

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-330
HOUSE BILL 484

AN ACT TO PROVIDE FOR THE RECORDATION OF NOTICES OF OPEN
DUMPS IN THE OFFICE OF THE REGISTER OF DEEDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 47-29.1 reads as rewritten:

"§ 47-29.1. Recordation of waste disposal on land.

(a) A permit for the disposal of waste on land shall be recorded as provided in G.S. 130A-301. The disposal of land clearing and inert debris in a landfill with a disposal area of ½ acre or less pursuant to G.S. 130A-301.1 shall be recorded as provided in G.S. 130A-301.1(c). A Notice of Open Dump shall be recorded as provided in G.S. 130A-301(f). The disposal of demolition debris in an on-site landfill having a disposal area of one acre or less shall be recorded as provided in G.S. 130A-301.2.

(b) An inactive hazardous substance or waste disposal site shall be recorded as provided in G.S. 130A-310.8."

Section 2. G.S. 130A-301 reads as rewritten:

"§ 130A-301. Recordation of permits for disposal of waste on ~~land~~, land and Notice of Open Dump.

(a) Whenever the Department approves a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land, the owner of the facility shall be granted both an original permit and a copy certified by the Secretary. The permit shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance.

(b) The owner of a facility granted a permit for a sanitary landfill or a facility for the disposal of hazardous waste on land shall file the certified copy of the permit in the ~~register of deeds' office~~ office of the register of deeds in the county or counties in which the land is located.

(c) The register of deeds shall record the certified copy of the permit and index it in the grantor index under the name of the owner of the land.

(d) The permit shall not be effective unless the certified copy is filed as required under subsection ~~(b)~~ (b) of this section.

(e) When a sanitary landfill or a facility for the disposal of hazardous waste on land is sold, leased, conveyed or transferred, the deed or other instrument of transfer shall contain in the description section in no smaller type than that used in the body of the deed or instrument a statement that the property has been used as a sanitary landfill

or a disposal site for hazardous waste and a reference by book and page to the recordation of the permit.

(f) When the Department determines that an open dump exists, the Department shall notify the owner or operator of the open dump of applicable requirements to take remedial action at the site of the open dump to protect public health and the environment. If the owner or operator fails to take remedial action, the Department may record a Notice of Open Dump in the office of the register of deeds in the county or counties where the open dump is located. Not less than 30 days before recording the Notice of Open Dump, the Department shall notify the owner or operator of its intention to file a Notice of Open Dump. The Department may notify the owner or operator of its intention to file a Notice of Open Dump at the time it notifies the owner or operator of applicable requirements to take remedial action. An owner or operator may challenge a decision of the Department to file a Notice of Open Dump by filing a contested case under Article 3 of Chapter 150B of the General Statutes. If an owner or operator challenges a decision of the Department to file a Notice of Open Dump, the Department shall not file the Notice of Open Dump until the contested case is resolved, but may file a notice of pending litigation under Article 11 of Chapter 1 of the General Statutes. This power is additional and supplemental to any other power granted to the Department. This subsection does not repeal or supersede any statute or rule requiring or authorizing record notice by the owner.

- (1) The Department shall file the Notice of Open Dump in the office of the register of deeds in substantially the following form:

NOTICE OF OPEN DUMP

The Division of Waste Management of the North Carolina Department of Environment, Health, and Natural Resources has determined that an open dump exists on the property described below. The Department provides the following information regarding this open dump as a public service. This Notice is filed pursuant to G.S. 130A-301(f).

Name(s) of the record owner(s): _____

Description of the real property: _____

Description of the particular area where the open dump is located: _____

Any person who has questions regarding this Notice should contact the Division of Waste Management of the North Carolina Department of Environment, Health, and Natural Resources. The contact person for this Notice is: _____ who may be reached by telephone at _____ or by mail at _____. Requests for inspection and copying of public records regarding this open dump

may be directed to _____ who may be reached by telephone
at _____ or by mail at _____.

Secretary of Environment, Health, and Natural Resources

by _____ Date: _____.

- (2) The description of the particular area where the open dump is located shall be based on the best information available to the Department but need not be a survey plat that meets the requirements of G.S. 47-30 unless a survey plat that meets those requirements and that is approved by the Department is furnished by the owner or operator.
- (3) The register of deeds shall record the Notice of Open Dump and index it in the grantor index under the name of the record owner or owners. After recording the Notice of Open Dump, the register of deeds shall return the Notice of Open Dump to the Department in care of the person listed as the contact person in the Notice of Open Dump.
- (4) When the owner removes all solid waste from the open dump site to the satisfaction of the Department, the Department shall file a Cancellation of the Notice of Open Dump. The Cancellation shall be in a form similar to the original Notice of Open Dump and shall state that all the solid waste that constituted the open dump has been removed to the satisfaction of the Department. The Cancellation shall be filed and indexed in the same manner as the original Notice of Open Dump."

Section 3. G.S. 130A-290(20) reads as rewritten:

"(20) 'Open dump' means ~~a~~ any facility or site where solid waste disposal site which is disposed of that is not a sanitary landfill, landfill and that is not a facility for the disposal of hazardous waste."

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 15th day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:49 a.m. this 25th day of July, 1997