

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 130

Marine Resources and Wildlife Committee Substitute Adopted 3/2/89

Short Title: Ocean Dumping Prohibited.

(Public)

Sponsors:

Referred to:

February 7, 1989

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DUMPING OF MEDICAL WASTE PRODUCTS INTO THE OPEN WATERS OF THE ATLANTIC OCEAN AND STATE WATERS AND TO STRENGTHEN THE SOLID WASTE PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-213(9) reads as rewritten:

"(9) Whenever reference is made in this Article to the 'discharge of waste,' it shall be interpreted to include discharge, spillage, leakage, pumping, placement, emptying or dumping into waters of the State, or the discharge of waste into any unified sewerage sewer system or arrangement for sewage disposal, which system or arrangement in turn discharges the waste into the waters of the State."

Sec. 2. Article 21 of Chapter 143 is amended by adding a new section to read:

**"§ 143-214.2A. Prohibited disposal of medical waste.**

(a) Violation. It is unlawful for any person to engage in conduct which causes or results in the dumping, discharging, or disposal directly or indirectly, of any medical waste as defined in G.S. 130A-290(9a) to the open waters of the Atlantic Ocean over which the State has jurisdiction or to any waters of the State.

(b) Civil Penalty.

(1) A civil penalty of not more than twenty-five thousand dollars (\$25,000) may be assessed by the Commission against any person for a first violation of this section and an additional penalty of twenty-five thousand dollars (\$25,000) may be assessed for each day during which

1 the violation continues. A civil penalty of not more than fifty thousand  
2 dollars (\$50,000) may be assessed by the Commission for a second or  
3 further violation and an additional penalty of fifty thousand dollars  
4 (\$50,000) may be assessed for each day during which the violation  
5 continues.

6 (2) The Commission, or its delegate, shall determine the amount of the  
7 civil penalty proposed to be assessed under this section and shall notify  
8 the person to be assessed of the proposed assessment by registered or  
9 certified mail. The notice shall make written demand for payment  
10 upon the person responsible for the violation, and shall set forth in  
11 detail the violation for which the penalty has been invoked. The notice  
12 shall further set forth the opportunity for a contested case proceeding  
13 under Chapter 150B. The proposed penalty set forth in the notice  
14 issued by the Commission, or its delegate, shall become the final civil  
15 penalty unless it is increased or decreased by the Commission in the  
16 final agency decision of a contested case proceeding requested  
17 pursuant to Chapter 150B. If payment is not received or equitable  
18 settlement reached within 30 days after demand for payment is made,  
19 the Secretary shall refer the matter to the Attorney General for the  
20 institution of a civil action in the name of the State in the superior  
21 court of the county in which the discharge of waste or the damages to  
22 resources occurred or in Wake County if the discharge or resource  
23 damage occurs in the open waters of the Atlantic Ocean.

24 (3) In determining the amount of the penalty, the Commission, or its  
25 delegate, shall consider the degree and extent of harm caused by the  
26 violation, the cost of rectifying the damage, the amount of money the  
27 violator saved by his noncompliance, whether the violation was  
28 committed willfully, and the prior record of the violator in complying  
29 or failing to comply with this Article.

30 (c) Criminal Penalties.

31 (1) Except as provided in subdivisions (2) and (3) a person who violates  
32 this section is guilty of a misdemeanor punishable by a fine of not  
33 more than two thousand five hundred dollars (\$2,500) per day of the  
34 violation.

35 (2) A person who willfully violates this section is guilty of a misdemeanor  
36 punishable by imprisonment not to exceed one year, a fine not to  
37 exceed ten thousand dollars (\$10,000) per day of the violation, or both  
38 in the discretion of the court.

39 (3) A person who violates this section and in so doing releases medical  
40 waste that creates a substantial risk of physical injury to any person  
41 who is not a participant in the offense is guilty of a Class I felony  
42 punishable by imprisonment not to exceed four years, a fine not to  
43 exceed fifty thousand dollars (\$50,000) per day of the violation, or  
44 both in the discretion of the court.

1 (d) Restoration.

- 2 (1) Any person having control over medical waste discharged in violation  
3 of this section shall immediately undertake to collect, remove, and  
4 dispose of the medical waste discharged and to restore the area  
5 affected by the discharge as nearly as may be to the condition existing  
6 prior to the discharge. If it is not feasible to collect and remove the  
7 medical waste, the person responsible shall take all practicable actions  
8 and measures to otherwise contain, treat, and disperse the medical  
9 waste; but no chemical or other dispersants or treatment materials shall  
10 be used for such purposes unless they shall have been previously  
11 approved by the Department.
- 12 (2) Notwithstanding the requirements of subdivision (1), the Department  
13 is authorized and empowered to utilize any staff, equipment and  
14 materials under its control or supplied by other cooperating State or  
15 local agencies, and to contract with any agent or contractor that it  
16 deems appropriate to take such actions as are necessary, to collect,  
17 investigate, perform surveillance over, remove, contain, treat or  
18 disperse or dispose of medical waste discharged into the waters of the  
19 State in violation of this section, and to perform any necessary  
20 restoration. The Secretary shall keep a record of all expenses incurred  
21 in carrying out any project or activity authorized under this section,  
22 including actual expenses incurred for services performed by the  
23 State's personnel and for use of the State's equipment and material.
- 24 (3) Every person owning or having control over medical waste discharged  
25 in violation of, or in circumstances likely to constitute a violation of  
26 this section, upon discovery that the discharge of medical waste has  
27 occurred, shall immediately notify the Department, or any of its agents  
28 or employees, of the nature, location and time of the discharge and of  
29 the measures which are being taken or are proposed to be taken to  
30 contain, remove, treat and dispose of the medical waste. The agent or  
31 employee of the department receiving the notification shall  
32 immediately notify the Secretary or such member of the permanent  
33 staff of the Department as the Secretary may designate.
- 34 (4) Any person who discharges medical waste in violation of this section  
35 or violates any order or rule of the Commission regarding the  
36 prohibitions concerning medical waste, or fails to perform any duty  
37 imposed regarding medical waste, and in the course thereof causes the  
38 death of, or injury to fish, animals, vegetation or other resources of the  
39 State, or otherwise causes a reduction in the quality of the waters of  
40 the State below the standards set by the Commission, or causes the  
41 incurring of costs by the State for the containment, removal, treatment,  
42 or dispersal, or disposal of such medical waste, shall be liable to pay  
43 the State damages. Such damages shall be an amount equal to the cost  
44 of all reasonable and necessary investigations made or caused to be

1           made by the State in connection with such violation and the sum of  
2           money necessary to restock such waters, replenish such resources,  
3           contain, remove, treat, or disperse, or dispose of such medical waste,  
4           or otherwise restore such waters and adjacent lands prior to the injury  
5           as such condition is determined by the Commission in conference with  
6           the Wildlife Resources Commission, the Marine Fisheries  
7           Commission, and any other State agencies having an interest affected  
8           by such violation (or by the designees of any such boards,  
9           commissions, and agencies).

10           (5) Upon receipt of the estimate of damages caused, the Department shall  
11           give written notice by registered or certified mail to the person  
12           responsible for the death, killing, or injury to fish, animals, vegetation,  
13           or other resources of the State, or any reduction in quality of the waters  
14           of the State, or the costs of the removal, treatment or disposal of such  
15           discharge, describing the damages and their causes with reasonable  
16           specificity, and shall request payment from such person. Damages  
17           shall become due and payable upon receipt of such notice. The  
18           Environmental Management Commission, if collection or other  
19           settlement of the damages is not obtained within a reasonable time,  
20           shall bring a civil action to recover such damages in the superior court  
21           in the county in which the discharge of waste or the damages to  
22           resources occurred, or in Wake County if the discharge or resource  
23           damage occurs in the open waters of the Atlantic Ocean. The  
24           assessment of damages is not a contested case under G.S. 150B-23.

25           (6) 'Person having control over medical waste' shall mean, but shall not be  
26           limited to, any person using, storing, or transporting medical waste  
27           immediately prior to a discharge of such waste into the waters of the  
28           State, and specifically shall include carriers and bailees of such  
29           medical waste."

30           Sec. 3. G.S. 76-40 reads as rewritten:

31           **"§ 76-40. Navigable waters; certain practices regulated.**

32           (a) It shall be unlawful for any person, firm or corporation to place, deposit,  
33           leave or cause to be placed, deposited or left, either temporarily or permanently, any  
34           trash, refuse, rubbish, garbage, debris, rubble, scrapped vehicle or equipment or other  
35           similar waste material in or upon any body of navigable water in this State; 'waste  
36           material' shall not include spoil materials lawfully dug or dredged from navigable  
37           waters and deposited in spoil areas designated by the Department of Natural Resources  
38           and Community Development; violation of this section shall constitute a misdemeanor,  
39           punishable by a fine of up to five hundred dollars (\$500.00) or imprisonment for up to  
40           six months, or both, in the discretion of the court.

41           (a1) It shall be unlawful for any person, firm or corporation to place, deposit,  
42           leave or cause to be placed, deposited, or left, either temporarily or permanently, any  
43           medical waste as defined in G.S. 130A-290(9a) in the open waters of the Atlantic Ocean  
44           over which the State has jurisdiction or the navigable waters of this State.

1           (1) Except as provided in subdivisions (2) and (3) a person who violates  
2 this section is guilty of a misdemeanor punishable by a fine of not  
3 more than two thousand five hundred dollars (\$2,500) per day of the  
4 violation.

5           (2) A person who willfully violates this subsection is guilty of a  
6 misdemeanor punishable by imprisonment not to exceed one year, a  
7 fine not to exceed ten thousand dollars (\$10,000) per day of the  
8 violation, or both in the discretion of the court.

9           (3) A person who violates this subsection and in so doing releases medical  
10 waste that creates a substantial risk of physical injury to any person  
11 who is not a participant in the offense is guilty of a Class I felony  
12 punishable by imprisonment not to exceed four years, a fine not to  
13 exceed fifty thousand dollars (\$50,000) per day of the violation, or  
14 both in the discretion of the court.

15       (b) No person, firm or corporation shall erect upon the floor of, or in or upon, any  
16 body of navigable water in this State, any sign or other structure, without having first  
17 secured a permit to do so from the appropriate federal agencies (which would include a  
18 permit from the State of North Carolina) or from the Department of Administration, or  
19 from the agency designated by the Department to issue such permit. Provided, however,  
20 this subsection shall not apply to commercial fishing nets, fish offal, ramps, boathouses,  
21 piers or duck blinds placed in navigable waters. Any person, firm or corporation  
22 erecting such sign or other structure without a proper permit or not in accordance with  
23 the specification of such permit shall be guilty of a misdemeanor and upon conviction  
24 shall be fined up to five hundred dollars (\$500.00) or imprisoned for up to six months,  
25 or both, in the discretion of the court. The State may immediately proceed to remove or  
26 cause to be removed such unlawful sign or structure after five days' notice to the owner  
27 or erector thereof and the cost of such removal by the State shall be payable by the  
28 person, firm or corporation who erected or owns the unlawful sign or other structure and  
29 the State may bring suit to recover the costs of the removal thereof.

30       (c) Whenever any structure lawfully erected upon the floor of, or in or upon, any  
31 body of navigable water in this State, is abandoned, such structure shall be removed by  
32 the owner thereof and the area cleaned up within 30 days of such abandonment; failure  
33 to comply with this section shall constitute a misdemeanor and upon conviction the  
34 owner of the abandoned structure shall be fined up to five hundred dollars (\$500.00) or  
35 imprisoned for not over six months, or both, in the discretion of the court. The State  
36 may, after 10 days' notice to the owner or erector thereof, remove the abandoned  
37 structure and have the area cleaned up and the cost of such removal and cleaning up by  
38 the State shall be payable by the owner or erector of the abandoned structure and the  
39 State may bring suit to recover the costs thereof.

40       (d) For purposes of this section, the term 'navigable waters' shall not include any  
41 waters within the boundaries of any reservoir, pond or impoundment used in connection  
42 with the generation of electricity, or of any reservoir project owned or operated by the  
43 United States.

1 (e) The provisions of this section, in the coastal waters of this State, shall be  
2 enforced by the Department of Natural Resources and Community Development. In the  
3 inland waters of the State, the provisions of this section shall be enforced by the  
4 Wildlife Resources Commission. The Department of Natural Resources and Community  
5 Development and the Wildlife Resources Commission shall cooperate with the  
6 ~~Department of Water and Air Resources~~ Environmental Management Commission in the  
7 enforcement of this section."

8 Sec. 4. G.S. 75A-10 is amended by adding a new section to read:

9 "(d) No person shall place, throw, deposit, or discharge or cause to be placed,  
10 thrown, deposited, or discharged on the waters of this State or into the inland lake  
11 waters of this State any medical waste as defined by G.S. 130A-290(9a) which renders  
12 the waters unsightly, noxious, or otherwise unwholesome so as to be detrimental to the  
13 public health or welfare or to the enjoyment and safety of the water for recreational  
14 purposes."

15 Sec. 5. G.S. 75A-18 is amended by adding a new subsection to read:

16 "(d) A person who:

- 17 (1) Violates G.S. 75A-10(d) is guilty of a misdemeanor punishable by a  
18 fine of not more than two thousand five hundred dollars (\$2,500) per  
19 day of the violation, except as provided in subdivisions (2) and (3);  
20 (2) Willfully violates G.S. 75A-10(d) is guilty of a misdemeanor  
21 punishable by imprisonment not to exceed one year, a fine not to  
22 exceed ten thousand dollars (\$10,000) per day of the violation, or both  
23 in the discretion of the court.  
24 (3) Violates G.S. 75A-10(d) and in so doing releases medical waste that  
25 creates a substantial risk of physical injury to any person who is not a  
26 participant in the offense is guilty of a Class I felony punishable by  
27 imprisonment not to exceed four years, a fine not to exceed fifty  
28 thousand dollars (\$50,000) per day of the violation, or both in the  
29 discretion of the court."

30 Sec. 6. G.S. 130A-290 reads as rewritten:

31 "**§ 130A-290. Definitions.**

32 The following definitions shall apply throughout this Article:

- 33 (1) 'Comprehensive hazardous waste treatment facility' means a  
34 facility designated as such by the Governor's Waste Management  
35 Board, meeting the following criteria:  
36 a. It is a commercial facility that accepts hazardous waste from the  
37 general public for treatment;  
38 b. It has the capacity and capability to treat and dispose of  
39 hazardous waste on at least an intrastate regional basis; and  
40 c. Its location will substantially facilitate treatment of hazardous  
41 waste for the State of North Carolina.  
42 (1a) 'Disposal' means the discharge, deposit, injection, dumping,  
43 spilling, leaking or placing of any solid waste into or on any land or  
44 water so that the solid waste or any constituent part of the solid

- 1 waste may enter the environment or be emitted into the air or  
2 discharged into any waters, including groundwaters.
- 3 (1b) 'Commercial' when applied to a hazardous waste facility,  
4 means a hazardous waste facility that accepts hazardous waste from  
5 the general public or from another person for a fee.
- 6 (2) 'Federal act' means the Resource Conservation and Recovery Act of  
7 1976, P.L. 94-580, as amended.
- 8 (3) 'Garbage' means all putrescible wastes, including animal offal and  
9 carcasses, and recognizable industrial by-products, but excluding  
10 sewage and human waste.
- 11 (4) 'Hazardous waste' means a solid waste, or combination of solid  
12 wastes, which because of its quantity, concentration or physical,  
13 chemical or infectious characteristics may:
- 14 a. Cause or significantly contribute to an increase in mortality or  
15 an increase in serious irreversible or incapacitating reversible  
16 illness; or
- 17 b. Pose a substantial present or potential hazard to human health  
18 or the environment when improperly treated, stored,  
19 transported, disposed of or otherwise managed.
- 20 (5) 'Hazardous waste facility' means a facility for the storage, collection,  
21 processing, treatment, recycling, recovery or disposal of hazardous  
22 waste.
- 23 (6) 'Hazardous waste generation' means the act or process of producing  
24 hazardous waste.
- 25 (7) 'Hazardous waste landfill facility' means any facility or any portion of  
26 a facility for disposal of hazardous waste on or in land in accordance  
27 with rules adopted under this Article.
- 28 (7a) 'Hazardous waste long-term storage facility' means a facility as  
29 defined in G.S. 143B-470.2(5).
- 30 (7b) 'Hazardous waste management program' means the program and  
31 activities within the Department pursuant to Part 2 of this Article, for  
32 hazardous waste management.
- 33 (8) 'Hazardous waste management' means the systematic control of the  
34 collection, source separation, storage, transportation, processing,  
35 treatment, recovery and disposal of hazardous wastes.
- 36 (8a) 'Hazardous waste treatment facility' means a facility as defined in G.S.  
37 143B-470.2(3).
- 38 (8b) 'Landfill' means a disposal facility or part of a disposal facility where  
39 waste is placed in or on land and which is not a land treatment facility,  
40 a surface impoundment, an injection well, a hazardous waste long-term  
41 storage facility or a surface storage facility.
- 42 (8c) 'Long-term retrievable storage' means storage in closed containers in  
43 facilities (either above or below ground) with (i) adequate lights, (ii)  
44 impervious cement floors, (iii) strong visible shelves or platforms, (iv)

1 passageways to allow inspection at any time, (v) adequate ventilation  
2 if underground or in closed buildings, (vi) protection from the weather,  
3 (vii) accessible to monitoring with signs on both individual containers  
4 and sections of storage facilities, and (viii) adequate safety and  
5 security precautions for facility personnel, inspectors and invited or  
6 permitted members of the community.

7 (9) 'Manifest' means the form used for identifying the quantity,  
8 composition and the origin, routing and destination of hazardous waste  
9 during its transportation from the point of generation to the point of  
10 disposal, treatment or storage.

11 (9a) 'Medical waste' means microbiological waste, pathological  
12 waste, blood products, sharps, used lab and patient-care materials or  
13 equipment, and used packaging for medical equipment or drugs, and  
14 includes but is not limited to such items as disposable gloves, slides,  
15 blood bags, syringe covers, antiseptic applicators, plastic drug  
16 bottles, and medical masks; discarded cultures and stocks of  
17 etiologic agents; human tissues, organs, body parts, secretions and  
18 excretions, blood and body fluids that are removed during surgery  
19 and autopsies; and the carcasses and body parts of all animals that  
20 died with known or suspected zoonotic disease.

21 (10) 'Natural resources' means all materials which have useful physical or  
22 chemical properties which exist, unused, in nature.

23 (11) 'Open dump' means a solid waste disposal site which is not  
24 a sanitary landfill.

25 (12) 'Person' means an individual, corporation, company, association,  
26 partnership, unit of local government, State agency, federal agency or  
27 other legal entity.

28 (13) 'Recycling' means the process by which recovered resources are  
29 transformed into new products so that the original products lose their  
30 identity.

31 (14) 'Refuse' means all nonputrescible waste.

32 (15) 'Resource recovery' means the process of obtaining material or energy  
33 resources from discarded solid waste which no longer has any useful  
34 life in its present form and preparing the solid waste for recycling.

35 (15a) 'Reuse' means a process by which resources are reused or rendered  
36 useable.

37 (16) 'Sanitary landfill' means a facility for disposal of solid waste on land  
38 in a sanitary manner in accordance with the rules concerning sanitary  
39 landfills adopted under this Article.

40 (16a) 'Septage' means solid waste that is a fluid mixture of untreated and  
41 partially treated sewage solids, liquids and sludge of human or  
42 domestic origin which is removed from a septic tank system.

43 (16b) 'Septage management firm' means a person engaged in the business  
44 of pumping, transporting, storing, treating or disposing septage. The



1 term does not include public or community sanitary sewage systems  
2 that treat or dispose septage.

3 (17) 'Sludge' means any solid, semisolid or liquid waste  
4 generated from a municipal, commercial, institutional or industrial  
5 wastewater treatment plant, water supply treatment plant or air  
6 pollution control facility, or any other waste having similar  
7 characteristics and effects.

8 (18) 'Solid waste' means any hazardous or nonhazardous garbage, medical  
9 waste, refuse or sludge from a waste treatment plant, water supply  
10 treatment plant or air pollution control facility, domestic sewage and  
11 sludges generated by the treatment thereof in sanitary sewage  
12 collection, treatment and disposal systems, and other material that is  
13 either discarded or is being accumulated, stored or treated prior to  
14 being discarded, or has served its original intended use and is generally  
15 discarded, including solid, liquid, semisolid or contained gaseous  
16 material resulting from industrial, institutional, commercial and  
17 agricultural operations, and from community activities. The term does  
18 not include:

- 19 a. Fecal waste from fowls and animals other than humans;  
20 b. Solid or dissolved material in:  
21 1. Domestic sewage and sludges generated by treatment  
22 thereof in sanitary sewage collection, treatment and  
23 disposal systems which are designed to discharge  
24 effluents to the surface waters;  
25 2. Irrigation return flows; and  
26 3. Wastewater discharges and the sludges incidental to and  
27 generated by treatment which are point sources subject  
28 to permits granted under Section 402 of the Federal  
29 Water Pollution Control Act, as amended (P.L. 92-500),  
30 and permits granted under G.S. 143-215.1 by the  
31 Environmental Management Commission. However, any  
32 sludges that meet the criteria for hazardous waste under  
33 the Federal Resource Conservation and Recovery Act  
34 (P.L. 94-580), as amended, shall also be a solid waste for  
35 the purposes of this Article;  
36 c. Oils and other liquid hydrocarbons controlled under Article  
37 21A of Chapter 143 of the General Statutes. However, any oils  
38 or other liquid hydrocarbons that meet the criteria for hazardous  
39 waste under the Federal Resource Conservation and Recovery  
40 Act (P.L. 94-580), as amended, shall also be a solid waste for  
41 the purposes of this Article;  
42 d. Any source, special nuclear or byproduct material as defined by  
43 the Atomic Energy Act of 1954, as amended (42 U.S.C. §  
44 2011).

1 e. Mining refuse covered by the North Carolina Mining Act, G.S.  
2 74-46 through 74-68 and regulated by the North Carolina  
3 Mining Commission (as defined under G.S. 143B-290).  
4 However, any specific mining waste that meets the criteria for  
5 hazardous waste under the Federal Resource Conservation and  
6 Recovery Act (P.L. 94-580), as amended, shall also be a solid  
7 waste for the purposes of this Article.

8 (19) 'Solid waste disposal site' means any place at which solid wastes are  
9 disposed of by incineration, sanitary landfill or any other method.

10 (20) 'Solid waste generation' means the act or process of producing solid  
11 waste.

12 (21) 'Solid waste management' means purposeful, systematic control of the  
13 generation, storage, collection, transport, separation, treatment,  
14 processing, recycling, recovery and disposal of solid waste.

15 (22) 'Solid waste management facility' means land, personnel and  
16 equipment used in the management of solid waste.

17 (23) 'Storage' means the containment of solid waste, either on a temporary  
18 basis or for a period of years, in a manner which does not constitute  
19 disposal.

20 (24) 'Treatment' means any method, technique or process, including  
21 neutralization, designed to change the physical, chemical or biological  
22 character or composition of any solid waste to neutralize the waste or  
23 to render the waste nonhazardous, safer for transport, amenable for  
24 recovery, amenable for storage or reduced in volume. The term  
25 includes any activity or processing designed to change the physical  
26 form or chemical composition of solid waste to render it  
27 nonhazardous.

28 (25) 'Unit of local government' means a county, city, town or incorporated  
29 village."

30 Sec. 7. G.S. 130A-294(a) reads as rewritten:

31 "(a) The Department is authorized and directed to engage in research, conduct  
32 investigations and surveys, make inspections and establish a statewide solid waste  
33 management program. Disposal of solid waste in or upon water in a manner that results  
34 in solid waste entering waters or lands of the State is unlawful. In establishing a  
35 program, the Department shall have authority to:

36 (1) Develop a comprehensive program for implementation of safe and  
37 sanitary practices for management of solid waste;

38 (2) Advise, consult, cooperate and contract with other State agencies, units  
39 of local government, the federal government, industries and  
40 individuals in the formulation and carrying out of a solid waste  
41 management program;

42 (3) Develop and adopt rules to establish standards for qualification as a  
43 waste 'recycling, reduction or resource recovering facility' or as waste  
44 'recycling, reduction or resource recovering equipment' for the

1 purpose of special tax classifications or treatment, and to certify as  
2 qualifying those applicants which meet the established standards. The  
3 standards shall be developed to qualify only those facilities and  
4 equipment exclusively used in the actual waste recycling, reduction or  
5 resource recovering process and shall exclude any incidental or  
6 supportive facilities and equipment;

- 7 (4) Develop a permit system governing the establishment and operation of  
8 solid waste management facilities. No permit shall be granted for a  
9 sanitary landfill, excluding demolition landfills as defined in the rules  
10 of the Commission for Health Services, without the Department  
11 receiving the prior approval for such permit from the county where it  
12 is to be located, except if it is to be located within the corporate limits  
13 or extraterritorial jurisdiction under Article 19 of Chapter 160A of the  
14 General Statutes, of a city as defined in G.S. 160A-1(2), from the city  
15 where it is to be located or whose jurisdiction it is in. No permit shall  
16 be granted for a solid waste management facility having discharges  
17 which are point sources until the Department has referred the complete  
18 plans and specifications to the Environmental Management  
19 Commission and has received advice in writing that the plans and  
20 specifications are approved in accordance with the provisions of G.S.  
21 143-215.1. In any case where the Department denies a permit for a  
22 solid waste management facility, it shall state in writing the reason for  
23 denial and shall also state its estimate of the changes in the applicant's  
24 proposed activities or plans which will be required for the applicant to  
25 obtain a permit.

26 The issuance of permits for sanitary landfills operated by local governments  
27 is exempt from the environmental impact statements required by  
28 Article 1 of Chapter 113A of the General Statutes, entitled the North  
29 Carolina Environmental Policy Act of 1971. All sanitary landfill  
30 permits issued to local governments prior to July 1, 1984, are hereby  
31 validated notwithstanding any failure to provide environmental impact  
32 statements pursuant to the North Carolina Environmental Policy Act of  
33 1971;".

34 Sec. 8. G.S. 130A-22(a) reads as rewritten:

35 "(a) The Secretary may impose an administrative penalty on a person who violates  
36 Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any  
37 order issued under Article 9. Each day of a continuing violation shall constitute a  
38 separate violation. The penalty shall not exceed five hundred-thousand dollars ~~(\$500.00)~~  
39 (\$5,000) per day in the case of a violation involving nonhazardous waste. ~~The penalty~~  
40 ~~shall not exceed ten thousand dollars (\$10,000) per day in the case of a violation involving~~  
41 ~~hazardous waste. The penalty shall not exceed twenty-five thousand dollars (\$25,000)~~  
42 per day in case of a first violation involving medical or hazardous waste as defined in  
43 G.S. 130A-290 and shall not exceed fifty thousand dollars (\$50,000) per day for a  
44 second or further violation involving medical waste."

1                   Sec. 9. This act shall become effective October 1, 1989, and shall apply to  
2 violations occurring on or after that date.