

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 437
SENATE BILL 114

AN ACT TO SPECIFY AN ADDITIONAL REQUIREMENT APPLICABLE TO THE
PERMITTING OF ANY COMMERCIAL HAZARDOUS WASTE TREATMENT
FACILITY FOR THE PURPOSE OF PROTECTING PUBLIC HEALTH.

The General Assembly of North Carolina enacts:

Section 1. Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-295.01. Additional requirement for commercial hazardous waste treatment facilities.—(a) As used in this section:

- (1) 'Commercial hazardous waste treatment facility' means any hazardous waste treatment facility which accepts hazardous waste from the general public or from another person for a fee, but does not include any facility owned or operated by a generator of hazardous waste solely for his own use, and does not include any facility owned by the State or by any agency or subdivision thereof solely for the treatment of hazardous waste generated by agencies or subdivisions of the State;
- (2) 'New', when used in connection with 'facility', refers to a planned or proposed facility, or a facility which has not been placed in operation, but does not include facilities which have commenced operations as of the date this section became effective, including facilities operated under interim status;
- (3) 'Modified', when used in connection with 'permit', means any change in any permit in force on or after the date this section becomes effective which would either expand the scope of permitted operations, or extend the expiration date of the permit, or otherwise constitute a major modification of the permit as defined in Title 40, Part 270.41 of the Code of Federal Regulations (1 July 1986); and
- (4) '7Q10 conditions', when used in connection with 'surface water', refers to the minimum average flow for a period of seven consecutive days that has an average occurrence of once in 10 years as referenced in 15 NCAC 2B .0206(a)(3) as adopted February 1, 1976.

(b) No permit for any new commercial hazardous waste treatment facility shall be issued or become effective, and no permit for a commercial hazardous waste treatment facility shall be modified, until the applicant has satisfied the Department that such facility meets, in addition to all other applicable requirements, the following requirements:

- (1) The facility shall not discharge directly a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater at the point of discharge into the surface water under 7Q10 conditions.
- (2) The facility shall not discharge indirectly through a publicly owned treatment works (POTW) a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater, irrespective of any dilution occurring in a wastewater treatment plant, at the point of discharge into the surface water under 7Q10 conditions."

Sec. 2. The provisions of this act are severable. If the Administrator of the United States Environmental Protection Agency concludes; pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. § 6926; and Title 40, Part 271, Code of Federal Regulations §§ 271.22 and .23, or in accordance with other applicable law and regulations; that any provision of this act will result in the withdrawal of approval of the North Carolina hazardous waste program, such provision is void. The Secretary, his designee, or other State official shall, upon receipt of notice of a decision by the Administrator that any provision of this act will result in withdrawal of program approval, certify to the Secretary of State that such provision is void. In the event that any provision of this act is voided pursuant to this section, it shall be revived only upon a subsequent reversal by the Administrator of his decision based on his determination that such provision is not in conflict with Environmental Protection Agency requirements for State program approval, or upon a reversal of the Administrator's initial decision by administrative or judicial review. The voiding of any provision of this act shall not affect other provisions of the act which can be given effect without the voided provision.

Sec. 3. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 22nd of June, 1987.