

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0535

DEADLINE FOR RECEIPT: August 11, 2022

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Page 1, Line 30: This is ambiguous. What information would satisfy the agency? What information does the agency seek? Is there a prescribed format? The regulated public would not know what the agency seeks without contacting the agency. This of course opens the door for arbitrary requests that are inconsistently applied.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee
Commission Counsel
Date submitted to agency: July 28, 2022

1 15A NCAC 13B .0535 is amended as published in 36:20 NCR 1634 as follows:

2
3 **15A NCAC 13B .0535 APPLICATION REQUIREMENTS FOR C&DLF FACILITIES**

4 (a) New permit as defined in G.S. 130A-294(a3)(1)a, c, d, and e. An applicant for a new C&DLF permit as defined
5 in G.S. 130A-294(a3)(1)a, c, d, and e shall meet the requirements of Rule .0536 of this Section prior to submitting an
6 application for a permit to construct.

7 (1) Permit to Construct. An application for a permit to construct for a new permit as defined in G.S.
8 130A-294(a3)(1)a, c, d, and e shall contain the following:

9 (A) a facility plan that describes the comprehensive development of the C&DLF facility
10 prepared in accordance with Rule .0537 of this Section;

11 (B) a design hydrogeologic report prepared in accordance with Rule .0538(b) of this Section;

12 (C) an engineering plan for the initial phase of landfill development prepared in accordance
13 with Rule .0539 of this Section;

14 (D) a construction quality assurance plan prepared in accordance with Rule .0541 of this
15 Section;

16 (E) an operation plan prepared in accordance with Rule .0542 of this Section;

17 (F) a closure and post-closure plan prepared in accordance with Rule .0543 of this Section;

18 (G) monitoring plans prepared in accordance with Rule .0544 of this Section;

19 (H) an environmental compliance history for the applicant in accordance with G.S. 130A-
20 295.3; and

21 (I) for an applicant that is not a federal, State, or local government, an organization chart
22 showing the ownership structure of the applicant.

23 (2) Permit to Operate. The owner and operator shall meet the pre-operative requirements of the permit
24 to construct to qualify the constructed C&DLF unit for a permit to operate.

25 (b) New permit as defined in G.S. 130A-294(a3)(1)b. An application for a new C&DLF permit as defined in G.S.
26 130A-294(a3)(1)b. shall identify the proposed expansion and shall contain:

27 (1) a facility plan that describes the comprehensive development of the C&DLF facility prepared in
28 accordance with Rule .0537 of this Section;

29 (2) local government approval in accordance with Rule .0536(c)(11) of this Section;

30 (3) information that demonstrates compliance with the rules of this Section;

31 (4)(3) an environmental compliance history for the applicant in accordance with G.S. 130A-295.3; and

32 (5)(4) for an applicant that is not a federal, State, or local government, an organization chart showing the
33 ownership structure of the applicant.

34 (c) Amendment to the permit. An application for an amendment to the permit shall contain:

35 (1) an updated design hydrogeologic report prepared in accordance with Rule .0538(b) of this Section;

36 (2) an updated engineering plan prepared in accordance with Rule .0539 of this Section;

- 1 (3) an updated construction quality assurance plan prepared in accordance with Rule .0541 of this
2 Section;
- 3 (4) an updated operation plan prepared in accordance with Rule .0542 of this Section;
- 4 (5) an updated closure and post-closure plan prepared in accordance with Rule .0543 of this Section;
- 5 (6) an updated monitoring plan prepared in accordance with Rule .0544 of this Section;
- 6 (7) an updated environmental compliance history for the applicant in accordance with G.S. 130A-295.3;
7 and
- 8 (8) for an applicant that is not a federal, State, or local government, an updated organization chart
9 showing the ownership structure of the applicant.

10 (d) Modifications to the permit. The owner or operator may propose to modify plans that were prepared and approved
11 in accordance with the requirements set forth in Rules .0531 through .0546 of this Section. A complete application
12 shall identify the requirement(s) proposed for modification and provide information that demonstrates compliance
13 with Rules .0531 through .0546 of this Section.

- 14 (e) A permit for closure and post-closure. An application for closure and post-closure permit shall contain:
- 15 (1) an updated engineering plan prepared in accordance with Rule .0539 of this Section;
 - 16 (2) an updated construction quality assurance plan prepared in accordance with Rule .0541 of this
17 Section;
 - 18 (3) an updated closure plan and updated post-closure plan prepared in accordance with Rule .0543 of
19 this Section; and
 - 20 (4) for an applicant that is not a federal, State, or local government, an updated organization chart
21 showing the ownership structure of the applicant.
22

23 *History Note: Authority G.S. 130A-294;*
24 *Eff. January 1, 2007;*
25 *Readopted Eff. September 16, ~~2021~~ 2021;*
26 *Amended Eff. Pending Legislative Review of Session Law Amendments Under Separate Submittal.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .1617

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William W. Peaslee
Commission Counsel
Date submitted to agency: July 28, 2022

1 15A NCAC 13B .1617 is amended as published in 36:20 NCR 1634 as follows:

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3 **15A NCAC 13B .1617 APPLICATION REQUIREMENTS FOR MSWLF FACILITIES**

4 (a) New permit as defined in G.S. 130A-294(a3)(1)a, c, d, and e. An applicant for a new MSWLF permit as defined
5 in G.S. 130A-294(a3)(1)a, c, d, and e shall meet the requirements of Rule .1618 of this Section prior to submitting an
6 application for a permit to construct.

7 (1) Permit to Construct. A complete application for a permit to construct for a new permit as defined in
8 G.S. 130A-294(a3)(1)a, c, d, and e shall contain the following:

9 (A) a facility plan that describes comprehensive development of the MSWLF facility prepared
10 in accordance with Rule .1619 of this Section;

11 (B) an engineering plan that is prepared for the initial phase of landfill development prepared
12 in accordance with Rule .1620 of this Section;

13 (C) a construction quality assurance plan prepared in accordance with Rule .1621 of this
14 Section;

15 (D) an operation plan prepared in accordance with Rule .1625 of this Section;

16 (E) a closure and post-closure plan prepared in accordance with Rule .1629 of this Section;

17 (F) the design hydrogeologic report and monitoring plans prepared in accordance with Rule
18 .1623(b) of this Section;

19 (G) an environmental compliance history for the applicant in accordance with G.S. 130A-
20 295.3; and

21 (H) for an applicant that is not a federal, State, or local government, an organization chart
22 showing the ownership structure of the applicant.

23 (2) Permit to Operate. The owner or operator shall meet the pre-operative requirements of the permit to
24 construct to qualify the constructed MSWLF unit for a permit to operate.

25 (b) New permit as defined in G.S. 130A-294(a3)(1)b. A complete application for a new MSWLF permit as defined
26 in G.S. 130A-294(a3)(1)b shall identify the proposed expansion and shall contain:

27 (1) a facility plan that describes the comprehensive development of the MSWLF facility prepared in
28 accordance with Rule .1619 of this Section;

29 (2) local government approval in accordance with Rule .1618(c)(6) of this Section;

30 (3) information that demonstrates compliance with the rules of this Section;

31 (4)(3) an environmental compliance history for the applicant in accordance with G.S. 130A-295.3; and

32 (5)(4) for an applicant that is not a federal, State, or local government, an organization chart showing the
33 ownership structure of the applicant.

34 (c) Amendment to the permit. An application for an amendment to the permit shall contain:

35 (1) an updated engineering plan prepared in accordance with Rule .1620 of this Section;

36 (2) an updated construction quality assurance plan prepared in accordance with Rule .1621 of
37 this Section;

- 1 (3) an updated operation plan prepared in accordance with Rule .1625 of this Section;
- 2 (4) an updated closure and post-closure plan prepared in accordance with Rule .1629 of this
- 3 Section;
- 4 (5) an updated design hydrogeologic report and monitoring plans prepared in accordance with
- 5 Rule .1623(b) of this Section;
- 6 (6) an updated environmental compliance history for the applicant in accordance with G.S.
- 7 130A-295.3; and
- 8 (7) for an applicant that is not a federal, State, or local government, an updated organization
- 9 chart showing the ownership structure of the applicant.

10 (d) Modifications to the permit. The owner or operator may propose to modify plans that were prepared and approved
11 in accordance with the requirements set forth in this Section. A complete application shall identify the requirement(s)
12 proposed for modification and provide information that demonstrates compliance with the rules of this Section.

- 13 (e) A permit for closure and post-closure. An application for closure and post-closure shall contain:
- 14 (1) an updated engineering plan prepared in accordance with Rule .1620 of this Section;
 - 15 (2) an updated construction quality assurance plan prepared in accordance with Rule .1621 of this
 - 16 Section;
 - 17 (3) an updated closure plan and updated post-closure plan prepared in accordance with Rule .1629 of
 - 18 this Section; and
 - 19 (4) for an applicant that is not a federal, State, or local government, an updated organization chart
 - 20 showing the ownership structure of the applicant.

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22 *History Note: Authority G.S. 130A-294;*
23 *Eff. October 9, 1993;*
24 *Readopted Eff. September 16, ~~2021~~2021;*
25 *Amended Eff. Pending Legislative Review of Session Law Amendments Under Separate Submittal.*

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