

§ 130A-301. Recordation of permits for disposal of waste on 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 office of the register of deeds in the county or counties in which the land is located.

(c) Repealed by Session Laws 2012-18, s. 1.17, effective July 1, 2012.

(d) The permit shall not be effective unless the certified copy is filed as required under subsection (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 Environmental Quality 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 Environmental Quality. 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 Environmental Quality 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) Repealed by Session Laws 2012-18, s. 1.17, effective July 1, 2012.
- (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. (1973, c. 444; c. 476, s. 128; 1977, 2nd Sess., c. 1216; 1981, c. 480, s. 3; 1983, c. 891, s. 2; 1997-330, s. 2; 1997-443, s. 11A.119(b); 2012-18, s. 1.17; 2015-241, s. 14.30(u), (v).)