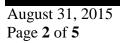
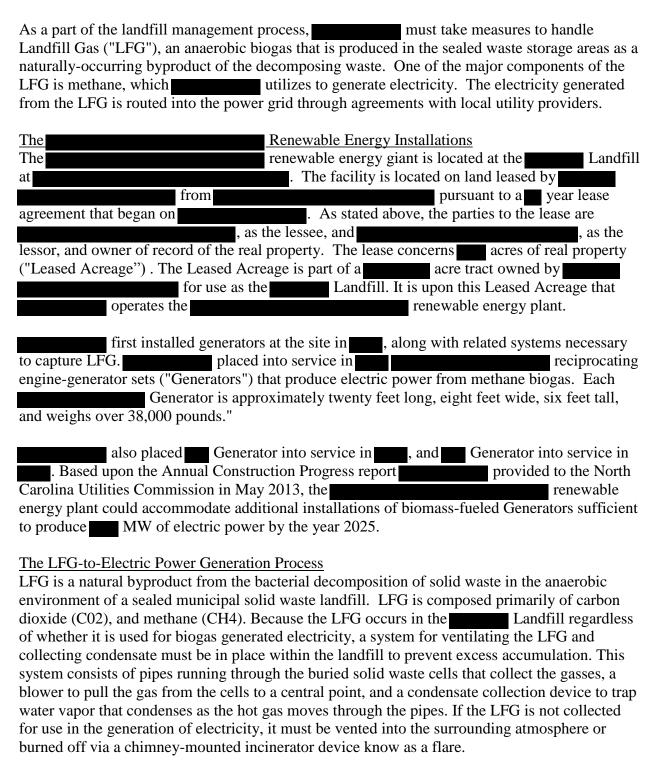


## North Carolina Department of Revenue

Pat McCrory
Governor
Lyons Gray
Secretary

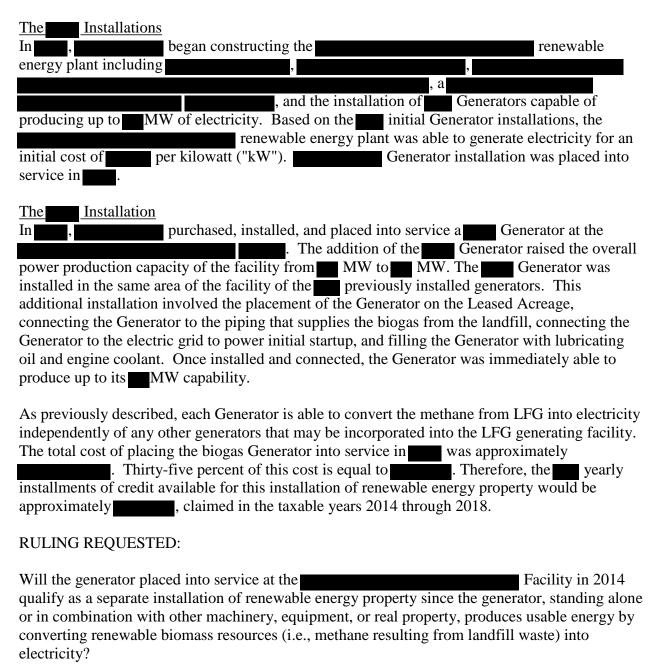
August 31, 2015 Request for Expedited Private Letter Ruling Regarding Re: 's Eligibility to Claim State Tax Credits for Investing in Renewable Energy Property This letter is in response to your letter dated , wherein you requested on behalf of " or "Taxpayer") that the North Carolina Department of Revenue ("Department") provide specific written advice regarding the Taxpayer's eligibility to claim a state tax credit under N.C. Gen. Stat § 105¬129.16A for investments in renewable energy property. The Statement of Facts submitted for the Department's consideration of your request is as follows: , owns and operates a renewable energy , through plant ("the renewable energy plant") in renewable energy plant currently consists of separate generators which use renewable biomass resources to produce up to megawatts ("MW") of electricity. The electricity produced at the renewable energy plant is fed into the local electric grid via adjacent transmission lines. leases the land on which the generators are installed from . Because both are disregarded entities for income tax purposes, all of this activity is attributable to General Overview of the Taxpayer's Business Operations is primarily engaged in the business of waste collection and disposal. works with industry, business, and government to provide these services at all levels of the waste collection and disposal market. This includes residential curbside garbage collection, dumpster rental and hauling for commercial businesses and organizations such as and disposal of industrial and construction/demolition waste. To facilitate the disposal of the refuse collected, operates multiple landfills across the





The apparatus necessary to collect the LFG for generating electricity taps into the existing ventilation system. As the LFG comes through the ventilation pipes, it is captured by gas compression system that incorporates additional blowers, condensation collectors, a recirculation system, and a compressor to separate and compress the methane from the LFG for combustion in one or more generators ("Generators").

Each generator is capable of burning the methane fuel to drive its electric generator in the production of electricity. The Generator must receive some initial electric power in order to start the generator - either from a connection to the electric grid or from another generator. Once started, one Generator is capable of producing sufficient power to start another generator, provide electricity to the surrounding buildings and systems, or be fed back into the local electric grid under an agreement with the utility company.



August 31, 2015 Page **4** of **5** 

## **RELEVANT STATUTES:**

N.C. Gen. Stat. § 105-129.15(4b) defines "Installation of renewable energy property" as "Renewable energy property that, standing alone or in combination with other machinery, equipment, or real property, is able to produce usable energy on its own."

N.C. Gen. Stat. § 105-129.15(6) reads as follows:

"Renewable biomass resources - Organic matter produced by terrestrial and aquatic plants and animals, such as standing vegetation, aquatic crops, forestry and agricultural residues, spent pulping liquor, landfill wastes, and animal wastes."

N.C. Gen. Stat. § 105-129.15(7) defines "Renewable energy property" as any of the following machinery and equipment or real property:

a) Biomass equipment that uses renewable biomass resources for biofue1 production of ethanol, methanol, and biodiesel; anaerobic biogas production of methane utilizing agricultural and animal waste or garbage; or commercial thermal or electrical generation. The term also includes related devices for converting, conditioning, and storing the liquid fuels, gas, and electricity produced with biomass equipment.

N.C. Gen. Stat. § 105-129.16A(a) states that:

"A taxpayer that has constructed, purchased, or leased renewable energy property and places it in service in this State during the taxable year is allowed a credit equal to thirty-five percent (35%) of the cost of the property."

N.C. Gen. Stat. § 105-129.16A(c)(1) provides that:

"A ceiling of two million five hundred thousand dollars (\$2,500,000) per installation applies to renewable energy property placed in service for any purpose other than residential. [N.C. Gen. Stat. § 105-129.16A(c)(1)]"

## DEPARTMENT'S RESPONSE:

Yes. The generator placed into service at the qualifies as a separate installation of renewable energy property since the generator, standing alone or in combination with other machinery, equipment, or real property, produces usable energy by converting renewable biomass resources (i.e., methane resulting from landfill waste) into electricity. However, in order for the generator and related devices to continue to qualify as "renewable energy property" as defined in N.C. Gen. Stat. § 105-129.15(7), must continue to use a renewable biomass resource (e.g., landfill gas or directed biogas) to fuel the generator, and the generator must continue to generate electrical power for a business purpose.

August 31, 2015 Page **5** of **5** 

Upon audit, Taxpayer must provide adequate records (e.g., invoices, contracts, and purchase receipts) to substantiate the amount of the NC Renewable Energy Tax Credit claimed.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. Your statement of facts and our findings are subject to audit verification. If the facts and circumstances given are not accurate, or if there are other facts that were not disclosed that might cause the Department to reach a different conclusion, the taxpayer requesting this ruling may not rely on it. A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

Very truly yours,

Should you have any questions, please contact me.

