



Senate Puts a Bull's-eye on North Carolina

S328, also known as the “Megadump Bill”, started its journey through the General Assembly in March 2013 as a one-page document proposing to amend current law from requiring leak-proof garbage trucks to recommending them. Its current version, dozens of pages long appeared in early June and has passed the Senate. It moves to the House next week.

Here is what the Bill will do:

Environmental concerns with S328, Solid Waste Management Reform Act

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Length of permit

(§1)

DENR authority to deny permits

(§2)

Concern

S328 extends permits for landfills and transfer stations to 30 years, with interim reviews every five years, and 30-year renewals treated as ‘major modifications’. S328 does not address whether facilities will be grandfathered under increasingly obsolete rules across the 30 years. S328 eliminates several grounds on which DENR should be able to deny a permit, §130A-294(a)(4):

significant damage to natural and cultural resources, (c)(3)

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- impede use of public trust lands or waters, (c)(4)
- practicable alternative available, (c)(6)
- inappropriate cumulative impacts, (c)(7)
- inconsistent with state waste policy, (c)(8)

Environmental justice (§2)

The combination of eliminating cumulative impacts analysis as a ground for denial, (c)(7), above, and limiting environmental justice analysis to the bare minimum in federal law (c)(9), strips DENR of any authority or mechanism to address unjust cumulative impacts to a community.

Transfer of permits (§3)

The newest version of S328 significantly narrows DENR’s discretion to deny a transfer of a landfill permit, GS §130A-294(a1), not just by restricting grounds for denial, but by eliminating compliance review, since transfers will be considered ‘modifications’, which are not subject to § 130A-294(a1). This could force the agency to allow a transfer to an entity with a poor record or no record at all.

Franchise requirement (§3)

Current law requires an applicant to have a franchise agreement from every jurisdiction involved with the site, § 130A-294(b1)(2). S328 limits that to *the time the application is submitted*. Since applicants often line up franchise agreements before an application is publicly noticed, this change places communities at a disadvantage in negotiating with applicants.

Environmental review (§3)

S328 replaces current requirements for environmental review with a much weaker version that does not appear to give DENR the ability to deny a permit on the basis of environmental or other impacts. What remains of environmental review applies only to new facilities, not subsequent permits or major modifications.

Wetlands & streams (§3)

S328 allows landfills to be sited adjacent to wetlands, requires stream setbacks only along streams with ‘continuous flow’, and even there

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eliminates minimum setbacks. These changes all make surface and groundwater contamination more likely.

Link to the House Committee on Environment:

http://www.ncleg.net/gascripts/Committees/Committees.asp?sAction=ViewCommittee&sActionDetails=House+Standing_22

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