

**§ 130A-310.8. Recordation of notices of environmental contamination and notices of restricted use.**

(a) After determination by the Department of the location and general extent of contamination of an inactive hazardous substance or waste disposal site, the owner of the real property on which the site is located, within 90 days after official notice to the owner to do so, shall submit to the Department a survey plat of areas designated by the Department that has been prepared and certified by a professional land surveyor, and entitled "NOTICE OF ENVIRONMENTAL CONTAMINATION." If the Notice is submitted pursuant to a remedial action plan approved by the Department for the property, the Notice may be entitled "NOTICE OF RESTRICTED USE." Where an inactive hazardous substance or waste disposal site is located on more than one parcel or tract of land, a composite map or plat showing all parcels or tracts may be recorded. The Notice shall include a legal description of the site that would be sufficient as a description in an instrument of conveyance, shall meet the requirements of G.S. 47-30 for maps and plats, and shall identify:

- (1) The location of areas exceeding unrestricted use standards as defined in G.S. 130A-310.65 with respect to permanently surveyed benchmarks.
- (2) The type, location, and quantity of hazardous substances known to exist on the site.
- (3) Any restrictions approved by the Department on the current or future use of the site.

(b) After the Department approves and certifies the Notice, the owner of the site shall file the certified copy of the Notice in the register of deeds' office in the county or counties in which the land is located within 15 days of the date on which the owner receives approval of the Notice from the Department.

(c) Repealed by Session Laws 2012-18, s. 1.18, effective July 1, 2012.

(d) In the event that the owner of the site fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file such Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of a site who is not a responsible party submits and files the Notice required by this section, he may recover the reasonable costs thereof from any responsible party.

(e) When property that contains, or is a portion of, an inactive hazardous substance or waste disposal site 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 hazardous substances are present in environmental media at the property and, if applicable, that the property has been remediated under this Part with the approval of the Department by use of land use controls and shall reference by book and page the recordation of the Notice.

(f) A Notice of Environmental Contamination or Notice of Restricted Use filed pursuant to this section may, at the request of the owner of the land, be cancelled by the Secretary after the hazards have been eliminated. If requested in writing by the owner of the land and if the Secretary concurs with the request, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the hazards have been eliminated and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded.

(g) Recordation under this section is not required for any inactive hazardous substance or waste disposal site that is undergoing voluntary remedial action pursuant to this Part unless the Secretary determines that either:

- (1) A concentration of a hazardous substance or hazardous waste that poses a danger to public health or the environment will remain following implementation of the voluntary remedial action program.

(2) The voluntary remedial action program is not being implemented in a manner satisfactory to the Secretary and in compliance with the agreement between the Secretary and the owner, operator, or other responsible party.

(h) The Secretary may waive recordation under this section with respect to any residential real property that is contaminated solely because a hazardous substance or hazardous waste migrated to the property from other property by means of groundwater flow if disclosure of the contamination is required under Chapter 47E of the General Statutes. An owner of residential real property whose recordation requirement is waived by the Secretary under this subsection and who fails to disclose contamination as required by Chapter 47E of the General Statutes is subject to both the penalties and remedies under this Chapter applicable to a person who fails to comply with the recordation requirements of this section as though those requirements had not been waived and to the remedies available under Chapter 47E of the General Statutes.

(i) If a site subject to the requirements of this section is remediated pursuant to the requirements of Part 8 of Article 9 of Chapter 130A of the General Statutes, a Notice of Restricted Use may be prepared and filed in accordance with G.S. 130A-310.71(e) in lieu of a Notice of Residual Contamination. (1987, c. 574, s. 2; 1989, c. 727, s. 219(34); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1997-394, s. 2; 1997-443, ss. 11A.119(a), (b); 1997-528, s. 1; 2012-18, s. 1.18; 2015-286, s. 4.7(c); 2021-158, s. 7(a).)