

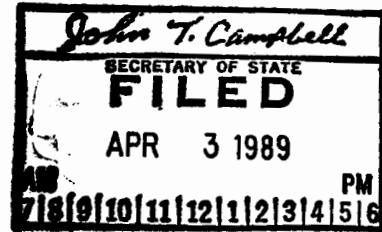
G7461
5, E93
89-17
Copy 1

Executive Department

S. C. STATE LIBRARY

APR 20 1989

STATE DOCUMENTS



State of South Carolina

EXECUTIVE ORDER NO. 89-17

WHEREAS, THE STATE OF SOUTH CAROLINA IS RESPONSIBLE FOR PROMOTING AND PRESERVING AN ENVIRONMENT THAT IS CONDUCTIVE TO PUBLIC HEALTH AND WELFARE, AND PREVENTING THE CREATION OF NUISANCES FROM ILLEGAL DUMPING OF HAZARDOUS WASTE; AND

WHEREAS, SOUTH CAROLINA IS PROMOTING WASTE MINIMIZATION, WASTE REDUCTION, RECYCLING, INCINERATION, AND CHEMICAL TREATMENT AS ALTERNATIVES TO LAND FILLING; AND

WHEREAS, THE VOLUME OF HAZARDOUS WASTE DISPOSED OF IN SOUTH CAROLINA IS DISPROPORTIONATELY OUT-OF-STATE WASTE; AND

WHEREAS, OTHER STATES HAVE FAILED TO ACT RESPONSIBLY IN DISPOSING OF THEIR OWN HAZARDOUS WASTE AND HAVE IMPLEMENTED BY STATUTE, REGULATIONS OR ADMINISTRATIVE ACTION, BARRIERS AND RESTRAINTS AGAINST THE DISPOSAL OF HAZARDOUS WASTE WITHIN THEIR OWN BORDERS; AND

WHEREAS, OTHER STATES ARE NOT WORKING COOPERATIVELY TO SOLVE THE REGIONAL TREATMENT AND DISPOSAL PROBLEMS OF HAZARDOUS WASTE AND SHOULD BE ENCOURAGED TO COOPERATE IN A REGIONAL APPROACH TO HAZARDOUS WASTE TREATMENT AND DISPOSAL; AND

PAGE TWO

WHEREAS, THE CITIZENS OF SOUTH CAROLINA ARE CONCERNED ABOUT THE HAZARDOUS WASTE BURDEN PLACED UPON SOUTH CAROLINA WHICH THREATENS OUR ENVIRONMENT AND THE MENTAL WELL-BEING OF OUR CITIZENS; AND

WHEREAS, SOUTH CAROLINA HAS NUMEROUS HAZARDOUS WASTE SITES ON THE NATIONAL PRIORITY LIST FOR CLEAN-UP WITH AN ESTIMATED 800,000 TONS OF WASTE REQUIRING REMEDIAL ACTION; AND

WHEREAS, THE STATE OF SOUTH CAROLINA HAS ESTABLISHED A COMPREHENSIVE MANAGEMENT PROGRAM FOR THE GENERATION, STORAGE, TREATMENT AND DISPOSAL OF HAZARDOUS WASTE; AND

WHEREAS, THIS PROGRAM IS ADMINISTERED BY THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL UNDER AUTHORITY OF THE SOUTH CAROLINA HAZARDOUS WASTE MANAGEMENT ACT UNDER SECTION 44-56-10 ET. SEQ., CODE OF LAWS OF SOUTH CAROLINA, 1976 (CUM. SUPP. 1987); AND

WHEREAS, THE STATE OF SOUTH CAROLINA WAS AUTHORIZED ON NOVEMBER 8, 1985, TO FULLY ADMINISTER ITS HAZARDOUS WASTE MANAGEMENT PROGRAM; AND

WHEREAS, THE PURPOSE OF THIS PROGRAM IS TO PROTECT THE HEALTH OF THE CITIZENS OF SOUTH CAROLINA AND THE ENVIRONMENT OF THE STATE OF SOUTH CAROLINA BY PROVIDING A "CRADLE TO GRAVE" APPROACH TO THE MANAGEMENT OF HAZARDOUS WASTE; AND

WHEREAS, IN ORDER TO ASSURE THE SAFE HANDLING AND DISPOSAL OF HAZARDOUS WASTE, THE SOUTH CAROLINA HAZARDOUS WASTE MANAGEMENT ACT GOVERNS ALL PERSONS WHO HANDLE SUCH WASTE INCLUDING THOSE WHO CREATE THE WASTE (GENERATORS); THOSE WHO SHIP WASTE FROM ITS POINT OF ORIGIN TO ELSEWHERE (TRANSPORTER) AND THOSE WHO OWN OR OPERATE HAZARDOUS WASTE MANAGEMENT FACILITIES (TREATMENT, STORAGE AND DISPOSAL FACILITIES); AND

PAGE THREE

WHEREAS, IT IS A REQUIREMENT ON ALL STATES UNDER SECTION 104(c)(9) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT, (CERCLA), AS AMENDED, TO DEMONSTRATE BY OCTOBER 17, 1989, THAT A STATE HAS ADEQUATE CAPACITY TO MANAGE THE HAZARDOUS WASTES GENERATED BY THE STATE AND EXPECTED TO BE GENERATED IN THE STATE FOR THE NEXT TWENTY YEARS; AND

WHEREAS, AFTER OCTOBER 17, 1989, NO CERCLA REMEDIAL ACTIONS CAN BE TAKEN IN THAT STATE UNLESS THE STATE FIRST ENTERS INTO A CONTRACT OR COOPERATIVE AGREEMENT WITH THE ENVIRONMENTAL PROTECTION AGENCY PROVIDING SUCH ASSURANCES; 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, THE STATE OF SOUTH CAROLINA CAN AND WILL DEMONSTRATE ADEQUATE CAPACITY TO MANAGE THE HAZARDOUS WASTES GENERATED IN THIS STATE FOR THE PRESCRIBED PERIOD; AND

WHEREAS, IT IS A REQUIREMENT OF THE RESOURCES, CONSERVATION AND RECOVERY ACT AND THE REGULATIONS PROMULGATED PURSUANT THERETO, SPECIFICALLY 40 C.F.R. SECTION 271.4, THAT STATES MUST DEMONSTRATE CONSISTENCY WITH FEDERAL PROGRAM REQUIREMENTS IN ORDER TO ADMINISTER THEIR OWN HAZARDOUS WASTE MANAGEMENT PROGRAMS; AND

WHEREAS, THE STATE OF SOUTH CAROLINA HAS AN APPROVED AND CONSISTENT PROGRAM FOR HAZARDOUS WASTE MANAGEMENT; AND

PAGE FOUR

WHEREAS, ANY STATE LAW OR STATE PROGRAM WHICH HAS NO BASIS IN HUMAN HEALTH OR ENVIRONMENTAL PROTECTION AND WHICH ACTS AS A PROHIBITION ON THE TREATMENT, STORAGE OR DISPOSAL OF HAZARDOUS WASTE IN THAT STATE MAY BE DEEMED TO CAUSE THAT STATE TO HAVE AN INCONSISTENT PROGRAM AND LOSE AUTHORITY TO ADMINISTER A HAZARDOUS WASTE MANAGEMENT PROGRAM; AND

WHEREAS, THE STATE OF SOUTH CAROLINA HAS WORKED DILIGENTLY WITH SOUTH CAROLINA INDUSTRY TO ENHANCE ECONOMIC DEVELOPMENT BY PROVIDING APPROPRIATE AND ENVIRONMENTALLY SAFE STORAGE, TREATMENT AND DISPOSAL FACILITIES WITHIN ITS BORDERS WHILE CERTAIN STATES HAVE ARBITRARILY OBSTRUCTED THE TREATMENT, STORAGE OR DISPOSAL OF HAZARDOUS WASTE WITHIN THEIR BORDERS INCONSISTENT WITH FEDERAL LAW; AND

WHEREAS, THE ENVIRONMENTAL PROTECTION AGENCY HAS FAILED TO FOLLOW THEIR OWN REQUIREMENTS AND WITHDRAW PROGRAM AUTHORITY FROM THESE STATES; AND

WHEREAS, THIS FAILURE TO ACT AND THE FAILURE OF CERTAIN OTHER STATES TO MEET THEIR RESPONSIBILITIES IN THE MANAGEMENT OF HAZARDOUS WASTE HAVE CAUSED AN UNFAIR BURDEN ON THE STATE OF SOUTH CAROLINA.

NOW, THEREFORE, I DO HEREBY ORDER THAT EFFECTIVE MARCH 1, 1989, NO PERSON WHO OWNS OR OPERATES A DISPOSAL FACILITY IN THIS STATE SHALL ACCEPT A HAZARDOUS WASTE WHICH IS GENERATED IN ANOTHER STATE AND IS BANNED OR PROHIBITED FOR DISPOSAL BY ANY STATUTE, REGULATION OR ADMINISTRATIVE DECISION OF THAT STATE. THE STATE WILL NOT ENTER INTO ANY INTERSTATE AGREEMENTS IN WHICH SOUTH CAROLINA IS TO BE THE IMPORTING STATE WITH STATES WHICH DO NOT MEET THE FOLLOWING CRITERIA:

1) (A) EFFECTIVE DECEMBER 31, 1990, ANY STATE WHICH DOES NOT MEET THE SITE DESIGNATION REQUIREMENTS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT, AS AMENDED BY THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT, FOR A SITE OR SITES WITHIN ITS BORDERS WHICH IS OR ARE

PAGE FIVE

CAPABLE OF TREATING AND DISPOSING OF HAZARDOUS WASTE GENERATED WITHIN ITS BORDERS;

(B) BETWEEN JANUARY 1, 1991, AND DECEMBER 31, 1993, SUCH STATES MAY BE EXEMPTED FROM THE BAN PROVIDED THAT A PERMIT APPLICATION FOR A WASTE TREATMENT OR DISPOSAL FACILITY HAS BEEN SUBMITTED TO THE APPROPRIATE AGENCY AND IS BEING PURSUED;

(C) EFFECTIVE DECEMBER 31, 1993, NO STATE SHALL BE EXEMPTED FROM THE BAN UNLESS SUCH INSTATE FACILITIES SHALL BE OPERATIONAL.

2) IN THE EVENT THAT SOUTH CAROLINA ENTERS INTO AN INTERSTATE AGREEMENT PURSUANT TO EPA GUIDANCE WITH A STATE WHICH SUBSEQUENTLY FAILS TO COMPLY WITH THE REQUIREMENTS OF THE CAPACITY ASSURANCE PLAN GUIDANCE, OR FAILS TO COMPLY WITH ONE OR MORE OF THE CRITERIA SET FORTH ABOVE, SOUTH CAROLINA WILL TAKE THE APPROPRIATE STEPS TO WITHDRAW FROM THE INTERSTATE AGREEMENT AND TO NOTIFY THE ENVIRONMENTAL PROTECTION AGENCY THAT SOUTH CAROLINA CONSIDERS THE STATE IN QUESTION TO HAVE VIOLATED THE CONGRESSIONAL REQUIREMENTS ESTABLISHED IN CERCLA §104(c)(9). UNDER THE TERMS OF THIS EXECUTIVE ORDER, WASTE FROM GENERATORS LOCATED IN SUCH STATES WILL BE BARRED FROM ACCESS TO TREATMENT OR DISPOSAL FACILITIES LOCATED IN SOUTH CAROLINA.

ALL HAZARDOUS WASTE TREATMENT AND DISPOSAL FACILITIES IN SOUTH CAROLINA SHALL GIVE PREFERENCE TO HAZARDOUS WASTE GENERATORS WITHIN THE STATE OF SOUTH CAROLINA FOR TREATMENT AND DISPOSAL OF HAZARDOUS MATERIALS AT LICENSED FACILITIES WITHIN THE STATE. THE STATE OF SOUTH CAROLINA SHALL MEET OR EXCEED THE PRETREATMENT AND LAND BAN CRITERIA ESTABLISHED BY THE EPA WHICH REQUIRE ALL HAZARDOUS WASTE TO BE PRETREATED BY EITHER CHEMICAL TREATMENT, INCINERATION OR SUCH OTHER FORM AS NECESSARY TO DETOXYIFY AS FAR AS TECHNICALLY POSSIBLE ALL WASTES.

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL IS FURTHER INSTRUCTED TO ACCELERATE ITS CLEANUP ACTIVITIES AT THE NATIONAL PRIORITY LISTED SUPERFUND SITES WITHIN SOUTH CAROLINA.

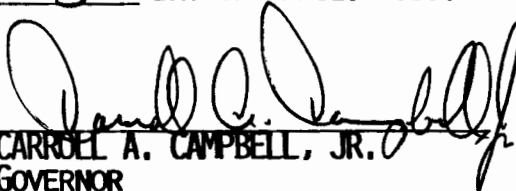
PAGE SIX

THIS EXECUTIVE ORDER SHALL BE INTERPRETED TO ENCOURAGE A REASONABLE AND COOPERATIVE APPROACH TOWARD HAZARDOUS WASTE MANAGEMENT WITHIN THE SOUTHEAST REGION AND TO ENCOURAGE AFFECTED STATES AND THE ENVIRONMENTAL PROTECTION AGENCY TO EFFECTUATE A COMPREHENSIVE HAZARDOUS WASTE MANAGEMENT PROGRAM FOR THE REGION;

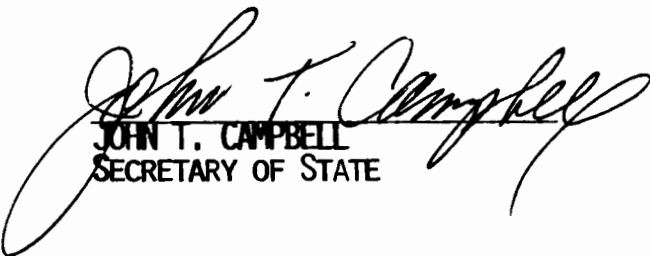
THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL IS DIRECTED TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS ORDER.

THIS ORDER RESCINDS EXECUTIVE ORDER No. 89-03, DATED JANUARY 18, 1989.

GIVEN UNDER MY HAND AND THE GREAT SEAL
OF THE STATE OF SOUTH CAROLINA, THIS
3rd DAY OF APRIL, 1989.


CARROLL A. CAMPBELL, JR.
GOVERNOR

ATTEST:


JOHN T. CAMPBELL
SECRETARY OF STATE