

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 130

Short Title: Ocean Dumping Prohibited.

(Public)

Sponsors: Senators Basnight; and Rauch.

Referred to: Marine Resources.

February 7, 1989

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DUMPING OF INFECTIOUS 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 spillage, leakage, pumping, placement, emptying or dumping, and the discharge of waste into any unified sewerage system or arrangement for sewage disposal, which system or arrangement in turn discharges the waste into the waters of the State."

Sec. 2. G.S. 143-213(18) reads as rewritten:

"(18) 'Waste' shall mean and include the following:

- a. 'Sewage,' which shall mean water-carried human waste discharged, transmitted, and collected from residences, buildings, industrial establishments, or other places into a unified sewerage system or an arrangement for sewage disposal or a group of such sewerage arrangements or systems, together with such ground, surface, storm, or other water as may be present.
- b. 'Industrial waste' shall mean any liquid, solid, gaseous, or other waste substance or a combination thereof resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource.

- 1 c. 'Other waste' means sawdust, shavings, lime, refuse, offal, oil, tar
2 chemicals, and all other substances, except industrial waste and
3 sewage, which may be discharged into or placed in such proximity to
4 the water that drainage therefrom may reach the water.
- 5 d. 'Toxic waste' means that waste, or combinations of wastes, including
6 disease-causing agents, which after discharge and upon exposure,
7 ingestion, inhalation, or assimilation into any organism, either directly
8 from the environment or indirectly by ingestion through food chains,
9 will cause death, disease, behavioral abnormalities, cancer, genetic
10 mutations, physiological malfunctions (including malfunctions in
11 reproduction) or physical deformities, in such organisms or their
12 offspring.
- 13 e. 'Infectious waste' means a solid waste that was or is capable of
14 producing an infectious disease. The types of waste designated as
15 infectious are: microbiological waste, pathological waste, blood
16 products, sharps, and medical waste.
- 17 f. 'Medical waste' means used lab and patient-care materials or
18 equipment, packaging for medical equipment or drugs, and includes
19 such items as disposable gloves, slides, blood bags, syringe covers,
20 antiseptic applicators, plastic drug bottles, and medical masks.
- 21 g. 'Microbiological waste' means and includes cultures and
22 stocks of etiologic agents. The term includes cultures of specimens
23 from medical, pathological, pharmaceutical, research, commercial,
24 and industrial laboratories.
- 25 h. 'Pathological waste' means and includes human tissues,
26 organs, body parts, secretions and excretions, blood and body fluids
27 that are removed during surgery and autopsies; and the carcasses and
28 body parts of all animals that were exposed to pathogens in research,
29 that were used in the production of biologicals or in the **in vivo**
30 testing of pharmaceuticals, or that died of known or suspected
31 infectious disease.
- 32 i. 'Blood products' means all bulk blood and blood products.
- 33 j. 'Sharps' means and includes needles, syringes, and
34 scalpel blades."

35 Sec. 3. Article 21 of Chapter 143 is amended by adding a new section to
36 read:

37 **"§ 143-214.2A. Prohibited disposal of infectious waste.**

38 (a) Violation. It is unlawful for any person to engage in conduct which causes or
39 results in the dumping, discharging, or disposal of any infectious waste in the open
40 waters of the Atlantic Ocean over which the State has jurisdiction or the waters of the
41 State.

42 (b) Civil Penalty.

43 (1) A civil penalty of not more than twenty-five thousand dollars
44 (\$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. No penalty shall be assessed until the person alleged to be
8 in violation has been notified of the violation.

9 (2) The Commission, or its delegate, shall determine the amount of the
10 civil penalty proposed to be assessed under this section and shall make
11 written demand for payment upon the person responsible for the
12 violation, and shall set forth in detail the violation for which the
13 penalty has been invoked. The notice shall set forth the opportunity
14 for a contested case proceeding under Chapter 150B. The proposed
15 penalty set forth in the notice issued by the Commission, or its
16 delegate, shall become the final civil penalty unless it is increased or
17 decreased by the Commission in the final agency decision of a
18 contested case proceeding requested pursuant to Chapter 150B. If
19 payment is not received or equitable settlement reached within 30 days
20 after demand for payment is made, the Secretary shall refer the matter
21 to the Attorney General for the institution of a civil action in the name
22 of the State in the superior court of the county in which the discharge
23 of waste or the damages to resources occurred or in Wake County if
24 the discharge or resource damage occurs in the open waters of the
25 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 violates
34 this section is guilty of a misdemeanor punishable by a fine of not
35 more than two thousand five hundred dollars (\$2,500) per day of the
36 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 violates this section and in so doing releases infectious
42 waste that creates a substantial risk of physical injury to any person
43 who is not a participant in the offense is guilty of a Class I felony
44 punishable by imprisonment not to exceed four years, a fine not to

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

3 (d) Restoration of Waters.

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

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

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

38 (4) Any person who discharges infectious waste in violation of this section
39 or violates any order or rule of the Commission regarding the
40 prohibitions concerning infectious waste, or fails to perform any duty
41 imposed regarding infectious waste, and in the course thereof causes
42 the death of, or injury to fish, animals, vegetation or other resources of
43 the State, or otherwise causes a reduction in the quality of the waters
44 of the State below the standards set by the Commission, or causes the

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

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

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

34 Sec. 4. G.S. 76-40 reads as rewritten:

35 **"§ 76-40. Navigable waters; certain practices regulated.**

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

1 (a1) It shall be unlawful for any person, firm or corporation to place, deposit,
2 leave or cause to be placed, deposited, or left, either temporarily or permanently, any
3 infectious waste as defined in G.S. 143-213(18) in the open waters of the Atlantic
4 Ocean over which the State has jurisdiction or the navigable waters of this State.

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

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

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

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

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

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

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

12 Sec. 5. G.S. 75A-10 is amended by adding a new section to read:

13 "(d) No person shall place, throw, deposit, or discharge or cause to be placed,
14 thrown, deposited, or discharged on the waters of this State or into the inland lake
15 waters of this State any infectious waste as defined by G.S. 143-213(18)e. which
16 renders the waters unsightly, noxious, or otherwise unwholesome so as to be detrimental
17 to the public health or welfare or to the enjoyment and safety of the water for
18 recreational purposes."

19 Sec. 6. G.S. 75A-18 is amended by adding a new subsection to read:

20 "(d) A person who:

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

34 Sec. 7. G.S. 130A-290 reads as rewritten:

35 "**§ 130A-290. Definitions.**

36 The following definitions shall apply throughout this Article:

- 37 ~~(1)~~ (1) 'Blood products' means all bulk blood and blood products.
38 ~~(1a)~~ (1a) 'Comprehensive hazardous waste treatment facility' means a
39 facility designated as such by the Governor's Waste Management
40 Board, meeting the following criteria:
41 a. It is a commercial facility that accepts hazardous waste from the
42 general public for treatment;
43 b. It has the capacity and capability to treat and dispose of
44 hazardous waste on at least an intrastate regional basis; and

- 1 c. Its location will substantially facilitate treatment of hazardous
2 waste for the State of North Carolina.
- 3 ~~(1a)~~ (1b) 'Disposal' means the discharge, deposit, injection, dumping,
4 spilling, leaking or placing of any solid waste into or on any land or
5 water so that the solid waste or any constituent part of the solid
6 waste may enter the environment or be emitted into the air or
7 discharged into any waters, including groundwaters.
- 8 ~~(b)~~ (1c) 'Commercial' when applied to a hazardous waste facility,
9 means a hazardous waste facility that accepts hazardous waste from
10 the general public or from another person for a fee.
- 11 (2) 'Federal act' means the Resource Conservation and Recovery Act of
12 1976, P.L. 94-580, as amended.
- 13 (3) 'Garbage' means all putrescible wastes, including animal offal and
14 carcasses, and recognizable industrial by-products, but excluding
15 sewage and human waste.
- 16 (4) 'Hazardous waste' means a solid waste, or combination of solid
17 wastes, which because of its quantity, concentration or physical,
18 chemical or infectious characteristics may:
- 19 a. Cause or significantly contribute to an increase in mortality or
20 an increase in serious irreversible or incapacitating reversible
21 illness; or
- 22 b. Pose a substantial present or potential hazard to human health
23 or the environment when improperly treated, stored,
24 transported, disposed of or otherwise managed.
- 25 (5) 'Hazardous waste facility' means a facility for the storage, collection,
26 processing, treatment, recycling, recovery or disposal of hazardous
27 waste.
- 28 (6) 'Hazardous waste generation' means the act or process of producing
29 hazardous waste.
- 30 (7) 'Hazardous waste landfill facility' means any facility or any portion of
31 a facility for disposal of hazardous waste on or in land in accordance
32 with rules adopted under this Article.
- 33 (7a) 'Hazardous waste long-term storage facility' means a facility as
34 defined in G.S. 143B-470.2(5).
- 35 (7b) 'Hazardous waste management program' means the program and
36 activities within the Department pursuant to Part 2 of this Article, for
37 hazardous waste management.
- 38 (8) 'Hazardous waste management' means the systematic control of the
39 collection, source separation, storage, transportation, processing,
40 treatment, recovery and disposal of hazardous wastes.
- 41 (8a) 'Hazardous waste treatment facility' means a facility as defined in G.S.
42 143B-470.2(3).
- 43 (8a1) 'Infectious waste' means a solid waste capable of producing
44 an infectious disease. The types of waste designated as infectious

- 1 are: microbiological waste, pathological waste, blood products,
2 sharps, and medical waste.
- 3 (8b) 'Landfill' means a disposal facility or part of a disposal facility where
4 waste is placed in or on land and which is not a land treatment facility,
5 a surface impoundment, an injection well, a hazardous waste long-term
6 storage facility or a surface storage facility.
- 7 (8c) 'Long-term retrievable storage' means storage in closed containers in
8 facilities (either above or below ground) with (i) adequate lights, (ii)
9 impervious cement floors, (iii) strong visible shelves or platforms, (iv)
10 passageways to allow inspection at any time, (v) adequate ventilation
11 if underground or in closed buildings, (vi) protection from the weather,
12 (vii) accessible to monitoring with signs on both individual containers
13 and sections of storage facilities, and (viii) adequate safety and
14 security precautions for facility personnel, inspectors and invited or
15 permitted members of the community.
- 16 (9) 'Manifest' means the form used for identifying the quantity,
17 composition and the origin, routing and destination of hazardous waste
18 during its transportation from the point of generation to the point of
19 disposal, treatment or storage.
- 20 (9a) 'Medical waste' means used lab and patient-care materials or
21 equipment, packaging for medical equipment or drugs, and includes
22 such items as disposable gloves, slides, blood bags, syringe covers,
23 antiseptic applicators, plastic drug bottles, and medical masks.
- 24 (9b) 'Microbiological waste' means and includes cultures and stocks of
25 etiologic agents. The term includes cultures of specimens from
26 medical, pathological, pharmaceutical, research, commercial, and
27 industrial laboratories.
- 28 (10) 'Natural resources' means all materials which have useful physical or
29 chemical properties which exist, unused, in nature.
- 30 (11) 'Open dump' means a solid waste disposal site which is not
31 a sanitary landfill.
- 32 (11a) 'Pathological waste' means and includes human tissues, organs,
33 body parts, secretions and excretions, blood and body fluids that
34 are removed during surgery and autopsies; and the carcasses and
35 body parts of all animals that were exposed to pathogens in
36 research, were used in the production of biologicals or in the **in**
37 **vivo** testing of pharmaceuticals, or that died of know or suspected
38 infectious disease.
- 39 (12) 'Person' means an individual, corporation, company, association,
40 partnership, unit of local government, State agency, federal agency
41 or other legal entity.
- 42 (13) 'Recycling' means the process by which recovered resources are
43 transformed into new products so that the original products lose
44 their identity.

- 1 (14) 'Refuse' means all nonputrescible waste.
- 2 (15) 'Resource recovery' means the process of obtaining material or
- 3 energy resources from discarded solid waste which no longer has
- 4 any useful life in its present form and preparing the solid waste for
- 5 recycling.
- 6 (15a) 'Reuse' means a process by which resources are reused or rendered
- 7 useable.
- 8 (16) 'Sanitary landfill' means a facility for disposal of solid waste on
- 9 land in a sanitary manner in accordance with the rules concerning
- 10 sanitary landfills adopted under this Article.
- 11 (16a) 'Septage' means solid waste that is a fluid mixture of untreated and
- 12 partially treated sewage solids, liquids and sludge of human or
- 13 domestic origin which is removed from a septic tank system.
- 14 (16b) 'Septage management firm' means a person engaged in the
- 15 business of pumping, transporting, storing, treating or disposing
- 16 septage. The term does not include public or community sanitary
- 17 sewage systems that treat or dispose septage.
- 18 (16c) 'Sharps' means and includes needles, syringes, and scalpel blades.
- 19 (17) 'Sludge' means any solid, semisolid or liquid waste
- 20 generated from a municipal, commercial, institutional or industrial
- 21 wastewater treatment plant, water supply treatment plant or air
- 22 pollution control facility, or any other waste having similar
- 23 characteristics and effects.
- 24 (18) 'Solid waste' means any hazardous or nonhazardous garbage,
- 25 refuse or sludge from a waste treatment plant, water supply
- 26 treatment plant or air pollution control facility, domestic sewage
- 27 and sludges generated by the treatment thereof in sanitary sewage
- 28 collection, treatment and disposal systems, and other material that
- 29 is either discarded or is being accumulated, stored or treated prior
- 30 to being discarded, or has served its original intended use and is
- 31 generally discarded, including solid, liquid, semisolid or contained
- 32 gaseous material resulting from industrial, institutional,
- 33 commercial and agricultural operations, and from community
- 34 activities. The term includes infectious waste. The term does not
- 35 include:
- 36 a. Fecal waste from fowls and animals other than humans;
- 37 b. Solid or dissolved material in:
- 38 1. Domestic sewage and sludges generated by treatment
- 39 thereof in sanitary sewage collection, treatment and
- 40 disposal systems which are designed to discharge
- 41 effluents to the surface waters;
- 42 2. Irrigation return flows; and
- 43 3. Wastewater discharges and the sludges incidental to and
- 44 generated by treatment which are point sources subject

- 1 to permits granted under Section 402 of the Federal
2 Water Pollution Control Act, as amended (P.L. 92-500),
3 and permits granted under G.S. 143-215.1 by the
4 Environmental Management Commission. However, any
5 sludges that meet the criteria for hazardous waste under
6 the Federal Resource Conservation and Recovery Act
7 (P.L. 94-580), as amended, shall also be a solid waste for
8 the purposes of this Article;
- 9 c. Oils and other liquid hydrocarbons controlled under Article
10 21A of Chapter 143 of the General Statutes. However, any oils
11 or other liquid hydrocarbons that meet the criteria for hazardous
12 waste under the Federal Resource Conservation and Recovery
13 Act (P.L. 94-580), as amended, shall also be a solid waste for
14 the purposes of this Article;
- 15 d. Any source, special nuclear or byproduct material as defined by
16 the Atomic Energy Act of 1954, as amended (42 U.S.C. §
17 2011).
- 18 e. Mining refuse covered by the North Carolina Mining Act, G.S.
19 74-46 through 74-68 and regulated by the North Carolina
20 Mining Commission (as defined under G.S. 143B-290).
21 However, any specific mining waste that meets the criteria for
22 hazardous waste under the Federal Resource Conservation and
23 Recovery Act (P.L. 94-580), as amended, shall also be a solid
24 waste for the purposes of this Article.
- 25 (19) 'Solid waste disposal site' means any place at which solid wastes
26 are disposed of by incineration, sanitary landfill or any other
27 method.
- 28 (20) 'Solid waste generation' means the act or process of producing
29 solid waste.
- 30 (21) 'Solid waste management' means purposeful, systematic control of
31 the generation, storage, collection, transport, separation, treatment,
32 processing, recycling, recovery and disposal of solid waste.
- 33 (22) 'Solid waste management facility' means land, personnel and
34 equipment used in the management of solid waste.
- 35 (23) 'Storage' means the containment of solid waste, either on a
36 temporary basis or for a period of years, in a manner which does
37 not constitute disposal.
- 38 (24) 'Treatment' means any method, technique or process, including
39 neutralization, designed to change the physical, chemical or
40 biological character or composition of any solid waste to neutralize
41 the waste or to render the waste nonhazardous, safer for transport,
42 amenable for recovery, amenable for storage or reduced in volume.
43 The term includes any activity or processing designed to change

1 the physical form or chemical composition of solid waste to render
2 it nonhazardous.

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

5 Sec. 8. G.S. 130A-294(a) reads as rewritten:

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

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

13 (2) Advise, consult, cooperate and contract with other State agencies,
14 units of local government, the federal government, industries and
15 individuals in the formulation and carrying out of a solid waste
16 management program;

17 (3) Develop and adopt rules to establish standards for qualification as a
18 waste 'recycling, reduction or resource recovering facility' or as
19 waste 'recycling, reduction or resource recovering equipment' for
20 the purpose of special tax classifications or treatment, and to certify
21 as qualifying those applicants which meet the established
22 standards. The standards shall be developed to qualify only those
23 facilities and equipment exclusively used in the actual waste
24 recycling, reduction or resource recovering process and shall
25 exclude any incidental or supportive facilities and equipment;

26 (4) Develop a permit system governing the establishment and
27 operation of solid waste management facilities. No permit shall be
28 granted for a sanitary landfill, excluding demolition landfills as
29 defined in the rules of the Commission for Health Services, without
30 the Department receiving the prior approval for such permit from
31 the county where it is to be located, except if it is to be located
32 within the corporate limits or extraterritorial jurisdiction under
33 Article 19 of Chapter 160A of the General Statutes, of a city as
34 defined in G.S. 160A-1(2), from the city where it is to be located or
35 whose jurisdiction it is in. No permit shall be granted for a solid
36 waste management facility having discharges which are point
37 sources until the Department has referred the complete plans and
38 specifications to the Environmental Management Commission and
39 has received advice in writing that the plans and specifications are
40 approved in accordance with the provisions of G.S. 143-215.1. In
41 any case where the Department denies a permit for a solid waste
42 management facility, it shall state in writing the reason for denial
43 and shall also state its estimate of the changes in the applicant's

1 proposed activities or plans which will be required for the applicant
2 to obtain a permit.

3 The issuance of permits for sanitary landfills operated by local
4 governments is exempt from the environmental impact statements
5 required by Article 1 of Chapter 113A of the General Statutes, entitled
6 the North Carolina Environmental Policy Act of 1971. All sanitary
7 landfill permits issued to local governments prior to July 1, 1984, are
8 hereby validated notwithstanding any failure to provide environmental
9 impact statements pursuant to the North Carolina Environmental
10 Policy Act of 1971;".

11 Sec. 9. G.S. 130A-22(a) reads as rewritten:

12 "(a) The Secretary may impose an administrative penalty on a person who violates
13 Article 9 of this Chapter, rules adopted by the Commission pursuant to Article 9, or any
14 order issued under Article 9. Each day of a continuing violation shall constitute a
15 separate violation. The penalty shall not exceed five hundred dollars (\$500.00) per day
16 in the case of a violation involving nonhazardous waste. The penalty shall not exceed
17 ten thousand dollars (\$10,000) per day in the case of a violation involving hazardous
18 waste. The penalty shall not exceed twenty-five thousand dollars (\$25,000) per day in
19 case of a first violation involving infectious waste as defined in G.S. 143-213(18) and
20 shall not exceed fifty thousand dollars (\$50,000) per day for a second or further
21 violation involving infectious waste."

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