

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 502
SENATE BILL 927

AN ACT TO PROVIDE THAT SMALL LANDFILLS FOR THE DISPOSAL OF DEMOLITION DEBRIS ARE EXEMPT FROM THE PERMITTING REQUIREMENTS GENERALLY APPLICABLE TO LANDFILLS AND TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES TO GRANT A VARIANCE IN THE GEOGRAPHIC AREA SERVED BY A SANITARY LANDFILL UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-294(a)(4)a. reads as rewritten:

- "a. Develop a permit system governing the establishment and operation of solid waste management facilities. A landfill with a disposal area of 1/2 acre or less for the on-site disposal of land clearing and inert debris is exempt from the permit requirement of this section and shall be governed by G.S. 130A-301.1. A landfill for the disposal of demolition debris generated on the same parcel or tract of land on which the landfill is located that has a disposal area of one acre or less is exempt from the permit requirement of this section and rules adopted pursuant to this section, and shall be governed by G.S. 130A-301.2. The Department shall not approve an application for a new permit, the renewal of a permit, or a substantial amendment to a permit for a sanitary landfill, excluding demolition landfills as defined in the rules of the Commission for Health Services, except as provided in subdivisions (3) and (4) of subsection (b1) of this section. No permit shall be granted for a solid waste management facility having discharges which are point sources until the Department has referred the complete plans and specifications to the Environmental Management Commission and has received advice in writing that the plans and specifications are approved in accordance with the provisions of G.S. 143-215.1. If the applicant is a unit of local government, and has not submitted a solid waste management plan that has been approved by the Department pursuant to G.S. 130A-309.09A(b), the Department may deny a permit for a sanitary landfill or a facility that disposes of solid waste by incineration,

unless the Commission has not adopted rules pursuant to G.S. 130A-309.29 for local solid waste management plans. In any case where the Department denies a permit for a solid waste management facility, it shall state in writing the reason for denial and shall also state its estimate of the changes in the applicant's proposed activities or plans which will be required for the applicant to obtain a permit."

Sec. 2. Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-301.2. Disposal of demolition debris in an on-site landfill having a disposal area of one acre or less.

(a) A person may dispose of demolition debris generated on land that the person owns in a landfill that is located on the same parcel or tract of land and that has a disposal area of one acre or less without obtaining a permit from the Department if the requirements of this section are met. A person may not dispose of demolition debris in a landfill to which this section applies unless the board of commissioners of the county in which the landfill is proposed to be located approves the landfill. If the landfill is to be located within a city or within the extraterritorial jurisdiction of a city, the board of commissioners shall consult the governing board of the city before approving the proposed landfill. The board of commissioners shall approve the landfill if the board finds that:

- (1) The landfill is located at least one-quarter mile from any other landfill of any type.
- (2) The perimeter of the landfill is at least 50 feet from the property boundary.
- (3) The perimeter of the landfill is at least 500 feet from the nearest drinking water well.
- (4) The waste disposal area of the landfill is at least four feet above the seasonal high groundwater table.
- (5) The landfill will comply with all applicable federal, State, and local laws, regulations, rules, and ordinances.

(b) Demolition debris may be disposed in a landfill to which this section applies without being separated into demolition debris components. No waste other than that generated by the demolition of a building or other structure shall be disposed of in the landfill.

(c) The owner or operator of the landfill shall close the landfill within 30 days after the demolition is completed or terminated. The owner or operator shall compact the demolition debris and cover it with at least two feet of compacted earth. The cover of the landfill shall be graded so as to minimize water infiltration, promote proper drainage, and control erosion. Erosion of the cover shall be controlled by establishing suitable vegetative cover.

(d) No building shall be located or constructed immediately above any part of a landfill to which this section applies. No construction, except for site preparation and

foundation work, shall be commenced on a parcel or tract of land on which a landfill to which this section applies is located until the landfill is closed.

(e) Within 30 days of the closure of the landfill, or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a survey plat of the property that meets the requirements of G.S. 47-30. The plat shall accurately show the location of the landfill and shall reference this section. A certified copy of the plat showing the book and page number where recorded shall be filed with the Department at the same time that the certified copy of the notice required by subsection (f) of this section is filed with the Department.

(f) Within 30 days of the closure of the landfill or at least 30 days before the land, or any interest in the land, on which the landfill is located is transferred, whichever is earlier, the owner or owners of record of the land on which the landfill is located shall file with the register of deeds of the county in which the landfill is located a notice that a landfill for the disposal of demolition debris has been located on the land. The notice shall include a description of the land that would be sufficient as a description in an instrument of conveyance. The notice shall list the owners of record of the land at the time the notice is filed and shall reference the book and page number where the deed or other instrument by which the owners of record acquired title is located. The notice shall reference the book and page number where the survey plat required by subsection (e) of this section is recorded. The notice shall reference this section, shall describe with particularity the type and size of the building or other structure that was demolished, and shall state the dates on which the landfill opened and closed. The notice shall be executed by the owner or owners of record as provided in Chapter 47 of the General Statutes. The register of deeds shall record the notice and index it in the grantor index under the name of the owner, or names of the owners, of the land. The owner shall file a certified copy of the notice showing the book and page number where recorded, together with a certified copy of the survey plat as required by subsection (e) of this section, with the Department, and shall pay a filing fee of twenty-five dollars (\$25.00) to the Department, within 15 days after the notice is recorded.

(g) When the land, or any portion of the land, on which the landfill is located 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 landfill for the disposal of demolition debris. The statement shall include a reference to this section and to the book and page number where the notice required by subsection (f) of this section is recorded.

(h) The board of commissioners of the county in which a landfill to which this section applies is located shall ensure that the requirements of subsections (a) through (d) of this section are met."

Sec. 2.1. Article 2 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-28. 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 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."

Sec. 3. Notwithstanding any rule to the contrary, upon request of the board of commissioners of a county that operates a sanitary landfill, the Department of Environment, Health, and Natural Resources may grant a variance in the geographic area served by the sanitary landfill, as specified in the permit for the sanitary landfill, to allow the disposal of municipal solid waste generated in a county adjacent to the county in which the sanitary landfill is located. The Department shall grant the request for a variance only if it finds that the variance will result in the closure of the sanitary landfill on or before 31 December 1996. A county that requests a variance under this section shall close the sanitary landfill on or before 31 December 1996. This section shall not be construed to authorize the disposal of municipal solid waste in excess of the permitted capacity of the sanitary landfill.

Sec. 4. This act is effective upon ratification. Sections 1 and 2 of this act and the second sentence of G.S. 47-28(a), as enacted by Section 2.1 of this act, expire on 30 June 2001. Section 3 of this act expires on 31 December 1996.

In the General Assembly read three times and ratified this the 28th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives