WHEREAS, the State of South Carolina is responsible for promoting and preserving the environment of the State and for protecting the public health and welfare; and

WHEREAS, preservation of the environment and protection of the public health require prevention or abatement of nuisances caused by uncontrolled disposal of hazardous waste; and

WHEREAS, for the foreseeable future, generation of hazardous waste is a necessary consequence of industrial activity and the use of consumer goods; and

WHEREAS, all states generate hazardous waste and receive the benefits of the economic activity attendant thereto; and

WHEREAS, prudent management of hazardous waste includes waste minimization, waste reduction, recycling, and alternative forms of disposal, including incineration, chemical treatment, and land disposal; and

WHEREAS, the public health and the quality of the environment is best protected by treating hazardous waste before disposal so as to minimize its hazardous characteristics and to reduce its volume; and
WHEREAS, EACH TREATMENT OR DISPOSAL FACILITY CREATES A BURDEN ON THE
STATE AND LOCALITY IN WHICH IT IS SITUATED, IN THAT THE STATE AND LOCALITY
MUST PROVIDE ADDITIONAL RESOURCES TO SUPPORT OPERATIONS OF SUCH A FACILITY AND
WILL BE SUBJECT TO ONGOING OPERATIONS AS WELL AS TO THE RESIDUE; AND

WHEREAS, BASED ON VOLUME OF HAZARDOUS MATERIAL CURRENTLY BEING
TREATED OR DISPOSED OF AT FACILITIES LOCATED IN SOUTH CAROLINA, THIS STATE
BEARS A DISPROPORTIONATE FRACTION OF THE BURDEN OF HAZARDOUS WASTE MANAGEMENT;
AND

WHEREAS, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND
LIABILITY ACT OF 1980, AS AMENDED (CERCLA), REQUIRES THAT EACH STATE CERTIFY
TO THE PRESIDENT BY OCTOBER 17, 1989, THAT IT WILL BE ABLE TO MANAGE HAZARDOUS
WASTES GENERATED WITHIN ITS BORDERS FOR TWENTY YEARS; AND

WHEREAS, AFTER OCTOBER 17, 1989, NO CERCLA REMEDIAL ACTIONS CAN BE
UNDERTAKEN UNLESS THE STATE FIRST ENTERS INTO A CONTRACT OR COOPERATIVE
AGREEMENT WITH THE ENVIRONMENTAL PROTECTION AGENCY PROVIDING SUCH
CERTIFICATION; AND

WHEREAS, THE ENVIRONMENTAL PROTECTION AGENCY HAS ISSUED GUIDANCE TO
STATES WHICH SPECIFIES WHAT CONSTITUTES AN ACCEPTABLE CAPACITY ASSURANCE PLAN,
ONE COMPONENT OF WHICH IS A REQUIREMENT THAT STATES WHICH PLAN TO RELY ON
EXPORTATION OF WASTE STREAMS AS A WASTE MANAGEMENT STRATEGY, OBTAIN ASSURANCE
FROM IMPORTING STATES IN THE FORM OF INTERSTATE AGREEMENTS THAT WASTE WILL BE
ACCEPTED FOR TREATMENT AND DISPOSAL; AND

WHEREAS, SOUTH CAROLINA IS THE LOCATION OF A LAND DISPOSAL FACILITY
FOR HAZARDOUS WASTE, THE CAPACITY OF WHICH IS FIXED BY S. C. CODE ANN.
§44-56-60(A) AT 135,000 TONS PER YEAR; AND
WHEREAS, SOUTH CAROLINA IS THE LOCATION OF TWO COMMERCIAL INCINERATORS WHICH HAVE CAPACITIES IN EXCESS OF THE NEEDS OF SOUTH CAROLINA GENERATORS; AND

WHEREAS, S. C. CODE ANN. §44-56-205 (1989) REQUIRES THAT ALL HAZARDOUS WASTE TREATMENT AND DISPOSAL FACILITIES IN SOUTH CAROLINA GIVE PREFERENCE TO SOUTH CAROLINA GENERATORS; AND

WHEREAS, AN INTERSTATE PLANNING PROCESS IS NECESSARY TO INSURE THE ORDERLY DEVELOPMENT OF TREATMENT AND DISPOSAL CAPACITY WHICH DISTRIBUTES THE BURdens PROPORTIONALLY TO THE BENEFITS; AND

WHEREAS, SOUTH CAROLINA HAS TAKEN PART IN A REGIONAL PLANNING MEETING AT WHICH PROPOSALS FOR SHARING RESPONSIBILITY FOR DEVELOPMENT OF TREATMENT CAPACITY SUFFICIENT TO SERVE THE NEEDS OF THE REGION WERE DISCUSSED; AND

WHEREAS, THE EXISTING LAND DISPOSAL FACILITY IN SOUTH CAROLINA IS A LIMITED RESOURCE WHICH MAY BE AN ESSENTIAL ELEMENT IN THE HAZARDOUS WASTE MANAGEMENT PLANS OF MANY STATES; AND

WHEREAS, PLANNING IS ESSENTIAL TO INSURE THAT WASTE TREATMENT AND DISPOSAL CAPACITY WILL BE READY AND AVAILABLE TO SERVE THE NEEDS OF SOUTH CAROLINA AND OTHER STATES IN THE REGION.

NOW, THEREFORE, I DO HEREBY ORDER THAT EFFECTIVE JULY 1, 1989, HAZARDOUS WASTE DISPOSAL FACILITIES OPERATING IN SOUTH CAROLINA SHALL RESERVE 54,000 TONS PER YEAR OF THE STATUTORY MAXIMUM OF 135,000 TONS PER YEAR FOR SOUTH CAROLINA GENERATED HAZARDOUS WASTE; PROVIDED, FURTHER, THAT OF THE REMAINING 81,000 TONS, A HAZARDOUS WASTE DISPOSAL FACILITY MAY NOT RECEIVE MORE THAN 35,000 TONS PER YEAR FROM ANY ONE STATE, OF WHICH A HAZARDOUS WASTE DISPOSAL FACILITY MAY NOT RECEIVE MORE THAN 10,000 TONS FROM ANY STATE IN ANY CALENDAR QUARTER, NOT TO EXCEED THE ANNUAL CAP OF 35,000 TONS. AND PROVIDED,
FURTHER, THAT DURING THE TWELVE CALENDAR MONTHS FOLLOWING JULY 1, 1989, 27,000 TONS CAPACITY SHALL BE RESERVED FOR DISPOSAL OF MATERIAL WHICH IS THE BY-PRODUCT OF WASTE PRETREATMENT TO REDUCE ITS HAZARDOUS CHARACTERISTICS AND ITS VOLUME. DURING THE SUBSEQUENT TWO YEARS, THE AMOUNT SO RESERVED SHALL INCREASE BY 6,750 TONS EACH YEAR.

IF, AFTER THE THIRD QUARTER OF ANY CALENDAR YEAR, AND UPON DEMONSTRATION TO THE S. C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL (THE "DEPARTMENT") THAT THE CAPACITY SO RESERVED FOR SOUTH CAROLINA GENERATORS WILL NOT BE REQUIRED IN THE REMAINDER OF THE YEAR, THE EXCESS CAPACITY MAY BE OFFERED TO OTHER GENERATORS. IN REVIEWING SUCH DEMONSTRATIONS, THE DEPARTMENT IS HEREBY DIRECTED TO CONSIDER PAST UTILIZATION OF THE SITE AND ANTICIPATED SOUTH CAROLINA NEEDS, INCLUDING BUT NOT LIMITED TO WASTE GENERATED FROM STATE AND FEDERAL SUPERFUND CLEANUP ACTIVITIES.


[Signature]
CARROLL A. CAMPBELL, JR.
GOVERNOR

ATTEST:

[Signature]
JOHN T. CAMPBELL
SECRETARY OF STATE