Waste Treatment Commission as established by Part 11A of Article 10 of Chapter 143B of the General Statutes is reorganized and continued as the North Carolina Hazardous Waste Management

Commission. The Hazardous Waste Treatment Commission's records, personnel, property, unexpended balances of appropriations, allocations, and other funds, including the functions of budgeting and purchasing, are transferred to the Hazardous Waste Management Commission established pursuant to this act. The rights and obligations of any contract to which the Hazardous Waste Treatment Commission is a party are transferred to the Hazardous Waste Management Commission.

(c) Initial appointments pursuant to G.S. 130B-6(d) shall be made within 45 days of the date this act becomes effective. The North Carolina Hazardous Waste Management Commission shall begin operation upon the appointment of all of its members, provided that the Commission shall begin operation 45 days after the date this act becomes effective, notwithstanding the failure of any of the appointing authorities to make appointments.

(d) Current and former members of the Hazardous Waste Treatment Commission may be appointed as members of the Hazardous Waste Management Commission. In making initial appointments to the Hazardous Waste Management Commission, the appointing authorities shall consider the experience gained by those persons who are members of the Hazardous Waste Treatment Commission at the time this act becomes effective in light of the requirements of G.S. 130B-6(c)(5) regarding expertise in hazardous waste management. Persons appointed as members of the Hazardous Waste Management Commission who have served on the Hazardous Waste Treatment Commission shall be eligible to serve and to be reappointed notwithstanding any limitation on length of service in effect prior to repeal of G.S. 143B-470.3.

(e) Subsections (a) and (b) of this section shall be effective on the day the North Carolina Hazardous Waste Management Commission begins operation.

Sec. 3. G.S. 20-111(c)(9) reads as rewritten:

"(9) Fully enclosed motor vehicles designed specifically for collecting, compacting and hauling garbage from residences or from garbage dumpsters shall, when operating for those purposes, be exempt from the light-traffic road limitation as provided by G.S. 20-118(b)(4). This exemption shall not apply to vehicles transporting hazardous waste as defined in G.S. ~~130A-290(4)~~, 130A-290, spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5(9a), or radioactive material as defined in G.S. 104E-5(14)."

Sec. 4. G.S. 20-111(c)(10) reads as rewritten:

"(10) Fully enclosed motor vehicles designed specifically for collecting, compacting and hauling garbage from residences, or from garbage dumpsters shall, when operating for those purposes, be allowed a single axle weight not to exceed 23,500 pounds on the steering axle on vehicles equipped with a boom, or on the rear axle on vehicles loaded from the rear. This exemption shall not apply to vehicles transporting hazardous waste as defined in G.S. ~~130A-290(4)~~, 130A-290, spent nuclear fuel regulated under G.S. 20-167.1, low-level radioactive waste as defined in G.S. 104E-5(9a), or radioactive material as defined in G.S. 104E-5(14)."

Sec. 5. G.S. 105-164.14(c) reads as rewritten:

"(c) Upon receipt of timely applications for refund, the Secretary of Revenue shall make refunds annually to all governmental entities, as hereinafter defined, of sales and use tax paid under this Article, except under G.S. 105-164.4(4a) and G.S. 105-164.4(c), by said governmental entities on direct purchases of tangible personal property. Sales and use tax liability indirectly incurred by such governmental entities on building materials, supplies, fixtures and equipment which shall become a part of

or annexed to any building or structure being erected, altered or repaired which is owned or leased by such governmental entities shall be construed as sales or use tax liability incurred on direct purchases by such governmental entities, and such entities may obtain refunds of such taxes indirectly paid. The refund provisions contained in this subsection shall not apply to any governmental entities not specifically named herein. In order to receive the refund herein provided for, governmental entities shall file a written request for said refund within six months of the close of the fiscal year of the governmental entities seeking said refund, and such request for refund shall be substantiated by such records, receipts and information as the Secretary may require. No refunds shall be made on applications not filed within the time allowed by this section and in such manner as the Secretary may otherwise require. The term 'governmental entities,' for the purposes of this subsection, shall mean all counties, incorporated cities and towns, water and sewer authorities created and existing under the provisions of Chapter 162A of the General Statutes, lake authorities created by a board of county commissioners pursuant to an act of the General Assembly, sanitary districts, regional councils of governments created pursuant to G.S. 160A-470, area mental health, mental retardation, and substance abuse authorities (other than single-county area authorities) established pursuant to Article 4 of Chapter 122C of the General Statutes, district health departments, regional planning and economic development commissions created pursuant to G.S. 158-14, regional economic development commissions created pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S. 153A-391, metropolitan sewerage districts and metropolitan water districts in this State, the North Carolina Low-Level Radioactive Waste Management Authority created pursuant to Chapter 104G of the General Statutes, and the North Carolina Hazardous Waste Management Commission created pursuant to Chapter 130B of the General Statutes."

Sec. 6. G.S. 105-275 is amended by adding a new subsection to read:

"(38) Real and personal property belonging to the North Carolina Hazardous Waste Management Commission created under Chapter 130B of the General Statutes."

Sec. 7. Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-8.01. Pollution Prevention Pays Programs."

There is established within the Department a non-regulatory technical assistance program to be known as the Pollution Prevention Pays Program. The purpose of this program is to encourage voluntary waste and pollution reduction efforts through research and by providing information, technical assistance, and matching grants to businesses and industries interested in establishing or enhancing activities to prevent, reduce, or recycle waste. The Pollution Prevention Pays Program shall coordinate its activities with the appropriate regulatory agencies and with the Governor's Waste Management Board."

Sec. 8. G.S. 120-123 is amended by adding a new subsection to read:

"(56) The North Carolina Hazardous Waste Management Commission, as established by G.S. 130B-6."

Sec. 9. G.S. 126-5(c1) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

- (1) Constitutional officers of the State.
- (2) Officers and employees of the Judicial Department.
- (3) Officers and employees of the General Assembly.
- (4) Members of boards, committees, commissions, councils, and advisory councils compensated on a per diem basis.

- (5) Officials or employees whose salaries are fixed by the General Assembly, or by the Governor, or by the Governor and Council of State, or by the Governor subject to the approval of the Council of State.
- (6) Employees of the Office of the Governor that the Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
- (7) Employees of the Office of the Lieutenant Governor, that the Lieutenant Governor, at any time, in his discretion, exempts from the application of the provisions of this Chapter by means of a letter to the State Personnel Director designating these employees.
- (8) Instructional and research staff, physicians, and dentists of The University of North Carolina.
- (9) Employees whose salaries are fixed under the authority vested in the Board of Governors of The University of North Carolina by the provisions of G.S. 116-11(4), 116-1(5) [116-11(5)], and 116-14.
- (10) Employees of community colleges whose salaries are fixed in accordance with the provisions of G.S. 115D-5 and G.S. 115D-20.
- (11) North Carolina School of Science and Mathematics' employees whose salaries are fixed in accordance with the provisions of G.S. 116-235(c)(1) and G.S. 116-235(c)(2).
- (12) Employees of the North Carolina Low-Level Radioactive Waste Management Authority whose salaries are fixed pursuant to G.S. 104G-5(g)(1) and G.S. 104G-5(g)(2).
- (13) Employees of the North Carolina Hazardous Waste Management Commission whose salaries are fixed pursuant to G.S. 130B-6(g)(1) and G.S. 130B-6(g)(2)."

Sec. 10. G.S. 130-166.21D is repealed.

Sec. 11. G.S. 130A-290 reads as rewritten:

"§ 130A-290. Definitions.

The following definitions shall apply throughout this Article:

- ~~(1) 'Comprehensive hazardous waste treatment facility' means a facility designated as such by the Governor's Waste Management Board, meeting the following criteria:~~
 - ~~a. It is a commercial facility that accepts hazardous waste from the general public for treatment;~~
 - ~~b. It has the capacity and capability to treat and dispose of hazardous waste on at least an intrastate regional basis; and~~
 - ~~c. Its location will substantially facilitate treatment of hazardous waste for the State of North Carolina.~~
- ~~(1a) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.~~
- (1) 'CERCLA/SARA' means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. § 9601 et seq., as amended, and the Superfund Amendments

- and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended.
- (1b) (2) 'Commercial' when applied to a hazardous waste facility, means a hazardous waste facility that accepts hazardous waste from the general public or from another person for a fee.
- ~~(2) 'Federal act' means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended.~~
- (3) 'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- ~~(3) (4) 'Garbage' means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.~~
- (4) (5) 'Hazardous waste' means a solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may:
- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (5) (6) ~~'Hazardous waste facility' means a facility for the storage, collection, storage, processing, treatment, recycling, recovery recovery, or disposal of hazardous waste.~~
- (6) (7) 'Hazardous waste generation' means the act or process of producing hazardous waste.
- (7) (8) ~~'Hazardous waste landfill disposal facility' means any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules adopted under this Article.~~
- ~~(7a) 'Hazardous waste long term storage facility' means a facility as defined in G.S. 143B-470.2(5).~~
- ~~(7b) 'Hazardous waste management program' means the program and activities within the Department pursuant to Part 2 of this Article, for hazardous waste management.~~
- (8) (9) 'Hazardous waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.
- ~~(8a) 'Hazardous waste treatment facility' means a facility as defined in G.S. 143B-470.2(3).~~
- (10) 'Hazardous waste management program' means the program and activities within the Department pursuant to Part 2 of this Article, for hazardous waste management.
- (8b) (11) 'Landfill' means a disposal facility or part of a disposal facility where waste is placed in or on land and which is not a land treatment facility, a surface impoundment, an

injection well, a hazardous waste long-term storage facility or a surface storage facility.

- ~~(8c)~~ ~~'Long-term retrievable storage' means storage in closed containers in facilities (either above or below ground) with (i) adequate lights, (ii) impervious cement floors, (iii) strong visible shelves or platforms, (iv) passageways to allow inspection at any time, (v) adequate ventilation if underground or in closed buildings, (vi) protection from the weather, (vii) accessible to monitoring with signs on both individual containers and sections of storage facilities, and (viii) adequate safety and security precautions for facility personnel, inspectors and invited or permitted members of the community.~~
- (9) (12) 'Manifest' means the form used for identifying the quantity, composition and the origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment or storage.
- (10) (13) 'Natural resources' means all materials which have useful physical or chemical properties which exist, unused, in nature.
- (11) (14) 'Open dump' means a solid waste disposal site which is not a sanitary landfill.
- (12) (15) 'Person' means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.
- (16) 'RCRA' means the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, 90 Stat. 2795, 42 U.S.C. § 6901 et seq., as amended.
- (13) (17) 'Recycling' means the process by which recovered resources are transformed into new products so that the original products lose their identity.
- (14) (18) 'Refuse' means all nonputrescible waste.
- (15) (19) 'Resource recovery' means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing the solid waste for recycling.
- (15a) (20) 'Reuse' means a process by which resources are reused or rendered usable.
- (16) (21) 'Sanitary landfill' means a facility for disposal of solid waste on land in a sanitary manner in accordance with the rules concerning sanitary landfills adopted under this Article.
- (16a) (22) 'Septage' means solid waste that is a fluid mixture of untreated and partially treated sewage solids, liquids and sludge of human or domestic origin which is removed from a septic tank system.
- (16b) (23) 'Septage management firm' means a person engaged in the business of pumping, transporting, storing, treating or disposing septage. The term does not include public or community sanitary sewage systems that treat or dispose septage.

(17) (24)

'Sludge' means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility, or any other waste having similar characteristics and effects.

(18) (25)

'Solid waste' means any hazardous or nonhazardous garbage, refuse or sludge from a waste treatment plant, water supply treatment plant or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:

- a. Fecal waste from fowls and animals other than humans;
- b. Solid or dissolved material in:
 1. Domestic sewage and sludges generated by treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;
 2. Irrigation return flows; and
 3. Wastewater discharges and the sludges incidental to and generated by treatment which are point sources subject to permits granted under Section 402 of the ~~Federal Water Pollution Control Act~~, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission. However, any sludges that meet the criteria for hazardous waste under ~~the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended. RCRA~~ shall also be a solid waste for the purposes of this Article;
- c. Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the General Statutes. However, any oils or other liquid hydrocarbons that meet the criteria for hazardous waste under ~~the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended. RCRA~~ shall also be a solid waste for the purposes of this Article;
- d. Any source, special nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C. § 2011).
- e. Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B- 290). However, any specific mining waste

that meets the criteria for hazardous waste under ~~the Federal Resource Conservation and Recovery Act (P.L. 94-580), as amended, RCRA~~ shall also be a solid waste for the purposes of this Article.

- (19) (26) 'Solid waste disposal site' means any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.
- (20) (27) 'Solid waste generation' means the act or process of producing solid waste.
- (21) (28) 'Solid waste management' means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
- (22) (29) 'Solid waste management facility' means land, personnel and equipment used in the management of solid waste.
- (23) (30) 'Storage' means the containment of solid waste, either on a temporary basis or for a period of years, in a manner which does not constitute disposal.
- (24) (31) 'Treatment' means any method, technique or process, including neutralization, designed to change the physical, chemical or biological character or composition of any ~~solid~~ hazardous waste so as to neutralize ~~the~~ such waste or so as to render ~~the~~ such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. ~~The term 'Treatment'~~ includes any activity or processing designed to change the physical form or chemical composition of ~~solid~~ hazardous waste so as to render it nonhazardous.
- (25) (32) 'Unit of local government' means a county, city, town or incorporated village."

Sec. 12. G.S. 130A-292 reads as rewritten:

"§ 130A-292. Conveyance of land used for commercial hazardous waste landfill disposal facility to the State.

(a) No land may be used for a commercial hazardous waste ~~landfill disposal~~ landfill disposal facility until fee simple title to the land has been conveyed to this State. In consideration for the conveyance, the State shall enter into a lease agreement with the grantor for a term equal to the estimated life of the facility in which the State will be the lessor and the grantor the lessee. The lease agreement shall specify that for an annual rent of fifty dollars (\$50.00), the lessee shall be allowed to use the land for the development and operation of a hazardous waste ~~landfill disposal~~ landfill disposal facility. The lease agreement shall provide that the lessor or any person authorized by the lessor shall at all times have the right to enter without a search warrant or permission of the lessee upon any and all parts of the premises for monitoring, inspection and all other purposes necessary to carry out the provisions of this Article. The lessee shall remain fully liable for all damages, losses, personal injury or property damage which may result or arise out of the lessee's operation of the facility, and for compliance with regulatory requirements concerning insurance, bonding for closure and post-closure costs, monitoring and other financial or health and safety requirements as required by applicable law and rules. The State, as lessor, shall be immune from liability except as otherwise provided by statute. The lease shall be transferable with the written consent of the lessor and the consent will not be unreasonably withheld. In the case of a transfer of the lease, the transferee shall be subject to all terms and conditions that the State deems necessary to ensure compliance with applicable laws and rules.

If the lessee or any successor in interest fails in any material respect to comply with any applicable law, rule or permit condition, or with any term or condition of the lease, the State may terminate the lease after giving the lessee written notice specifically describing the failure to comply and upon providing the lessee a reasonable time to comply. If the lessee does not effect compliance within the reasonable time allowed, the State may reenter and take possession of the premises.

(b) Notwithstanding the termination of the lease by either the lessee or the lessor for any reason, the lessee shall remain liable for, and be obligated to perform, all acts necessary or required by law, rule, permit condition or the lease for the permanent closure of the site until the site has either been permanently closed or until a substituted operator has been secured and has assumed the obligations of the lessee.

(c) In the event of changes in laws or rules applicable to the facility which make continued operation by the lessee impossible or economically infeasible, the lessee shall have the right to terminate the lease upon giving the State reasonable notice of not less than six months, in which case the lessor shall have the right to secure a substitute lessee and operator.

(d) In the event of termination of the lease by the lessor as provided in subsection (a) of this section, or by the lessee as provided in subsection (c) of this section, the lessee shall be paid the fair market value of any improvements made to the leased premises less the costs to the lessor resulting from termination of the lease and securing a substitute lessee and operator. However, the lessor shall have no obligation to secure a substitute lessee or operator and may require the lessee to permanently close the facility."

Sec. 13. G.S. 130A-293 reads as rewritten:

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

(a) Notwithstanding any authority granted to counties, municipalities, or other local authorities to adopt local ~~ordinances~~, ordinances (including but not limited to those imposing taxes, fees, ~~charges, or charges~~ or regulating health, environment, ~~and~~ or land use), any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a hazardous waste facility which the Governor's Waste Management Board (~~herein called 'Board'~~ hereinafter 'the Board') has preempted pursuant to subsections (b) through ~~(g)~~ (f) of this section, shall be invalid only to the extent necessary to effectuate the purposes of this Chapter ~~and Part 11A of Article 10 of Chapter 143B or Chapter 130B~~ of the General Statutes. For the purpose of this section, the Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the ~~local governing body~~ board of commissioners of the county in which the facility is or is to be located. If the facility is or is to be located in more than one county, or if the facility is or is to be located within the boundaries of a city, the governing body of each city and county in which any portion of the facility is or is to be located shall have one appointment. Failure of a local governing body to make an appointment within 30 days after receipt of written notice from the Board to do so shall be deemed a vacancy in an unexpired term and shall be filled by appointment ~~of a majority of the Board members~~ by the Board. The terms of the members appointed by the ~~local governing body~~ bodies shall end upon the final determination of the Board under this section, and such members shall serve as members of the Board ~~only for the purposes~~ purpose of this section.

(b) When a hazardous waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance(s), the operator of the proposed facility or the North Carolina Hazardous Waste Treatment Management Commission established pursuant to Chapter 130B of the General Statutes (hereinafter 'the Commission') may petition the Board to review the matter. After

receipt of a petition, the Board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

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

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested such notice. The Board shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. ~~Service by mail is complete upon placing the notice, enclosed in a wrapper addressed to the person to be served with sufficient postage prepaid and addressed to the party at his designated address.~~ Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address which appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.

Any interested ~~persons~~ person may appear before the Board at the hearing to offer testimony. In addition to testimony before the Board, any interested ~~persons~~ person may submit written evidence to the Board for its consideration. At least 20 days ~~will~~ shall be allowed for receipt of written comment following the hearing.

(d) The Board shall determine whether or to what extent to preempt ~~the local ordinance~~ ordinance(s) so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Board shall preempt a local ordinance only if it makes all five of the following findings:

- (1) That there is a local ordinance which would prohibit or have the effect of prohibiting the establishment or operation of a hazardous waste facility;
- (2) That the proposed facility is needed in order to establish adequate capability ~~for the management of hazardous waste generated in this State to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party and therefore serves the interest interests~~ of the citizens of the State as a whole;
- (3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance(s);
- (4) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and
- (5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility operator or ~~Treatment~~ the Commission

has taken or consented to take ~~any~~ reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with ~~and [any]~~ any applicable local ordinance(s).

If the Board does not make all five findings set out above, the Board shall not preempt the challenged local ordinance(s). The Board's decision shall be in writing and shall identify the evidence submitted to the Board plus any additional evidence used in arriving at the decision.

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

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error ~~or~~ of law; or
- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for such reversal or modification.

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

~~(g) The provisions of this section shall not apply to the siting of a hazardous waste landfill facility until the rules for the operation applicable to a hazardous waste landfill have been adopted by the appropriate State agencies."~~

Sec. 14. G.S. 104E-6.2 reads as rewritten:

"§ 104E-6.2. Local ordinances prohibiting low-level radioactive waste facilities invalid; petition to preempt local ordinance.

(a) Notwithstanding any authority ~~heretofore~~ granted to counties, municipalities, or other local authorities to adopt local ~~ordinances~~, ordinances (including but not limited to those imposing taxes, fees, ~~charges~~, or charges or regulating health, environment, ~~and~~ or land use), any local ordinance which prohibits or has the effect of prohibiting the establishment or operation of a low-level radioactive waste facility which the Governor's Waste Management Board (~~herein called "Board" hereinafter "the Board"~~) has preempted pursuant to the ~~procedures in~~ subsections (b) through (f) of this section, shall be invalid ~~from 26 June 1981, but only~~ to the extent necessary to effectuate the purposes of this Chapter ~~and~~ or Chapter 104G of the General Statutes. For the purpose of this section, the Board shall include, in addition to the members enumerated in G.S. 143B-216.12(a), two members appointed by the ~~governing body~~ board of commissioners of the county in which the facility is or is to be located. If the facility is or is to be located in more than one county, or if the ~~proposed site is~~ facility is or is to be located within the boundaries of a city, the governing body of each city and county in which any portion of the facility is or is to be located shall

have one appointment. Failure of a local governing body to make an appointment within 30 days after receipt of written notice ~~from the Board to do so~~ shall be deemed a vacancy in an unexpired term and shall be filled by appointment ~~of a majority of the Board members~~ by the Board. The terms of members appointed by local governing bodies shall end upon the final determination of the Board under this section, and such members shall serve as members of the Board only for the ~~purposes~~ purpose of this section.

(b) When a low-level radioactive waste facility would be prevented from construction or operation by a county, municipal, or other local ordinance(s), the ~~North Carolina Low-Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes (herein called 'Authority')~~ or operator of the proposed facility or the North Carolina Low-Level Radioactive Waste Management Authority established pursuant to Chapter 104G of the General Statutes (hereinafter 'the Authority') may petition the Board to review the matter. After receipt of a petition, the Board shall hold a hearing in accordance with the procedures in subsection (c) of this section and shall determine whether or to what extent to preempt the local ordinance to allow for the establishment and operation of the facility.

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

- (1) Publication in a newspaper or newspapers having general circulation in the county or counties where the facility is or is to be located or operated, once a week for three consecutive weeks, the first notice appearing at least 30 days prior to the scheduled date of the hearing; and
- (2) First class mail to persons who have requested such notice. The Board shall maintain a mailing list of persons who request notice in advance of the hearing pursuant to this section. ~~Service by mail is complete upon placing the notice, enclosed in a wrapper addressed to the party to be served at his designated address with sufficient postage prepaid. Notice by mail shall be complete upon deposit of a copy of the notice in a post-paid wrapper addressed to the person to be notified at the address which appears on the mailing list maintained by the Board, in a post office or official depository under the exclusive care and custody of the United States Postal Service.~~

Any interested ~~persons~~ person may appear before the Board at the hearing to offer testimony. In addition to testimony before the Board, any interested person may submit written evidence to the Board for its consideration. At least 20 days ~~will~~ shall be allowed for receipt of written comment following the hearing.

(d) The Board shall determine whether or to what extent to preempt ~~the local ordinance~~ ordinance(s) so as to allow for the establishment and operation of the facility no later than 60 days after conclusion of the hearing. The Board shall preempt a local ordinance only if it makes all five of the following findings:

- (1) That there is a local ordinance which would prohibit or have the effect of prohibiting the establishment or operation of a low-level radioactive waste facility;
- (2) That the proposed facility is needed in order to establish adequate capability ~~for the management of low-level radioactive waste to meet the current or projected low-level radioactive waste management needs of this State or to comply with the terms of any~~

interstate agreement for the management of low-level radioactive waste to which the State is a party and therefore serves the interest interests of the citizens of the State as a whole;

- (3) That all legally required State and federal permits or approvals have been issued by the appropriate State and federal agencies or that all State and federal permit requirements have been satisfied and that the permits or approvals have been denied or withheld only because of the local ordinance(s);
- (4) That local citizens and elected officials have had adequate opportunity to participate in the siting process; and
- (5) That the construction and operation of the facility will not pose an unreasonable health or environmental risk to the surrounding locality and that the facility ~~operator, or Authority, operator or the Authority~~ has taken or consented to take any reasonable measures to avoid or manage foreseeable risks and to comply to the maximum feasible extent with any applicable local ~~ordinances; ordinance(s).~~

If the Board does not make all five findings set out above, the Board shall not preempt the challenged local ordinance(s). The Board's decision shall be in writing and shall identify the evidence submitted to the Board plus any additional evidence used in arriving at the decision.

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

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the agency; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error ~~or~~ of law; or
- (5) Unsupported by substantial evidence admissible under G.S. 150B-29(a) or G.S. 150B-30 in view of the entire record as submitted; or
- (6) Arbitrary or capricious.

If the court reverses or modifies the decision of the agency, the judge shall set out in writing, which writing shall become part of the record, the reasons for such reversal or modification.

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

Sec. 15. G.S. 130A-294(a)(6) reads as rewritten:

- "(6) The Department is authorized to charge and collect fees from operators of hazardous waste ~~landfill disposal~~ facilities. The fees shall be used to establish a fund sufficient for each individual facility to defray the anticipated costs to the State for monitoring and care of the facility after the termination of the period during

which the facility operator is required by applicable State and federal statutes, regulations or rules to remain responsible for post-closure monitoring and care. In establishing the fees, consideration shall be given to the size of the facility, the nature of the hazardous waste and the projected life of the facility."

Sec. 16. G.S. 130A-294(c) reads as rewritten:

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

- (1) Establishing criteria for hazardous waste, identifying the characteristics of hazardous waste and listing particular hazardous waste;
- (1a) Establishing criteria for hazardous constituents, identifying the characteristics of hazardous constituents and listing particular hazardous constituents;
- (2) Record-keeping and reporting by generators and transporters of hazardous waste and owners and operators of hazardous waste facilities;
- (3) Proper labeling of hazardous waste containers;
- (4) Use of appropriate containers for hazardous waste;
- (5) A manifest system to assure that all hazardous waste is designated for treatment, storage or disposal at a hazardous waste facility to which a permit has been issued;
- (6) Proper transportation of hazardous waste;
- (7) Treatment, storage and disposal standards of performance and techniques to be used by hazardous waste facilities;
- (8) Location, design, ownership and construction of hazardous waste facilities; provided, however, that no hazardous waste ~~landfill~~ disposal facility or polychlorinated biphenyl ~~landfill~~ disposal facility shall be located within 25 miles of any other hazardous waste ~~landfill~~ disposal facility or polychlorinated biphenyl ~~landfill~~ disposal facility;
- (9) Plans to minimize unanticipated damage from treatment, storage or disposal of hazardous waste; and a plan or plans providing for the establishment and/or operation of one or more hazardous waste facilities in the absence of adequate approved hazardous waste facilities established or operated by any person within the State;
- (10) Proper maintenance and operation of hazardous waste facilities, including requirements for ownership by any person or the State, financial responsibility (including requirements for sufficient availability of funds for facility closure and post-closure monitoring and corrective measures through the use of a letter of credit, insurance, surety, trust agreement, financial test, or financial test and corporate guarantee), training of personnel, continuity of operation and procedures for establishing and maintaining hazardous waste facilities;
- (11) Monitoring by owners or operators of hazardous waste facilities;
- (12) Inspection or copying of records required to be kept;
- (13) Obtaining and analyzing hazardous waste samples and samples of hazardous waste containers and labels from generators and transporters and from owners and operators of hazardous waste facilities;

- (14) A permit system governing the establishment and operation of hazardous waste facilities; ~~and~~
- (15) Additional requirements as necessary for the effective management of hazardous ~~waste; waste;~~
- (16) The operator of the hazardous waste ~~landfill disposal~~ facility shall maintain adequate insurance to cover foreseeable claims arising from the operation of the facility. The Board shall determine what constitutes an adequate amount of ~~insurance; insurance;~~
- (17) The bottom of a hazardous waste ~~landfill disposal~~ facility shall be at least 10 feet above the seasonal high water table and more when necessary to protect the public health and the ~~environment; environment; and~~
- (18) The operator of a hazardous waste ~~landfill disposal~~ facility shall make monthly reports to the Governor's Waste Management Board and to the board of county commissioners of the county in which the facility is located on the kinds and amounts of hazardous wastes in the facility."

Sec. 17. G.S. 130A-294(e) reads as rewritten:

~~"(e) The rules adopted under this section shall be no less stringent than the most recent regulations adopted under the federal act and may be amended. Rules adopted under this section may incorporate standards and restrictions which exceed and are more comprehensive than comparable federal regulations."~~

Sec. 18. G.S. 130A-294(f) reads as rewritten:

~~"(f) Within five-10 days of receiving an application for a permit or for an amendment to an existing permit for a hazardous waste facility, the Department shall notify the clerk ~~to~~ of the county board of commissioners of the county or counties in which the facility is proposed to be located or is located and, ~~or~~, if the facility is proposed to be located or is located within a city, the city clerk of the governing board of the city, where the facility is proposed to be located, that the application has been filed, and shall file a copy of the application with the clerk. Prior to the issuance of a permit or an amendment of an existing permit for a hazardous waste facility, the Department Secretary or his designee shall issue public notice and conduct a public hearing in any the county, or in one of the counties in which a the hazardous waste facility is proposed to be located or is located. Notice and public hearings shall be in accordance with the appropriate federal regulations adopted pursuant to the federal act and with Chapter 150B of the General Statutes. The Secretary or his designee shall give notice of the hearing, and the public hearing shall be in accordance with applicable federal regulations adopted pursuant to RCRA and with Chapter 150B of the General Statutes. Where the provisions of the federal regulations and Chapter 150B of the General Statutes are inconsistent, the federal regulations shall apply.~~

~~Within 180 days after receiving a complete application for a permit or for an amendment to an existing permit for a comprehensive hazardous waste treatment facility, the Department shall approve or disapprove the application. In acting upon the application, the Department shall consider land use, zoning, buffer zones, utility availability, proximity to sources of waste, civil defense, fire safety, transportation and access, existing road network, general considerations of the public's health and safety, and any other objective factors reasonably related and relevant to the proper siting and operation of the comprehensive hazardous waste treatment facility. The Department may impose conditions in a permit in response to these factors. The Department's denial of an application shall be in writing, shall state the reasons for the denial, and shall inform the applicant of the right to appeal the denial."~~

Sec. 19. G.S. 130A-294(g) reads as rewritten:

~~"(g) The Commission shall develop and adopt criteria and standards to be considered in location and permitting of a hazardous waste facility by January 31, 1985. The standards and criteria shall be developed through public participation, shall be enforced by the Department and shall include, in addition to all applicable State and federal rules and regulations, consideration of:~~

- ~~(1) Acceptability within the community where the facility is to be located or steps which should be taken if community acceptance is not forthcoming;~~
- ~~(2) Hydrological and geological factors such as flood plains, depth to water table, groundwater travel time, proximity to public water supply watersheds, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines and climate;~~
- ~~(3) Natural resources such as wetlands, endangered species habitats, proximity to parks, forests, wilderness areas and historical sites, and air quality;~~
- ~~(4) Local land use whether residential, industrial, commercial, recreational, agricultural, and proximity to incompatible structures such as schools and airports;~~
- ~~(5) Transportation factors, such as proximity to waste generators and to population, route safety and method of transportation; and~~
- ~~(6) Aesthetic factors such as the visibility, appearance and noise level of the facility;~~

The Commission shall develop and adopt standards for permitting of hazardous waste facilities. Such standards shall be developed with, and provide for, public participation; shall be incorporated into rules; shall be consistent with all applicable federal and State law, including statutes, regulations and rules; shall be developed and revised in light of the best available scientific data; and shall be based on consideration of at least the following factors:

- (1) Hydrological and geological factors, including flood plains, depth to water table, groundwater travel time, soil pH, soil cation exchange capacity, soil composition and permeability, cavernous bedrock, seismic activity, slope, mines, and climate;
- (2) Environmental and public health factors, including air quality, quality of surface and groundwater, and proximity to public water supply watersheds;
- (3) Natural and cultural resources, including wetlands, gamelands, endangered species habitats, proximity to parks, forests, wilderness areas, nature preserves, and historic sites;
- (4) Local land uses;
- (5) Transportation factors, including proximity to waste generators, route safety, and method of transportation;
- (6) Aesthetic factors, including the visibility, appearance, and noise level of the facility;
- (7) Availability and reliability of public utilities; and
- (8) Availability of emergency response personnel and equipment."

Sec. 20. G.S. 130A-294(h) reads as rewritten:

"(h) Rules adopted by the Commission shall be subject to the following requirements:

- (1) ~~No hazardous waste landfill shall be established until at least one comprehensive hazardous waste treatment facility is fully operational in North Carolina.~~

- (2) Hazardous waste shall be treated prior to disposal in North Carolina. ~~Long term storage or disposal shall be used for the storage or disposal of the residual or ashes of hazardous waste which has been treated so the toxicity is low enough to present no significant health or safety hazard in the event of leakage from the facility. Hazardous waste that cannot be reduced, stabilized or destroyed to the extent which renders it sufficiently low in toxicity as to present no significant health or safety hazard in the event of leakage shall be stored in long term retrievable storage until such methods are found. Hazardous waste in long term retrievable storage shall be detoxified as soon as the Commission for Health Services determines based upon a preponderance of the evidence that the technology is available at a reasonable cost. The Commission shall determine the extent of waste treatment required before hazardous waste can be disposed of in a hazardous waste landfill disposal facility.~~
- (3) Any hazardous waste ~~landfill disposal~~ facility hereafter constructed in this State shall meet, at the minimum, the standards of construction imposed by federal regulations adopted under the ~~Federal Act RCRA~~ at the time the permit is issued.
- (4) No hazardous waste ~~landfill disposal~~ facility or polychlorinated biphenyl ~~landfill disposal~~ facility shall be located within 25 miles of any other hazardous waste ~~landfill disposal~~ facility or polychlorinated biphenyl ~~landfill disposal~~ facility.
- (5) No hazardous waste ~~landfill~~ facility ~~operated pursuant to Chapter 130B of the General Statutes shall be located within 25 miles of a~~ or polychlorinated biphenyl ~~landfill facility facility shall be permitted within 25 miles of a comprehensive hazardous waste treatment facility as defined in G.S. 130A-290(1).~~
- (6) The following will not be disposed of in a hazardous waste ~~landfill or long term retrievable storage disposal facility~~; ignitables as defined in the ~~Federal Act, RCRA~~, polyhalogenated biphenyls of 50 ppm or greater concentration, and free liquids whether or not containerized.
- (7) ~~The underground storage of either a hazardous waste landfill or long term storage facility~~ Facilities for disposal or long-term storage of hazardous waste shall have at a minimum the following: a leachate collection and removal system above an artificial impervious liner of at least 30 mils in thickness, a minimum of five feet of clay or clay-like liner with a maximum permeability of 1.0×10^{-7} ~~10⁻⁷~~ centimeters per second (cm/sec) below said artificial liner, and a leachate detection system immediately below the clay or clay-like liner.
- (8) Hazardous waste shall not be stored at a hazardous waste treatment facility for over 90 days prior to treatment or disposal.
- (9) The Commission shall consider any hazardous waste treatment process proposed to it, if the process lessens treatment cost or improves treatment over then current methods or standards required by the Commission."

Sec. 21. G.S.130A-294(i) reads as rewritten:

"(i) ~~The Department shall submit to the General Assembly by February 1, 1985, plans:~~

- ~~(1) To monitor and regulate all generators of more than 100 kilograms per month of hazardous waste; and~~
- ~~(2) To locate, catalogue and monitor all existing hazardous waste impoundments and surface impoundments, including inactive hazardous waste disposal sites and "orphan dumps", including those owned or operated by units of State and local government; and shall submit to the General Assembly by February 1, 1985, a plan to bring all of these under legal requirements in effect on February 1, 1985, including a timetable for compliance. This plan shall include recordation of each of these sites in the office of the Register of Deeds in the county where it is located. The Department, in consultation with the Governor's Waste Management Board and the Division of Environmental Management of the Department of Natural Resources and Community Development, shall develop a comprehensive hazardous waste management plan for the State. This plan shall be completed by 1 July 1990 and shall be revised at two-year intervals thereafter."~~

Sec. 22. G.S. 130A-294 is amended by adding a new subsection to read:

"(k) Each person who generates hazardous waste who is required to pay a fee under G.S. 130A-294.1, and each operator of a hazardous waste treatment facility which treats waste generated on-site who is required to pay a fee under G.S. 130A-294.1, shall submit to the Department at the time such fees are due, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste."

Sec. 23. G.S. 130A-294.1(p) reads as rewritten:

"(p) The Department shall make an annual report to the General Assembly and its Fiscal Research Division on the cost of the hazardous waste management program. The report shall include, but is not limited to, beginning fund balance, fees collected under this section, anticipated revenue from all sources, total expenditures (by activities and categories) for the hazardous waste management program, ending fund balance, any recommended adjustments in the annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities which treat waste generated on-site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste."

Sec. 24. G.S. 130A-295 reads as rewritten: -

"§ 130A-295. Additional requirements for hazardous waste facilities.

(a) An applicant for a permit for a hazardous waste facility shall satisfy the Department that:

- (1) Any hazardous waste facility constructed or operated by the applicant, or any parent or subsidiary corporation if the applicant is a corporation, has been operated in accordance, with sound waste management practices and in substantial compliance with federal and state laws, regulations and rules; and
- (2) The applicant, or any parent or subsidiary corporation if the applicant is a corporation, is financially qualified to operate the proposed hazardous waste facility.

~~(b) The operator shall deposit in trust with the city or county government one-half of one percent (0.05%) of the income of the comprehensive hazardous waste~~

~~treatment facility, payable within 30 days of each calendar quarter, until the total shall equal an amount of two hundred fifty thousand dollars (\$250,000). As used herein, income means gross operating revenues less refunds, rebates and allowances. This fund shall be available to the city or county in which the comprehensive hazardous waste treatment facility is located for the purpose of defraying the cost of any cleanup which might be required at the comprehensive hazardous waste treatment facility. The city or county may, in its discretion, use up to fifty thousand dollars (\$50,000) of this total to establish an Emergency Response Team, trained and equipped to handle hazardous waste spills and to respond to accidents at hazardous waste treatment facilities. Financial records shall be subject to the audit of the local government for two years after any fee is paid. Any errors in the payment shall be corrected by credit or debit in the next payment or payments by the operator of the hazardous waste facility. If the North Carolina Hazardous Waste Treatment Commission owns and operates the facility, the North Carolina Hazardous Waste Treatment Commission, consistent with the resources available, shall compensate the local government for expenses incurred due to location of the facility. This compensation shall not exceed the amount of ad valorem tax revenues the local government would have received if the facility were privately owned. Nothing herein shall be construed to limit in any way funds which might be available to local government from other sources. An applicant for a permit for a hazardous waste facility shall satisfy the Department that he has met the requirements of subsection (a) of this section before the Department is required to otherwise review the application. In order to continue to hold a permit under this Chapter, a permittee must remain financially qualified and must provide any information requested by the Department to demonstrate that he continues to be financially qualified.~~

~~(c) Although no one is required to use a comprehensive hazardous waste treatment facility, use by North Carolina industry shall be encouraged. Nothing in this act shall be construed to prevent any hazardous waste or other waste generated or located in North Carolina from being removed from the State for disposal, treatment or storage. No permit for any new commercial hazardous waste treatment, storage, or disposal facility shall be issued or become effective, and no permit for a commercial hazardous waste treatment, storage, or disposal facility shall be modified until the applicant has satisfied the Department that such facility is needed to meet the current or projected hazardous waste management needs of this State or to comply with the terms of any interstate agreement for the management of hazardous waste to which the State is a party. The Commission shall adopt rules to implement this subsection."~~

Sec. 25. G.S. 130A-298 reads as rewritten:

"§ 130A-298. Hazardous waste fund.

A nonreverting hazardous waste fund is established within the Department which shall be available to defray the cost to the State for monitoring and care of hazardous waste landfill disposal facilities after the termination of the period during which the facility operator is required by applicable State and federal statutes, rules or regulations to remain responsible for post-closure monitoring and care. The establishment of this fund shall in no way be construed to relieve or reduce the liability of facility operators or any persons for damages caused by the facility. The fund shall be maintained by fees collected pursuant to the provisions of G.S. 130A-294(a)(6)."

Sec. 26. G.S. 130A-299 reads as rewritten:

"§ 130A-299. Single agency designation.

The Department is designated as the single State agency for purposes of the federal act RCRA or any State or federal legislation enacted to promote the proper management of solid waste."

Sec. 27. G.S. 130A-308 reads as rewritten:

"§ 130A-308. Continuing releases at permitted facilities.

Standards adopted under G.S. 130A-294(c) shall require, and a permit issued after November 8, 1984, shall require corrective action for all releases of hazardous waste or constituents from any solid waste management unit at a treatment, storage, or disposal facility seeking a permit under G.S. 130A-294(c), regardless of the time at which waste was placed in such unit. Permits issued under G.S. 130A-294(c) which implement Section 3005 of the Federal Act RCRA (42 U.S.C. § 6925) shall contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing such corrective action. Notwithstanding any other provision of this section, this section shall apply only to units, facilities, and permits that are covered by Section 3004(u) of the Federal Act RCRA (42 U.S.C. Section § 6924) (u)). Notwithstanding the foregoing, corrective action authorized elsewhere in this Chapter shall not be limited by this section."

Sec. 28. G.S. 130A-309 reads as rewritten:

"§ 130A-309. Corrective actions beyond facility boundary.

Standards adopted under G.S. 130A-294(c) shall require that corrective action be taken beyond the facility boundary where necessary to protect human health and the environment unless the owner or operator of the facility concerned demonstrates to the satisfaction of the Department that, despite the owner or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. Such standards shall take effect upon adoption and shall apply to:

- (1) All facilities operating under permits issued under G.S. 130A-294(c); and
- (2) All ~~landfills~~, disposal facilities, surface impoundments, and waste pile units (including any new units, replacements of existing units or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

Pending adoption of such rules, the Department shall issue corrective action orders for facilities referred to in (1) and (2), on a case-by-case basis, consistent with the purposes of this section. Notwithstanding any other provision of this section, this section shall apply only to units, facilities, and permits that are covered by Section 3004(v) of the Federal Act RCRA (42 U.S.C. Section § 6924(v)). Notwithstanding the foregoing, corrective action authorized elsewhere in this Chapter shall not be limited by this section."

Sec. 29. G.S. 143-215.1 is amended by adding a new subsection to read:

"(g) Any person who is required to hold a permit under this section shall submit to the Department a written description of his current and projected plans to reduce the discharge of waste and pollutants under such permit by source reduction or recycling. The written description shall accompany the payment of the annual permit fee. The written description shall also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification."

Sec. 30. G.S. 143-215.108 is amended by adding a new subsection to read:

"(c) Any person who is required to hold a permit under this section shall submit to the Department a written description of his current and projected plans to reduce the emission of air contaminants under such permit by source reduction or recycling. The written description shall accompany the payment of the annual permit fee. The written description shall also accompany any application for a new permit, or for modification of an existing permit, under this section. The written description

required by this subsection shall not be considered part of a permit application and shall not serve as the basis for the denial of a permit or permit modification."

Sec. 31. G.S. 143B-216.11 reads as rewritten:

"§ 143B-216.11. Definitions.

Unless the context otherwise requires, the following definitions shall apply to this Part:

- (1) 'Board' means the Governor's Waste Management Board.
- (2) 'Hazardous waste' has the same meaning as in G.S. ~~130A-290(4)~~. 130A-290.
- (3) 'Hazardous waste facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~130A-290(5)~~. 130A-290.
- (4) 'Hazardous waste landfill facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~130A-290(7)~~. 130A-290.
- (5) 'Hazardous waste management' has the same meaning as ~~defined in G.S. ~~130A-290(8)~~. 130A-290.~~
- (6) 'Low-level radioactive waste' has the same meaning as in G.S. ~~104E-5(9a)~~. 104E-5.
- (7) 'Low-level radioactive waste facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~104E-5(9b)~~. 104E-5.
- (8) 'Low-level radioactive waste landfill disposal facility' ~~means a facility as defined~~ has the same meaning as in G.S. ~~104E-5(9c)~~. 104E-5.
- (9) 'Low-level radioactive waste management' means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of low-level radioactive waste."

Sec. 32. G.S. 143B-216.13 reads as rewritten:

"§ 143B-216.13. Functions and powers of Board.

The Board shall perform the functions and be empowered as follows:

- (1) ~~The Board shall periodically evaluate and assess the volume, distribution, location, and physical and chemical characteristics of hazardous waste and low-level radioactive waste generated or disposed of in the State.~~
- (2) The Board shall periodically review the State's comprehensive waste management system and make recommendations to the Governor, cognizant State agencies, and the General Assembly on ways to improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste and low-level radioactive waste which must be disposed of.
- (3) The Board shall study and make recommendations on policy issues including but not limited to liability and financial responsibilities within the waste management area. ~~On or before January 1, 1983, the Board shall prepare and present to the Governor and General Assembly a report concerning the desirability of establishing by statute a standard of strict liability for persons involved in storage, transportation, treatment, or disposal of hazardous or low-level radioactive waste in North Carolina.~~
- (4) The Board shall promote research and development and disseminate information on state-of-the-art means of handling and disposing of hazardous waste and low-level radioactive waste. The Board is authorized to establish a waste information exchange for the State.

- (5) The Board shall promote public education and public involvement in the decision making process for the siting and permitting of proposed waste management facilities.
- (6) ~~The Board shall periodically evaluate and assess the type and number of hazardous waste facilities, hazardous waste landfill facilities, low level radioactive waste facilities and low level radioactive waste landfill facilities in existence, under construction or planned in the State and multi-State region and promote the development of additional facilities particularly retrievable aboveground storage facilities if existing or planned facilities are deemed inadequate or unavailable. The Board, in conjunction with the Solid Waste Management Division of the Department, shall assist the North Carolina Hazardous Waste Management Commission with the periodic review required by G.S. 130B-7(a)(1)(i).~~
- (6a) The Board shall annually report to the Governor, the General Assembly, and the Environmental Review Commission on the effectiveness of the waste reduction programs in the State and shall make recommendations on ways to improve such programs.
- (7) ~~The Board shall prepare and file jointly with both the Governor and the General Assembly an annual report describing the Board's activities and setting forth its recommendations for administrative or regulatory action required to improve the State's comprehensive waste management system or remedy noted defects in the system. improvements in the waste management system in the State. A special report shall be filed in January of 1983 which shall include an evaluation on the possible need to organize State agencies more efficiently to improve overall performance of waste management functions. The report should give consideration to the advantages and disadvantages of consolidating or centralizing administration of programs that are now in separate agencies. The Board shall provide a report to the General Assembly by February 1, 1985, to include:~~
- a. ~~An analysis of the size, type and number of hazardous waste facilities needed in North Carolina and a plan to meet these needs;~~
- b. ~~An analysis of the system of collection of hazardous waste in North Carolina, recommendations as to how that system might be improved and a plan to implement these recommendations; and~~
- c. ~~An analysis of the cost incurred by local government because of the presence of a hazardous waste facility, a hazardous waste landfill facility or a comprehensive hazardous waste treatment facility.~~
- (8) The Board shall each year recommend to the Governor a recipient for a 'Governor's Award of Excellence' which the Governor shall award for outstanding achievement by an industry or company in the area of hazardous waste or low-level radioactive waste management.
- (9) The Board shall, at the request of the Governor and under his direction, assist with the negotiation of interstate agreements for the management of hazardous waste. promote and participate in discussion with other states concerning development of regional

~~hazardous waste and low level radioactive waste management agreements.~~

- (10) The Board shall assist localities in which facilities are proposed in collecting and receiving information relating to the suitability of the proposed site. At the request of a local government in which facilities are proposed, the Board shall direct the appropriate agencies of State government to develop such relevant data as that locality shall reasonably request.
- (11) Repealed by Session Laws 1987 (Reg. Sess., 1988), c. 1082, s. 14.1.
- (12) The Board shall, in accordance with the procedures set forth in G.S. 160A-211.1 and G.S. 153A-152.1, review upon appeal specific privilege license tax rates which localities may apply to waste management facilities in their jurisdiction.
- (13) The Board may insure its members against personal liability for any actions they might take pursuant to the exercise of the functions and powers of the Board.
- (14) The Board may adopt, modify, or revoke any rules necessary to carry out the functions and powers as set forth in this Part.
- (15) The Board shall have any and all powers necessary or incidental to the exercise of the functions and powers enumerated herein.
- (16) The Board shall study the development of retrievable, aboveground storage facilities for hazardous wastes.
- (17) ~~The Board shall certify comprehensive hazardous waste treatment facilities which meet the criteria prescribed in G.S. 130A-290(1).~~

Sec. 33. G.S. 150B-1(d) reads as rewritten:

"(d)

- (1) The following are specifically exempted from the provisions of this Chapter:
 - a. ~~the~~ The Administrative Rules Review Commission;
 - b. ~~the~~ The Employment Security Commission;
 - c. ~~the~~ The Industrial Commission;
 - d. ~~the~~ The Occupational Safety and Health Review Board in all actions that do not involve agricultural employers, employers; and
 - e. ~~the~~ The Utilities Commission.
- (2) The North Carolina National Guard is exempt from the provisions of this Chapter in exercising its court-martial jurisdiction.
- (3) The Department of Human Resources is exempt from this Chapter in exercising its authority over the Camp Butner reservation granted in Article 6 of Chapter 122C of the General Statutes.
- (4) The Department of Correction is exempt from the provisions of this Chapter, except for Article 5 of this Chapter and G.S. 150B-13 which shall apply.
- (5) Articles 2 and 3 of this Chapter shall not apply to the Department of Revenue.
- (6) Except as provided in Chapter 136 of the General Statutes, Articles 2 and 3 of this Chapter do not apply to the Department of Transportation.
- (7) Article 4 of this Chapter, governing judicial review of final administrative decisions, shall apply to The University of North Carolina and its constituent or affiliated boards, agencies, and institutions, but The University of North Carolina and its constituent or affiliated boards, agencies, and institutions are

specifically exempted from the remaining provisions of this Chapter.

- (8) Article 4 of this Chapter shall not apply to the State Banking Commission, the Commissioner of Banks, the Savings and Loan Division of the Department of Commerce, and the Credit Union Division of the Department of Commerce.
- (9) Article 3 of this Chapter shall not apply to agencies governed by the provisions of Article 3A of this Chapter, as set out in G.S. 150B-38(a).
- (10) Articles 3 and 3A of this Chapter shall not apply to the Governor's Waste Management Board in administering the provisions of G.S. ~~104E-6.2~~ 104E-6.2 and G.S. 130A-293.
- (11) Article 2 of this Chapter shall not apply to the North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-10 and G.S. 104G-11. Articles 3 and 3A of this Chapter shall not apply to the North Carolina Low-Level Radioactive Waste Management Authority in administering the provisions of G.S. 104G-9, 104G-10, and 104G-11.
- (12) Article 2 of this Chapter shall not apply to the North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-13 and G.S. 130B-14. Articles 3 and 3A of this Chapter shall not apply to the North Carolina Hazardous Waste Management Commission in administering the provisions of G.S. 130B-11, 130B-13, and 130B-14."

Sec. 34. G.S. 153A-152.1 reads as rewritten:

"(a) Counties in which hazardous waste facilities as defined in G.S. ~~130A-290(5)~~ 130A-290 or low-level radioactive waste facilities as defined in G.S. 104E-5(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section."

Sec. 35. G.S. 160A-211.1 reads as rewritten:

"(a) Cities in which hazardous waste facilities as defined in G.S. ~~130A-290(5)~~ 130A-290 or low-level radioactive waste facilities as defined in G.S. 104E-5(9b) are located may levy an annual privilege license tax on persons or firms operating such facilities only in accordance with this section."

Sec. 36. G.S. 104G-6(14) reads as rewritten:

"(14) May issue revenue bonds from time to time pursuant to The State and Local Government Revenue Bond Act, Article 5 of Chapter 159 of the General Statutes; Statutes, and such bonds may be sold at public or private sale pursuant to G.S. 159-123."

Sec. 37. G.S. 159-81(3) reads as rewritten:

"(3) 'Revenue bond project' means any undertaking for the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any one or combination of the following revenue-producing utility or public service enterprise facilities or systems owned or leased as lessee by the issuing unit:

a. Water systems or facilities, including all plants, works, instrumentalities and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.

- b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage.
- c. Systems or facilities for the generation, production, transmission, or distribution of gas (natural, artificial, or mixed) or electric energy for lighting, heating, or power for public and private uses, where gas systems shall include the purchase and/or lease of natural gas fields and natural gas reserves and the purchase of natural gas supplies, and where any parts of such gas systems may be located either within the State or without.
- d. Systems, facilities and equipment for the collection, treatment, or disposal of solid waste.
- e. Public transportation systems, facilities, or equipment, including but not limited to bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.
- f. Public parking lots, areas, garages, and other vehicular parking structures and facilities.
- g. Aeronautical facilities, including but not limited to airports, terminals, and hangars.
- h. Marine facilities, including but not limited to marinas, basins, docks, dry docks, piers, marine railways, wharves, harbors, warehouses, and terminals.
- i. Hospitals and other health-related facilities.
- j. Public auditoriums, gymnasiums, stadiums, and convention centers.
- k. Recreational facilities.
- l. In addition to the foregoing, in the case of the State of North Carolina, low-level radioactive waste facilities developed pursuant to Chapter 104G of the General Statutes, hazardous waste facilities developed pursuant to Chapter 130B of the General Statutes, and any other project authorized by the General Assembly.
- m. ~~(For applicability see note below)~~ [For applicability, see note below.] Economic development projects, including the acquisition and development of industrial parks, the acquisition and resale of land suitable for industrial or commercial purposes, and the construction and lease or sale of shell buildings in order to provide employment opportunities for citizens of the municipality.
- ~~(n)~~ n. Facilities for the use of any agency or agencies of the government of the United States of America.

The cost of an undertaking may include all property, both real and personal and improved and unimproved, plants, works, appurtenances, machinery, equipment, easements, water rights, air rights, franchises, and licenses used or useful in connection with any of the foregoing utilities and enterprises; the cost of demolishing or moving structures from land acquired and the cost of acquiring any lands to which such structures are to be moved; financing charges; the cost of plans, specifications, surveys, and estimates of cost and revenues; administrative and legal expenses; and any other expense necessary or incident to the project."

Sec. 38. G.S. 159-81(4) reads as rewritten:

- "(4) 'Revenues' include all moneys received by the State or a municipality from, in connection with, or as a result of its ownership or operation of a revenue bond project or a utility or public service enterprise facility or system of which a revenue bond project is a part, including (to the extent deemed advisable by the State or a municipality) moneys received from the United States of America, the State of North Carolina, or any agency of either, pursuant to an agreement with the State or a municipality, as the case may be, pertaining to the project. 'Revenues' also include all moneys received by, or on behalf of, the North Carolina Low-Level Radioactive Waste Management Authority in connection with its financing of a low-level radioactive waste facility and all money received by, or on behalf of, the North Carolina Hazardous Waste Management Commission in connection with its financing of a hazardous waste facility.'"

Sec. 39. G.S. 159-83(a)(5) reads as rewritten:

- "(5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying the cost of revenue bond projects, and to issue its revenue bonds or bond anticipation notes therefor, in the name of the State or a municipality, as the case may be, but no encumbrance, mortgage, or other pledge or real property of the State or a municipality may be created in any manner. Notwithstanding the foregoing, the North Carolina Low-Level Radioactive Waste Management Authority may create an encumbrance, mortgage, or other pledge of real property of the Authority in connection with its financing of a low-level radioactive waste facility and the North Carolina Hazardous Waste Management Commission may create an encumbrance, mortgage, or other pledge of real property of the Commission in connection with its financing of a hazardous waste facility.'"

Sec. 40. G.S. 159-83 is amended by adding a new subsection to read:

"(e) In the case of the State of North Carolina, any action to be taken by the Council of State pursuant to this section shall be taken (i) with respect to the issuance of revenue bonds by the North Carolina Low-Level Radioactive Waste Management Authority, by the governing board of the Authority and (ii) with respect to the issuance of revenue bonds by the North Carolina Hazardous Waste Management Commission, by the governing board of the Commission, and not by the Council of State."

Sec. 41. G.S. 159-85 is amended by adding a new subsection to read:

"(d) In the case of the State of North Carolina, any action to be taken by the State Treasurer pursuant to this section shall be taken (i) with respect to the issuance of revenue bonds by the North Carolina Low-Level Radioactive Waste Management Authority, by the governing board of the Authority and (ii) with respect to the issuance of revenue bonds by the North Carolina Hazardous Waste Management Commission, by the governing board of the Commission, and not by the State Treasurer."

Sec. 42. G.S. 159-88 is amended by adding a new subsection to read:

"(d) In the case of the State of North Carolina, any action to be taken by the Council of State pursuant to this section shall be taken (i) with respect to the issuance of revenue bonds by the North Carolina Low-Level Radioactive Waste Management Authority, by the governing board of the Authority and (ii) with respect to the issuance of revenue bonds by the North Carolina Hazardous Waste

Management Commission, by the governing board of the Commission, and not by the Council of State. Subsection (c) of this section shall not apply to the issuance of revenue bonds by North Carolina Low-Level Radioactive Waste Management Authority or by the North Carolina Hazardous Waste Management Commission."

Sec. 43. G.S. 159-94 reads as rewritten:

"§ 159-94. Limited liability.

(a) Revenue bonds shall be special obligations of the State or the municipality issuing them. The principal of and interest on revenue bonds shall not be payable from the general funds of the State or the municipality, as the case may be, nor shall they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the funds which are pledged under the bond order authorizing the bonds. Neither the credit nor the taxing power of the State or the municipality, as the case may be, are pledged for the payment of the principal or interest of revenue bonds, and no holder of revenue bonds has the right to compel the exercise of the taxing power by the State or the municipality, as the case may be, or the forfeiture of any of its property in connection with any default thereon. Every revenue bond shall recite in substance that the principal of and interest on the bond is payable solely from the revenues pledged to its payment and that the State or the municipality, as the case may be, is not obligated to pay the principal or interest except from such revenues.

(b) The provisions of this section relating to a legal or equitable pledge, charge, lien, or encumbrance upon real property or the forfeiture thereof shall not apply to revenue bonds issued by the North Carolina Low-Level Radioactive Waste Management Authority or by the North Carolina Hazardous Waste Management Commission."

Sec. 44. G.S. 159-96 reads as rewritten:

"§ 159-96. Limitation on extraterritorial operation of enterprises financed by revenue bonds.

(a) Each utility or public service enterprise listed in G.S. 159-81(3), if financed wholly or partially by revenue bonds issued under this Article, shall be owned or operated by the municipality for its own use and for the use of public and private consumers residing within its corporate limits. A utility or public service enterprise financed wholly or partially by revenue bonds, when operated primarily for the municipality's own use and for users within its corporate limits, may be operated incidentally for users outside its corporate limits. Provided, however, that revenue bonds may be issued for the purpose of financing in whole or in part mass transit systems, aeronautical facilities, marine facilities and systems, facilities and equipment for the collection, treatment or disposal of solid waste, notwithstanding that such systems, facilities or equipment may be operated for users outside the corporate limits of a municipality where the municipality finds that the system, facilities or equipment so financed would benefit the municipality.

(b) A revenue bond project financed wholly or partially by revenue bonds of the State may be located either within or without the State and, when operated primarily for the State's own use and for users within the State, may be operated incidentally for users outside the State.

(c) The provisions of subsection (b) of this section shall not apply to the financing of any revenue bond project by the North Carolina Low-Level Radioactive Waste Management Authority or by the North Carolina Hazardous Waste Management Commission."

Sec. 45. (a) The Environmental Management Commission shall develop and adopt ambient air quality standards for toxic pollutants and shall develop a program to meet such standards by 1 July 1990.

(b) The Environmental Management Commission shall develop and adopt emission standards for solid waste, hazardous waste, and medical waste incinerators by 1 July 1991.

Sec. 46. (a) The Hazardous Waste Management Commission shall submit monthly written reports as to its operation, activities, and progress to the Environmental Review Commission beginning on the first day of the month following the date this act becomes effective. The Hazardous Waste Management Commission shall lend assistance to and work in cooperation with the Environmental Review Commission in the discharge by the Environmental Review Commission of its powers and duties to exercise legislative oversight with respect to hazardous waste management.

(b) In addition to its general powers and duties, the Environmental Review Commission shall have the following powers and duties with respect to hazardous waste management:

- (1) To study the current and projected need for hazardous waste treatment, storage, and disposal capacity in the State in light of anticipated generation of hazardous waste and alternatives for hazardous waste treatment and disposal;
- (2) To evaluate the potential for the development of additional hazardous waste treatment, storage, and disposal capacity by the private sector;
- (3) To study the necessity for and scope of hazardous waste treatment, storage, and disposal facilities which are sited, owned, or operated by the State;
- (4) To review progress in securing a volunteer county to host a hazardous waste treatment facility;
- (5) To study incentives and compensation for the community which hosts, either voluntarily or involuntarily, a hazardous waste treatment facility, including any additional incentives and compensation which may be needed, whether there should be differential compensation for a volunteer county, options for use of funds by local governments, distribution of compensation among local governments, and methods of providing flexibility in the development of an incentives and compensation package for a particular local community;
- (6) To review progress in developing interstate agreements for the treatment, storage, and disposal of hazardous waste;
- (7) To assist in the development of cooperative, comprehensive regional approach to hazardous waste treatment and disposal;
- (8) To examine criteria and procedures for the selection of sites for hazardous waste treatment, storage, and disposal facilities which are adopted by the Hazardous Waste Management Commission and determine whether any modification is needed;
- (9) To analyze existing State law governing the Hazardous Waste Management Commission and determine whether any changes are needed;
- (10) To study the capacity assurance requirement under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767, 42 U.S.C. 9601 *et seq.*, as amended, and the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499, 100 Stat. 1613, as amended as it relates to the continued eligibility of North Carolina for remedial actions under Superfund;

- (11) To study alternatives available to the State for dealing with hazardous waste and the ramifications of those alternatives; and
- (12) To receive and evaluate reports of every State agency, board, and commission which has any power or duty with respect to hazardous waste management.

Sec. 47. (a) The provisions of G.S. 130B-2(b) shall apply to this section.

(b) It is the intent of the General Assembly that an aggressive program to minimize or reduce the volume and quantity or toxicity of hazardous waste and other pollutants, including the emission of air contaminants, be implemented. The Department shall collect and analyze information so as to establish the data base necessary to plan, implement, and evaluate hazardous waste reduction programs and to assist the General Assembly in the development of policy regarding waste reduction.

(c) All information received pursuant to G.S. 130A-294(k), G.S. 143-215.1(g) and G.S. 143-215.108(c) shall be transmitted to the Solid Waste Management Division of the Department for review and analysis. The Solid Waste Management Division shall consider this information in the development of the comprehensive hazardous waste management plan required by G.S. 130A-294(i) and shall prepare a report on the feasibility of incorporating waste reduction requirements into existing solid and hazardous waste permitting processes. The Solid Waste Management Division shall report to the Environmental Review Commission as to progress in implementing this section on a quarterly basis beginning 1 January 1990.

Sec. 48. Notwithstanding the provisions of G.S. 143-215(c), G.S. 143-215.107(a)(7), and G.S. 143-215.107(f), the Environmental Management Commission may adopt rules applicable to any facility which is sited or operated pursuant to Chapter 130B of the General Statutes which incorporate standards and restrictions which exceed and are more comprehensive than comparable federal regulations.

Sec. 49. The provisions of this act are severable, and if any provision of this act is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions of the act which can be given effect without the invalid provision.

Sec. 50. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 30th day of May, 1989.

JAMES C. GARDNER

James C. Gardner
President of the Senate

J. L. MAVRETIC

J. L. Mavretic
Speaker of the House of Representatives

Form II: CAPACITY DEVELOPMENT PLANS

States that project a capacity shortfall in any projection year should complete this form. States should copy and complete the form and include it and any additional needed documentation. Please attach additional information if more space is needed to answer any question.

Name of Respondent 1 **Linda W. Little, Ph.D.**
Executive Director
Governor's Waste Management Board

Telephone Number **(919) 733-9020**

Address **Governor's Waste Management Board**
Post Office Box 27687
Raleigh, North Carolina 27611

Name of Respondent 2 **Darrell Hinnant,**
Executive Director
Hazardous Waste Management
Commission

Telephone Number **(919) 733-5420**

Address **Hazardous Waste Management**
Commission
430 North Salisbury Street
Raleigh, North Carolina 27611

1. How much new commercial facility capacity will be needed to meet the shortfall anticipated for hazardous waste management capacity?

Below is a projection of the hazardous waste management capacity needs by SARA Management Category and by designated year:

	<u>1987</u>	<u>1988</u>	<u>1995</u>	<u>2009</u>
MR	2,941	6,394	7,581	11,175
SR	13,539	8,799	8,066	11,018
IL	1,218	2,094	0	0
IS	1,392	460	0	0
ER	2,790	0	0	0
AI	0	0	0	0
ST	578	27,645	17,238	17,480
LF	40,976	41,470	25,857	27,861

Key: MR - Metals recovery; SR - Solvents recovery; IL - Incineration-liquids; IS - Incineration-solids; ER - Energy recovery; AI - Aqueous inorganic treatment; ST - Stabilization; LF - Landfill

2. How does your State intend to develop new in-state capacity to address these shortfalls? [Please refer to the detailed description of procedures and milestones in Form III.]

- By siting new facilities
- Through the expansion of existing facilities
- Both
- Other, Please explain

The Hazardous Waste Management Commission was established by the North Carolina General Assembly by legislation enacted May 30, 1989 (reorganized from the Hazardous Waste Treatment Commission previously created by legislation passed in 1984).

The legislation establishes the Commission as the siting authority for hazardous waste management facilities authorized as essential by the Governor. The Commission is charged with recommending to the Governor a schedule for site selection and facility development, technology and design capacity for authorized facilities.

The legislation also encourages a regional approach for the management of North Carolina's hazardous waste. The Governor is authorized to seek agreements among other states to provide for the non-duplication of hazardous waste treatment and disposal facilities. Any interstate agreements negotiated by the Governor must undergo approval by the North Carolina General Assembly.

Discussions with EPA Region IV states (Alabama, Georgia, Florida, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee) were initiated for the development of a regional agreement for hazardous waste management among the states. North Carolina Governor James G. Martin directed the participation of North Carolina state officials in these talks.

According to its mandate, the Commission submitted to the Governor on August 25, 1989 its recommendations that the State of North Carolina participate in a regional approach for future hazardous waste management capacity and that the State of North Carolina site and construct a 40,000 tons/year capacity rotary kiln incinerator for treating solids incinerable hazardous waste. The Commission recommended that the incinerator be operational by February 1994.

On September 20, 1989, Governor Martin authorized the establishment of the hazardous waste facility recommended by the Hazardous Waste Management Commission. In his authorization, the Governor state that a hazardous waste

incinerator should be established "whether or not an interstate agreement is approved by the General Assembly because the state urgently needs adequate facilities for the treatment and disposal of hazardous waste."

(Please see attached: Hazardous Waste Management Commission Recommendations to the Governor, Authorization Letter of September 20, 1989 from Governor James G. Martin)

As a result of continuing negotiations with the states in EPA Region IV, the Governor subsequently modified the scheduled for completion of the facility, as is his prerogative under North Carolina law:

Site Selection	December 1990
Part B Received	July 1991
Part B Issued	June 1992
Facility Operational	December 1993

If necessary to meet the terms of an interstate agreement, this schedule could be shortened somewhat to meet the following milestones:

Site Selection	May 1990
Part B Received	December 1990
Part B Issued	July 1991
Facility Operational	December 1991

3. If you intend to meet new capacity needs by increasing waste exports beyond the 1987 levels, please explain why. Please indicate whether such plans are based on management planning efforts with other states, industries increasing exports to captive facilities, any environmental or economic considerations that restrict development of in-state capacity, or projections of current patterns.

We expect waste exports to remain at a level roughly the same as the 1987 level. However, we expect that any increases in waste exports, especially in the short-term (through 1991) would be handled by access to existing waste management facilities in other states, either with or without an interstate agreement.

3a. Are you participating in a multi-state hazardous waste management planning effort?

Yes No (See answer to 2, above)

3b. Please list the participating states.

Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina South Carolina, and Tennessee.

4. Does your state have siting criteria?

Yes No

If Yes, please attach information describing your siting criteria and their regulatory status.

On September 22, 1989, the Commission adopted procedures for siting the facility and its first set of site-selection criteria. The Commission is expected to adopt additional criteria specifically adapted to the technologies and design capacities of the authorized hazardous waste facility.

(Please see attached: Temporary Rules of the N.C. Hazardous Waste Management Commission, Adopted September 22, 1989)

5. Are any of the following methods used in your state to select sites or encourage site development (check all that apply)?

State selection of specific site

State purchase of specific site

State inventory of suitable sites

Private nomination of site

Local nomination of site

Permit fast tracking

_____ Other, please list:

The State of North Carolina, according to legislation passed by its General Assembly in May 1989, has authorized the N.C. Hazardous Waste Management Commission to undertake a site selection process by establishing criteria which will identify suitable sites for a hazardous waste facility. The Commission will select a specific site for the facility to be purchased by the State.

Legislation enacted in May 1989 establishes an Inter-Agency Committee which will assist the Commission in the siting, development, permitting and construction of the facility. The Inter-Agency Committee will develop a coordinated effort among all pertinent state departments and coordinated effort among all pertinent state departments and permitting agencies to facilitate the overall establishment of the facility.

6. How is the public allowed to participate in the siting process in order to affect the siting decision?

Adjudicatory public hearings

Informational public hearings

Local advisory committee

Local representatives on siting board

_____ Other, please explain

The citizens of North Carolina will be allowed to participate in the siting process through procedures set forth in legislation enacted in May 1989 and through public education and participation policies adopted by the Hazardous Waste Management Commission. The legislation provides for informational public hearings and the establishment of local advisory committees for areas identified as suitable sites and for the area identified as the specific site for the facility.

7. Is financial assistance provided to the local community to allow it to review the siting application and conduct an environmental or health assessment?

Yes No

If Yes,

7a. Who supplies the funds?

State
(for site designated as potentially suitable)

Siting applicant
(for preferred site)

Other, please explain _____

7b. What is the maximum amount of funding a community may receive?

\$ 150,000 (up to \$50,000 for a site designated as potentially suitable; up to \$100,000 for a preferred site)

7c. Are there any restrictions on the use of the funds?

Yes No

If yes, what are they?

No funds shall be used for litigation purposes. To receive funds a local committee representing diverse interests in the community must be established to oversee the studies funded by the grants. All funds must be accounted for. Grants to communities where potential sites are designated may be used for the following purposes:

- (1) Collect information on site suitability;
- (2) Monitor the site evaluation and site selection process;

- (3) Conduct socioeconomic and environmental assessments of the proposed facility;
- (4) Participate in any meetings, hearings, or other events related to the site selection process;
- (5) Study the cost and benefits of the facility being located at the site under consideration; and
- (6) Reimburse members for their expenses.

8. Does your state use negotiation in its siting process?

 X Yes No

If yes, please explain.

The State of North Carolina has made provisions in legislation passed in May 1989 for negotiation to be used in the siting of hazardous waste facilities.

Any local government in the county or counties where a hazardous waste facility is proposed to be located may negotiate with the Commission any issue except the need for the facility, a reduction of the duties of the Commission permitted by law or by facility permit, any act or decision of the Governor, or any decision by the Commission regarding site selection, contractor selection or technology.

The Commission may negotiate in good faith with any local government of a location where a facility is proposed and, upon agreement by the Commission and the local government, a mediator may be used for the negotiations. The Governor's Waste Management Board may appoint a mediator if the Commission and the local government cannot agree on the selection of one. The mediator should encourage a voluntary settlement of unresolved negotiable issues.

If the Commission and the local government have not reached agreement by negotiation within six months after selection of the preferred site, several issues may be submitted to arbitration.

See G.S. 130B-21, "Negotiation, mediation, and arbitration," in attached Senate Bill 324.

9. Are dispute resolution procedures used in your State to settle differences on siting issues?

Yes No

If yes, please explain.

Dispute resolution procedures in the form of continued arbitration on several unresolved issues are provided in legislation passed in May 1989. The following issues may be submitted to arbitration by the Governor's Waste Management Board:

- (1) Compensation to any local government for substantial economic impacts which are a direct result of the siting and operation of a hazardous waste facility and for which adequate compensation is not otherwise provided;
 - (2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities;
 - (3) Screening, fencing, and other matters related to the appearance of a facility;
 - (4) Operational concerns other than design capacity and regulatory issues;
 - (5) Traffic flows and patterns which result from the operation of a facility;
 - (6) Uses of the site where a facility is located after the facility is closed;
 - (7) The applicability or nonapplicability of any local ordinance;
 - (8) Emergency response capabilities, including training and resources;
 - (9) Access to facility records and monitoring data; and
 - (10) Ongoing health surveys of persons living in the area around the facility.
10. Is compensation to host communities used in your State?

Yes No

If yes, please explain.

Compensation to host communities is provided for under North Carolina law. While hazardous waste facilities owned by the Commission are exempt from ad valorem property taxes, the Commission is required to reimburse the county, city, or other local taxing unit for the loss of ad valorem property tax revenues from any property located on any parcel or tract that abuts the property upon which such facilities are located and which is shown to have diminished in value as the direct result of the siting and operation of such facilities.

The Commission will also collect and deposit with the State Treasurer, on behalf of local governments where hazardous waste facilities are located, a tax on the gross receipts of each such facility in the amount of two and one-half percent of the gross receipts of such facility per annum, to be distributed to local governments as the General Assembly provides.

Additionally, North Carolina law leaves open provisions for any other compensation to sited communities. It is expected that agreements between the communities and the Commission will include compensation for items such as emergency response and safety training, improvements to roadways and other transportation needs, insurance, and other community needs which may include school programs, health programs, etc. It is expected that fees based on the facility's waste management activities and/or other operating concessions could provide a source for compensation of such items.

10a. Who is responsible for providing the compensation?

- _____ The site developer
- _____ The State
- X Other, please explain

Generators [See answers to 9 (above) and 10b (below)]

10b. What type(s) of compensation is used?

- Cash payments
- Fees based on waste management activities
- Insurance
- Emergency training and equipment
- Operating concessions
- Other, please list:

2.5% of the gross annual receipts of a state-facilitated hazardous waste management facility, to be distributed to local governments as the General Assembly shall provide. [G.S. 130B-18(c)]

If the Commission and a local government have not reached agreement on all issues by negotiation within six months after selection of the preferred site pursuant to G.S. 130B-11(d), the following issues may be submitted to arbitration pursuant to the provisions of Article 45A of Chapter 1 of the General Statutes (Uniform Arbitration Act):

- (1) Compensation to any local government for substantial economic impacts which are a direct result of the siting and operation of a hazardous waste facility and for which adequate compensation is not otherwise provided;**
- (2) Reimbursement of reasonable costs incurred by the local government relating to negotiation, mediation and arbitration activities under this section;**
- (3) Screening, fencing, and other matters related to the appearance of a facility;**
- (4) Operational concerns other than design capacity and regulatory issues;**

- (5) Traffic flows and patterns which result from the operation of a facility;
- (6) Uses of the site where a facility is located after the facility is closed;
- (7) The applicability or of any local ordinance;
- (8) Emergency response capabilities, including training and resources;
- (9) Access to facility records and monitoring data; and
- (10) Ongoing health surveys of persons living in the area around the facility.

* As negotiated and/or arbitrated under G.S. 130B-21.

11. Is your State authorized to build and/or operate a hazardous waste management facility?

Yes No

If yes, please explain (also please indicate if you presently own or operate any facilities).

At the present time the State does not own or operate any hazardous waste management facilities. However, the State is authorized to site, build, and/or operate such a facility under Chapter 130B ("SB 324," attached) of the 1989 Session Laws of the North Carolina General Assembly, the purpose of which Chapter is "to provide for the siting, construction, and operation of hazardous waste facilities to the end that hazardous waste may be treated or disposed of in the most cost-effective manner, while protecting public health and safety and the environment." (G.S. 130B-4)

**ATTACHMENTS TO
Form II: CAPACITY DEVELOPMENT PLANS**

- Letter from Hazardous Waste Management Commission to Governor James G. Martin dated September 19, 1989, regarding authorization of the establishment of a hazardous waste facility, with attached letter of the Commission to the Governor on August 25, 1989.
- Letter from Governor James G. Martin to Hazardous Waste Management Commission dated September 20, 1989, regarding establishment of a hazardous waste facility.
- Temporary siting rules of the North Carolina Hazardous Waste Management Commission



STATE OF NORTH CAROLINA
HAZARDOUS WASTE MANAGEMENT COMMISSION

COMMISSION MEMBERS:

Dr. Alvis G. Turner, Chairman
Lloyd Hise Jr., Vice Chairman
Dr. Trenton G. Davis
Dorothy P. Kilpatrick
Truman L. Koehler
Mary H. Odom
Dr. Lonnie Sharpe Jr.
Dr. William W. Shingleton
Henry M. von Oesen

430 NORTH SALISBURY STREET

RALEIGH 27611

919-733-5420

JAMES G. MARTIN
GOVERNOR

M. Darrell Minnett
Executive Director

September 19, 1989

The Honorable James G. Martin, Governor
State of North Carolina
State Capitol
Capitol Square
Raleigh, North Carolina 27603

Re: Authorization of the Establishment of a Hazardous
Waste Facility

Dear Governor Martin:

Chapter 130B of the North Carolina General Statutes authorizes the Governor to establish a hazardous waste facility upon a determination that such a facility is essential and is in the best interests of the State. By this letter and attachments, the Hazardous Waste Management Commission is providing you with the information necessary to make such a determination pursuant to the requirements of G.S. 130B-5.

In order to determine whether a facility is essential and in the best interests of the State, the Governor, pursuant to G.S. 130B-5(a) must consider many factors. Each required consideration is set out below with an analysis based upon information generated by or made available to the Hazardous Waste Management Commission.

1. Current and projected hazardous waste generation from all sources within the State.

The Solid Waste Division of the Department of the Environment, Health, and Natural Resources (DEHNR) has prepared an annual report on the generation of hazardous waste since 1981. The Legislative Study Commission on Hazardous Waste reviewed the data thoroughly without revision or modification. The Hazardous Waste Treatment Commission (HWTC) and the SARA Capacity Assurance Task Force have independently reviewed the projection of waste generation and have found that the generation of waste continues to rise and is projected to rise in the future.

Governor James G. Martin
 Page 2
 September 19, 1989

2. **Current and projected effect of efforts to minimize and reduce the generation of hazardous waste.**

North Carolina has one of the best waste minimization programs in the country. The results of source reduction and waste minimization have been excellent.

3. **Potential for further reductions in the generation of hazardous waste.**

The Pollution Prevention Pays (PPP) program of DEHNR has participated in the SARA capacity assurance process. PPP's evaluations of source reduction and waste recycling have been completed not by generalizations, but by individual waste streams. North Carolina estimates are the most aggressive of all the southeast regional states.

4. **Current and projected availability and adequacy of facilities for the management of hazardous waste within and outside the State.**

The SARA Capacity Assurance Task Force, the Governor's Waste Management Board's (WMB) Industrial Liaison Committee, the HWTC and the Hazardous Waste Management Commission (HWMC) have all thoroughly reviewed the existing and projected availability and adequacy of hazardous waste management facilities within and outside the state. The existing capacity within North Carolina is meager. Presently, shortfalls exist outside the State in solids incineration and aqueous treatment.

5. **Whether and to what extent private enterprise will provide needed hazardous waste facilities.**

Several private firms have attempted to locate hazardous waste management facilities in North Carolina during the last ten years. Each effort failed. Private companies have met with the staff of the HWMC to express their interest in North Carolina, but also their frustration in the political process which they perceive has thwarted their efforts. No company is willing to invest the money on such a speculative venture.

6. **Capacity assurance requirements under CERCLA/SARA.**

A SARA Capacity Assurance Task Force was appointed by the Governor to comply with the CERCLA/SARA deadline of October 17, 1989. The Task Force, in cooperation with the

Governor James G. Martin
 Page 3
 September 19, 1989

HWMC and the Solid Waste Division of DEHNR, has held hearings for the public and briefings for legislators.

7. The extent to which agreements can be negotiated for the management of hazardous waste outside the State.

The SARA Capacity Assurance Task Force has sent representatives to participate in negotiations for the management of hazardous waste to EPA Region IV offices in Atlanta on several occasions. The HWMC and the SARA Task Force also sent representatives to a National Conference on Capacity Assurance to determine the possibilities for interstate negotiations for the management of hazardous wastes.

8. The extent to which the State should obligate itself to provide facilities for the management of hazardous waste generated outside the State.

The issue of waste management "fairness" and equity is the premier topic at the interstate negotiations. It is obvious that a regional agreement will not eliminate the need for an authorized hazardous waste facility in North Carolina. The alternatives to a regional agreement offer North Carolina very poor options for the management of its hazardous waste. An attempt to "go-it-alone" would surely result in a larger facility in North Carolina, and one which would include a landfill. Until such a facility could be constructed, North Carolina would experience hazardous waste management chaos, with other states probably denying North Carolina access to their facilities.

9. The comprehensive waste management plan developed pursuant to G.S. 130A-294(i).

A comprehensive waste management plan is required by July 1, 1990. This plan must be revised at two-year intervals by the Solid Waste Division of DEHNR in cooperation with the GWMB and the HWMC. All parties have participated on the SARA Capacity Assurance Task Force and have concluded that there is an urgent need for an authorized hazardous waste facility in North Carolina.

The attached letter dated August 25, 1989, in which the Hazardous Waste Management Commission reviewed the State's hazardous waste management needs in reference to SARA 104(K), sets out the Commission's specific recommendations as to the functions, technologies, and design capabilities of the hazardous waste facility.

Governor James G. Martin
Page 4
September 19, 1989

A proposed schedule for selection of the preferred and alternate sites and for the development of the facility is also attached. The proposed schedule is being submitted for your approval pursuant to G.S. 130B-7(a)(3) and 130B-11(d).

The Commission respectfully requests that you determine whether a hazardous waste facility is essential and in the best interests of the State. Should you need any further information, please let us know.

Sincerely,

Alvis G. Turner
Alvis G. Turner, Ph.D.
Chairman

AGT:MDH:ct



STATE OF NORTH CAROLINA
HAZARDOUS WASTE MANAGEMENT COMMISSION

COMMISSION MEMBERS:

JAMES G. MARTIN
GOVERNOR

430 NORTH SALISBURY STREET

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Dr. Lonnie Sharpe Jr.
Dr. William W. Shingleton
Henry M. von Oesen

W. Darrell Bin
Executive Director

August 25, 1989

The Honorable James G. Martin, Governor
State of North Carolina
State Capitol
Capitol Square
Raleigh, N.C. 27603

RE: Recommendations of the
N.C. Hazardous Waste
Management Commission

Dear Governor Martin:

The enclosed recommendations are in response to your request that the Hazardous Waste Management Commission review the State's hazardous waste management needs as provided in SARA 104(K) and prepare a recommended plan for providing future capacity.

The Commission appreciates this opportunity to be of service. Should you need any further information, please let us know.

Sincerely,


Alvis G. Turner, Ph.D., Chairman
North Carolina Hazardous Waste
Management Commission

**RECOMMENDATIONS OF THE
N.C. HAZARDOUS WASTE MANAGEMENT COMMISSION
FOR THE
MANAGEMENT OF HAZARDOUS WASTE**

The N. C. Hazardous Waste Management Commission strongly supports the waste minimization efforts of the State of North Carolina and its businesses and industries. The Commission believes that such efforts should be expanded wherever possible. Further, the Commission encourages additional support for the Pollution Prevention Pays program and waste exchange programs, source reduction programs, and the substitution of products and raw materials for less toxic materials.

The Commission has concluded from a study of state and regional information that, in spite of its support for such waste reduction programs, waste minimization cannot eliminate the need for a hazardous waste management facility in North Carolina. Other states and the Environmental Protection Agency have reached similar conclusions. While the Commission must prepare for the management of North Carolina's future projected hazardous waste, it encourages the success of waste minimization and waste reduction programs by incorporating the most optimistic estimates possible in the state's capacity assurance plan due on October 17, 1989. The Commission believes that these programs should play a vital part in North Carolina's overall waste management plan for the future.

The N. C. Hazardous Waste Management Commission hereby submits its recommendations for a plan to provide hazardous waste management and treatment capacity for the State of North Carolina for the next 20 years:

(1) The Commission recommends that the State of North Carolina participate in a regional approach for future hazardous waste management capacity.

(2) The Commission recommends that the State of North Carolina install an incinerator(s) for treating solids incinerable hazardous waste from North Carolina and the Southeast region.

(3) The Commission recommends that the solids incinerator have a capacity not to exceed 40,000 tons/year of hazardous waste.

(4) The Commission recommends that the State use a rotary kiln incinerator for the incineration of hazardous

RECOMMENDATIONS,
Page Two

waste solids, pending the development of more advanced incinerator technology.

(5) The Commission recommends that the State pursue a completion date of February 1994 for operation of a 40,000 tons/year solids incinerator.

(6) The Commission recommends a thorough investigation of special wastes in North Carolina that can be handled in conjunction with our regional facility or in an In-state system of collection centers located at one or more sites around the state.

DISCUSSION AND JUSTIFICATION

(1) The Commission recommends that the State of North Carolina participate in a regional approach for future hazardous waste management capacity.

With reference to the Superfund Amendments and Reauthorization Act's [SARA 104(K)] Capacity Assurance requirements, North Carolina must assure the federal government by October 17, 1989 that it has the capacity to properly treat, manage and dispose of hazardous waste generated in North Carolina for the next 20 years, or it must have (an) agreement(s) with other state(s) to handle that waste.

The Inter-Governmental Committee to Certify Hazardous Waste Capacity under SARA Section 104(K), appointed by the Governor, has determined that North Carolina will be unable to assure capacity with current or proposed in-state capacity alone. North Carolina lacks commercial incineration, aqueous treatment and land disposal capacity. In order for North Carolina to certify capacity, it must build new capacity or sign regional agreements or both.

One option for North Carolina is to not certify capacity by October 17, 1989. In this case, EPA will shut off Superfund monies for the cleanup of National Priority List Sites inside North Carolina. South Carolina and Alabama will deny access to their hazardous waste landfills, and possibly to treatment and storage facilities, as well.

Another alternative for North Carolina is to attempt to meet the deadline by assuring capacity as a "go-it-alone

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state." However, North Carolina currently lacks sufficient capacity to manage waste generated within its borders.

Another option is to attempt to meet the deadline by assuring capacity through interstate agreements with states outside of EPA Region IV. However, most of the states are working within their own regions. North Carolina is in a poor bargaining position because it has no current capacity to offer as a buy-in.

The last alternative is to sign a regional agreement with EPA Region IV states. North Carolina has been working toward that goal. The other states in EPA Region IV have indicated a willingness to participate in such an agreement, but have made it clear that North Carolina and other "have-not" states must buy into the agreement by agreeing to establish new capacity which meets a regional need.

North Carolina must choose a method which will provide a safe solution for handling hazardous wastes from within the state and/or with other states. North Carolina must also choose a method which will allow us to participate equitably in other treatment technologies available throughout the Southeast region. To keep each state in the region from having to build several different treatment plants for hazardous waste, a regional plan for sharing treatment plant capacities offers a cooperative and sensible alternative. And, as North Carolina depends on the treatment and disposal capacities of other states, North Carolina must also be prepared to contribute its share of hazardous waste management capacity to the region.

Since North Carolina is one of the largest exporting states of hazardous waste in the region, it is important for us to ensure that we have the necessary available capacity in neighboring states for treating and disposing of our hazardous wastes to avoid having to build a major landfill in our state. Therefore, we believe that North Carolina should offer a component that will ensure that this state will be accepted in the regional agreement, as well as a component which will prevent alienation and ostracism by member-states.

Recent executive orders from South Carolina and the new Alabama law are examples of local citizens pressuring their legislators to provide for equity in the management of hazardous waste.

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The equity issue is the largest issue at the regional level. There appears to be a strong understanding that every state will have to offer a facility that will contribute to the solution of regional need to participate in the agreement. Any state which does not offer such a contribution will be left to fend for itself by providing capacities for treating and disposing of all its own hazardous wastes. The regional concept assures all member-states that capacity will be available first to them. It will provide a network of complimentary facilities available to prevent each state from building a comprehensive treatment facility.

(2) The Commission recommends that the State of North Carolina install an incinerator(s) for treating solids incinerable hazardous waste from North Carolina and the Southeast region.

There appears to be no need for solvent recovery, fuel blending, aggregate and cement kilns and solvent distillation within the region. Adequate capacity of this type is currently available, with each state possessing one or more such facilities.

The operation of a hazardous waste landfill is considered the least desirable technology for managing hazardous waste. Additionally, the Southeast region possesses an excess of hazardous waste landfill capacity with operating landfills located in Alabama and South Carolina.

The expansion of an existing aqueous treatment facility has already been submitted at regional meetings as Tennessee's contribution to the regional need. This Tennessee facility will provide a surplus of 2-1/2 times the regional need projected for the year 1995. Because of plans for this facility and its size, any North Carolina plans to build an aqueous treatment facility would be economically impractical.

Finally, an incinerator offers the state the opportunity to provide a needed technology to the region. Incineration is a choice for North Carolina because the state produces a substantial amount of incinerable hazardous waste -- placing the state in the top two to three incinerable waste producers in the region. Incineration offers the state the opportunity to handle other, non-hazardous wastes, that are currently going to solid waste

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landfills and have the potential to pollute groundwater. Contaminated soils from underground storage tank cleanups, obsolete and outdated pharmaceutical materials and household hazardous wastes are prime examples of these kinds of materials. An incinerator, whether it is publicly or privately owned, will not burden North Carolina taxpayers -- it will not require their subsidization.

(3) The Commission recommends that the solids incinerator have a capacity not to exceed 40,000 tons/year of hazardous waste.

EPA Consultant Temple, Barker & Sloan (TBS), studied existing capacity for liquids and solids incineration in EPA Region IV and projected the need for liquids and solids incineration in the region in 1995. By subtracting the existing capacity for solids incineration for the region from the projected need for capacity for 1995, a shortfall of 152,472 tons will exist for EPA Region IV.

The Commission made the following calculations in determining incinerator size for North Carolina: By subtracting North Carolina's own need for solids incineration in 1995 (18,250 tons) and Tennessee's new permit for solids incineration (46,672) [Tennessee has a permit for an incineration facility in Memphis], the 1995 regional need becomes 87,550 tons. Four of the eight states in the region have no treatment or disposal capacity (North Carolina, Florida, Georgia and Mississippi). Dividing the 1995 need by these four states shows that each state's contributing share would be 21,887 tons. To size the facility, North Carolina's regional share (21,887) added to its own solids incineration need (18,250) totals 40,137 tons of solids incineration need for the state and a one-fourth regional share. Therefore, the Commission proposes that North Carolina build an incinerator with a capacity not to exceed 40,000 tons/year of hazardous waste.

By volunteering now to offer an incinerator with the capacity to handle North Carolina waste and an equitable portion of the region's incinerables, we will eliminate the alternative of having to scurry around at the last minute to find something uneconomical and undesirable which might qualify us as members of the regional agreement.

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(4) The Commission recommends that the State use a rotary kiln incinerator for the incineration of hazardous waste solids, pending the development of more advanced incinerator technology.

The major solids incineration units presently in use are the fixed hearth incinerator, the fluidized bed incinerator and the rotary kiln incinerator.

The fixed hearth model is the oldest type of solids incinerator in use. This model provides more opportunities for emissions than the rotary kiln design and is a slower, more difficult operation. Overall, the efficiency of the fixed hearth design is less than that of the rotary kiln.

The fluidized bed incinerator is the result of technology developed in the mid-70s, designed to improve the burning of coal. This incinerator is complicated and difficult to run and is associated with sophisticated technical problems. Constructed of special metallurgies, this model is costly to build and more suited to burn a consistent fuel (coal), not the variable fuel streams of hazardous waste.

Rotary kiln incineration is recommended by the Environmental Protection Agency (EPA) as the best technology for solids incineration. Two major incinerators now nearing completion are using the rotary kiln design: A commercial Chem Waste Management incinerator being built in Port Arthur, Texas and a non-commercial facility under construction by DuPont in Orange, Texas.

The rotary kiln, a technology which has been tried, tested and proven over many years of operation in many different industries, is recognized as the predominant technology for solids incineration. This design allows for the complete mixing of the waste with fuels to allow for complete burning. It is not as difficult to operate as the fluidized bed, since it can accommodate variable fuels. The rotary kiln's operating efficiencies are high, and its downtime for maintenance and repair is low.

With its associated afterburners and pollution control devices, the rotary kiln allows operating levels that are significantly better than EPA requirements. EPA requires a destruction and removal efficiency (DRE) of principle organic hydrocarbon compounds (POHCs) of 99.99 percent. Rotary kilns have demonstrated that they can achieve 99.9999 and 99.99999 percent DRE -- indicating that they are 100 to

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1000 times cleaner burning than EPA requirements. The EPA requires no more than 0.08 grains of particulate emissions per dry standard cubic foot (DSCF) of air. Pollution control devices associated with rotary kilns have demonstrated that they can limit particulate emissions to 0.015 to 0.025 grains per DSCF -- 3.2 to 5.33 times cleaner than EPA requirements.

(5) The Commission recommends that the State pursue a completion date of February 1994 for operation of a 40,000 tons/year solids incinerator.

A working schedule for bringing a 40,000-ton rotary kiln solids incinerator to operational status must include many considerations. Rules for the statewide screening of potential sites must be established and submitted to the state's rulemaking process. The procedures and deadlines necessary for a complete study of potential sites and a preferred site must include public notification, participation and meeting schedules.

The selection of a private/commercial operator of the facility and the operator's submission of design and environmental studies and applications for the appropriate Part B permit must be concluded prior to the beginning of construction. Following construction, the facility must undergo a period of trial burns which must be evaluated by the Environmental Protection Agency before the facility can begin operation.

By considering all of these selection, study, design and construction timetables and deadlines, the Commission recommends February 1994 as an optimum operational date for the facility.

(6) The Commission recommends a thorough investigation of special wastes in North Carolina that can be handled in conjunction with our regional facility or in an In-state system of collection centers located at one or more sites around the state.

The Commission is investigating a plan to manage certain North Carolina wastes which can be characteristically treated and/or disposed. The Commission believes that the capabilities of a regional facility could offer adjunct services and facilities for managing several categories of special and community-produced wastes. The

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Commission plans to study the viability of operating an intrastate system of collection centers which would provide for the collection and ultimate treatment of these wastes.

If such adjunct facilities could be developed, a significant portion of these wastes could be removed from out-of-state disposal and/or placement in municipal landfills. A collection and treatment plan could offer solutions in several areas, including: Metals recovery and recycling, leaking underground storage tank cleanups, grey wastes, and household hazardous wastes.

Metals recovery and recycling:

Current regional capacity for metals recovery exists only for lead-containing wastes. There may be some small specialized need for the recovery of chrome, nickel, copper, zinc and other non-semi-precious metals. Because of the technology required and the added need for an energy source to make the process practical, a metals recovery facility would probably require subsidization and therefore be infeasible if built as a stand-alone facility. An investigation will be made as to the viability (in cost and treatable volume) of a metals recovery process in combination with a hazardous waste incinerator.

Leaking underground storage tank cleanups:

Due to recently passed regulations, thousands of leaking underground storage tanks in North Carolina must undergo cleanup and/or removal during the next 20 years. Many local North Carolina gasoline station owners are faced with paying the high costs for extracting old, leaking tanks and cleaning up any surrounding contaminated soils. As a result, some owners will be forced to permanently close their stations. An incinerator would offer capacity for detoxifying the soils removed from around these tanks, greatly decreasing the amount of material which would otherwise have to be shipped to out-of-state disposal in hazardous waste landfills. The incinerator, in tandem with local collection centers, might also offer North Carolina station owners a less costly solution to tank cleanups.

Grey wastes:

Grey wastes are those wastes which, while they are not defined as hazardous wastes, are not allowed in the state's municipal landfills. A plan for collecting and treating these wastes would help to prolong the life and safety of local landfills across the state.

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Household hazardous wastes:

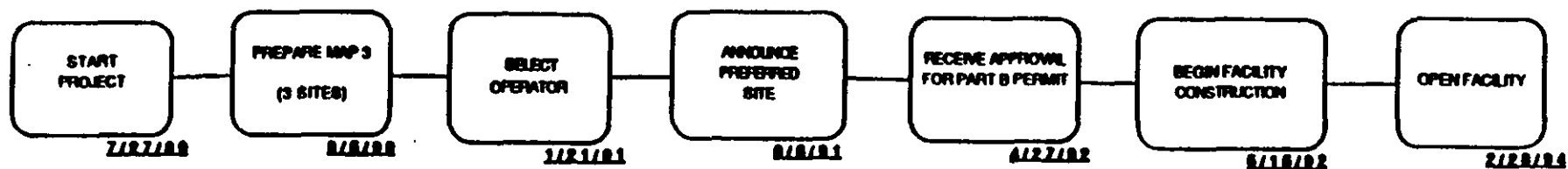
The great public interest in properly ridding their households of hazardous wastes is evidenced by the City of Raleigh's "Household Hazardous Waste Collection Day" on April 1, 1989. Although there are no statistics available on the amounts of such wastes, it is believed that hazardous wastes from households contribute significantly to endangering our groundwater supplies. A system of regional centers for the collection of these wastes would further protect our landfills, our groundwater supplies and hasten public understanding and responsibility for this contribution to the overall waste problem.

The Commission believes that the integration of needed services like those outlined above with the proposed solids incineration unit would have the support of the environmental community and the general public. The prevention of potential groundwater pollution is in the interest of every citizen of North Carolina.

After a study of these adjunct services and facilities (metals recovery and recycling, leaking underground storage tank cleanups, grey wastes and household hazardous wastes), the Hazardous Waste Management Commission proposes to make a recommendation to the Governor by January 1, 1990 regarding their viability as additions to the solids incineration facility herein proposed for North Carolina.

HWMC: 8/89

HIGHLIGHTS OF TENTATIVE SCHEDULE (8/25/89) FOR HAZARDOUS WASTE MANAGEMENT FACILITY



PREPARED BY:

**HAZARDOUS WASTE MANAGEMENT COMMISSION
8/89**

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
RALEIGH 27603-8001

September 20, 1989

JAMES G. MARTIN
GOVERNOR

Dr. Alvis G. Turner, Chairman
N.C. Hazardous Waste Management Commission
430 N. Salisbury St.
Raleigh, NC 27611

Re: Establishment of a Hazardous Waste Facility

Dear Dr. Turner:

Under the authority vested in me by the General Assembly at G.S. 130B-5, I am hereby authorizing the establishment of a hazardous waste facility in North Carolina. Such a facility is essential and in the best interests of the State.

In making this determination, I considered the following:

1. Current and projected hazardous waste generation from all sources within the State.
2. Current and projected effect of efforts to minimize and reduce the generation of hazardous waste.
3. Potential for further reductions in the generation of hazardous waste.
4. Current and projected availability and adequacy of facilities for the management of hazardous waste within and outside the State.
5. Whether and to what extent private enterprise will provide needed hazardous waste facilities.
6. Capacity assurance requirements under CERCLA/SARA.
7. The extent to which agreements can be negotiated for the management of hazardous waste outside the State.
8. The extent to which the State should obligate itself to provide facilities for the management of hazardous waste generated outside the State.
9. The comprehensive waste management plan developed pursuant to G.S. 130A-294(i).

Dr. Alvis G. Turner
Page 2
September 20, 1989

The function of the facility shall be to treat solids incinerable hazardous waste from North Carolina and the Southeast region.

The technology of the facility shall be a rotary kiln incinerator for the incineration of hazardous waste solids, pending the development of more advanced incinerator technology.

The design capacity of the facility shall not exceed 40,000 tons per year of hazardous waste.

In accordance with G.S. 130B-4, I hereby authorize the Hazardous Waste Management Commission to site, design, finance, construct, operate, oversee, acquire, hold, sell, lease, or convey the facility to the extent that private enterprise fails to provide for the facility.

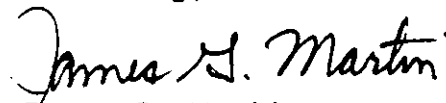
I approve the schedule for selection of the preferred and alternate sites you submitted in your letter of September 19, 1989, in which suitable sites will be selected on or before August 15, 1990, and the preferred and alternate sites will be selected on or before December 20, 1990.

I approve the schedule for development of the facility which you also submitted in your September 19, 1989, letter in which facility construction will begin on or before June 15, 1992, and the facility will open on or before December 31, 1993.

North Carolina has an excellent Pollution Prevention Pays Program that has given excellent waste minimization results and projects even greater future results. I continue to encourage and promote source reduction, waste minimization and recycling of hazardous waste. But it is apparent that the most aggressive campaign to reduce, minimize and recycle hazardous waste will not eliminate the need for an authorized hazardous waste management facility.

Therefore, I am authorizing the establishment of the hazardous waste facility as set out above whether or not an interstate agreement for the management of hazardous waste is approved by the General Assembly because the state urgently needs adequate facilities for the treatment and disposal of hazardous waste.

Sincerely,


James G. Martin

NORTH CAROLINA ADMINISTRATIVE CODE**TITLE 4
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT****CHAPTER 18
N.C. HAZARDOUS WASTE MANAGEMENT COMMISSION****SECTION .0100 - GENERAL INFORMATION**

- .0101 PURPOSE
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SECTION .0200 - SITE SELECTION CRITERIA

- .0201 INTRODUCTION
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CHAPTER 18 - N.C. HAZARDOUS WASTE MANAGEMENT COMMISSION

SECTION .0100 - GENERAL INFORMATION

.0101 PURPOSE

The purpose of this Chapter is to provide procedures for the N.C. Hazardous Waste Management Commission to site, design, finance, construct, operate, oversee, acquire, hold, sell, lease, or convey needed hazardous waste facilities to the extent that private enterprise fails to provide such facilities, in accordance with G.S. 130B and 10 NCAC 10F.

It is the purpose of the Commission to provide the citizens of North Carolina with an opportunity to participate in decisions concerning the state's management of hazardous waste. The Commission supports active participation of the public in the decision-making process by encouraging comments and suggestions from all citizens. It is the Commission's goal to provide a forum for study and input which will enable citizens to become knowledgeable about the establishment of hazardous waste facilities in North Carolina.

The Commission strongly supports the waste minimization efforts of the businesses and industries of North Carolina. The Commission believes that such efforts should be expanded wherever possible. However, the Commission is authorized only to review and consider current and projected waste minimization efforts in making its recommendations to the Governor and the General Assembly. The Commission encourages additional support for the waste minimization and waste reduction programs of the Pollution Prevention Pays office, the Department of Environment, Health, and Natural Resources, and the Governor's Waste Management Board, and all other state agencies and departments authorized to direct activities in this regard.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-4; 130B-7(a)(24); 150B-13.*

.0102 DEFINITIONS

(a) Unless a different meaning is required by the context, the definitions contained in G.S. 130A-290, G.S. 130B-2, and 10 NCAC 10F .0002 apply to the rules contained in this Chapter.

(b) As used in this Chapter, "facility" means a hazardous waste facility authorized by the Governor as defined in G.S. 130B-5(a) and G.S. 130B-5(b)(1).

(c) The term "proximity" means distance from a location or activity that could involve an impact, either positive or negative, or beneficial or detrimental.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-2; 130B-7(a)(24); 150B-13.*

.0103 MAILING LIST

The Commission maintains mailing lists for its rulemaking and public meeting activities. Individuals wishing to be notified of these activities should send a letter to:

N.C. Hazardous Waste Management Commission
Mailing List
430 N. Salisbury St.
Raleigh, NC 27611

stating the particular activity or activities for which notice is requested and the name, address and phone number of requester. A fee may be charged to cover the actual cost of providing this notice.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 12-3.1; 130B-6; 130B-7(a)(24);
143-318.12; 150B-13.*

4004 WRITTEN MATERIAL DEPOSITORIES

The Commission understands and supports fully the public's right to participate in the process leading to the siting of a facility. The Commission wishes to assist in the public's ability to participate by providing access to the Commission's written materials at information depositories throughout the state. The depositories will be maintained in public libraries in all 100 North Carolina counties and in libraries of member institutions of the North Carolina Community College System. These depositories shall contain information relating to the Commission's rule-making and site-selection process, and other written materials pertinent to the Commission's work, to be used as reference material by the general public. The Commission's written materials need not be furnished to any depository located in any county in which the entire area of the county and all adjacent counties have been eliminated from consideration as a suitable site unless the depository specifically requests in writing continued receipt of materials.

History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 12-3-1; 130B-6; 130B-7(a)(24);
150B-13.

SECTION .0200 - SITE SELECTION CRITERIA

.0201 INTRODUCTION

The rules contained in this Section set forth the criteria which the Commission will consider in selecting a site for the location of a facility. In selecting this site the Commission must comply with the siting criteria set forth in 10 NCAC 10F and G.S. 130B. The rules contained in this Section set forth additional criteria to be considered by the Commission in evaluating and selecting a site for the facility in accordance with G.S. 130B. The written justification for the criteria contained in these rules is available from the Commission at the mailing address set out in 4 NCAC 18 .0103.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(5); 150B-13.*

.0202 SITE LOCATION EXCLUSIONS

(a) Prior to consideration of the factors set out at G.S. 130B-11(b)(1) through (5), the Commission shall exclude areas of the state for consideration in the selection of suitable sites for a facility, based upon and consistent with all applicable federal and state law, including statutes, regulations and rules. The Commission shall consider the following criteria which are consistent with G.S. 130B-11(c), 10 NCAC 10F and Subchapter I of Title 40 of the Code of Federal Regulations, as part of the statewide screening process:

- (1) A location shall not be selected to be placed upon an inland lake. Lakes of 200 acres or more will be indicated and removed from further consideration during the first statewide screening process;
 - (2) A location shall not be selected to be placed upon an upland bog or pocosin as identified or mapped by Duke University Wetlands Center, or upon marsh or swamp as shown by United States Geological Service 1:100,000 series topographic maps. Locations of 200 acres or more will be indicated and removed from further consideration during the first statewide screening process;
 - (3) A location shall not be selected to be placed in a coastal hurricane storm surge or inundation area, defined as the maximum hurricane storm surge or inundation area in the Hurricane Evacuation Study for Coastal North Carolina (U.S. Army Corps of Engineers, 1987);
 - (4) A location shall not be selected to be placed within 25 miles of an existing polychlorinated biphenyl (PCB) landfill;
 - (5) A location shall not be selected to be placed greater than 60 miles, measured in a straight line, from the Interstate Highway System in North Carolina;
 - (6) A location shall not be selected to be placed within 0.25 miles of a fault which has had displacement during Holocene time as determined under 10 NCAC 10F .0032(c) and Appendix VI of 40 CFR Part 264, or within 0.25 miles of the epicenter of a seismic event of a magnitude greater than three as measured by the Modified Mercalli Intensity Scale of 1931;
 - (7) A location shall not be selected to be placed upon a 100-year floodplain;
 - (8) A location shall not be selected to be placed upon wetlands within the meaning of Section 404 of the federal Clean Water Act, 33 U.S.C. 1251, et seq., and defined at 33 C.F.R. 328.3;
 - (9) A location shall not be selected to be placed within 0.25 miles of licensed and existing prisons, jails, hospitals, nursing homes, day care centers, nurseries and schools. Existing shall mean in operation prior to September 25, 1989.
- (b) For purposes of G.S. 130B-11(c)(1) and (2) and this Section, Interstate Highway System shall mean those existing as of September 25, 1989, and those with a proposed completion date on or before the first day of operation of the facility.
- (c) For purposes of G.S. 130B-11(c)(3):
- (1) Existing state or national parks or forests shall be those areas which are in existence as of September 25, 1989, and shall include wilderness areas, the State Nature and Historic Preserve, public recreation areas or areas which the state may be authorized to preserve, conserve, or protect under Article XIV, Section 5 of the North Carolina Constitution; existing sites that have been acquired for any of the same, as identified by the Secretary of the Department of Environment, Health, and Natural Resources; and proposed sites for any of the same, as identified by the Secretary of the Department of Environment, Health, and Natural Resources, provided

- that the proposed site has been formally designated for acquisition by the governmental agency having jurisdiction on or before September 25, 1989;
- (2) Existing wildlife refuges shall include preserves or management areas, and proposed sites for the same, as identified by the Wildlife Resources Commission, provided that the proposed site has been formally designated for acquisition or for inclusion in a cooperative agreement by the governmental agency having jurisdiction on or before September 25, 1989;
 - (3) Existing historical sites are historic places that are listed, or have been approved for listing prior to September 25, 1989, by the North Carolina Historical Commission, in the National Register of Historic Places; historical, archaeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121; and properties or areas that are designated prior to September 25, 1989, by the Secretary of the Interior as registered natural landmarks or as national historic landmarks.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(5); 130B-7(a)(24);
150B-13.*

SECTION .0300 - SITE SELECTION PROCEDURE

.0301 GENERAL

The site selection procedure is outlined in G.S. 130B-11. Additional procedures relating to the site selection process are contained in the rules in this Section.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(5); 150B-13.*

.0302 COMMUNITIES INTERESTED IN HOSTING FACILITIES

(a) The Commission shall actively seek communities interested in hosting hazardous waste facilities in accordance with G.S. 130B-11(a) and the procedures contained in this Rule.

(b) The Commission may evaluate other areas while actively seeking communities interested in hosting hazardous waste facilities.

(c) If a suitable site is identified in a volunteer county, the Commission may cease other efforts to locate a suitable site, in accordance with G.S. 130B-23.

(d) The Commission shall suggest that a community interested in hosting a hazardous waste facility form a Community Site Review Committee.

(e) The Commission shall provide information to communities interested in hosting a facility concerning:

- (1) the opportunities for involvement in the site selection process through the Community Site Review Committee, and through the local government advisory process;
- (2) the means available to minimize risk to health, safety, and the environment; and
- (3) the economic benefits available to the host community.

(f) A county which wishes to volunteer, and has taken a vote pursuant to G.S. 130B-23(a), shall notify the Commission in writing.

(g) The Commission may, at the request of the county commissioners, assist a volunteer county in holding public meetings or public hearings.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(24); 130B-11(a);
130B-11(c); 130B-23(a); 150B-13.*

.0303 STATEWIDE SCREENING FOR SUITABLE SITES

(a) The Commission shall institute a statewide screening process to identify suitable sites in accordance with G.S. 130B-11(b) and the procedures contained in this Rule.

(b) The identification shall be made based on technical siting criteria set out in G.S. 130B-11 and 4 NCAC 18 .0200, including meteorological factors, and shall use readily available data.

(c) The statewide screening process to be used by the Commission is a search of the entire state which will be accomplished by successively eliminating unsuitable areas. The first screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0202. The Commission will develop other sets of site selection criteria which will be done through the rulemaking procedures set out at G.S. 150B. Following each set of criteria, another screening process will be initiated to eliminate more unsuitable areas.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(24); 130B-11(b); 150B-13.*

.0304 SELECTION OF SUITABLE SITES

(a) The Commission shall formally designate two or three suitable sites in accordance with G.S. 130B-11(c) and the procedures contained in this Rule.

(b) In making these selections, the Commission shall evaluate sites using the criteria set out in 4 NCAC 18 .0202, with special attention to social, economic, and environmental factors.

(c) The Commission shall conduct at least one public meeting in each area where a suitable site has been selected. Notice of the meeting shall be published at least 30 days in advance of the meeting. Notice of the meeting shall be published in a newspaper of general circulation in the area and shall be sent to the chairman of the county commissioners, the county manager and the county health director of any county in which a potential site has been identified; the mayor, the manager and the chairman of the council of any municipality in which a potential site has been identified, and any person who has requested a copy of the notice in accordance with the procedure set out in 4 NCAC 18 .0103. The notice shall include the date, time and place of the meeting; topics to be addressed at the meeting; the manner in which public comment will be accepted; and the name, phone number, mailing address and location of the individual to contact for further information.

(d) Public comment shall include information received at public meetings, information provided by community advisory groups, information provided by local government representatives, or information provided by other individuals or groups.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(24); 130B-11(a);
130B-11(b); 150B-13.*

.0305 SITE DESIGNATION REVIEW COMMITTEES

(a) After the Commission has designated two or three suitable sites in accordance with 4 NCAC 18 .0304, notice of this selection shall be provided to the county manager, chairman of the county commissioners and public health director of any county in which a suitable site has been identified, and any county adjacent thereto; and any person who has requested notice in accordance with 4 NCAC 18 .0103.

(b) The Commission shall suggest that the county commissioners appoint a site designation review committee in accordance with G.S. 130B-19.

(c) The Commission shall present to the site designation review committees all data relating to the selection of the site in their county; shall provide the committee with data concerning the economic incentives related to the location of a facility within the county; and shall receive and consider comments from the committee as may be transmitted by the county board of commissioners concerning the suitability of the site for the location of a facility in accordance with the criteria set forth in 4 NCAC 18 .0200.

(d) Site designation review committees are eligible to receive technical assistance grants from the Governor's Waste Management Board, in accordance with G.S. 130B-19(d).

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(24); 130B-19; 150B-13.*

.0306 PREFERRED SITE

(a) The Commission shall select a preferred site in accordance with G.S. 130B-11(d) and the procedures contained in this Rule.

(b) The site shall be selected in accordance with the criteria set out in 4 NCAC 18 .0200.

(c) Prior to the selection of a preferred site, the Commission shall conduct at least one public meeting in each county where a suitable site has been designated. Notice of the meeting shall be published at least 30 days in advance of the meeting. Notice of the meeting shall be published in a newspaper of general circulation in the county and shall be sent to the chairman of the county commissioners, the county manager and the county health director of any county in which a suitable site has been identified; the mayor, the manager and the chairman of the council of any municipality in which a suitable site has been identified, and any person who has requested a copy of the notice in accordance with the procedure set out in 4 NCAC 18 .0103. The notice shall include the date, time and place of the meeting; topics to be addressed at the meeting; the manner in which public comment will be accepted; and the name, phone number, mailing address and location of the individual to contact for further information.

(d) Information considered during the selection process shall include information provided by the site designation review committees and information obtained at the public meetings, and may include additional information which the Commission deems appropriate.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority: G.S. 130B-7(a)(24); 130B-20; 150B-13.*

.0307 PREFERRED SITE LOCAL ADVISORY COMMITTEE

(a) Upon selection of a preferred site, the Commission shall notify the county manager, the chairman of the county commissioners and public health director in the county in which the site is located and suggest the establishment of a preferred site local advisory committee in accordance with G.S. 130B-20. The Commission shall also notify any person who has requested a copy of the notice in accordance with the procedure set out in 4 NCAC 18 .0103.

(b) The Commission shall provide the preferred site local advisory committee with all information requested concerning the facility including permit applications, compensation available to local government, and environmental and socioeconomic impact of the proposed facility.

(c) The Commission shall consider all information provided by the preferred site local advisory committee in the Commission's negotiations with any local government or its designee in accordance with G.S. 130B-21.

(d) The preferred site local advisory committee is eligible to receive funds from the local application fee through the Governor's Waste Management Board in accordance with G.S. 130B-20(c) and G.S. 130B-20(d).

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority: G.S. 130B-7(a)(24); 130B-11; 150B-13.*

Form III: MILESTONES and STATE REVIEW

Those states that have projected a shortfall for 1989 or 1995 should complete this form. States should copy and complete the form and include it and any additional needed documentation. Please copy this form if more space is needed to describe your State's milestones.

Name of Respondent **Darrell Hinnant, Executive Director
Hazardous Waste Management Commission**

Telephone Number **(919) 733-5420**

Address **Hazardous Waste Management Commission
430 North Salisbury Street
Raleigh, North Carolina 27611**

1. States should complete a schedule of capacity development milestones for each type of management capacity needed. These milestones should reflect key decision dates for different types of capacity. It is not necessary to list specific facilities by name or location, only to describe the type and amount of capacity to be created (or expanded) and permitted by a given date. States should also include milestones for approval of RCRA Part B permits for established facilities now operating under interim status.

The schedule of interim milestones can include any steps in the State siting process that would indicate the development of needed capacity. For example, states with developed programs could define their milestones by specifying dates by which the following activities should be completed:

- Enter in a multi-state hazardous waste planning effort.
- Designation of candidate sites.
- Letter of intent to develop a facility from a private party (or equivalent commitment from a public entity).
- Identification of host community.
- Permit submission

- Draft permit approval.
- Final permit approval.
- Construction start.

States without a formal siting program also should report the above activities. However, they also may indicate important milestone dates for developing their own siting program. This would include activities such as the following:

- Passage of siting legislation.
- Establishment of statewide siting criteria.
- Creation of a state board or authority.
- Development of siting regulations.

States are not restricted to the program elements suggested here, but are encouraged to achieve a substantial degree of specificity in defining milestones in order to provide credible assurances. States should clearly define the quantitative milestones that will provide access to needed capacity.

The State of North Carolina is working to develop needed capacity for hazardous waste management. North Carolina is proposing to build a 40,000 tons/yr hazardous waste incinerator. The incinerator will be sited according to procedures and criteria developed by the Hazardous Waste Management Commission. The following is a schedule of milestones for the completion of the facility:

Site Selection	May 1990
Part B Received	December 1990
Part B Issued	July 1991
Facility Operational	December 1991

The State's formal siting program is described in detail on Form II: **CAPACITY DEVELOPMENT PLANS.**

The State of North Carolina is also negotiating with the other states in EPA Region IV in regard to a multi-state hazardous waste management agreement.

Finally, in the regional negotiation process it has been established that there will be adequate capacity available in the region at existing and proposed facilities whether or not an agreement is achieved. The State of North Carolina assumes that there will be continuing access to commercial hazardous waste management facilities in any of these states, including North Carolina.

2. What are the likely measures your State will take if you do not meet an anticipated milestone? Please be specific about your emergency plans.

North Carolina anticipates only temporary delays if it does not meet a projected milestone in its plan for increasing capacity.

The only potential causes of delays in the milestone dates would be (1) a delay in the collection of necessary physical data for permit preparation, or (2) a delay caused by litigation.

A potential delay might be caused by an extension in the completion of modeling data or some similar necessary data collection period. In legislation providing for the establishment of a hazardous waste facility, provisions are made for the co-ordination of efforts through an Inter-Agency Committee. The purpose of this Committee is to anticipate and facilitate the scheduling needed for data collection, environmental reporting, and permit applications. The Inter-Agency Committee is already working to establish the lead times and schedules necessary. Should an unforeseen delay occur, the State will continue its work according to the remaining milestones. Such a delay would be temporary and of short-term duration. Under these circumstances, North Carolina's deadline for meeting its next critical management year, 1995, should not be impacted.

The State might potentially miss an anticipated milestone because of litigation. North Carolina's legislation is crafted to minimize the opportunity for litigation. The State believes that the most likely time of challenge would be at the submission for a Part B permit for the facility. Even with the most aggressive litigation, instituted concurrent with the Part B submittal in December 1990, the State's legislation is crafted so that the litigation could be handled readily. Therefore, the State believes a decision would be rendered in ample time to allow North Carolina to meet its 1995 capacity requirements.

Table 95-1 Summary of In-State Generation by Waste Type in 1995
(Tons/Year)

Waste Type	Recurrent Generation	One-time Generation	Total Generation
1. Contaminated Soil	1,084	2,000	3,084
2. Halogenated Solvents	5,584		5,584
3. Nonhalogenated Solvents	4,751		4,751
4. Halogenated Organic Liquids	67		67
5. Nonhalogenated Organic Liquids	9,108		9,108
6. Organic Liquids, unspecified	0		0
7. Mixed Organic/Inorganic Liquids	3,070		3,070
8. Inorganic Liquids with Organics	5,604		5,604
9. Inorganic Liquids with Metals	389,272		389,272
10. Inorganic Liquids, NEC	928,732		928,732
11. Halogenated Organic Sludges/Solids	74	2,000	2,074
12. Nonhalogenated Organic Sludges/Solids	3,422		3,422
13. Organic Sludges/Solids, Unspecified	10		10
14. Mixed Organic/Inorganic Sludges/Solids	577	1,000	1,577
15. Inorganic Sludges/Solids with Metals	31,155	2,000	33,155
16. Inorganic Sludges/Solids, NEC	4,882		4,882
17. Other Wastes, NEC	137		137
TOTAL	1,387,529	7,000	1,394,529

NEC - Not elsewhere classified.

Table 95-2. Summary of Waste Quantities Exported in 1995
by SARA Management Category and Importing State

STATE	SARA MANAGEMENT CATEGORIES										TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization	Landfill			
Agreement States							9,194	9,200			18,394
TOTAL	0	0	0	0	0	0	9,194	9,200			18,394

Table 95-3. Summary of Waste Quantities Imported in 1995
by SARA Management Category and Exporting State

STATE	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization	Landfill	
Agreement States				21,206		32,847			54,053
TOTAL	0	0	0	21,206	0	32,847	0	0	54,053

Table 95-4. 1995 In-State Waste Managed by Waste Type
And SARA Management Categories for All Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES						Aqueous		Landfill	TOTAL
	Exempt Treatment	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Trmt.	Stabilization		
Contaminated Soil	0			130	2,954	0	0			
Halogenated Solvents	406		4,194	621	0	311	52			
Nonhalogenated Solvents	203		2,583	1,024	0	807	134			
Halogenated Organic Liquids	55			12	0	0	0			
Nonhalogenated Organic Liquids	113		184	2,824	0	5,927	61			
Organic Liquids, unspecified	0									
Mixed Organic/Inorganic Liquids	469		2,283	25	0	293	0			
Inorganic Liquids with Organics	206		1,511	810	0	864	2,213			
Inorganic Liquids with Metals	383,064	1,105	62	1,242	0	124	3,675			
Inorganic Liquids, NEC	925,801	433		2,151	29	29	289			
Halogenated Organic Sludges/Solids	0		490	0	2,074	0	0			
Nonhalogenated Organic Sludges/Solids	70			65	2,534	262	0			
Organic Sludges/Solids, Unspecified	0			0	10	0	0			
Mixed Organic/Inorganic Sludges/Solids	0			0	1,577	0	0			
Inorganic Sludges/Solids with Metals	106	5,945		0	305	0	457		10,000	
Inorganic Sludges/Solids, NEC	5			0	25	0	0	2,800		
Other Wastes, NEC	0	98		0	33	5	0			
TOTAL	1,310,498	7,581	11,307	8,905	9,541	8,621	6,881	2,800	10,000	1,376,133

Table 95-4A. 1995 In-State Waste Managed by Waste Type
 And SARA Management Categories at Captive Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization	Landfill	
Contaminated Soil									
Halogenated Solvents									
Nonhalogenated Solvents					94				
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids					235				
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids					92				
Inorganic Liquids with Organics									
Inorganic Liquids with Metals									
Inorganic Liquids, NEC									
Halogenated Organic Sludges/Solids									
Nonhalogenated Organic Sludges/Solids				83					
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals									
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL	0	0	0	83	421	0	0	0	504

(May 3, 1991)

Table 95-48. 1995 In-State Waste Managed by Waste Type
And SARA Management Categories at Commercial Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization	Landfill	
Contaminated Soil			130	2,954	0	0			
Halogenated Solvents		4,194	621	0	311	52			
Nonhalogenated Solvents		2,583	1,024	0	713	134			
Halogenated Organic Liquids			12	0	0	0			
Nonhalogenated Organic Liquids		184	184	0	5,692	61			
Organic Liquids, unspecified									
Fixed Organic/Inorganic Liquids		2,283	25	0	201	0			
Inorganic Liquids with Organics		1,511	810	0	864	2,213			
Inorganic Liquids with Metals	1,105	62	1,242	0	124	3,675			
Inorganic Liquids, NEC	433		2,107	29	29	289			
Halogenated Organic Sludges/Solids		490	0	2,074	0	0			
Nonhalogenated Organic Sludges/Solids			65	2,452	262	0			
Organic Sludges/Solids, Unspecified			0	10	0	0			
Fixed Organic/Inorganic Sludges/Solids			0	1,577	0	0			
Inorganic Sludges/Solids with Metals	5,945		0	305	0	457		10,000	
Inorganic Sludges/Solids, NEC			0	25	0	0	2,800		
Other Wastes, NEC	98		0	33	5	0			
TOTAL	7,581	11,307	6,220	9,458	8,200	6,881	2,800	10,000	62,447

Table 95-4C. 1995 In-State Waste Managed by Waste Type
And SARA Management Categories at Onsite Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES								
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization	Landfill	
Contaminated Soil									
Halogenated Solvents									
Nonhalogenated Solvents									
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids			2,640						
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids									
Inorganic Liquids with Organics									
Inorganic Liquids with Metals									
Inorganic Liquids, NEC			44						
Halogenated Organic Sludges/Solids									
Nonhalogenated Organic Sludges/Solids									
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals									
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL	0	0	2,684	0	0	0	0	0	2,684

(May 3, 1991)

Table 95-5 Comparison of Maximum Hazardous Waste Management Capacity
with Utilized Capacity for All TSD's
(Tons/Year)

SARA Management Category	1995 Maximum Capacity	1995 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	120,000	7,581			7,581	112,419
Solvents Recovery	16,242	11,307			11,307	4,935
Incineration - Liquids	18,719	8,904			8,904	9,815
Incineration - Solids	35,300	9,542			9,542	25,758
Energy Recovery	35,955	8,622			8,622	27,333
Aqueous Treatment	50,000	6,881			6,881	43,119
Stabilization	2,800	11,994			11,994	(9,194)
Landfill	10,000	19,200			19,200	(9,200)

Table 95-5A Comparison of Maximum Hazardous Waste Management Capacity
with Utilized Capacity for Captive Facilities
(Tons/Year)

SARA Management Category	1995 Maximum Capacity	1995 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	0				0	0
Incineration - Solids	300	83			83	217
Energy Recovery	539	421			421	118
Aqueous Treatment	0				0	0
Stabilization	0				0	0
Landfill	0				0	0

Table 95-5B Comparison of Maximum Hazardous Waste Management Capacity
with Utilized Capacity for Commercial Facilities
(Tons/Year)

SARA Management Category	1995 Maximum Capacity	1995 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	120,000	7,581			7,581	112,419
Solvents Recovery	16,242	11,307			11,307	4,935
Incineration - Liquids	15,000	6,220			6,220	8,780
Incineration - Solids	35,000	9,459			9,459	25,541
Energy Recovery	35,416	8,201			8,201	27,215
Aqueous Treatment	50,000	6,881			6,881	43,119
Stabilization	2,800	11,994			11,994	(9,194)
Landfill	10,000	19,200			19,200	(9,200)

Table 09-1 Summary of In-State Generation by Waste Type in 2009
(Tons/Year)

Waste Type	Recurrent Generation	One-time Generation	Total Generation
1. Contaminated Soil	1,356	2,000	3,356
2. Halogenated Solvents	7,344		7,344
3. Nonhalogenated Solvents	5,840		5,840
4. Halogenated Organic Liquids	80		80
5. Nonhalogenated Organic Liquids	10,692		10,692
6. Organic Liquids, unspecified	0		0
7. Mixed Organic/Inorganic Liquids	3,690		3,690
8. Inorganic Liquids with Organics	7,218		7,218
9. Inorganic Liquids with Metals	465,278		465,278
10. Inorganic Liquids, NEC	1,077,922		1,077,922
11. Halogenated Organic Sludges/Solids	95	2,000	2,095
12. Nonhalogenated Organic Sludges/Solids	3,994		3,994
13. Organic Sludges/Solids, Unspecified	12		12
14. Mixed Organic/Inorganic Sludges/Solids	642	1,000	1,642
15. Inorganic Sludges/Solids with Metals	34,867	2,000	36,867
16. Inorganic Sludges/Solids, NEC	5,261		5,261
17. Other Wastes, NEC	178		178
TOTAL	1,624,469	7,000	1,631,469

NEC - Not elsewhere classified.

**Table 95-5C Comparison of Maximum Hazardous Waste Management Capacity
with Utilized Capacity for Onsite Facilities
(Tons/Year)**

SARA Management Category	1995 Maximum Capacity	1995 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	3,719	2,684			2,684	1,035
Incineration - Solids	0				0	0
Energy Recovery	0				0	0
Aqueous Treatment	0				0	0
Stabilization	0				0	0
Landfill	0				0	0

Table 09-2. Summary of Waste Quantities Exported in 2009
by SARA Management Category and Importing State

STATE	SARA MANAGEMENT CATEGORIES										TOTAL
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization	Landfill			
Agreement States	0	0	0	0	0	0	9,612	11,585			21,197
TOTAL	0	0	0	0	0	0	9,612	11,585			21,197

Table 09-4A. 2009 In-State Waste Managed by Waste Type
 And SARA Management Categories at Captive Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							TOTAL	
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization		
Contaminated Soil									
Halogenated Solvents									
Nonhalogenated Solvents					107				
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids					267				
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids					105				
Inorganic Liquids with Organics									
Inorganic Liquids with Metals									
Inorganic Liquids, NEC									
Halogenated Organic Sludges/Solids									
Nonhalogenated Organic Sludges/Solids				94					
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals									
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL	0	0	0	94	479	0	0	0	573

Table 09-4. 2009 In-State Waste Managed by Waste Type
And SARA Management Categories for All Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							Aqueous Trmt.	Stabilization	Landfill	TOTAL
	Exempt Treatment	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery					
Contaminated Soil	0		0	163	3,193	0	0				
Halogenated Solvents	622		5,478	773	0	403	67				
Nonhalogenated Solvents	247		3,291	1,152	0	985	165				
Halogenated Organic Liquids	63			17	0	0	0				
Nonhalogenated Organic Liquids	132		217	3,282	0	6,989	72				
Organic Liquids, unspecified	0			0	0	0	0				
Mixed Organic/Inorganic Liquids	649		2,672	29	0	340	0				
Inorganic Liquids with Organics	237		1,955	1,047	0	1,117	2,862				
Inorganic Liquids with Metals	457,888	1,862	74	1,478	0	148	3,828				
Inorganic Liquids, NEC	1,074,421	518		2,570	35	35	345				
Halogenated Organic Sludges/Solids	0			0	2,095	0	0				
Nonhalogenated Organic Sludges/Solids	83		573	76	2,957	305	0				
Organic Sludges/Solids, Unspecified	0			0	12	0	0				
Mixed Organic/Inorganic Sludges/Solids	0			0	0	0	0				
Inorganic Sludges/Solids with Metals	147	8,667		0	369	0	553				
Inorganic Sludges/Solids, NEC	6			0	29	0	0	2,800	10,000		
Other Wastes, NEC	0	128		0	43	7	0				
TOTAL	1,534,496	11,175	14,260	10,587	8,732	10,329	7,893	2,800	10,000	1,610,272	

(May 3, 1991)

Table 09-4C. 2009 In-State Waste Managed by Waste Type
 And SARA Management Categories at Onsite Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							TOTAL	
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization		
Contaminated Soil									
Halogenated Solvents									
Nonhalogenated Solvents									
Halogenated Organic Liquids									
Nonhalogenated Organic Liquids			3,065						
Organic Liquids, unspecified									
Mixed Organic/Inorganic Liquids									
Inorganic Liquids with Organics									
Inorganic Liquids with Metals									
Inorganic Liquids, NEC			51						
Halogenated Organic Sludges/Solids									
Nonhalogenated Organic Sludges/Solids									
Organic Sludges/Solids, Unspecified									
Mixed Organic/Inorganic Sludges/Solids									
Inorganic Sludges/Solids with Metals									
Inorganic Sludges/Solids, NEC									
Other Wastes, NEC									
TOTAL	0	0	3,116	0	0	0	0	0	3,116

Table 09-4B. 2009 In-State Waste Managed by Waste Type
And SARA Management Categories at Commercial Facilities (Tons/Year)

Waste Types	SARA MANAGEMENT CATEGORIES							TOTAL	
	Metals Recovery	Solvents Recovery	Liquids Incineration	Solids Incineration	Energy Recovery	Aqueous Trmt.	Stabilization		Landfill
Contaminated Soil		0	163	3,193	0	0			
Halogenated Solvents		5,478	773	0	403	67			
Nonhalogenated Solvents		3,291	1,152	0	878	165			
Halogenated Organic Liquids			17	0	0	0			
Nonhalogenated Organic Liquids		217	217	0	6,722	72			
Organic Liquids, unspecified			0	0	0	0			
Mixed Organic/Inorganic Liquids		2,672	29	0	235	0			
Inorganic Liquids with Organics		1,955	1,047	0	1,117	2,862			
Inorganic Liquids with Metals	1,862	74	1,478	0	148	3,828			
Inorganic Liquids, NEC	518		2,519	35	35	345			
Halogenated Organic Sludges/Solids			0	2,095	0	0			
Nonhalogenated Organic Sludges/Solids		573	76	2,863	305	0			
Organic Sludges/Solids, Unspecified			0	12	0	0			
Mixed Organic/Inorganic Sludges/Solids			0	0	0	0			
Inorganic Sludges/Solids with Metals	8,667		0	369	0	553			
Inorganic Sludges/Solids, NEC			0	29	0	0	2,800	10,000	
Other Wastes, NEC	128		0	43	7	0			
TOTAL	11,175	14,260	7,471	8,638	9,850	7,893	2,800	10,000	72,086

(May 3, 1991)

**Table 09-5A Comparison of Maximum Hazardous Waste Management Capacity
With Utilized Capacity for Captive Facilities
(Tons/Year)**

SARA Management Category	2009 Maximum Capacity	2009 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	0				0	0
Incineration - Solids	300	94		94	206	
Energy Recovery	539	479		479	60	
Aqueous Treatment	0				0	0
Stabilization	0				0	0
Landfill	0				0	0

(May 3, 1991)

Table 09-5 Comparison of Maximum Hazardous Waste Management Capacity
with Utilized Capacity for All TSD's
(Tons/Year)

SARA Management Category	2009 Maximum Capacity	2009 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	120,000	11,175			11,175	108,825
Solvents Recovery	16,242	14,260			14,260	1,982
Incineration - Liquids	18,719	10,587			10,587	8,132
Incineration - Solids	35,300	8,732			8,732	26,568
Energy Recovery	35,955	10,329			10,329	25,626
Aqueous Treatment	50,000	7,893			7,893	42,107
Stabilization	2,800	12,412			12,412	(9,612)
Landfill	10,000	21,585			21,585	(11,585)

Table 09-5C Comparison of Maximum Hazardous Waste Management Capacity
with Utilized Capacity for Onsite Facilities
(Tons/Year)

SARA Management Category	2009 Maximum Capacity	2009 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	0				0	0
Solvents Recovery	0				0	0
Incineration - Liquids	3,719	3,116			3,116	603
Incineration - Solids	0				0	0
Energy Recovery	0				0	0
Aqueous Treatment	0				0	0
Stabilization	0				0	0
Landfill	0				0	0

Table 09-5B Comparison of Maximum Hazardous Waste Management Capacity
with Utilized Capacity for Commercial Facilities
(Tons/Year)

SARA Management Category	2009 Maximum Capacity	2009 Management Demand			Total	Remaining Capacity
		Federal Hazardous	Other Hazardous	Non- Hazardous		
Metals Recovery	120,000	11,175			11,175	108,825
Solvents Recovery	16,242	14,260			14,260	1,982
Incineration - Liquids	15,000	7,471			7,471	7,529
Incineration - Solids	35,000	8,638			8,638	26,362
Energy Recovery	35,416	9,850			9,850	25,566
Aqueous Treatment	50,000	7,893			7,893	42,107
Stabilization	2,800	12,412			12,412	(9,612)
Landfill	10,000	21,585			21,585	(11,585)

CHAPTER 18 - N.C. HAZARDOUS WASTE MANAGEMENT COMMISSION

SECTION .0100 - GENERAL INFORMATION

.0101 PURPOSE

(a) The purpose of this Chapter is to provide procedures for the N.C. Hazardous Waste Management Commission to site, design, finance, construct, operate, oversee, acquire, hold, sell, lease, or convey needed hazardous waste facilities to the extent that private enterprise fails to provide such facilities, in accordance with G.S. 130B and 10 NCAC 10F.

(b) It is the purpose of the Commission to provide the citizens of North Carolina with an opportunity to participate in decisions concerning the state's management of hazardous waste. The Commission supports active participation of the public in the decision-making process by encouraging comments and suggestions from all citizens. It is the Commission's goal to provide a forum for study and input which will enable citizens to become knowledgeable about the establishment of hazardous waste facilities in North Carolina.

(c) The Commission strongly supports the waste minimization efforts of the businesses and industries of North Carolina. The Commission believes that such efforts should be expanded wherever possible. However, the Commission is authorized only to review and consider current and projected waste minimization efforts in making its recommendations to the Governor and the General Assembly. The Commission encourages additional support for the waste minimization and waste reduction programs of the Pollution Prevention Pays office, the Department of Environment, Health, and Natural Resources, and the Governor's Waste Management Board, and all other state agencies and departments authorized to direct activities in this regard.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-4; 130B-7(a)(24); 150B-13;
Eff. March 1, 1990.*

.0102 DEFINITIONS

(a) Unless a different meaning is required by the context, the definitions contained in G.S. 130A-290, G.S. 130B-2, and 10 NCAC 10F .0002 apply to the rules contained in this Chapter.

(b) As used in this Chapter, "facility" means an "authorized hazardous waste facility" as defined in G.S. 130B-2(b)(1).

(c) The term "proximity" means distance from a location or activity that could involve an impact, either positive or negative, or beneficial or detrimental.

*History Note: Filed as a Temporary Amendment Eff. November 1, 1989
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Statutory Authority G.S. 130B-2; 130B-7(a)(24); 150B-13;
ARRC Objection Lodged October 19, 1989;
ARRC Objection Removed November 16, 1989;
Eff. March 1, 1990.*

.0103 MAILING LIST

The Commission maintains mailing lists for its rulemaking and public meeting activities. Individuals wishing to be notified of these activities should send a letter to:

N.C. Hazardous Waste Management Commission
Mailing List
430 N. Salisbury St.
Raleigh, NC 27611

(May 3, 1991)

NORTH CAROLINA ADMINISTRATIVE CODE

TITLE 4
DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENTCHAPTER 18
N.C. HAZARDOUS WASTE MANAGEMENT COMMISSION

SECTION .0100 - GENERAL INFORMATION

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SECTION .0200 - SITE SELECTION CRITERIA

.0201 INTRODUCTION

The rules contained in this Section set forth the criteria which the Commission will consider in selecting a site for the location of a facility. In selecting this site the Commission must comply with the siting criteria set forth in 10 NCAC 10F and G.S. 130B. The rules contained in this Section set forth additional criteria to be considered by the Commission in evaluating and selecting a site for the facility in accordance with G.S. 130B. The written justification for the criteria contained in these rules is available from the Commission at the mailing address set out in 4 NCAC 18 .0103.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(5); 150B-13;
Eff. March 1, 1990.*

.0202 SITE LOCATION EXCLUSIONS

(a) Prior to consideration of the factors set out at G.S. 130B-11(b)(1) through (8), the Commission shall exclude areas of the state for consideration in the selection of suitable sites for a facility, based upon and consistent with all applicable federal and state law, including statutes, regulations and rules. The Commission shall consider the following criteria which are consistent with G.S. 130B-11(c), 10 NCAC 10F and Subchapter I of Title 40 of the Code of Federal Regulations, as part of the statewide screening process:

- (1) A location shall not be selected to be placed upon an inland lake. Lakes of 200 acres or more will be indicated and removed from further consideration during the first statewide screening process;
 - (2) A location shall not be selected to be placed upon an upland bog or pocosin as identified or mapped by Duke University Wetlands Center, or upon marsh or swamp as shown by United States Geological Service 1:100,000 series topographic maps. Locations of 200 acres or more will be indicated and removed from further consideration during the first statewide screening process;
 - (3) A location shall not be selected to be placed in a coastal hurricane storm surge or inundation area, defined as the maximum hurricane storm surge or inundation area in the Hurricane Evacuation Study for Coastal North Carolina (U.S. Army Corps of Engineers, 1987);
 - (4) A location shall not be selected to be placed within 25 miles of an existing polychlorinated biphenyl (PCB) landfill;
 - (5) A location shall not be selected to be placed greater than 60 miles, measured in a straight line, from the Interstate Highway System in North Carolina;
 - (6) A location shall not be selected to be placed within 0.25 miles of a fault which has had displacement during Holocene time as determined under 10 NCAC 10F .0032(c) and Appendix VI of 40 CFR Part 264, or within 0.25 miles of the epicenter of a seismic event of a magnitude greater than three as measured by the Modified Mercalli Intensity Scale of 1931;
 - (7) A location shall not be selected to be placed upon a 100-year floodplain;
 - (8) A location shall not be selected to be placed upon wetlands within the meaning of Section 404 of the federal Clean Water Act, 33 U.S.C. 1251, et seq., and defined at 33 C.F.R. 328.3;
 - (9) A location shall not be selected to be placed within 0.25 miles of licensed and existing prisons, jails, hospitals, nursing homes, day care centers, nurseries and schools. Existing shall mean in operation prior to September 25, 1989.
- (b) For purposes of G.S. 130B-11(c)(1) and (2) and this Section, Interstate Highway System shall mean those highways existing as of September 25, 1989, and those with a proposed completion date on or before the first day of operation of the facility.
- (c) For purposes of G.S. 130B-11(c)(3):
- (1) Existing state or national parks or forests shall be those areas which are in existence as of September 25, 1989, and shall include wilderness areas, the State Nature and Historic Preserve, public recreation areas or areas which the state may be authorized to preserve, conserve, or protect under Article XIV, Section 5 of the North Carolina Constitution; existing sites that have been acquired for any of the same, as identified by the Secretary of the Department of Environment, Health, and Natural Resources; and proposed sites for any of the same, as identified

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stating the particular activity or activities for which notice is requested and the name, address and phone number of requester. A fee may be charged to cover the actual cost of providing this notice.

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 12-3.1; 130B-6; 130B-7(a)(24);
143-318.12; 150B-13;
Eff. March 1, 1990.*

.0104 WRITTEN MATERIAL DEPOSITORIES

The Commission understands and supports fully the public's right to participate in the process leading to the siting of a facility. The Commission wishes to assist in the public's ability to participate by providing access to the Commission's written materials at information depositories throughout the state. The depositories will be maintained in public libraries in all 100 North Carolina counties and in libraries of member institutions of the North Carolina Community College System. These depositories shall contain information relating to the Commission's rule-making and site-selection process, and other written materials pertinent to the Commission's work, to be used as reference material by the general public. The Commission's written materials need not be furnished to any depository located in any county in which the entire area of the county and all adjacent counties have been eliminated from consideration as a suitable site unless the depository specifically requests in writing continued receipt of materials.

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Statutory Authority G.S. 12-3.1; 130B-6; 130B-7(a)(24); 150B-13;
Eff. March 1, 1990.*

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- (a) within a drainage area for a Class I or II Reservoir as defined at 10 NCAC 10D.0702(6) and (7);
- (b) within the watershed for Class WS-I, WS-II and SA waters as classified at 15A NCAC 2B .0200; or
- (c) in some drainage areas as determined by the Division of Environmental Management of the Department of Environment, Health, and Natural Resources for waters classified WS-III; or within two miles and draining to stream segments classified as WS-III.

For the third statewide screening, the Commission shall use data prepared by the Division of Environmental Management and the Division of Environmental Health of the Department of Environment, Health and Natural Resources for classifications existing or for which a petition is filed prior to January 25, 1990. For purposes of the statewide screening process, unnamed tributaries to such waters will not be excluded. The unnamed tributaries will be considered when the Commission investigates suitable areas on a site specific basis.

- (11) A location shall not be selected to be placed within two miles of a surface water intake, existing as of January 25, 1990, which provides water for human or animal consumption, unless it is downstream of the intake or does not drain to a point upstream for such intake.
- (12) For waters classified as, or for waters for which a petition is pending for reclassification to, Outstanding Resource Waters (ORW) as described at 15A NCAC 2B .0216 or High Quality Waters (HQW) as described at 15A NCAC 2B .0201, and for which classification is existing or petition is filed prior to January 25, 1990, a location shall not be selected to be placed:
 - (a) within the drainage area of the headwaters of such waters, or
 - (b) within two miles of a stream segment below the headwaters areas.

For purposes of the statewide screening process, unnamed tributaries to such waters will not be excluded. The unnamed tributaries will be considered when the Commission investigates suitable areas on a site specific basis.

- (13) A location shall be selected such that the access from the main truck entrance of the facility is no greater than 15 miles to the Interstate Highway System or to a 4 lane highway that directly connects to the Interstate Highway System.

*History Note: Filed as a Temporary Amendment Eff. January 25, 1990,
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for a Period of 180 Days to Expire on May 6, 1990;
Statutory Authority G.S. 130B-7(a)(5),(24); 130B-11(b); 150B-13;
Eff. April 1, 1990;
Amended Eff. July 1, 1990.*

.0204 LAND DISPOSAL UNIT SITE CRITERIA

(a) In the siting of a facility containing a land disposal unit, a location shall not be selected to be placed such that a hazardous waste management unit for land disposal is within 200 feet horizontally of any floodplain designated as a 100-year floodplain or a 500-year floodplain as mapped by, but not limited to, the United States Department of Housing and Urban Development or the Federal Emergency Management Agency.

(b) In the siting of a facility containing a land disposal unit, a location shall not be selected that has a soil in which the clay content is less than 35 percent based upon data provided by the Soil Conservation Service of the United States Department of Agriculture. For the purpose of statewide screening, a location shall not be selected in a general soil association in which 50 percent of the soils have less than 35 percent clay.

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Statutory Authority G.S. 130B-7(a)(5),(24); 130B-11(b); 150B-13;
Eff. July 1, 1990.*

(May 3, 1991)

- by the Secretary of the Department of Environment, Health, and Natural Resources, provided that the proposed site has been formally designated for acquisition by the governmental agency having jurisdiction on or before September 25, 1989;
- (2) Existing wildlife refuges shall include preserves or management areas, and proposed sites for the same, as identified by the Wildlife Resources Commission, provided that the proposed site has been formally designated for acquisition or for inclusion in a cooperative agreement by the governmental agency having jurisdiction on or before September 25, 1989;
 - (3) Existing historical sites are historic places that are listed, or have been approved for listing prior to September 25, 1989, by the North Carolina Historical Commission, in the National Register of Historic Places; historical, archaeological, and other places and properties owned, managed or assisted by the State of North Carolina pursuant to Chapter 121; and properties or areas that are designated prior to September 25, 1989, by the Secretary of the Interior as registered natural landmarks or as national historic landmarks.

*History Note: Filed as a Temporary Amendment Eff. November 1, 1989
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Statutory Authority G.S. 130B-7(a)(5); 130B-7(a)(24); 150B-13;
ARRC Objection Lodged October 19, 1989;
ARRC Objection Removed November 16, 1989;
Eff. March 1, 1990.*

.0203 SITE LOCATION FACTORS AND CRITERIA

This Subsection sets out rules for excluding sites based upon some of the factors set out in G.S. 130B-11 which requires the Commission to consider hydrological and geological factors; environmental and public health factors; natural and cultural resources; local land uses; transportation factors; aesthetic factors; availability and reliability of public utilities; and availability of emergency response personnel and equipment in the development of site selection criteria.

- (1) A location shall not be selected to be placed upon the geological formations of Castle Hayne; Shady Dolomite; and Murphy Marble, Andrews Formation and Nottely Quartzite, Undivided; based upon the Geologic Map of North Carolina (printed by the Department of Environment, Health and Natural Resources, 1985 Edition).
- (2) A location shall not be selected to be placed within ten miles from the centerline of the Blue Ridge Parkway.
- (3) A location shall not be selected within five miles of the State boundary.
- (4) A location shall not be selected to be placed within the corporate limits, effective November 7, 1989, of a municipality except on land zoned, as of November 7, 1989, to permit industrial uses. Corporate limits based upon 1988 North Carolina Department of Transportation maps which contain 1987 data submitted by the municipalities or 1990 pre-census maps from the United States Census Bureau, whichever is more current and complete, will be used in the second phase of statewide screening.
- (5) A location shall not be selected to be placed upon a general soil association type that floods in more than ten percent of the area based upon United States Department of Agriculture General Soils Association data.
- (6) The site shall have an area designated to encompass all hazardous waste management units, as defined at 10 NCAC 10F .0002 and 40 CFR 260.10(63), and said designated area shall be at least 75 acres in size.
- (7) The site must have at least 1000 feet between the outside of any hazardous waste management unit and the nearest property boundary of the site.
- (8) A location shall not be selected to be placed upon a general soil association type that has a surface slope greater than 15 percent for more than 70 percent of the soil area based upon United States Department of Agriculture General Soils Association data.
- (9) A location shall not be selected such that a hazardous waste management unit is placed within 0.25 miles (1320 feet) of an off-site groundwater well from which water has been drawn for use within two years prior to January 25, 1990, or 1000 feet of its zone of influence, described as a cone of depression, whichever is greater.
- (10) A location shall not be selected to be placed:

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(e) Following each set of criteria and subsequent screening process, the Commission will produce a state map showing the particular and cumulative effect of the elimination of unsuitable areas according to each set of criteria. The statewide screening is based upon the most recent and consistent data available for the entire state. As the Commission starts the investigation of suitable areas, there may be more detailed or more current information available to specific areas which the Commission will utilize.

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For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(5),(24); 130B-11(b); 150B-13;
Eff. March 1, 1990;
Amended Eff. July 1, 1990; April 1, 1990.*

.0304 SELECTION OF SUITABLE SITES

(a) The Commission shall formally designate two or three suitable sites in accordance with G.S. 130B-11(e) and the procedures contained in this Rule.

(b) In making these selections, the Commission shall evaluate sites using the criteria set out in 4 NCAC 18 .0202, with special attention to social, economic, and environmental factors.

(c) The Commission shall conduct at least one public meeting in each area where a suitable site has been selected. Notice of the meeting shall be published at least 30 days in advance of the meeting. Notice of the meeting shall be published in a newspaper of general circulation in the area and shall be sent to the chairman of the county commissioners, the county manager and the county health director of any county in which a potential site has been identified; the mayor, the manager and the chairman of the council of any municipality in which a potential site has been identified, and any person who has requested a copy of the notice in accordance with the procedure set out in 4 NCAC 18 .0103. The notice shall include the date, time and place of the meeting; topics to be addressed at the meeting; the manner in which public comment will be accepted; and the name, phone number, mailing address and location of the individual to contact for further information.

(d) Public comment shall include information received at public meetings, information provided by community advisory groups, information provided by local government representatives, or information provided by other individuals or groups.

(e) Notwithstanding Paragraph (c) of this Rule, when proper notice has been provided in accordance with Paragraph (c) of this Rule and if the Commission has been prevented from conducting a public meeting because of circumstances beyond the control of the Commission, such as the issuance of a court order, the Commission may reschedule the meeting by giving notice of such rescheduling to each newspaper, wire service, radio station and television station which has filed a written request for notice with the Commission. This notice shall be mailed or delivered at least 14 calendar days before the time of the meeting.

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Statutory Authority G.S. 130B-7(a)(24); 130B-11(a);
130B-11(b); 150B-13;
Eff. March 1, 1990;
Amended Eff. March 1, 1991.*

.0305 SITE DESIGNATION REVIEW COMMITTEES

(a) After the Commission has designated two or three suitable sites in accordance with 4 NCAC 18 .0304, notice of this selection shall be provided to the county manager, chairman of the county commissioners and public health director of any county in which a suitable site has been identified, and any

SECTION .0300 - SITE SELECTION PROCEDURE

.0301 GENERAL

The site selection procedure is outlined in G.S. 130B-11. Additional procedures relating to the site selection process are contained in the rules in this Section.

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For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(5); 150B-13;
Eff. March 1, 1990.*

.0302 COMMUNITIES INTERESTED IN HOSTING FACILITIES

(a) The Commission shall actively seek communities interested in hosting hazardous waste facilities in accordance with G.S. 130B-11(a) and the procedures contained in this Rule.

(b) The Commission may evaluate other areas while actively seeking communities interested in hosting hazardous waste facilities.

(c) If a suitable site is identified in a county which submits a proposal to volunteer to host a hazardous waste facility in accordance with G.S. 130B-23, the Commission may cease other efforts to locate a suitable site.

(d) The Commission shall suggest that a community interested in hosting a hazardous waste facility form a Community Site Review Committee.

(e) The Commission shall provide information to communities interested in hosting a facility concerning:

- (1) the opportunities for involvement in the site selection process through the Community Site Review Committee, and through the local government advisory process;
- (2) the means available to minimize risk to health, safety, and the environment; and
- (3) the economic benefits available to the host community.

(f) A county which wishes to volunteer, and has taken a vote pursuant to G.S. 130B-23(a), shall notify the Commission in writing.

(g) The Commission may, at the request of the county commissioners, assist a volunteer county in holding public meetings or public hearings.

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130B-11(c1); 130B-23(a); 150B-13;
ARRC Objection Lodged October 19, 1989;
ARRC Objection Removed November 16, 1989;
Eff. March 1, 1990.*

.0303 STATEWIDE SCREENING FOR SUITABLE SITES

(a) The Commission shall institute a statewide screening process to identify suitable sites in accordance with G.S. 130B-11(b) and the procedures contained in this Rule.

(b) The identification shall be made based on technical siting criteria set out in G.S. 130B-11 and 4 NCAC 18 .0200, including meteorological factors, and shall use readily available data.

(c) The statewide screening process to be used by the Commission is a search of the entire state which will be accomplished by successively eliminating unsuitable areas. The first screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0202. The Commission will develop other sets of site selection criteria which will be done through the rulemaking procedures set out at G.S. 150B. Following each set of criteria, another screening process will be initiated to eliminate more unsuitable areas.

(d) The second phase of the statewide screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0203(1) through (5). The third phase of the statewide screening process will exclude general areas under the criteria set out at 4 NCAC 18 .0203 (6) through (13). The statewide screening process will also exclude general areas based upon the criteria set out at G.S. 130B-11(c).

(d) The preferred site local advisory committee is eligible to receive funds from the local application fee through the Governor's Waste Management Board in accordance with G.S. 130B-20(c) and G.S. 130B-20(d).

*History Note: Filed as a Temporary Rule Eff. September 25, 1989
For a Period of 180 Days to Expire on March 25, 1990;
Statutory Authority G.S. 130B-7(a)(24); 130B-11; 150B-13;
Eff. March 1, 1990.*

.0308 EVALUATION PROCEDURES

At the end of the statewide screening process, the Commission shall evaluate the remaining areas of the State by addressing the factors at G.S. 130B-11(b) and reapplying the site selection criteria at 4 NCAC 18 .0200. In addition, the Commission will assess each area by addressing each of the items in this Rule, which are not weighted according to their numerical order:

- (1) Factors that may affect the ambient air quality;
- (2) Areas that are underlain with natural geologic materials which have a permeability which is less than 1×10^{-7} centimeters per second, and which are of sufficient thickness to prevent vertical movement of fluid, including wastes and leachate, from waste management units to waters of the State as long as wastes in such units pose a threat to water quality, with special consideration given to naturally occurring areas, although double synthetic liners provide an extra two layers of protection;
- (3) Any topographic or man-made features within three miles of the incinerator that might affect air quality modeling;
- (4) The distance to the calculated center of the State, i.e. centroid, based upon the amount of waste shipped off-site;
- (5) Number of landowners and separate parcels of property within a site area;
- (6) Available property as of January 25, 1990, to include:
 - (a) State owned lands, such as prison property, State supported university lands, or land used or slated for industrial or commercial-type uses;
 - (b) Industrial properties; and
 - (c) Land available through the commercial real estate market listed as available for purchase.
- (7) Special air quality parameters such as temperature inversions and wind downdrafts in respect to universal health risks;
- (8) Proximity to Class B and SB waters and Trout (Tr) waters as described at 15A NCAC 2B .0101;
- (9) Distance to the nearest meteorological stations for air modeling purposes;
- (10) Areas of local aesthetic value;
- (11) Nonhuman populations, i.e., plants and animals which may serve as sources of food for human populations;
- (12) Access to the site by Department of Transportation easements or rights-of-way;
- (13) The existence of seismic faults not included within the meaning of 4 NCAC 18 .0202(a)(6);
- (14) The area in the prevailing wind direction from the incinerator stack as it applies to associated health risk calculations;
- (15) Distance to the site chosen by the Low Level Radioactive Waste Management Authority;
- (16) Proximity to wildlife restoration areas;
- (17) The distance to the calculated center of the State, i.e., centroid, based upon the amount of waste generated; and
- (18) Any other items deemed necessary by the Commission.

*History Note: Filed as a Temporary Rule Eff. January 25, 1990,
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Statutory Authority G.S. 130B-7(a)(5),(24); 130B-11(b); 150B-13;
Eff. July 1, 1990.*

.0309 FINAL SITE

To the extent any provisions of this Subsection may conflict with other provisions of this Chapter, these provisions apply:

- (1) The size of the final site for a facility may be limited to the acreage necessary to accommodate either an incinerator, solvent distillation and recovery unit or land disposal unit, together with any

county adjacent thereto; and any person who has requested notice in accordance with 4 NCAC 18 .0103.

(b) The Commission shall suggest that the county commissioners appoint a site designation review committee in accordance with G.S. 130B-19.

(c) The Commission shall present to the site designation review committees all data relating to the selection of the site in their county; shall provide the committee with data concerning the economic incentives related to the location of a facility within the county; and shall receive and consider comments from the committee as may be transmitted by the county board of commissioners concerning the suitability of the site for the location of a facility in accordance with the criteria set forth in 4 NCAC 18 .0200.

(d) Site designation review committees are eligible to receive technical assistance grants from the Governor's Waste Management Board, in accordance with G.S. 130B-19(d).

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Statutory Authority G.S. 130B-7(a)(24); 130B-19; 150B-13;
Eff. March 1, 1990.*

.0306 PREFERRED SITE

(a) The Commission shall select a preferred site in accordance with G.S. 130B-11(d) and the procedures contained in this Rule.

(b) The site shall be selected in accordance with the criteria set out in G.S. 130B-11 and 4 NCAC 18 .0200.

(c) Prior to the selection of a preferred site, the Commission shall comply with the provisions of 4 NCAC 18 .0304 with regard to public meetings.

(d) Information considered during the selection process shall include information provided by the site designation review committees and information obtained at the public meetings, and may include additional information which the Commission deems appropriate. If the Commission, its agents, or employees, obtains access to enter upon the lands of a designated suitable site, the Commission may consider results of on-site testing, if available, during the selection process.

(e) After selection of the preferred site, the Commission will determine the boundaries of the final site based upon the amount of land necessary for the facility and any technical considerations.

(f) Selection of the preferred site is not a final site selection decision for the facility. The preferred site will become the final site when all permits or licenses necessary for the construction or operation of the facility are obtained.

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Statutory Authority G.S. 130B-7(a)(24); 130B-11; 130B-20;
150B-13;
Eff. March 1, 1990;
Amended Eff. March 1, 1991.*

.0307 PREFERRED SITE LOCAL ADVISORY COMMITTEE

(a) Upon selection of a preferred site, the Commission shall notify the county manager, the chairman of the county commissioners and public health director in the county in which the site is located and suggest the establishment of a preferred site local advisory committee in accordance with G.S. 130B-20. The Commission shall also notify any person who has requested a copy of the notice in accordance with the procedure set out in 4 NCAC 18 .0103.

(b) The Commission shall provide the preferred site local advisory committee with all information requested concerning the facility including permit applications, compensation available to local government, and environmental and socioeconomic impact of the proposed facility.

(c) The Commission shall consider all information provided by the preferred site local advisory committee in the Commission's negotiations with any local government or its designee in accordance with G.S. 130B-21.

(May 3, 1991)

stabilization or storage components associated with these units. The amount of acreage necessary for each of these hazardous waste management units shall be determined in accordance with 15A NCAC 13A .0002 and 40 CFR 260.10(63). The Commission will obtain title to this acreage in fee simple.

- (2) The final site for a facility containing an incinerator shall be surrounded entirely by a buffer zone consisting of land extending at least 1,000 feet from the boundary of the incinerator site to the property boundary. The Commission need not hold fee simple title to the buffer zone in the event the buffer zone is land owned by the State prior to condemnation.
- (3) The final site for a facility containing a solvent distillation and recovery unit or a landfill unit shall be surrounded entirely by a buffer zone consisting of land extending at least 200 feet from the boundary of the solvent distillation and recovery unit site or landfill unit site to the property boundary. The Commission need not hold fee simple title to the buffer zone in the event the buffer zone is land owned by the State prior to condemnation.
- (4) Except as provided in this Subsection, the final site for the hazardous waste management unit or units will meet all the criteria set forth in 4 NCAC 18 .0200.
- (5) Except as provided in this Subsection, the buffer zone shall meet all the criteria set forth in 4 NCAC 18 .0200, except that the buffer zone may contain wetlands; provided the Commission manages or provides for the management of the buffer zone in a manner which preserves the wetlands. Administration buildings, laboratories and receiving stations may be constructed in the buffer zone so long as not constructed in or on wetlands.

History Note: Filed as a Temporary Adoption Eff. December 4, 1990 For a Period of 180 Days to Expire on June 2, 1991; Statutory Authority G.S. 130B-7(a)(5); 130B-7(a)(24); 130B-11(b); 150B-13; ARRC Objection Lodged January 18, 1991.

The amount of waste reduced by SARA waste type is shown for the projection years in Table IV-1. A detailed summary of how these quantities were estimated is given in the attachment "Methodology and Calculation of Waste Reduction Factors for NC Capacity Assurance Plan".

A discussion of the method used to obtain the waste reduction estimates is contained in the attachment "Technical Supplement: Procedures for Developing Annual Waste Reduction Factors for the CAP Process".

3. How do you measure the effectiveness of your program (such as by checking whether estimates were realized)? Please elaborate on your method.

_____ No other measures besides those obtained from EPA's Biennial Report.

 X Number of information requests handled

Form III: MILESTONES and STATE REVIEW

Those states that have projected a shortfall for 1989 or 1995 should complete this form. States should copy and complete the form and include it and any additional needed documentation. Please copy this form if more space is needed to describe your State's milestones.

Name of Respondent **Linda W. Little, Executive Director**
 Telephone Number **(919) 733-9020**
 Address **Governor's Waste Management Board
 Post Office Box 27687
 Raleigh, North Carolina 27611-7687**

1. States should complete a schedule of capacity development milestones for each type of management capacity needed. These milestones should reflect key decision dates for different types of capacity. It is not necessary to list specific facilities by name or location, only to describe the type and amount of capacity to be created (or expanded) and permitted by a given date. States should also include milestones for approval of RCRA Part B permits for established facilities now operating under interim status.

The schedule of interim milestones can include any steps in the State siting process that would indicate the development of needed capacity. For example, states with developed programs could define their milestones by specifying dates by which the following activities should be completed:

- Enter in a multi-state hazardous waste planning effort.
- Designation of candidate sites.
- Letter of intent to develop a facility from a private party (or equivalent commitment from a public entity).
- Identification of host community.
- Permit submission
- Draft permit approval.
- Final permit approval.
- Construction start.

States without a formal siting program also should report the above activities. However, they also may indicate important milestone dates for developing their own siting program. This would include activities such as the following:

- Passage of siting legislation.
- Establishment of statewide siting criteria.
- Creation of a state board or authority.
- Development of siting regulations.

States are not restricted to the program elements suggested here, but are encouraged to achieve a substantial degree of specificity in defining milestones in order to provide credible assurances. States should clearly define the quantitative milestones that will provide access to needed capacity.

The State of North Carolina has been working to develop needed capacity for hazardous waste management. The Hazardous Waste Management Commission is proposing to build a 50,000 tons/yr hazardous waste incinerator, a 15,000 tons/yr solvent recovery facility, and a 10,000 tons/yr residuals management facility. These facilities would be sited according to procedures and criteria developed by the Hazardous Waste Management Commission. The State's formal siting program and the private siting initiatives are described in detail on Form II: CAPACITY DEVELOPMENT PLANS.

In addition, private efforts are underway to establish a similar facility. Should these efforts succeed, of course the state will not need to construct a facility. Finally, the state is currently reviewing a permit application for a major metals recovery facility (120,000 T/yr).

The State of North Carolina is also negotiating with the other states in EPA Region IV in regard to a multi-state hazardous waste management agreement and may negotiate with other states as well.

The following is a schedule of milestones for the completion of facilities to meet North Carolina's needs directly or through attracting other states into a regional agreement (or agreements):

Site Selection	May 6, 1993
Part B Filed	May 6, 1993
Part B Issued	May 6, 1994
Facility Operational	December 31, 1994

Finally, in the regional negotiation process it has been established that in the short term there will be adequate capacity for most types of waste management available in the region at existing and proposed facilities whether or not an agreement is achieved. The State of North Carolina assumes that there will be continuing access to commercial hazardous waste management facilities in any of these states, including North Carolina.

2. What are the likely measures your State will take if you do not meet an anticipated milestone? Please be specific about your emergency plans.

North Carolina anticipated only temporary delays if it did not meet a projected milestone in its plan for increasing capacity.

Potential causes of such delays in the milestone dates were anticipated to be (1) a delay in the collection of necessary physical data for permit preparation, or (2) a delay caused by litigation.

Indeed, in 1990 delays of both types were encountered. The most significant barrier encountered was unanticipated, i.e., the refusal of the Council of State to allow the use of state-owned land for the facility.

There are currently private initiatives underway which would allow North Carolina to substantially increase in-state hazardous waste management capacity without using the state siting process. However, North Carolina recognizes that these initiatives may fail. Consequently a bill is currently under consideration in the North Carolina General Assembly which would allow the Hazardous Waste Management Commission to override the Council of State's decision and to obtain the site identified as a potential site.

A potential delay might be caused by an extension in the completion of modeling data or some similar necessary data collection period. In legislation providing for the establishment of a hazardous waste facility, provisions are made for the co-ordination of efforts through an Inter-Agency Committee. The purpose of this Committee is to anticipate and facilitate the scheduling needed for data collection, environmental reporting, and permit applications. The Inter-Agency Committee has worked and continues to work to expedite the siting process. Should an unforeseen delay occur, the State will continue its work according to the remaining milestones. Under these circumstances, North Carolina's deadline for meeting its next critical management year, 1995, should not be impacted.

The State recognizes that the Hazardous Waste Management Commission might potentially miss an anticipated milestone because of litigation. North Carolina's legislation was crafted to minimize the opportunity for litigation and it was expected that the most likely time of challenge would be at the submission of the Part B Permit. However, aggressive and substantial litigation ensued almost immediately after the May 1990 designation of potentially suitable sites and was a major factor leading to the Hazardous Waste Management Commission's reexamination of state-owned properties. The Inter-Agency Committee on Hazardous Waste continues to work toward early identification and resolution of any potential delays in establishment of needed capacity.

Form III: DESCRIPTION OF PROGRAM

States that incorporate waste minimization estimates in their capacity projections should complete this form. This section requests information on the specific components of your waste minimization program described in Form I, Question 2. Please complete the sections that are applicable to your state program. Questions on different waste minimization components are presented separately so that they may be distributed to different program officials if necessary. States should copy and complete the form and include it and any additional documentation. Please attach additional information if more space is needed to answer any question.

Form III includes the following:

- III-a Technical Assistance
- III-b Economic Incentives
- III-c Waste Exchange
- III-d Research and Development
- III-e Regulatory Requirements
- III-f Education

Respondents to each set of questions in this form should attach their name and telephone number should additional information be required.

Name of Respondent **Gary Hunt, Director
Office of Waste Reduction**

Telephone Number **(919) 571-4100**

Address **Department of Environment, Health, and Natural Resources
Post Office Box 27687
Raleigh, North Carolina 27611-7687**

1. Please indicate the approximate emphasis that your state places on the following waste minimization components as a percent of your waste minimization budget.

<u>Component</u>	<u>Approximate Percent of the Budget*</u>	
Technical Assistance	36	Staff time
Economic Incentives	24	Grant funds
Waste Exchange	5	No state funding
Research and Development	0	Included in Economic Incentives
Regulatory Requirements	2	Staff Time
Education and Training	18	Grant Funds/Staff Time
Other ((Awards Program, Waste Reduction, Surveys, Multi-Media Waste Reduction Management System)	15	Staff Time
Total	100	%

* Does not include additional resources available through the Waste Minimization and Management Research Center at North Carolina State University or the Waste Reduction Resource Center.

(May 3, 1991)

III-a TECHNICAL ASSISTANCE

1. Indicate which of the following Technical Assistance components are currently in use or proposed for use in your waste minimization program.

Technical Assistance

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Onsite Assistance
<u> X </u>	_____	Information Clearinghouse/ Library
<u> X </u>	_____	Technical workshops
<u> X </u>	_____	Feasibility studies
<u> X </u>	_____	Other: Technical Publications

2. For Technical Assistance, please provide the following information for existing programs or proposed programs:
- 2a. Describe the specific target of the Technical Assistance program (e.g., waste streams, industry categories, or both)
- The Technical Assistance Program targets all industrial categories and wastestreams. Particular emphasis will be given to major waste generating categories (SIC-25, 28, 37, 35, & 36), and solvent and metal bearing waste sent off-site for treatment/disposal. See documents "Methodology and Waste Reduction Factors for North Carolina Capacity Assurance Plan" and "Technical Supplement," attached to Form II, for more information.**
- 2b. Why did you choose to implement this program?
- Technical assistance is the major element of the North Carolina's waste reduction efforts. Direct technical assistance for specific wastestreams is the most successful way to help industries reduce waste generation.**
- 2c. What problems to implementing the Technical Assistance program do you anticipate or have you experienced?
- None.**
- 2d. What quantities of waste do you expect to reduce through Technical Assistance? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1]
- The quantities of waste reduced specifically by the Technical Assistance portion of the North Carolina waste reduction efforts cannot be separately quantified from other program elements. The program is an integrated effort which depends on the success of all its elements.**

III-b ECONOMIC INCENTIVES

1. Indicate which of the following Economic Incentives components are currently in use or proposed for use in your waste minimization program.

Economic Incentives

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Awards/matching grants
<u> X </u>	_____	Taxes/Fees (e.g., waste-end, front-end, point-of use)
_____	_____	Low-interest loans
<u> X </u>	_____	Tax credits
_____	_____	Other

2. For Economic Incentives, please provide the following information for existing or proposed programs:

- 2a. Indicate the number of grants provided in the baseyear as part of this component.

In 1987 twelve (12) matching grants were awarded for a total of \$60,000 in State funds. The companies' match for the grants amounted to \$105,800 for a total of \$165,800 spent on waste reduction projects. Since 1985 this public-private partnership has provided over \$1,000,000 for 68 pollution prevention and waste reduction projects.

In 1991 twelve (12) matching grants were awarded for a total of \$152,000 in State funds. The companies' match for the grants amounted to \$1.5 million for a total of \$1.6 million spent on waste reduction projects. Since 1985 this public-private partnership has provided over \$2.5 million for 100 pollution prevention and waste reduction projects.

- 2b. What is the current (or projected) annual budget for grants provided in your waste minimization program as part of Economic Incentives (in thousands of dollars)?

\$150,000 in State funds.

- 2c. If taxes or fees are imposed, describe the tax (\$ per ton, for example) and the amount of revenues generated by the tax in the most recent state fiscal year.

A \$0.50 per ton fee is assessed each generator of over 1,000 kg/month of hazardous waste to a maximum of 25,000 ton (\$12,500). Also, there is a \$500 annual fee for generation of more than 1,000 kg/month of hazardous waste and a \$25 annual fee for generators of less than 1,000 kg/month. The total amount of money collected by all of these fees in FY 89 was \$488,000.

- 2d. Why did you choose to implement this program?

Economic incentives have been an important element of North Carolina's waste reduction efforts. Providing these types of incentives helps firms overcome some of the barriers to implementing waste reduction programs.

- 2e. How effective have each of your economic incentives been in minimizing wastes?

Matching grants projects for particular wastestreams have generally shown a 20-30% reduction. Fees on hazardous waste generation have encouraged large quantity hazardous waste generators to try to reduce their generation rates to save money on fees or eliminate the fee by becoming a small quantity generator.

- 2f. What quantities of waste do you expect to reduce through economic incentives? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by economic incentives cannot be separately quantified from other program elements. The program is an integrated effort which depends for its success on all elements.

III-c WASTE EXCHANGE

1. Indicate which of the following Waste Exchange components are currently in use or proposed for use in your waste minimization program.

Waste Exchange

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	State-promoted
_____	_____	State-managed
_____	_____	State-financed
<u> X </u>	_____	Regional or multi-state effort
_____	_____	Other

2. For Waste Exchange, please provide the following information for existing programs or proposed programs:

- 2a. What is the current (or projected) annual contribution to the Waste Exchange (in thousands of dollars) that you participate in?

In FY 90 and 91 a total of \$43,000 was provided by the State, through a grant to present workshops, implement an electronic waste exchange bulletin board, and send out catalogs.

- 2b. What is the name of the Waste Exchange that you participate in?

Southeast Waste Exchange

- 2c. Which states participate in this Waste Exchange (Please list)?

Primary area states are North Carolina, South Carolina, Alabama, Georgia, Virginia, Kentucky, Tennessee, Mississippi, and Florida. The North American network is used to link to other waste exchanges.

- 2d. Describe the specific target of the Waste Exchange program (e.g., waste streams, industry categories, or both).

Wastestream targets include: acids, alkalis, other inorganics, solvents, other organics, oils/waxes, plastics, rubber, textiles, leather, wood/paper, metal/metal sludges. All industries are targeted as well as government agencies.

- 2e. Why did you choose to implement this program?

Need by companies to use recycling as a waste management option, save and/or earn money.

- 2f. What problems do implementing the Waste Exchange program do you anticipate or have you experienced?

Funding levels vary annually. No baseline state funding.

- 2g. What quantities of waste do you expect to reduce through waste exchange? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by waste exchange cannot be separately quantified from the program elements. The program is an integrated effort which depends for its success on all elements.

III-d RESEARCH and DEVELOPMENT

1. Indicate which of the following Research and Development components are currently in use or proposed for use in your waste minimization program.

Research and Development

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Options development/feasibility studies
<u> X </u>	_____	Pilot scale or demonstration projects
<u> X </u>	_____	Economic or policy analysis
<u> X </u>	_____	Manuals for audits or technology implementation
<u> X </u>	_____	Other: Technical workshops/conferences, joint projects with the National Waste Minimization and Management Research Center.

2. For Research and Development, please provide the following information for existing programs or proposed programs:

- 2a. What is the current (or projected) annual budget for Research and Development (in thousands of dollars)?

The research and development funds are part of the \$150,000 used for Challenge Grants to Industries for demonstration projects. In addition, up to

\$35,000 more per year can be used to fund applied research projects at universities.

- 2b. Describe the specific target of the Research and Development program (e.g., waste streams, industry categories, or both).

The Research and Development Program targets all industrial categories and wastestreams. Particular emphasis will be given to major waste generating categories (SIC-25, 28, 37, 35 and 36), and solvent and metal-bearing waste sent off-site for treatment/disposal. See documents "Methodology and Waste Reduction Factors for NC Capacity Assurance Plan" and "Technical Supplement," attached to Form II, for more information.

- 2c. Why did you choose to implement this program?

Research and Development has been an important element of the North Carolina waste reduction effort. This program allows the state to develop and evaluate waste reduction techniques applicable to North Carolina-specific wastestreams.

- 2d. What problems to implementing the Research and Development program do you anticipate or have you experienced?

None

- 2e. What quantities of waste do you expect to reduce through research and development? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by research and development cannot be separately quantified from other program elements. The program is an integrated effort which depends on its success in all elements.

III-e REGULATORY REQUIREMENTS

1. Indicate which of the following Regulatory Requirement components are currently in use or proposed for use in your waste minimization program.

Regulatory Requirements

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Reporting requirements
_____	_____	Reduction standards
_____	_____	Design or operating standards (e.g., required chemical substitutions)
_____	_____	Management standards (e.g., mandatory waste reduction audits, listing on waste exchanges)
<u> X </u>	_____	Other: Inspection and Enforcement

2. For Regulatory Requirements, please provide the following information for existing programs or proposed programs:

2a. Describe the specific target of the Regulatory Requirements program (e.g., wastestreams, industry categories, or both).

The waste reduction reporting requirements apply to all hazardous waste generators (both large and small quantity), NPDES permit holders, and air quality permit holders which pay a fee. This covers approximately 10,000 permits and generators in North Carolina.

2b. Why did you choose to implement this program?

State and Federal regulatory requirements. See Form I for more details of North Carolina's legislative requirements.

2c. What problems to implementing the Regulatory Requirements program do you anticipate or have you experienced?

This program is being phased in due to the logistics associated with cost and of the managing the 10,000 annual reports.

2d. What quantities of waste do you expect to reduce through regulatory requirements? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by this portion of North Carolina waste reduction programs cannot be separately quantified from the program elements. The program is an integrated effort which depends on its success in all elements.

III-f EDUCATION

1. Indicate which of the following Education components are currently in use or proposed for use in your waste minimization program.

Education

<u>On-going</u>	<u>Proposed</u> (Date Anticipated)	
<u> X </u>	_____	Governor's or other award programs
<u> X </u>	_____	Public education (e.g., seminars, workshops, pamphlets)
<u> X </u>	_____	Outreach
<u> X </u>	_____	Feasibility studies
<u> X </u>	_____	Other: Student interns, college curriculum, Hazardous Waste Generator Workshops and Small Quantity Generator Workshops, Industrial Workshops, On-Site Training Programs, and Regional Inspectors.

2. For education, please provide the following information for existing programs or proposed programs:

- 2a. Describe the specific target of the education program (e.g., wastestreams, industry categories, or both).

The education program targets all industrial categories and wastestreams. Particular emphasis will be given to major waste generating categories (SIC-25, 28, 37, 35 and 36), and solvent and metal bearing wastes sent off-site for treatment/disposal. See documents "Methodology and Waste Reduction Factors for North Carolina Capacity Assurance Plan" and "Technical Supplements," attached to Form II, for more information.

- 2b. Why did you choose to implement this program?

Education has been an important element of North Carolina's waste reduction efforts. Education programs help insure that North Carolina industries can be supplied with current information needed to reduce waste generation.

- 2c. What problems to implementing the education program do you anticipate or have you experienced?

None.

- 2d. What quantities of waste do you expect to reduce through education? [Please provide quantities and dates that correspond to the analyses in Form II, Question 1.]

The quantities of waste reduced specifically by education cannot be separately quantified from the program elements. The program is an integrated effort which depends on its success in all elements.

REVISIONS TO
N. C. HAZARDOUS WASTE MANAGEMENT RULES
PROPOSED FOR CONSIDERATION BY
THE COMMISSION FOR HEALTH SERVICES

Prepared by the
North Carolina Department of Environment,
Health, and Natural Resources
Hazardous Waste Section
P.O. Box 27687
Raleigh, North Carolina 27611
(919) 733-2178

4/17/91

(May 3, 1991)

15A NCAC 13A .0017 is proposed to be adopted as follows:

.0017 FEE SCHEDULES

(a) A commercial hazardous waste storage, treatment, or disposal facility other than a special purpose facility shall pay monthly, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities as required by G.S. 130A-294.1, a charge of forty one dollars (\$41.00) per hour of operation. The fee shall be paid for any time when hazardous waste is managed or during periods of maintenance, repair, testing, or calibration. Each facility shall submit an operational schedule to the Department on a quarterly basis.

(b) A special purpose commercial hazardous waste facility shall pay monthly, in addition to the fees applicable to all hazardous waste treatment, storage or disposal facilities as required by G.S.130A-294.1, a charge of three dollars \$3.00 per ton of hazardous waste received during the previous month and an additional charge based on the frequency of inspections as follows:

<u>Category</u>	<u>Fee</u>
1	\$888.00
2	\$1,776.00
3	\$2,664.00

History Note: Filed as a Temporary Adoption
 Eff. February 15, 1991
 For a Period of 180 days to expire on
 August 14, 1991;
 Eff. August 1, 1991;
 Statutory Authority G.S. 130A-295.02(h).

NOTE:

THIS RULE IS PROPOSED FOR ADOPTION BY THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

**RULES FOR COLLECTION OF FEES
FROM COMMERCIAL HAZARDOUS WASTE FACILITIES**

**PROPOSED FOR ADOPTION BY
THE SECRETARY OF THE DEPARTMENT OF
ENVIRONMENT, HEALTH, AND NATURAL RESOURCES**

**Prepared by the N. C. Department of Environment,
Health & Natural Resources
Division of Solid Waste Management
Hazardous Waste Section
(919) 733-2178**

4/17/91

(May 3, 1991)

(e) The frequency of inspections at special purpose commercial hazardous waste facilities shall be determined by the facility's classification as follows:

<u>Category</u>	<u>Minimum Inspections</u>
1	2 per month
2	4 per month
3	6 per month

History Note: Filed as a Temporary Adoption
Eff. February 15, 1991
For a Period of 180 days to expire on
August 14, 1991;
Eff. August 1, 1991;
Statutory Authority G.S. 130A-295.02(j).

Table 6

<u>Predictability and Treatability of Waste Streams</u>	<u>Score</u>
Simple Waste Stream and Treatment	1
Complex and/or Incompatible	2

- (7) A score shall be assigned for compliance history for the past two years by using the highest applicable score in Table 7.

Table 7

<u>Compliance History for Past Two Years</u>	<u>Score</u>
Class II Violations	1
Class I Violations	2
Penalties or Injunctions	3

- (8) A score shall be assigned for on-site reclamation by using the applicable score in Table 8.

Table 8

<u>On-site Reclamation (Credit Given)</u>	<u>Score</u>
Pretreatment	1
Reclamation	2

(c) A commercial hazardous waste facility (other than an incinerator or a land disposal facility) with a volume of waste of 20,000 tons or less per year and having a total score pursuant to Paragraph (b) of this Rule of less than 30 is designated as a special purpose commercial hazardous waste facility. These facilities shall be classified as follows:

<u>Total Score</u>	<u>Category</u>
1 - 11	1
12 - 20	2
21 - 29	3

(d) The information referred to in Paragraph (b) of this Rule shall be determined based on the facility's permit, the previous year's annual report, and compliance history. If no annual report was submitted, quarterly projections of waste volume shall be submitted to the Department by the facility. Each facility may be re-evaluated at any time new information is received by the Department concerning the factors in Paragraph (b) of this Rule.

percent or more of the total waste handled by the facility, using Table 3. However, if the facility is permitted for storage only and no treatment is performed, the score for nature of waste shall be reduced by one-half.

Table 3

<u>Nature of Waste (from Annual Report)</u>	<u>Score</u>
Corrosive	1
Ignitable	2
Reactive	2
Toxicity Characteristic	2
Listed Toxic	2
Acute	3

- (4) A score shall be assigned for volume of waste by using the applicable score in Table 4.

Table 4

<u>Volume of Waste (Tons from Annual Report)</u>	<u>Score</u>
<2000	1
2000-10,000	2
10,000-20,000	3

- (5) A score shall be assigned for uniformity, similarity and lack of diversity of waste streams by using the applicable score in Table 5.

Table 5

<u>Uniformity, Similarity, Lack of Diversity of Waste Streams (EPA Waste Numbers)</u>	<u>Score</u>
<5	1
5-75	2
>75	3

- (6) A score shall be assigned for predictability and treatability of waste streams by using the applicable score in Table 6.

15A NCAC 13A .0016 is proposed to be adopted as follows:

.0016 SPECIAL PURPOSE COMMERCIAL HAZARDOUS WASTE FACILITY

(a) The Department shall evaluate all commercial hazardous waste facilities to determine a score for each facility in accordance with paragraph (b) of this Rule.

(b) A score for each facility shall be determined by adding the total score for Subparagraphs (b)(1) - (b)(7) of this Rule and subtracting the score for Subparagraph (b)(8) of this Rule.

- (1) A score shall be assigned for smallness of the facility by adding the applicable score for storage and the applicable score for treatment using Table 1.

Table 1

<u>Smallness of Facility</u>	<u>Permit Capacity</u>	<u>Score</u>
Storage: (gallons)	<10,000	1
	10,000-100,000	2
	>100,000	3
Treatment: (gallons/ per day)	<10,000	1
	10,000-100,000	2
	>100,000	3

- (2) A score shall be assigned for type of treatment permitted by adding the score for each type of treatment performed by the facility using Table 2.

Table 2

<u>Type of Treatment Permitted</u>	<u>Score</u>
Storage Only	1
Solvent Recovery	2
Metal Recovery	2
Energy Recovery	2
Fuel Blending	2
Aqueous Treatment	3
Stabilization	2
Incineration	5
Residuals Management	5
Other Treatment	2

- (3) A score shall be assigned for the nature of waste by adding the score for acute waste, if acute waste totals more than 1,000 pounds, and the score for each other type of waste that constitutes ten

