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SENATE BILL 130

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

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Finance Committee Substitute Adopted 4/20/89

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

1 a first violation of this section and an additional penalty of twenty-five
2 thousand dollars (\$25,000) may be assessed for each day during which
3 the violation continues. A civil penalty of not more than fifty thousand
4 dollars (\$50,000) may be assessed by the Commission for a second or
5 further violation and an additional penalty of fifty thousand dollars
6 (\$50,000) may be assessed for each day during which the violation
7 continues.

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

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

32 (c) Criminal Penalties.

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

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

41 (3) A person who willfully violates this section and in so doing releases
42 medical waste that creates a substantial risk of physical injury to any
43 person who is not a participant in the offense is guilty of a Class I
44 felony punishable by imprisonment not to exceed four years, a fine not

1 to exceed fifty thousand dollars (\$50,000) per day of the violation, or
2 both in the discretion of the court.

3 (d) Restoration.

4 (1) Any person having control over medical waste discharged in violation
5 of this section shall immediately undertake to collect, remove, and
6 dispose of the medical waste discharged and to restore the area
7 affected by the discharge as nearly as may be to the condition existing
8 prior to the discharge. If it is not feasible to collect and remove the
9 medical waste, the person responsible shall take all practicable actions
10 and measures to otherwise contain, treat, and disperse the medical
11 waste; but no chemical or other dispersants or treatment materials shall
12 be used for such purposes unless they shall have been previously
13 approved by the Department.

14 (2) Notwithstanding the requirements of subdivision (1), the Department
15 is authorized and empowered to utilize any staff, equipment and
16 materials under its control or supplied by other cooperating State or
17 local agencies, and to contract with any agent or contractor that it
18 deems appropriate to take such actions as are necessary, to collect,
19 investigate, perform surveillance over, remove, contain, treat or
20 disperse or dispose of medical waste discharged into the waters of the
21 State in violation of this section, and to perform any necessary
22 restoration. The Secretary shall keep a record of all expenses incurred
23 in carrying out any project or activity authorized under this section,
24 including actual expenses incurred for services performed by the
25 State's personnel and for use of the State's equipment and material.

26 (3) Every person owning or having control over medical waste discharged
27 in violation of, or in circumstances likely to constitute a violation of
28 this section, upon discovery that the discharge of medical waste has
29 occurred, shall immediately notify the Department, or any of its agents
30 or employees, of the nature, location and time of the discharge and of
31 the measures which are being taken or are proposed to be taken to
32 contain, remove, treat and dispose of the medical waste. The agent or
33 employee of the department receiving the notification shall
34 immediately notify the Secretary or such member of the permanent
35 staff of the Department as the Secretary may designate.

36 (4) Any person who discharges medical waste in violation of this section
37 or violates any order or rule of the Commission regarding the
38 prohibitions concerning medical waste, or fails to perform any duty
39 imposed regarding medical waste, and in the course thereof causes the
40 death of, or injury to fish, animals, vegetation or other resources of the
41 State, or otherwise causes a reduction in the quality of the waters of
42 the State below the standards set by the Commission, or causes the
43 incurring of costs by the State for the containment, removal, treatment,
44 or dispersal, or disposal of such medical waste, shall be liable to pay

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

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

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

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

33 **"§ 76-40. Navigable waters; certain practices regulated.**

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

43 (a1) It shall be unlawful for any person, firm or corporation to place, deposit,
44 leave or cause to be placed, deposited, or left, either temporarily or permanently, any

1 medical waste as defined in G.S. 130A-290(9a) in the open waters of the Atlantic Ocean
2 over which the State has jurisdiction or the navigable waters of this State.

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

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

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

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

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

42 (d) For purposes of this section, the term 'navigable waters' shall not include any
43 waters within the boundaries of any reservoir, pond or impoundment used in connection

1 with the generation of electricity, or of any reservoir project owned or operated by the
2 United States.

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

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

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

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

18 "(d) A person who:

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

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

34 "**§ 130A-290. Definitions.**

35 The following definitions shall apply throughout this Article:

- 36 (1) 'Comprehensive hazardous waste treatment facility' means a
37 facility designated as such by the Governor's Waste Management
38 Board, meeting the following criteria:
39 a. It is a commercial facility that accepts hazardous waste from the
40 general public for treatment;
41 b. It has the capacity and capability to treat and dispose of
42 hazardous waste on at least an intrastate regional basis; and
43 c. Its location will substantially facilitate treatment of hazardous
44 waste for the State of North Carolina.

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

- 1 (8c) 'Long-term retrievable storage' means storage in closed containers in
2 facilities (either above or below ground) with (i) adequate lights, (ii)
3 impervious cement floors, (iii) strong visible shelves or platforms, (iv)
4 passageways to allow inspection at any time, (v) adequate ventilation
5 if underground or in closed buildings, (vi) protection from the weather,
6 (vii) accessible to monitoring with signs on both individual containers
7 and sections of storage facilities, and (viii) adequate safety and
8 security precautions for facility personnel, inspectors and invited or
9 permitted members of the community.
- 10 (9) 'Manifest' means the form used for identifying the quantity,
11 composition and the origin, routing and destination of hazardous waste
12 during its transportation from the point of generation to the point of
13 disposal, treatment or storage.
- 14 (9a) 'Medical waste' means microbiological waste, pathological
15 waste, blood products, sharps, used lab and patient-care materials or
16 equipment, and used packaging for medical equipment or drugs, and
17 includes but is not limited to such items as disposable gloves, slides,
18 blood bags, syringe covers, antiseptic applicators, plastic drug
19 bottles, and medical masks; discarded cultures and stocks of
20 etiologic agents; human tissues, organs, body parts, secretions and
21 excretions, blood and body fluids that are removed during surgery
22 and autopsies; and the carcasses and body parts of all animals that
23 died with known or suspected zoonotic disease. The term 'medical
24 waste' does not include those items excluded from the definition of
25 'solid waste' in G.S. 130A-290(18)a-e.
- 26 (10) 'Natural resources' means all materials which have useful physical or
27 chemical properties which exist, unused, in nature.
- 28 (11) 'Open dump' means a solid waste disposal site which is not
29 a sanitary landfill.
- 30 (12) 'Person' means an individual, corporation, company, association,
31 partnership, unit of local government, State agency, federal agency or
32 other legal entity.
- 33 (13) 'Recycling' means the process by which recovered resources are
34 transformed into new products so that the original products lose their
35 identity.
- 36 (14) 'Refuse' means all nonputrescible waste.
- 37 (15) 'Resource recovery' means the process of obtaining material or energy
38 resources from discarded solid waste which no longer has any useful
39 life in its present form and preparing the solid waste for recycling.
- 40 (15a) 'Reuse' means a process by which resources are reused or rendered
41 useable.
- 42 (16) 'Sanitary landfill' means a facility for disposal of solid waste on land
43 in a sanitary manner in accordance with the rules concerning sanitary
44 landfills adopted under this Article.

- 1 (16a) 'Septage' means solid waste that is a fluid mixture of untreated and
2 partially treated sewage solids, liquids and sludge of human or
3 domestic origin which is removed from a septic tank system.
- 4 (16b) 'Septage management firm' means a person engaged in the business
5 of pumping, transporting, storing, treating or disposing septage. The
6 term does not include public or community sanitary sewage systems
7 that treat or dispose septage.
- 8 (17) 'Sludge' means any solid, semisolid or liquid waste
9 generated from a municipal, commercial, institutional or industrial
10 wastewater treatment plant, water supply treatment plant or air
11 pollution control facility, or any other waste having similar
12 characteristics and effects.
- 13 (18) 'Solid waste' means any hazardous or nonhazardous garbage, medical
14 waste, refuse or sludge from a waste treatment plant, water supply
15 treatment plant or air pollution control facility, domestic sewage and
16 sludges generated by the treatment thereof in sanitary sewage
17 collection, treatment and disposal systems, and other material that is
18 either discarded or is being accumulated, stored or treated prior to
19 being discarded, or has served its original intended use and is generally
20 discarded, including solid, liquid, semisolid or contained gaseous
21 material resulting from industrial, institutional, commercial and
22 agricultural operations, and from community activities. The term does
23 not include:
- 24 a. Fecal waste from fowls and animals other than humans;
- 25 b. Solid or dissolved material in:
- 26 1. Domestic sewage and sludges generated by treatment
27 thereof in sanitary sewage collection, treatment and
28 disposal systems which are designed to discharge
29 effluents to the surface waters;
- 30 2. Irrigation return flows; and
- 31 3. Wastewater discharges and the sludges incidental to and
32 generated by treatment which are point sources subject
33 to permits granted under Section 402 of the Federal
34 Water Pollution Control Act, as amended (P.L. 92-500),
35 and permits granted under G.S. 143-215.1 by the
36 Environmental Management Commission. However, any
37 sludges that meet the criteria for hazardous waste under
38 the Federal Resource Conservation and Recovery Act
39 (P.L. 94-580), as amended, shall also be a solid waste for
40 the purposes of this Article;
- 41 c. Oils and other liquid hydrocarbons controlled under Article
42 21A of Chapter 143 of the General Statutes. However, any oils
43 or other liquid hydrocarbons that meet the criteria for hazardous
44 waste under the Federal Resource Conservation and Recovery

- 1 Act (P.L. 94-580), as amended, shall also be a solid waste for
2 the purposes of this Article;
- 3 d. Any source, special nuclear or byproduct material as defined by
4 the Atomic Energy Act of 1954, as amended (42 U.S.C. §
5 2011).
- 6 e. Mining refuse covered by the North Carolina Mining Act, G.S.
7 74-46 through 74-68 and regulated by the North Carolina
8 Mining Commission (as defined under G.S. 143B-290).
9 However, any specific mining waste that meets the criteria for
10 hazardous waste under the Federal Resource Conservation and
11 Recovery Act (P.L. 94-580), as amended, shall also be a solid
12 waste for the purposes of this Article.
- 13 (19) 'Solid waste disposal site' means any place at which solid wastes are
14 disposed of by incineration, sanitary landfill or any other method.
- 15 (20) 'Solid waste generation' means the act or process of producing solid
16 waste.
- 17 (21) 'Solid waste management' means purposeful, systematic control of the
18 generation, storage, collection, transport, separation, treatment,
19 processing, recycling, recovery and disposal of solid waste.
- 20 (22) 'Solid waste management facility' means land, personnel and
21 equipment used in the management of solid waste.
- 22 (23) 'Storage' means the containment of solid waste, either on a temporary
23 basis or for a period of years, in a manner which does not constitute
24 disposal.
- 25 (24) 'Treatment' means any method, technique or process, including
26 neutralization, designed to change the physical, chemical or biological
27 character or composition of any solid waste to neutralize the waste or
28 to render the waste nonhazardous, safer for transport, amenable for
29 recovery, amenable for storage or reduced in volume. The term
30 includes any activity or processing designed to change the physical
31 form or chemical composition of solid waste to render it
32 nonhazardous.
- 33 (25) 'Unit of local government' means a county, city, town or incorporated
34 village."

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

36 "(a) The Department is authorized and directed to engage in research, conduct
37 investigations and surveys, make inspections and establish a statewide solid waste
38 management program. Disposal of solid waste in or upon water in a manner that results
39 in solid waste entering waters or lands of the State is unlawful. Nothing herein shall be
40 interpreted to affect disposal of solid waste in a permitted landfill. In establishing a
41 program, the Department shall have authority to:

- 42 (1) Develop a comprehensive program for implementation of safe and
43 sanitary practices for management of solid waste;

- 1 (2) Advise, consult, cooperate and contract with other State agencies, units
2 of local government, the federal government, industries and
3 individuals in the formulation and carrying out of a solid waste
4 management program;
- 5 (3) Develop and adopt rules to establish standards for qualification as a
6 waste 'recycling, reduction or resource recovering facility' or as waste
7 'recycling, reduction or resource recovering equipment' for the
8 purpose of special tax classifications or treatment, and to certify as
9 qualifying those applicants which meet the established standards. The
10 standards shall be developed to qualify only those facilities and
11 equipment exclusively used in the actual waste recycling, reduction or
12 resource recovering process and shall exclude any incidental or
13 supportive facilities and equipment;
- 14 (4) Develop a permit system governing the establishment and operation of
15 solid waste management facilities. No permit shall be granted for a
16 sanitary landfill, excluding demolition landfills as defined in the rules
17 of the Commission for Health Services, without the Department
18 receiving the prior approval for such permit from the county where it
19 is to be located, except if it is to be located within the corporate limits
20 or extraterritorial jurisdiction under Article 19 of Chapter 160A of the
21 General Statutes, of a city as defined in G.S. 160A-1(2), from the city
22 where it is to be located or whose jurisdiction it is in. No permit shall
23 be granted for a solid waste management facility having discharges
24 which are point sources until the Department has referred the complete
25 plans and specifications to the Environmental Management
26 Commission and has received advice in writing that the plans and
27 specifications are approved in accordance with the provisions of G.S.
28 143-215.1. In any case where the Department denies a permit for a
29 solid waste management facility, it shall state in writing the reason for
30 denial and shall also state its estimate of the changes in the applicant's
31 proposed activities or plans which will be required for the applicant to
32 obtain a permit.

33 The issuance of permits for sanitary landfills operated by local
34 governments is exempt from the environmental impact statements
35 required by Article 1 of Chapter 113A of the General Statutes, entitled
36 the North Carolina Environmental Policy Act of 1971. All sanitary
37 landfill permits issued to local governments prior to July 1, 1984, are
38 hereby validated notwithstanding any failure to provide environmental
39 impact statements pursuant to the North Carolina Environmental
40 Policy Act of 1971;".

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

42 "(a) The Secretary may impose an administrative penalty on a person who violates
43 Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any
44 order issued under Article 9. Each day of a continuing violation shall constitute a

1 separate violation. The penalty shall not exceed five ~~hundred thousand~~ dollars ~~(\$500.00)~~
2 ~~(\$5,000)~~ per day in the case of a violation involving nonhazardous waste. ~~The penalty~~
3 ~~shall not exceed ten thousand dollars (\$10,000) per day in the case of a violation involving~~
4 ~~hazardous waste.~~ The penalty shall not exceed twenty-five thousand dollars (\$25,000)
5 per day in case of a first violation involving hazardous waste as defined in G.S. 130A-
6 290 or involving the disposal of medical waste as defined in G.S. 130A-290 in or upon
7 water in a manner that results in medical waste entering waters or lands of the State; and
8 shall not exceed fifty thousand dollars (\$50,000) per day for a second or further
9 violation involving the disposal of medical waste as defined in G.S. 130A-290 in or
10 upon water in a manner that results in medical waste entering waters or lands of the
11 State."

12 Sec. 9. Neither the definition of "medical waste" nor any other provision of
13 this act shall be construed as evidence of legislative intent to require or influence the
14 Commission for Health Services to adopt identical or similar rules or standards for the
15 treatment, storage, disposal, or other management of any or all items included within the
16 definition of "medical waste". By way of illustration, and without limitation, it is not
17 the legislative intent that such rules and standards for infectious and noninfectious
18 medical wastes should be identical or similar.

19 Sec. 10. This act shall become effective October 1, 1989, and shall apply to
20 violations occurring on or after that date.