

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0101

DEADLINE FOR RECEIPT: Friday, December 11, 2020

NOTE: This request when viewed on computer extends 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 call our office to inquire concerning the staff recommendation.

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

In (1), line 7, what is an “active” aeration system mean? Does your regulated public know?

In (7), line 24, what is “temporary” here? Does your regulated public know?

On line 28, I see that “transfer facilities” is defined with this Rule. And I note that “transfer stations” is used throughout 130A. Is it defined somewhere?

On line 31, what do you mean by “shall be in accordance”? Is it shall be permitted or shall operate in accordance? Please note the same query for Item (58), Page 7, line 29?

In (12), Page 2, line 15, I am simply confirming – you are purposely leaving out Rule .0547?

In (15), line 29, since the meaning of this acronym is not spelled out until Item (30), please spell out the full name here and then insert the acronym.

In (23), Page 3, line 22, what is “little” here? Does your regulated public know?

On Page 4, lines 16 and 19, please underline the new numbers of (28) and (29). Please note the same for Page 5, line 28 (43), Page 6, line 17 (48), and Page 8, line 4, (61).

In (45), Page 6, line 3, why is “Putrescent” capitalized?

In (52), line 36, this sentence reads awkwardly. Consider stating “...removable by control measures that are designed, constructed, and maintained and has been ...”

In (58), Page 7, line 22, what is “temporary” here? Will this vary based upon the rationale for this?

On line 22, how is this review conducted?

On line 26, you state the sites ‘may’ also be established. Who will determine to allow this and who establishes them? Will the Division or the Secretary declare the need?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 3, 2020

In (61), Page 8, line 4, consider inserting a comma after “carrier” and “birds”

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0101 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0101 DEFINITIONS**

4 The definitions in ~~G.S. 130A-290~~ Article 9 of Chapter 130A of the General Statutes and the following definitions
5 shall apply throughout this ~~Subchapter.~~ Subchapter, except for Section .1500 of this Subchapter:

6 (1) "Aerated static pile composting" means the process in which decomposing organic material is
7 placed in piles over an active aeration system that is used to supply oxygen and to control
8 temperature for the purpose of producing compost.

9 (2)(1) ~~"Agricultural Waste"~~ waste means waste materials produced from the raising of plants and animals,
10 including animal manures, bedding, plant stalks, hulls, and vegetable matter.

11 (3)(2) "Airport" means public-use airport open to the public without prior permission and without
12 restrictions within the physical capacities of available facilities.

13 (4) "Anaerobic digestion" means the biological process in which microorganisms break down
14 biodegradable organic material in the absence of oxygen.

15 (5)(3) ~~"Backyard Composting"~~ composting means the on-site composting of yard waste and food
16 residuals by the owner or tenant of a residential property. The waste material is generated only
17 onsite, and the resulting compost is used only onsite or on the owner or tenant's property. ~~from~~
18 residential property by the owner or tenant for non-commercial use.

19 (6) "Backyard vermicomposting" means the on-site vermicomposting by the owner or tenant of a
20 residential property using organic material from the residential property with the product produced
21 used only onsite or on the owner or tenant's property.

22 (4) ~~"Blood products" means all bulk blood and blood products.~~

23 ~~(7)(5)~~ "Cell" means compacted solid waste completely enveloped by a compacted cover material.

24 ~~(7)(8)~~ "Collection center" means a collection point for the temporary storage of solid waste for individual
25 residential households who choose to transport solid waste generated on their own property to a
26 facility owned or operated by a local government, rather than directly to a solid waste management
27 facility permitted in accordance with the rules of this Subchapter. Collection centers are also known
28 as "convenience centers" and "drop-off-centers," and are not transfer facilities or transfer stations
29 for the purpose of this Subchapter. A person, business, or local government facility that collects
30 materials for the purpose of recycling, and does not collect any solid waste for the purpose of
31 disposal, is not a collection center for the purpose of this Subchapter. A collection center shall be in
32 accordance with Rule .0208(a) of this Subchapter.

33 ~~(8)(9)~~ (6) "Compost" means a decomposed, humus-like organic matter, produced in an aerobic
34 composting process that is designed and monitored to ensure that the product is free from pathogens,
35 offensive odors, toxins ~~toxins,~~ or materials harmful at the point of end use. Compost is suitable for
36 use as a soil conditioner, conditioner and may have with varying nutrient values.

(9)[(40)](7) "Compost facility" ~~Facility~~ means a solid waste facility established in accordance with Section .1400 of this Subchapter which that utilizes a controlled biological process of degrading non-hazardous solid waste. A compost facility may include include:

- (a) materials processing and hauling equipment;
- (b) structures to control drainage; and
- (c) structures to collect and treat leachate; and
- (d) storage areas for the incoming waste, the final products, and residual materials.

(10)[(41)](8) "Composting" means the ~~controlled biological~~ decomposition of organic waste by naturally occurring bacteria under an aerobic process that is designed and monitored to yield a stable, humus-like, pathogen-free compost product. ~~final product resulting in volume reduction of 30—75 percent.~~

(11)[(42)](9) "Composting pad" ~~Pad~~ means a surface, whether soil or manufactured, where the process of composting takes place, and where raw and finished materials are stored.

(12)[(43)] "Construction and demolition debris landfill" and "C&DLF" mean a sanitary landfill unit established in accordance with Rules .0531 through .0546 of this Subchapter for the land disposal of C&D [solid] waste.

(13)[(44)](10) "Curing" means a continuation of the composting process after the high heat stage during which compost stability and maturity continue to increase. Curing occurs after completing the process to further reduce pathogens and the requirements for vector attraction reduction. the final state of composting, after the majority of the readily metabolized material has been decomposed, in which the compost material stabilizes and dries.

(14)[(45)] "C&D [solid] waste" means solid waste generated solely from the construction, remodeling, repair, or demolition operations on pavement and buildings or structures. C&D [solid] waste [may include]-includes municipal and industrial solid wastes that are identical to materials generated from the construction, remodeling, repair, or demolition operations on pavement and buildings or structures.

(15)[(46)](11) "Demolition landfill" means a sanitary landfill that was limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes approved by the Division, which either ceased operation or was converted to a LCIDLF. Land Clearing and Inert Debris Landfill pursuant to Rule .0563.

(16)[(47)] "Digestate" means the organic material produced during the anaerobic digestion process. The digestate is a wet mixture of solid and liquid that is rich in nutrients.

(17)[(48)](12) "Division" means the Director of the Division of Waste Management or the Director's authorized representative.

(18)[(49)](13) "Erosion control measure, structure, or device" means physical devices constructed, and management practices utilized, to control sedimentation and soil erosion such as silt fences,

sediment basins, check dams, channels, swales, energy dissipation pads, seeding, ~~mulching~~
~~mulching~~, and other similar items.

(19)(20)(14) "Explosive gas" means ~~Methane (CH₄)~~, a landfill gas that will propagate a flame in air at
25 degrees Celsius and atmospheric pressure, such as methane or hydrogen sulfide.

(15) ~~"Federal act" means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as
amended.~~

(20)(21)(16) ~~"Floodplain" "Floodplain", "base floodplain", "one-hundred-year floodplain", or "100-
year floodplain" mean "base floodplain" as defined in G.S. 143-215.52. means the lowland and
relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore
islands, which are inundated by the 100-year flood.~~

(21)(22)(17) ~~"Foreign matter"~~ ~~Matter~~ means metals, glass, plastics, rubber, bones, and leather, but does
not include sand, grit, ~~rocks~~ ~~rocks~~, or other similar materials.

(22)(23) "Hazardous waste" means the term as defined in G.S. 130A-290(a)(8). The term does not
include those solid wastes excluded from regulation pursuant to 40 CFR 261.4, incorporated by
reference in 15A NCAC 13A .0106. The term does include hazardous waste generated by very small
quantity generators as defined by 40 CFR 260.10, incorporated by reference in 15A NCAC 13A
.0102(b).

(18) ~~"Hazardous waste landfill facility" means any facility or any portion of a facility for disposal of
hazardous waste on or in land in accordance with rules promulgated under this article.~~

(23)(24)(19) "Incineration" means the ~~process disposal of burning~~ solid, semi-solid, or
gaseous combustible wastes through a burning process designed to create to an inoffensive a waste
gas emission that complies with 15A NCAC 02D and a waste residue containing little or no
combustible ~~material~~, material; but is not open burning.

(24)(25) "Incinerator" means a device designed to dispose of solid, semi-solid, or gaseous combustible
wastes by incineration.

(25)(26)(20) "Industrial process waste" ~~Process Waste~~ means any solid, semi-solid, or liquid waste
generated by a manufacturing or processing plant ~~which~~ that is a result of the manufacturing or
processing process. This definition does not include packaging materials associated with such
activities.

(26)(27) "Industrial solid waste" means the term as defined in G.S. 130A-290(a)(13b). Such waste may
include waste resulting from electric power generation, water treatment, and manufacturing
processes for the following:

(a) fertilizer/agricultural chemicals;

(b) food and related products or byproducts;

(c) inorganic chemicals;

(d) iron and steel;

(e) leather and leather products;

- (f) nonferrous metals or foundries;
(g) organic chemicals;
(h) plastics and resins;
(i) pulp and paper;
(j) rubber and miscellaneous plastic products;
(k) stone, glass, clay, and concrete products;
(l) textiles; and
(m) transportation equipment.

This term does not include mining waste or oil and gas waste.

(27)(28)(21) "Industrial solid waste landfill" Solid Waste Landfill and "ISWLF" means mean a sanitary landfill unit established in accordance with Rules .0503 through .0505 of this Subchapter for the disposal of industrial solid waste, or for the exclusive disposal of scrap tires also known as a tire monofill, facility for the land disposal of "industrial solid waste" as defined in Item (11) of Rule .1602 of this Subchapter, and is not a The term land application unit, surface impoundment, injection well, or waste pile, as defined under 40 CFR Part 257.

(28)(29) "Inert debris waste" means inert debris that consists solely of asphalt, cured concrete, brick, concrete block, gravel, and rock. Inert debris waste shall not contain chemical adhesives or sealants, or lead-based paint.

(29)(30) "In-vessel composting" or "within-vessel" means the process in which decomposing organic material is enclosed in a drum, silo, bin tunnel, or other container for the purpose of producing compost under aerobic conditions.

(30)(31)(22) "Land clearing and inert debris landfill" or "LCIDLF" means mean a landfill unit established in accordance with Rules .0563 through .0567 of this Subchapter for the disposal of yard waste and inert debris waste. facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.

(31)(32)(23) "Land clearing waste" means land-clearing debris that consists solely of solid waste which is generated solely from land-clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material.

(32)(33) "Landfill gas" means a gas or mixture of gases generated by the decomposition of solid waste in a landfill.

(24) "Leachate" means any liquid, including any suspended components in liquid, that has percolated through or drained from solid waste.

(33)(34) "Licensed geologist" means the term as defined in G.S. 89E.

(34)(35) "Licensed professional engineer" means "professional engineer" as defined in G.S. 89C.

(35)(36) "Licensed professional land surveyor" means "professional land surveyor" as defined in G.S. 89C.

(36)(37) "Licensed soil scientist" means the term as defined in G.S. 89F.

(37)(38)(25) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases ~~that which~~ will propagate a flame in air at 25 degrees Celsius and atmospheric pressure.

(38)(39)(26) "Microbiological ~~wastes~~" ~~waste~~ means ~~and includes~~ cultures and stocks of etiologic agents. The term includes cultures of specimens from medical, pathological, pharmaceutical, research, commercial, and industrial laboratories.

(39)(40)(27) "Mulch" means a material generated from the chipping or grinding of naturally occurring wood waste such as tree stumps, limbs, and branches. Mulch shall not contain material generated from engineered, treated, or manufactured wood waste such as creosote telephone poles or railroad ties; ~~wooden pallets or skids;~~ laminated wood including flooring; painted, stained, or oiled wood; plywood; or composite boards such as particle board, medium-density fiberboard (MDF), oriented strand board (OSB), or similar products manufactured by binding or fixing the strands, particles, fibers, ~~veneers~~ veneers, or boards of wood together to form a composite material. Mulch may contain material generated from the chipping or grinding of wooden pallets or skids only if the wood used in their construction is naturally occurring and has not been engineered, treated, or manufactured. ~~a protective covering of various substances, substances especially organic, to which no plant food has been added and for which no plant food is claimed. Mulch is generally placed around plants to prevent erosion, compaction, evaporation of moisture, freezing of roots, and weed growth.~~

(40)(41) "Municipal solid waste landfill" and "MSWLF" mean a sanitary landfill unit established in accordance with Section .1600 of this Subchapter for the disposal of municipal solid waste.

(41)(42)(28) ~~"One hundred year flood"~~ "One-hundred-year flood", "100-year flood", or "base flood" means "base flood" as defined in G.S. 143-215.52. ~~means a flood that has a one percent or less chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.~~

(42)(43)(29) "Open burning" means the term as defined in 15A NCAC 02D .1902. ~~any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed thereto through a stack or chimney, incinerator, or other similar devices.~~

(43)(44)(30) "Pathogens" means organisms that are capable of producing infection or diseases, often found in waste materials.

(44)(45)(31) "Pathological ~~wastes~~" ~~waste~~ means ~~and includes~~ the following wastes that are removed during surgery and autopsies: human tissues, organs, body parts, secretions and excretions, and blood and body fluids fluids. that are removed during surgery and autopsies; and It also includes the carcasses and body parts of all animals that were have been exposed to pathogens that are infectious to humans during in research, were used in the production of biologicals or in the in vivo testing of pharmaceuticals, or that died of a known or suspected infectious disease transmissible to humans. ~~disease.~~

(32) ~~"Putrescible" means solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses.~~

(45)(46) "Putrescible waste" and "Putrescent" means solid waste that is capable of or is generating odors and gases from the process of decomposition by microorganisms. Putrescible waste or solid waste that may become putrescent may include medical waste, kitchen and food waste, offal, and carcasses.

(33) ~~"Radioactive waste material" means any waste containing radioactive material as defined in G.S. 104E-5(14).~~

(46)(47)(34) ~~"Regulated Medical Waste" medical waste~~ means blood and body fluids in individual containers in volumes greater than 20 ~~milliliters, ml,~~ microbiological waste, and pathological waste that have not been treated pursuant to Rule ~~.1207, .1204~~ of this Subchapter.

(47)(48)(35) ~~"Residues from Agricultural Products and Processing" agricultural products and processing~~ means solids, ~~semi-solids~~ semi-solids, or liquid residues from food and beverage processing and ~~handling, silviculture, agriculture, handling; silviculture; agriculture; and aquaculture operations.~~ operations ~~The residues shall be that are~~ non-toxic, non-hazardous, and shall contain no domestic wastewater.

(48)(49)(36) ~~"Respondent" means the person against whom an administrative penalty has been assessed.~~

(37) ~~"Runoff" means the portion of precipitation that drains from an area as surface flow.~~

(49)(50) "Sanitary landfill" means the term as defined in G.S. 130A-290(31). Landfills permitted in accordance with Rules .0503 through .0505 and .0510; Rules .0531 through .0546; and Section .1600 of this Subchapter are sanitary landfills. Land clearing and inert debris landfills are not sanitary landfills.

(51) ~~"Seasonal high groundwater table" and "SHGT" means the highest level of the uppermost aquifer during a year with normal rainfall. SHGT may be determined in the field through identification of redoximorphic features in the soil profile, monitoring of the water table elevation, or modeling of predicted groundwater elevations.~~

(50)(52)(38) ~~"Sediment" means the term as defined in G.S. 113A-52. solid particulate matter both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site [location] of origin.~~

(51)(53) "Septage management facility" means land, personnel, and equipment used in the management of septage, including septage management firms as defined in G.S. 130A-290(a)(33), septage detention and treatment facilities, and septage land application sites established in accordance with Rules .0831 through .0846 of this Subchapter.

(39) ~~"Sharps" means and includes needles, syringes, and scalpel blades.~~

(52)(54)(40) "Siltation" "Silt" means sediment resulting from accelerated erosion ~~which~~ that is settleable or removable by ~~properly~~ designed, constructed, and maintained control measures and ~~which~~ has

been transported from its point of origin within the site land-disturbing activity and ~~which~~ has been deposited, or is in suspension in water.

(53)(55)(41) "Silviculture ~~Waste~~ waste" means waste materials produced from the care and cultivation of forest trees, including bark and woodchips.

(54)(56) "Soil" means the unconsolidated mineral and organic material of the land surface. It consists of a mixture of organic matter and of sand, silt, and clay minerals.

(42) — "Soil Group I" means soil group I as defined in 15A NCAC 13B .0807(a)(1)(A) of the Septage Management Rules.

((57))(43) "Soil Scientist" [scientist] means [a person who is a licensed soil scientist as defined in G.S. 89F, or] an individual who is a North Carolina Licensed Soil Scientist, a Certified Professional Soil Scientist or Soil Specialist by [the] American Registry of Certified [Professionals] Professional in Agronomy, Crops, and [Soils,] Soils (ARCPACS) or an individual that demonstrates [or a person with] equivalent experience or education.

(55)(58)(44) "Solid waste collector" means any person who collects or transports solid waste by ~~whatever means, methods such as including but not limited to,~~ highway, rail, and navigable waterway.

(56)(59)(45) "Solid waste generator" means any person who produces solid waste.

(57)(60)(46) "Spoiled food" means any food ~~which~~ that has been removed from sale by the United States Department of Agriculture, the N.C. Department of Agriculture and Consumer Services, North Carolina Department of Agriculture, Food and Drug Administration, or any other regulatory agency having jurisdiction in determining that food is unfit for consumption.

(58)(61) "Temporary debris storage and reduction site" mean parcels of land that are reviewed by the Division to be used to store and process waste generated from an incident that caused a declaration of a state of emergency or disaster in accordance with Chapter 166A, Article 1A, Part 4 of the General Statutes to assist with local and State recovery and compliance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended. These sites may also be established to store or process additional from a natural disaster such as a hurricane, tornado, severe storm, ice storm, or a 100-year flood event, even if no declaration of a state of emergency or disaster occurs. These sites shall be in accordance with Rule .0208(b) of this Subchapter.

(47) — "Steam sterilization" means treatment by steam at high temperatures for sufficient time to render ~~infectious waste non-infectious.~~

(59)(62)(48) "Transfer ~~facility~~—station" means a permanent structure with mechanical equipment established in accordance with Section .0400 of this Subchapter that is used for the ~~collection~~ collection, consolidation, or compaction of solid waste prior to the transportation of solid waste for final disposal.

(60)(49) "Treatment and processing facility" means a facility established in accordance with Section .0300 of this Subchapter for used in the treatment and processing of solid waste for prior to the transportation of solid waste for final disposal or for utilization by reclaiming or recycling.

(61)(50) "Vector" means a carrier such as rodents, insects, and birds ~~carrier, usually an arthropod,~~ that is capable of transmitting a pathogen from one organism to another.

(62)(51) "Vermicompost" means the product of the vermicomposting process that is a dark, fertile mixture of decomposed organic waste, bedding material, and granular castings.

(63)(52) "Vermicomposting" means the controlled and managed process by which live worms convert organic materials into vermicompost.

(64)(53) "Vermiculture" means raising of earthworms for the purpose of vermicomposting.

(65)(54) "Water supply watershed" means an area from which water drains to a point or impoundment, and the water is then used as a source for a public water supply.

(66)(55) "Water table" means the term defined in 15A NCAC 02L .0102. [and "groundwater table" mean] means the upper limit of the portion of the ground wholly saturated with water.

(67)(56) "Windrow" "Windrow composting" means a process for compost production in which decomposing organic materials are placed in piles and are turned or agitated to assure all parts of the decomposing material meet the requirements of Section .1400 of this Subchapter for pathogen reduction and vector attraction reduction. ~~an elongated compost pile (typically eight feet wide by ten feet high).~~

(68)(57) "Working face" means that portion of the ~~land~~ solid waste disposal site where solid wastes are discharged, spread, and compacted prior to the placement of cover material.

(55) ~~"Yard trash" means Solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative material.~~

(69)(58) "Yard Waste" waste" means land-clearing waste and yard trash. "Yard Trash" and "Land clearing Debris" as defined in G.S. 130A-290, including stumps, limbs, leaves, grass, and untreated wood.

History Note: Authority G.S. 130A-294;

Eff. April 1, 1982;

Amended Eff. August 1, 2008; October 1, 1995; January 4, 1993; December 1, 1991; February 1, 1991.

Readopted Eff. January 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0102

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, please insert a comma after "Article 1" and "Part 2"

I suggest stating "of the General Statutes, as well as the rules of this Subchapter"

Consider making the language on lines 5-7 its own Paragraph.

And why are you including the new language on lines 6-7? Is this to give notice to the regulated public?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0102 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0102 APPLICABILITY**

4 (a) The management of solid waste is subject to Chapter 130A Article 1 Part 2 and Article 9 of the General Statutes;
5 and shall be subject to the rules of this Subchapter. The rules of this Subchapter shall not apply to the management of
6 hazardous waste, with the exception of Rule .0103(h) of this Section. 15A NCAC 13A contains requirements for
7 hazardous waste management.

8 (b) The rules of this Section are applicable to the general management of solid waste by all persons in the State unless
9 exempted by Article 9 of Chapter 130A of the General Statutes or the rules of this Subchapter.

10 ~~These solid waste management rules are for general application throughout the State of North Carolina unless~~
11 ~~otherwise specifically indicated by their context. Rules found in Section .0700 of this Subchapter apply to the~~
12 ~~Division's program for solid waste management and also to the Division's program for hazardous waste management.~~
13 ~~All other rules of this Subchapter apply to the Division's program for solid waste management but not to the Division's~~
14 ~~program for hazardous waste management. Other hazardous waste management program rules are found in 15A~~
15 ~~NCAC 13A. The official policy and purpose of the State of North Carolina in regard to solid waste control is set forth~~
16 ~~in Article 9 of Chapter 130A of the North Carolina General Statutes.~~

17
18 *History Note: Authority G.S. 130A-294;*

19 *Eff. April 1, 1982;*

20 *Amended Eff. February 1, 1991; October 1, ~~1984~~, 1984;*

21 *Readopted Eff. January 1, 2021.*
22

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0103

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In 9b), line 8, what do you mean by "specifically" here?

In (d), line 17, what is "liquid waste"? Is it defined in statute? Does your regulated public know what it means?

What specific authority are you relying upon for the action of the Division in (d)?

In (f), Page 2, line 18, what do you mean by "applicability and effective dates of S.L. 2000-150"?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0103 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0103 GENERAL CONDITIONS~~REQUIREMENTS~~**

4 (a) All solid waste shall be stored, collected, transported, separated, processed, recycled, recovered, and disposed of
5 in a manner consistent with the requirements of ~~these Rules, the rules of this Subchapter.~~ The Division of Solid Waste
6 ~~Management~~ is responsible for the enforcement of ~~these Rules, the rules of this Subchapter.~~

7 (b) No solid waste containing radioactive waste material as defined in G.S. 104E-5 shall be collected and transported,
8 stored, treated, processed, disposed ~~of~~, or reclaimed, except as specifically authorized by a radioactive material
9 license issued by the Department of Health and Human Services, Division of Health Service Regulation, Radiation
10 Protection Section, Radiation Protection, DEHNR.

11 (c) Solid waste shall be disposed of ~~at a solid waste disposal site~~ in accordance with Article 9 of Chapter 130A of the
12 General Statutes and the rules of this Subchapter. The disposal of solid waste shall be in accordance with the hierarchy
13 of methods of managing solid waste in G.S. 130A-309.04(a)(1) through (6), the Solid Waste Management Act and the
14 Federal Act. Hazardous waste, lead acid batteries, liquid waste, including used oil, regulated medical waste, and any
15 other wastes that may pose a threat to the environment or the public health, as determined by the Division, are
16 prohibited from disposal at a solid waste disposal site.

17 (d) In addition to the requirements of G.S. 130A-309.10, hazardous waste, liquid waste, and regulated medical waste
18 are prohibited from disposal at a solid waste disposal site. The Division may prohibit a waste stream of a particular
19 type or from a particular source from being accepted at solid waste management facilities or disposed of at a solid
20 waste disposal site if the Division determines that the waste stream contains an emerging contaminant or pathogen
21 that may pose a risk to the environment or public health through the management or disposal of such waste at a
22 particular solid waste management facility. If the Division prohibits such a waste stream, the Division shall notify all
23 affected facilities in writing and shall post a notice on the Division's Solid Waste Section website at
24 <https://deq.nc.gov/about/divisions/waste-management/solid-waste-section> no less than 48 hours prior to the effective
25 date of the prohibition. The notice shall contain the type or source of the prohibited waste stream, the reason for the
26 prohibition, the effective date of the prohibition, and the ending date of the prohibition or a statement that the
27 prohibition shall be in effect until the Division removes the prohibition.

28 (d) ~~The Division has developed a "Procedure and Criteria for Waste Determination" which is used to determine~~
29 ~~whether a waste is:~~

30 (1) ~~hazardous as defined by 15A NCAC 13A, and~~

31 (2) ~~suitable for disposal at a solid waste management facility. Information required for evaluation~~
32 ~~includes the identity of the generator, identity of the waste and how it was generated, and laboratory~~
33 ~~results indicating the chemical constituency of the waste. Copies of "Procedure and Criteria for~~
34 ~~Waste Determination" may be obtained from and inspected at the Division, P.O. Box 27687,~~
35 ~~Raleigh, N.C. 27611 7687. The waste determination procedure shall be used for:~~

36 (A) ~~Waste which is generated outside the population and geographic area which the solid waste~~
37 ~~management facility is permitted to serve under .0504(1)(g).~~

(B) ~~Waste from a transfer facility other than a facility permitted under these Rules.~~

(C) ~~Waste generated by a new generator inside the population and geographic area which the Solid Waste Management Facility is permitted to serve if the components of the waste cannot be readily determined otherwise.~~

(D) ~~Waste generated through a change in industrial process by an existing generator, provided the components of the waste cannot be readily determined otherwise.~~

(E) ~~A load of waste which a sanitary landfill operator suspects may contain materials which the facility is not permitted to receive.~~

(F) ~~Requests by a generator interested in transporting waste to an identified solid waste management facility for treatment and processing, transfer or disposal.~~

(G) ~~All sludges except sludge from water treatment plants.~~

(H) ~~Other wastes deemed appropriate by the Division for testing before transporting to a solid waste management facility.~~

(e) No person shall dispose or cause the disposal of solid waste in or on waters in a manner that results in solid waste's entering waters or being deposited upon lands of the ~~state~~. State.

(f) Solid waste disposal sites including sanitary landfills, land clearing and inert debris landfills, and incinerators shall comply with the same requirements as "new solid waste disposal facilities" provided in G.S. 143-215.54 in accordance with the applicability and effective dates of S.L. 2000-150. White Goods shall not be disposed of at a solid waste disposal site after January 1, 1991.

(g) ~~By July 1, 1991, all~~ All solid waste management facilities owned and operated by or on behalf of a local ~~government~~ government, ~~except facilities which will receive no waste after July 1, 1992, shall install~~ have scales and ~~shall~~ weigh all solid waste when it is received at the facility.

(h) ~~By July 1, 1991, each local government operating a permitted solid waste management facility shall initiate a solid waste recycling program which shall be designed to achieve the goal of recycling at least 25 percent of the municipal solid waste stream by January 1, 1993, prior to final disposal or incineration at a solid waste disposal facility.~~

(i) ~~After January 1, 1998, all active sanitary landfills (except land clearing and inert debris landfills) shall be equipped with liners, leachate collection systems and final cover systems as required in Sections .0500 and .1600 of this Subchapter.~~

(h) When the Division assesses an administrative penalty for violations of Article 9 of Chapter 130A of the General Statutes and the rules adopted thereunder, the penalty shall be assessed in accordance with G.S. 130A-22 and the following assessment procedures:

(1) For all violations for which a penalty is assessed, a notice of the assessment shall be sent to the respondent by US Postal Service registered or certified mail, or hand-delivered. The notice shall describe the nature of the violation, state the amount of the penalty and the costs assessed in accordance with G.S. 130A-22(j) ("investigative costs"), state when the penalty and investigative costs are due, state that each day of a continuing violation will constitute a separate violation, and advise the respondent of the right to appeal in accordance with G.S. 150B.

1 (2) After the notice has been issued, the respondent may request to settle the penalty assessment and
2 violations through informal procedures as set forth in G.S. 150B-22(a). The Division may reduce
3 the amount of the assessed penalty as a part of a settlement agreement resulting from the informal
4 procedure process.

5 (3) The assessed penalty and the investigative costs shall be due and payable within 60 days of receipt
6 of the notice issued in accordance with Subparagraph (1) of this Paragraph.

7 (4) The assessment of a penalty does not prevent the Division from also suspending or revoking a permit
8 in accordance with G.S. 130A-23.

9
10 History Note: ~~*Filed as a Temporary Amendment Eff. October 28, 1988, for a Period of 180 Days to Expire on*~~
11 ~~*April 26, 1989;*~~

12 *Authority G.S. 130A-294;*

13 *Eff. April 1, 1982;*

14 *Amended Eff. October 1, 1995; January 4, 1993; February 1, 1991; September 1, 1990-1990;*

15 ~~*Filed as a Temporary Amendment Eff. October 28, 1988, for a Period of 180 Days to Expire on*~~
16 ~~*April 26, 1989;*~~

17 *Readopted Eff. January 1, 2021.*
18

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0104

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

I take it you are relying upon the statutory definitions of “garbage” and “refuse” found in G.S. 130A-290 for this Rule?

In (d), line 19, what are “safe and sanitary practices”? Does your regulated public know?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0104 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0104 SOLID WASTE STORAGE**

4 (a) The owner or occupant of any property, ~~unless except that~~ exempted from the rules of this Subchapter in
5 ~~accordance with G.S. 130A-294(b), as specified in Rule .0103(c) of this Subchapter~~ shall be responsible for the
6 sanitary storage of all solid waste accumulated on the property.

7 (b) ~~Unless another type of container is required by the unit of local government, garbage~~ Garbage shall be stored in
8 ~~either durable~~ durable, rust-resistant ~~rust resistant~~, nonabsorbent, watertight, rodent proof, and easily cleanable
9 containers with a ~~close-fitting cover that is impervious to flies, close fitting flytight cover, when applicable, or other~~
10 ~~types of containers acceptable to the local governing agency and conforming to the intent of this Section.~~

11 (c) Refuse shall be stored in durable ~~containers that are consistent with the requirements of the unit of local~~
12 ~~government, containers or as otherwise provided in this Section. Where garbage is stored in combination with refuse,~~
13 ~~containers shall meet the requirements for garbage containers.~~

14 (d) ~~Hazardous waste shall be stored as prescribed in the applicable state or federal rules.~~

15 (e) ~~All containers for the storage of solid waste shall be maintained in such a manner as to prevent the creation of a~~
16 ~~nuisance or insanitary conditions. Containers that are broken or otherwise fail to meet this Rule shall be replaced with~~
17 ~~acceptable containers. Refuse too large or otherwise not suitable for storage in containers shall be stored in a nuisance~~
18 ~~free manner consistent with requirements with the unit of local government.~~

19 (f)(d) ~~All solid waste shall be stored in such a manner using safe and sanitary practices for the preservation of the~~
20 ~~public health and welfare and the environment that prevents the generation of leachate, the attraction of vectors, the~~
21 ~~release of odors, and the release of waste or leachate to the environment, as to prevent the creation of a nuisance,~~
22 ~~insanitary conditions, or a potential public health hazard.~~

23
24 *History Note: Authority G.S. 130A-294;*

25 *Eff. April 1, 1982;*

26 *Amended Eff. February 1, 1988, 1988;*

27 *Readopted Eff January 1, 2021.*
28

1 15A NCAC 13B .0105 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0105 COLLECTION AND TRANSPORTATION OF SOLID WASTE**

4 (a) The solid waste collector shall be responsible for the collection and transportation of all solid waste to a solid
5 waste management facility ~~as defined in G.S. 130A-290~~ that is permitted by the Division.

6 (b) The solid waste collector shall transport to a solid waste disposal site or solid waste management facility only
7 those solid wastes that are allowed by the site or facility permit.

8 (c) Vehicles or containers used for the collection of solid waste, and transportation by whatever means, including
9 highway, rail, and navigable waterway, shall be constructed, operated, and maintained to be leak resistant in order to
10 prevent the creation of a nuisance to public health from the escape of solid, semi-solid, or liquid waste. In order to
11 meet the requirement to be leak resistant, the owner or and/or operator of the vehicle or container shall adhere to the
12 following standards:

13 (1) All surfaces that come in contact with waste shall be smooth and non-absorbent.

14 (2) All drain holes and valves shall be closed, plugged, or sealed.

15 (3) The vehicle or container shall be equipped with seals, gaskets, or other devices pursuant to
16 manufacturer specifications in order to prevent the escape of liquids. Such seals, gaskets, and other
17 devices shall be maintained and replaced pursuant to manufacturer specifications.

18 (4) The vehicle or container body, waste holding area, and hopper, if so equipped, shall be free of holes,
19 cracks, rusting, corrosion, or other evidence of damage or weakness that may allow the escape of
20 solid, semi-solid, or liquid waste.

21 (5) The waste holding area, including the hopper and around the packer blade, if so equipped, shall be
22 ~~clean~~ clear of debris to prevent vectors or the accumulation of litter.

23 (6) The vehicle or container shall be loaded, transported, operated, and maintained to prevent the escape
24 of solid, semi-solid, or liquid waste to the environment.

25 (7) The vehicle or container shall be serviced, repaired, and cleaned ~~to maintain sanitary conditions, to~~
26 ~~preserve the integrity of the door seal, to prevent the accumulation of mechanical fluids, dirt,~~
27 leachate, and fill waste particulates on the vehicle's exterior, and to prevent contamination of the
28 environment by fluids.

29
30 *History Note: Authority G.S. 130A-294(b); S.L. 2013-413;*

31 *Eff. April 1, 1982;*

32 *Amended Eff. March 16, 2017; February 1, ~~1988~~ 1988;*

33 *Readopted Eff. January 1, 2021.*

1 15A NCAC 13B .0106 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0106 GENERATOR OF SOLID WASTE**

4 (a) Unless exempted from the rules of this Subchapter in accordance with G.S. 130A-294(b), a ~~A~~ solid waste generator
5 shall be responsible for storing, collecting, and disposing of solid waste in accordance with the rules of this Subchapter.
6 ~~the satisfactory storage, collection and disposal of solid waste.~~

7 (b) Unless exempted from the rules of this Subchapter in accordance with G.S. 130A-294(b), the ~~The~~ solid waste
8 generator shall ensure that his or her waste is disposed of at a solid waste disposal site or solid waste management
9 facility which that is permitted by the Division to receive the waste. ~~such waste in accordance with the rules of this~~
10 Subchapter.

11
12 *History Note: Authority G.S. 130A-294;*

13 *Eff. January 1, ~~1985~~.1985;*

14 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0201

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (b), line 7, what do you mean by "suffer"?

In (c), line 13, In (c), is the term "operator" on line 13 defined elsewhere? Are you relying upon the definition in G.S. 130A-290(a)(21)?

In (d), line 17, should "inert debris landfill" instead be "LCIDLF" to meet the definition in Rule .0101(30)?

In (f), line 34, what are "safe and sanitary practices"?

In (g), Page 2, line 2, what are "permanent" markers? Does your regulated public know?

On line 2, do you need to retain "adequate"? Wouldn't "The markers shall be of height and spacing so that they are distinguishable..." suffice?

What do you mean by "review" in Paragraph (i)?

In (j), lines 12-13, you are reciting Rule .0102. Why? And what is the purpose of including these additional citations? Is this simply a notice provision?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0201 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0201 PERMIT REQUIRED**

4 (a) No person shall treat, process, store, or dispose of solid waste or arrange for the treatment, processing, storage, or
5 disposal of solid waste except at a solid waste management facility permitted by the Division for such activity, except
6 as provided in G.S. 130A-294(b).

7 (b) No person shall cause, suffer, allow, or permit the treatment, storage, ~~or processing~~ processing, or disposal of
8 solid waste upon any real or personal property owned, operated, leased, or in any way controlled by that person without
9 ~~first having been issued~~ obtaining a permit for a solid waste management facility from the Division authorizing such
10 activity, except as provided in G.S. 130A-294(b).

11 (c) No solid waste management facility shall be established, operated, maintained, constructed, expanded, or modified
12 without a ~~currently~~ valid permit issued by the Division for the specified type of disposal activity. It is the responsibility
13 of every owner or ~~and~~ operator of a proposed solid waste management facility to apply for a permit for the facility.
14 The term "owner" shall include record owners of the land where the facility is located or proposed to be located and
15 holders of any leasehold interest, however denominated, in any part of the land or structures where the facility is
16 located or proposed to be located.

17 (d) The solid waste management facility permit, except for permits authorizing land clearing and inert debris ~~permits,~~
18 landfills, septage management facilities, or compost facilities, shall have two parts, as follows:

19 (1) A permit approval to construct a solid waste management facility or portion of a facility shall be
20 issued by the Division after site and construction plans have been approved by the Division and it
21 has been determined that the facility can be operated in accordance with Article 9 of Chapter 130A
22 and the applicable rules set forth in this Subchapter, and other applicable ~~state,~~ State, federal, and
23 local laws. An applicant shall not clear or grade land or commence construction for a solid waste
24 management facility or a portion thereof until a permit approval to construct has been issued.

25 (2) A permit approval to operate a solid waste management facility shall not be issued unless it has been
26 determined that the facility has been constructed in accordance with the construction plans, that any
27 pre-operation conditions of the permit to construct have been met, and that the permit has been
28 recorded, if applicable, in accordance with ~~Rule .0204 of this Section.~~ G.S. 130A-301.

29 (e) Land clearing and inert debris ~~facilities~~ landfills, septage management facilities, and compost facilities may be
30 issued a combined permit that includes approval to construct and operate the facility.

31 ~~(f) Land clearing and inert debris facilities subject to Rule .0563(1) of this Subchapter may construct and operate after~~
32 ~~notification as provided for under Rule .0563(2) of this Subchapter.~~

33 ~~(f)(g)~~ All solid waste management facilities shall be operated in conformity with ~~these Rules~~ the rules of this
34 Subchapter and shall utilize safe and sanitary practices for the preservation of the public health and welfare and the
35 environment by preventing the generation of leachate, the attraction of vectors, the release of odors, and the release of
36 waste or leachate to the environment. ~~not create a nuisance, or an unsanitary condition, or a potential public health~~
37 ~~hazard.~~

1 (g) Disposal area boundaries for landfills permitted in accordance with Sections .0500 or .1600 of this Subchapter
2 shall be delineated with permanent markers on the ground. The markers shall be of adequate height and spacing so
3 that they are distinguishable from the surrounding landscape, and so that the adjacent markers are visible when
4 standing at a marker.

5 (h) The owner or operator shall notify the Department within 30 days of a significant change in accordance with G.S.
6 130A-295.2(g). The owner or operator shall submit an application to amend a permit for a change in ownership or
7 corporate structure of a permitted solid waste management facility. If the facility is required to establish financial
8 assurance pursuant to Section .1800 of this Subchapter, then the facility shall not be released from the requirement to
9 establish financial assurance until the Division has issued a permit to the new owner.

10 (i) Permits issued by the Division are subject to review by the Division. The Division shall provide written notice to
11 a facility no less than 180 days prior to an unscheduled review.

12 (j) Solid waste management facilities permitted by the Division in accordance with this Subchapter are subject to
13 Article 1 Part 2 and Article 9 of Chapter 130A of the General Statutes, 15A NCAC 02C, 02L, 04, and the surface
14 water quality standards in 15A NCAC 02B. [Note this list is not comprehensive, and is provided for information only.]

15
16 *History Note: Authority G.S. 130A-294; ~~S.L. 2015-286, s.4.9;~~*

17 *Eff. April 1, 1982;*

18 *Amended Eff. January 4, 1993; February 1, 1991; March 1, 1988;*

19 *Temporary Amendment Eff. May 19, 1993 to expire on October 9, 1993 or until the permanent rule*
20 *becomes effective, whichever is sooner;*

21 *Temporary Amendment Expired Eff. October 9, 1993;*

22 *Amended Eff. September 1, 2016; August 1, ~~2008~~, 2008;*

23 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0202

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(3), line 13 and 18, please replace the semicolon after the citations ("89C" and "89E") with commas.

In (a)(4), who will determine this? If it's the Division, how will the applicant be notified of the need for this information?

In (b), what does this mean? Will this be additional requirements for specific types of solid waste management facilities?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0202 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0202 PERMIT APPLICATION**

4 (a) ~~Application~~ Applications for permits required by Rule .0201 of this Section shall be ~~forwarded~~ submitted to the
5 Department of ~~Environment, Health, and Natural Resources, Environmental Quality, Division of Solid-Waste~~
6 Management, Solid Waste Section, ~~Post Office Box 27687, 1646 Mail Service Center, Raleigh, North Carolina 27699-~~
7 1646, 27611. Permit applications shall contain the following information:

- 8 (1) ~~Site~~ site and construction plans;
- 9 (2) ~~An~~ an approval letter from the unit of local government having zoning authority over the area where
10 the facility is to be located stating that the proposed facility meets all of the requirements of the local
11 zoning ordinance, or that the site is not zoned;
- 12 (3) ~~Detailed~~ plans and specifications for solid waste management facilities shall be prepared and
13 certified by a licensed professional engineer if required by G.S. 89C; and is not under the purview
14 of another licensed professional such as a licensed professional land surveyor. [89C:] except for
15 land clearing and inert debris landfills subject to Rule .0563(1) of this Subchapter. The plans shall
16 bear an imprint of the registration seal of the engineer and geological-Geological studies shall be
17 certified by bear the seal of a licensed professional-geologist, in accordance with N.C.G.S. Chapter
18 if required by G.S. 89E; and is not under the purview of another licensed profession such as a
19 licensed soil scientist in accordance with G.S. 89F; and
- 20 (4) ~~Any~~ other information for pertinent to the proposed facility- facility, if it is necessary to determine
21 compliance with the requirements of this Subchapter.

22 (b) Specific information for a permit application is found in Sections .0300 through .1600 .0300, .0400 and .0500 of
23 this Subchapter.

24 (c) All applications for a permit approval to construct as set forth in Rule .0201(d)(1) of this Section shall also include
25 documentation necessary to determine compliance with G.S. 130A-295.2 and G.S. 130A-295.3, such as the following:

- 26 (1) cost estimates for financial assurance if the facility is subject to Section .1800 of this Subchapter;
- 27 (2) documentation that the Division may request to determine compliance with the requirements for
28 financial qualifications in accordance with G.S. 130A-295.2(d), if any;
- 29 (3) the environmental compliance history for the applicant as defined in G.S. 130A-295.3(a); and
- 30 (4) if the applicant is a business entity, an organizational chart showing the structure of the applicant as
31 defined in G.S. 130A-295.3(a)(i) through (iii).

32 (d) All applications for a permit approval to operate as set forth in Rule .0201(d)(2) of this Section shall also include
33 documentation necessary to determine compliance with G.S. 130A-295.2 and G.S. 130A-295.3, such as the following:

- 34 (1) updated cost estimates for financial assurance if the facility is subject to Section .1800 of this
35 Subchapter;
- 36 (2) the executed financial assurance mechanism if the facility is subject to Section .1800 of this
37 Subchapter;

1 (3) an updated environmental compliance history for the applicant as defined in G.S. 130A-295.3(a);
2 and

3 (4) if the applicant is a business entity, an updated organizational chart showing the structure of the
4 applicant as defined in G.S. 130A-295.3(a)(i) through (iii).

5 (e) When a permit applicant submits a complete application for a permit to the Division prior to the expiration date
6 of the existing permit for the facility, including the payment of an annual fee and permit application fee if required by
7 G.S. 130A-291.1 or 130A-295.8, the existing permit shall not expire until a decision on the permit application is made
8 by the Division.

9
10 *History Note: Authority G.S. 130A-294;*

11 *Eff. April 1, 1982;*

12 *Amended Eff. January 4, 1993; February 1, 1991; September 1, 1990; August 1, ~~1988-1988~~;*

13 *Readopted Eff. January 1, 2021.*
14

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0203

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), lines 4-5, you have "these Rules" but in (e)(4), line 29, you replaced that phrase with "the requirements of this Subchapter" Do you want them to be the same?

On line 5, you refer to the "Solid Waste Management Act" but elsewhere in these Rules, as well as Subparagraph (e)(4), you refer to "Chapter 130A, Article 9 of the General Statutes" I suggest you at least include a citation on line 5.

On line 5, do you have a citation you can insert for the federal law?

In (d), deemed by whom?

In (e)(4), line 28, how far into the future can this go?

And what was the genesis for the additional language on lines 30 and 31? Public comment? And what will be applicable? How do the licensure acts cited affect this Rule?

In (g), line 35, you state the Division will take this action, but the statute speaks to the Secretary doing this. Is this intended to be a delegation? If so, isn't that for the Secretary, rather than the Commission, to do?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0203 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0203 PERMIT APPROVAL OR DENIAL**

4 (a) Upon receipt of a permit application, the Division shall review the request to assure that all provisions of these
5 Rules, the Solid Waste Management Act, and the Federal Resource Conservation and Recovery Act, as amended, will
6 be met. The Division shall review permit applications in accordance with the timelines established in G.S. 130A-
7 295.8(e). Based on its review, the Division shall either approve or deny the request in writing.

8 (b) When an application is approved, the applicant shall be provided a permit. If the approval is contingent upon
9 certain conditions being met by the applicant, such as a final construction inspection or obtaining a local government
10 franchise approval, such conditions shall be noted on the permit.

11 (c) Before receiving solid waste at a newly permitted facility, an inspection shall be made by a representative of the
12 Division to assure that the site is prepared in accordance with the permit, and the permit shall be recorded in accordance
13 with G.S. 130A-301, with the Register of Deeds in the county where the facility is located in accordance with the
14 recordation requirements set out in 15A NCAC 13B .0204.

15 (d) By receiving solid waste at a permitted facility, the ~~permittee(s)~~ permittee shall be considered to have accepted
16 the conditions of the permit and shall comply with the conditions of the permit.

17 (e) When the Division denies a permit for a solid waste management facility, it shall state in writing the reason for
18 such denial and shall also state its estimate of the changes in the applicant's proposed activities or plans ~~which that~~
19 will be required ~~for in order that~~ the applicant ~~may to~~ obtain a permit. A denial shall be without prejudice to the
20 submission of a future application for a permit after revisions are made to meet objections specified as reasons for
21 denial. The Division shall deny a permit as set forth in G.S.130A-294(a)(4)c, or for the following reasons: Reasons
22 for denial include:

- 23 (1) ~~Submission~~ submission of incomplete information;
24 (2) ~~Failure~~ failure to meet ~~applicable the~~ requirements of this Subchapter; ~~or~~
25 (3) ~~Failure~~ failure to meet ~~any applicable a~~ requirement or standard set forth in Article 9 of Chapter
26 130A of the N.C. General Statutes; or
27 (4) ~~Any other reasons which siting, design, construction, or operation plans that~~ would prevent the solid
28 waste management facility or site from being operated in the future in accordance with Article 9,
29 Chapter 130A of the General Statutes, ~~these Rules, the requirements of this Subchapter,~~ the Federal
30 Resource Conservation and Recovery Act, as amended, or any applicable requirements of G.S. 89C,
31 89E, or 89F. [89C or 89E.] Act, or acceptable engineering or public health and environmental
32 standards.

33 (f) Appeals of permit decisions shall be in accordance with Article 3, Chapter 150B of the General Statutes ~~3 of~~
34 ~~N.C.G.S., Chapter 150B,~~ and the ~~Rules~~ rules adopted thereunder.

35 (g) The Division may suspend or revoke a permit in accordance with G.S. 130A-23. If the Division revokes or
36 suspends a permit, the Division shall notify the owner or operator in writing of the reasons for the permit action.

1 *History Note:* *Authority G.S. 130A-294;*
2 *Eff. April 1, 1982;*
3 *Amended Eff. August 1, 2008; February 1, 1991; August 1, 1988; February 1, ~~1988~~, 1988;*
4 *Readopted Eff. January 1, 2021.*
5

1 15A NCAC 13B .0204 is repealed through readoption as published in 35:04 NCR 451 as follows:

2

3 **15A NCAC 13B .0204 RECORDATION OF LAND DISPOSAL PERMITS**

4

5 *History Note: Authority G.S. 130A-294;*

6 *Eff. April 1, ~~1982~~ 1982;*

7 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .0207 is amended as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0207 LIFE-OF-SITE PERMIT ISSUED FOR A SANITARY LANDFILL OR TRANSFER**
4 **STATION**

5 (a) A transfer station permit issued in accordance with Section .0400 of this Subchapter, or a new or existing sanitary
6 landfill permit issued in accordance with Section .0500 of this Subchapter for industrial solid waste landfill facilities
7 or construction and demolition landfill facilities or Section .1600 of this Subchapter for municipal solid waste landfill
8 facilities or transfer station permit shall be subject to Section .0400, .0500, or .1600 of this Subchapter and shall be
9 for the life-of-site as defined in G.S. 130A-294(a2).

10 (b) A life-of-site permit application for a new sanitary landfill for the life-of-site shall contain design, construction,
11 site development, and operation plans. Site development plans shall state the duration of the life-of-site in the site
12 development or facility plan prepared in accordance with Section .0500 or .1600 of this Subchapter; and shall show
13 the phases or progression of operation in periods of no less than five years and no greater than the life-of-site. life of
14 the site as contained in the facility plan. The life of site of a sanitary landfill shall be specified in the facility plan
15 prepared in accordance with Section .0500 or .1600 of this Subchapter.

16 (c) A sanitary landfill that has an existing permit issued by the Division as of prior to July 1, 2016 shall be approved
17 for a life-of-site permit for the life-of-site within 90 days of submittal of the following updated permit information:

- 18 (1) a specification of the duration of the life-of-site stated quantified in the site development or facility
19 plan;
20 (2) landfill capacity in years, projected for the life-of-site; life of the site;
21 (3) average monthly disposal rates and estimated variances; and
22 (4) a copy of the local government franchise agreement or approving resolution for the life-of-site. life
23 of the site.

24 (d) Each phase within a life-of-site permit for sanitary landfills shall be designed and constructed in accordance with
25 Sections .0500 or .1600 of this Subchapter. Site development plans shall show the phases or progression of
26 construction and operation in periods of no less than five years and no greater than the life-of-site life of the site as
27 contained stated in the site development or facility plan.

28 (e) A life-of-site permit application for a new transfer station for the life-of-site shall conform to the requirements of
29 Section .0400 of this Subchapter. Subchapter and shall contain a site plan for the life of the site. A specification of the
30 life-of-site of a transfer station shall be quantified. The duration of the life-of-site shall be stated in the site plan prepared
31 in accordance with Section .0400 of this Subchapter. Subchapter. The site plan shall be for the life-of-site.

32 (f) A transfer facility station that has an existing permit as of issued by the Division prior to July 1, 2016 shall be
33 approved for a life-of-site permit upon submittal of a written request for approval of a permit for the life of the site for
34 the transfer station. The duration of the life-of-site shall be stated in the request. that shall include a specification of
35 the quantified life of site.

36
37 *History Note: Authority G.S. 130A-294; S.L. 2015-286, s. 4.9;*

1 *Eff. March 16, ~~2017~~2017;*
2 *Amended Eff. January 1, 2021.*
3

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0208

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 5, as well as (a)(6), line 37, and (b), Page 2, line 3, please state "Article 9 of Chapter 130A" This will mirror the language in (b)(5)(D), Page 4, line 25.

I think (a)(1) should not be in this list, but instead at the end of (a) with no indentation.

In (a)(4), line 19, what is "commonly" here? Is this known? And do you need it – would "that are collected by a local..." not suffice?

In (a)(5)(H), line 32, please insert a comma after "waste" And please note my earlier query regarding the meaning of the term "liquid waste"

In (b)(1)(B), line 8, is "responsible parties" defined somewhere, or a term known to your regulated public?

On line 18, delete the brackets and "Note" and just state "The site evaluation form..." Or, take that language and put in in (b)(1), line 5, stating "... a site evaluation form, which may be found on the Division's website at [url], that shall include..."

In (b)(3)(C), Page 3, line 1, what are "grinding operations"?

In (b)(3)(E), line 8, please state whether this CFR is being incorporated with or without subsequent amendments and editions (as you did for (b)(3)(G), lines 20-21 of the same page).

In (b)(3)(F), what authority are you relying upon for this exemption, given the language of G.S. 130A-294(a)(4)(c)(5)?

In (b)(3)(G), line 21, end the sentence after "amendments."

In (b)(3)(I), lines 34 through Page 4, line 2, so that I'm clear – the DNCR Heritage Program administers the Federal Endangered Species Act of 1973?

In (b)(3)(J), Page 4, line 4, please end the sentence after "amendments"

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 3, 2020

On lines 5-7, how will the Division give notice of this waiver?

In (b)(4)(A), line 12, please insert an "or" at the end of the line.

In (b)(5)(D), line 26, please capitalize "General Statutes"

In (b)(8), Page 5, line 3, you say the Director "may" revoke the letter if the site no longer complies. Do you mean "shall"? If not, then under what circumstances will the Director not make the revocation when the site no longer complies with the requirements? Is this to allow the operator the opportunity to come into compliance?

In (b)(10), lines 8 and 9, I suggest stating "or operator submits a written extension of time for waste removal, and the Division grants..."

On lines 10-14, I recommend separating this into a list, like so:

In making the determination ... factors such as:

(A) the type of emergency or disaster;

(B) the effects on the part of the State in which the disaster occurred;

If you don't want to do that, please insert a colon after "such as" on line 10 and then separate the factors by semicolons, rather than commas.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0208 is adopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0208 PERMIT EXEMPTIONS**

4 (a) A collection center shall not be required to obtain a permit from the Division for the construction or operation of
5 these facilities if the facility operations comply with Article 9 Chapter 130A of the General Statutes, the rules of this
6 Subchapter, and the following conditions:

7 (1) This Rule does not exempt collection centers and their operations from any other applicable local,
8 State, or federal permitting and operational requirements, if such requirements exist.

9 (2) Collection centers shall not receive solid waste generated from non-residential activities or by
10 commercial waste collection services. Facilities that receive such waste shall comply with the
11 requirements for transfer stations in accordance with Section .0400 of this Subchapter.

12 (3) Solid waste received at collection centers shall be stored in accordance with Rule .0104 of this
13 Subchapter. Garbage shall not be stored at the collection center for more than seven days between
14 the time of collection and the time of disposal at a solid waste management facility permitted in
15 accordance with the rules of this Subchapter to accept such waste. Refuse shall not be stored at the
16 collection center more than 90 days between the time of collection and the time of removal to a solid
17 waste management facility permitted in accordance with the rules of this Subchapter to accept such
18 waste.

19 (4) Source-separated recyclables such as paper, plastic, and electronics that would commonly be
20 collected by a local curbside recycling collection program but are instead being collected at the
21 collection center for the purpose of recycling are not subject to the requirements of Subparagraph
22 (2) of this Paragraph, and shall be managed in accordance with G.S. 130A-309.05(c).

23 (5) The following items shall not be accepted at collection centers for the purposes of disposal:

24 (A) construction, demolition, or industrial wastes from commercial or industrial sources;

25 (B) burning or smoldering waste;

26 (C) asbestos-containing materials, unless it is generated by an individual property owner and
27 is packaged and handled to prevent the material from being friable;

28 (D) radioactive waste;

29 (E) hazardous waste;

30 (F) regulated medical waste;

31 (G) animal carcasses;

32 (H) liquid waste unless it is in containers similar in size to containers found in household waste;
33 and

34 (I) items banned from landfill disposal pursuant to G.S. 130A-309.10.

35 (6) Owners and operators of collection centers shall allow the Division to enter the collection center
36 property to inspect any facilities, equipment, practices, or operations to determine compliance with
37 Article 9 Chapter 130A of the General Statutes or the rules of this Subchapter.

(b) A temporary debris storage and reduction site (site) shall not be required to obtain a permit from the Division for the temporary operation of these sites for solid waste management after a disaster event if the operations comply with Article 9 Chapter 130A of the General Statutes, the rules of this Subchapter, and the following conditions:

(1) The landowner or operator of the site shall submit notification of the proposed site to the Division on a site evaluation form that shall include the following:

(A) site name, address, city, county, parcel identification number, and latitude and longitude in decimal degrees, driving directions to the site, and acreage of the site;

(B) a description of the responsible parties for the site and their affiliation to the site;

(C) primary operator contact name, telephone number, and e-mail address;

(D) local government contact name, telephone number, and e-mail address;

(E) landowner name, address, telephone number, and e-mail address;

(F) waste types proposed to be accepted;

(G) proposed site operations and procedures for waste acceptance, handling, reduction, and removal;

(H) proposed destination of waste or materials removed from the site; and

(I) an aerial photograph indicating the proposed waste handling areas at the site and the buffer areas required in accordance with this Rule.

[Note: the site evaluation form may be found on the Division's website at:

<https://deq.nc.gov/about/divisions/waste-management/waste-management-permit-guidance/solid-waste-section/disaster-debris>]

(2) Unless a site is located at a solid waste management facility that has been permitted by the Division in accordance with the rules of this Subchapter, or that has submitted notification to the Division in accordance with Rule .1402(g)(1)(A) of this Subchapter, sites shall be owned or operated by one of the following:

(A) a county government as defined in G.S. 153A-10;

(B) a city government as defined in G.S. 160A-1;

(C) a State or federal agency or institution;

(D) a State or federally-recognized Indian tribe; or

(E) a third-party entity under contract with one of the entities in Parts (A) through (D) of this Subparagraph with authorization of the landowner.

(3) A site shall meet the following siting requirements for the acceptance, storage, and processing of yard waste and demolition debris:

(A) Waste storage, processing, and handling areas shall be located no less than 100 feet from property boundaries, on-site structures, residences, private or public wells, septic tank systems, and surface waters.

(B) Waste storage, processing, and handling areas for demolition debris shall be located no less than 250 feet from potable wells.

- (C) Grinding operations shall be located no less than 300 feet from residence and business properties and publicly owned roads and properties, unless the Division states a reduced buffer in the conditional approval letter because the type of grinding equipment or procedures proposed to be utilized will reduce the impacted area.
- (D) A site shall not be located in wetlands as delineated by the U.S. Fish and Wildlife Service (FWS) National Wetlands Inventory Wetlands Mapper, which can be accessed from the U.S. FWS website at <https://www.fws.gov/wetlands/index.html>.
- (E) A site shall not be located in the floodway as defined in 44 CFR 9.4, which can be accessed free of charge at <https://www.ecfr.gov>.
- (F) A site shall not be located in the 100-year floodplain as delineated by the NC Flood Risk Information System (FRIS) unless exempted from this requirement by the Division in the letter of conditional site approval. When making the determination to exempt a site, the Division shall consider the availability of other potential locations for a that are not in the 100-year floodplain, the need for additional sites following an emergency or major disaster, the amount and types of waste proposed to be stored at the site, and the proposed waste handling activities at the site. The NC FRIS mapping tool can be accessed from the NC Floodplain Mapping Program website at <https://fris.nc.gov/fris/?ST=NC>.
- (G) A site shall not damage or destroy a property of archaeological or historical significance that has been listed on the National Register of Historic Places or included on the Study List for the Register pursuant to 07 NCAC 04R .0206 and .0300, which are incorporated by reference including subsequent amendments and editions. The Division or the site operator shall obtain a site-specific survey from the State's Historic Preservation Office (SHPO) in the Department of Natural and Cultural Resources, and the Division shall include the site-specific survey response on SHPO letterhead with the letter of site pre-approval obtained in accordance with Subparagraph (8) of this Paragraph.
- (H) The location, access, size, and operation of the site shall not have an adverse impact on any component included in the State Nature and Historic Preserve pursuant to G.S. 143-260.10. The Division or the site operator shall obtain a site-specific survey from the Natural Heritage Program (NHP) in the Department of Natural and Cultural Resources, and the Division shall include the site-specific survey response on NHP letterhead with the letter of site pre-approval obtained in accordance with Subparagraph (8) of this Paragraph.
- (I) A site shall not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat protected under the Federal Endangered Species Act of 1973, Public Law 93-205, as amended. The Division or the site operator shall obtain a site-specific survey from the Natural Heritage Program (NHP) in the Department of Natural and Cultural Resources, and the Division shall include

- the site-specific survey response on NHP letterhead with the letter of site pre-approval obtained in accordance with Subparagraph (8) of this Paragraph.
- (J) The site shall comply with 15A NCAC 04 for sedimentation and erosion control. 15A NCAC 04 is incorporated by reference including subsequent amendments and editions. The Division may amend the buffer requirements of Parts (A) through (C) of this Subparagraph if it is necessary for the preservation of the public health and the environment, or if additional waste handling areas are necessary to expedite recovery from a disaster or emergency.
- (4) A site shall accept only waste generated by a disaster event for storage, segregation, processing, and reduction. A site shall not be used for solid waste management at any time other than following a disaster event. For the purposes of this Rule, "disaster event" means one of the following:
- (A) a natural or man-made event that causes a declaration of a state of emergency or disaster in accordance with Chapter 166A, Article 1A, Part 4 of the General Statutes;
- (B) a hurricane, tornado, severe storm, ice storm, or a 100-year flood event.
- (5) A site shall not accept any waste other than yard waste and demolition debris, except that it may accept household hazardous waste, white goods, or electronics under the following conditions:
- (A) the solid waste management facility that accepted the household hazardous waste, white goods, or electronics prior to the disaster event is not able to accept these wastes after the disaster event;
- (B) the site operator shall submit to the Division a plan for the handling and removal of household hazardous waste, white goods, and electronics in writing prior to accepting these wastes after a disaster event;
- (C) the household hazardous waste, white goods, and electronics shall be stored in containers that comply with Rules .0104 and .0105 of this Subchapter; and
- (D) the household hazardous waste, white goods, and electronics shall be removed from the site within 30 days of receipt and managed in accordance with Article 9 of Chapter 130A of the general statutes and the rules of this Subchapter.
- (6) A site shall comply with any local, State, and federal siting, permitting, and operational laws, rules, and ordinances, and with the requirements of the Federal Emergency Management Act.
- (7) The open burning of solid waste is prohibited at a site unless approved by the Division of Air Quality or an EPA-delegated local air program prior to burning after a disaster event. The site shall comply with 15A NCAC 02D, and any additional siting buffers that may apply to burning activities. Ash generated by the burning of solid waste at a site shall be handled in the same manner as ash generated by a solid waste management facility in accordance with G.S. 130A-309.05(b).
- (8) The site operator shall obtain a letter of site pre-approval from the Division stating that the Division has determined that the site meets the conditions of Subparagraphs (1) through (6) of this Paragraph, and providing the site identification number designated by the Division. The Division may provide additional conditions for site use in the letter of site pre-approval if it is necessary to comply with

1 the requirements of this Subchapter, or to assist with local and State recovery and compliance with
2 the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as
3 amended. The Division may revoke the letter of site pre-approval if the site no longer complies with
4 the requirements of this Rule.

5 (9) The site operator shall notify the Division verbally or in writing that the site is accepting waste
6 within 14 days of initial acceptance of waste after a disaster event.

7 (10) All solid waste shall be removed from the site for disposal, recycling, or reuse within 180 days of
8 initial waste acceptance after a disaster event or emergency, unless the owner or operator requests
9 an extension of time for waste removal in writing, and the Division grants the extension in writing.
10 In making the determination to grant the extension, the Division shall consider factors such as the
11 type of emergency or disaster and the effects on the part of the State in which it occurred, the amount
12 and types of waste stored at the site, the efforts taken by the owner or operator to remove the waste;
13 the compliance history of the owner or operator, and any extenuating circumstances that have caused
14 the delay provided by the owner or operator in the request.

15 (11) Yard waste that has been reduced or processed, such as chipped wood or mulch, and removed from
16 a site is not subject to regulation as a solid waste or the requirements of this Subchapter if it is
17 managed as a recovered material in accordance with G.S. 130A-309.05(c) by the person receiving
18 the material.

19 (12) Within 30 days of the removal of all solid waste, the site shall be graded to prevent ponding of
20 surface water, and vegetative groundcover shall be established.

21
22 *History Note: Authority G.S. 130A-294;*
23 *Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0301

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(2), line 14, please end the sentence after "amendments."

Consider ending (a)(5)(A) and (B) with semicolons on lines 26 and 27, with an "and" at the end of line 27. This will mirror (a)(6)(A) through (D).

In (c)(2), Page 2, line 26, it seems you are missing language after "if any;" Should this be "... the proposed use is allowed within any existing zoning and that any necessary..."?

In (c)(3), lines 31-32, DNCR is administering the endangered or threatened species program?

In (d), line 34, what do you mean by "discussion"?

In (d)(9), Page 3, line 14, state "40 CFR 61, Subpart M,"

On lines 14 and 15, where are these rules located within the Code?

In (d)(10), line 20, delete "and" before "contact"

On line 21, I believe "site-specific" should be hyphenated.

In (d)(11), line 23, you say, "may propose" but in Rule .0404(i)(11), you say "is proposing" Should these be the same?

In (f), line 34, why do you need "when the permit is issued by the Division"? There isn't another permit or issuer of the permit, is there? Why won't "shall be incorporated into the permit" sufficient here?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0301 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **SECTION .0300 – TREATMENT AND ~~SOLID WASTE PROCESSING~~ FACILITIES**

4
5 **15A NCAC 13B .0301 SITING AND APPLICATION REQUIREMENTS**

6 ~~This Rule contains the information required for a permit application for each treatment and processing facility. A~~
7 ~~minimum of three sets of the following information shall be required in each application:~~

8 (a) A treatment and processing facility (site) shall meet the following siting requirements:

- 9 (1) Floodplain Restrictions: Any portions of the site property where storage or processing of solid waste
10 occurs shall not be located in the 100-year floodplain.
- 11 (2) Cultural Resources Restrictions: A site shall not damage or destroy a property of archaeological or
12 historical significance that has been listed on the National Register of Historic Places or included
13 on the Study List for the Register pursuant to 07 NCAC 04R .0206 and .0300, which are incorporated
14 by reference including subsequent amendments and editions.
- 15 (3) State Nature and Historic Preserve Restrictions: The location, access, size, and operation of the site
16 shall not have an adverse impact on any component included in the State Nature and Historic
17 Preserve pursuant to G.S. 143-260.10.
- 18 (4) Endangered and Threatened Species Restrictions: A site shall not jeopardize the continued existence
19 of endangered or threatened species or result in the destruction or adverse modification of a critical
20 habitat, protected under the Federal Endangered Species Act of 1973, Public Law 93-205, as
21 amended.
- 22 (5) Clean Water Act requirements: a site or its operations shall:
- 23 (A) not cause a discharge of pollutants into waters of the United States, including wetlands,
24 that violates any requirements of the Clean Water Act, including the National Pollutant
25 Discharge Elimination System (NPDES) requirements pursuant to Section 402 of the Clean
26 Water Act.
- 27 (B) comply with Section 404 of the Clean Water Act.
- 28 (C) not cause the discharge of a nonpoint source of pollution to waters of the United States,
29 including wetlands, that violates any requirement of an area-wide or Statewide water
30 quality management plan that has been approved under Section 208 or 319 of the Clean
31 Water Act.
- 32 (6) Buffer Requirements: Unless otherwise stated in the site permit or local zoning requires larger
33 buffers, the waste handling, treatment, processing, and storage areas shall be:
- 34 (A) no less than 100 feet from supply wells;
- 35 (B) no less than 100 feet from property lines;
- 36 (C) no less than 50 feet from waters of the State as defined in G.S. 143-212, or wetlands as
37 defined in 40 CFR 232.2; and

(D) surrounded by an unused and cleared area of no less than 25 feet to allow access for fire or emergency response vehicles.

(b) A permit applicant shall submit to the Division one electronic copy of a permit application, and the application shall contain the plans described in Paragraphs (c) and (d) of this Rule.

(c) Site Plan. An application for a permit for a site shall contain a site plan that includes the following information:

(1) an aerial photograph, representative of existing conditions, at a scale of a least one inch equals 400 feet, showing the area within one quarter mile of the proposed site's boundaries with the following identified:

(A) property lines of the entire property where the site will be located;

(B) waste treatment, processing, and storage areas;

(C) buffer areas and distances to wells, residences, wetlands and water bodies, and descriptions of any buffer requirements by local government zoning regulations;

(D) existing land use and zoning;

(E) location of all private residences, commercial and industrial buildings, public or private utilities, roads, and schools;

(F) on-site easements;

(G) location of potable wells and public water supplies;

(H) historic sites described in Subparagraph (a)(2) of this Rule;

(I) state nature and historic preserves described in Subparagraph (a)(3) of this Rule;

(J) the existing topography and features of the site including general surface water drainage patterns and watersheds, 100-year floodplains, perennial and intermittent streams, rivers, and lakes; and

(K) the classification of the surface water drainage from the site in accordance with 15A NCAC 02B .0300;

(2) a letter from the unit of government having zoning jurisdiction over the site that states that the proposed use is allowed within the existing zoning, if any; that any necessary zoning approval or permit has been obtained, and that states the local zoning buffers that apply to the site; and

(3) letters from both the State Historic Preservation Office and the Natural Heritage Program within the Department of Cultural and Natural Resources stating whether the proposed use of the property will impact the historic sites described in Subparagraph (a)(2) of this Rule; State nature and historic preserves described in Subparagraph (a)(3) of this Rule; or the endangered or threatened species described in Subparagraph (a)(4) of this Rule located at the site.

(d) Operations Plan. An application for a permit for a site shall contain an operations plan that shall include a discussion of each of the following items:

(1) the type and quantity of wastes that will be accepted, the anticipated sources of the waste accepted, and the intended destination of recyclables and waste removed from the site;

- (2) the procedures for receiving, screening, processing, handling, salvaging, storage, treating, and removal of waste and recovered materials, including the anticipated processing, treatment, and storage times;
- (3) procedures for handling recyclables, wastes banned from landfill disposal in accordance with G.S. 130A-309.10(f), and special wastes as defined in G.S. 130A-290(a)(40);
- (4) the solid waste treatment, processing, and storage areas, and the buffer areas required by Subparagraph (a)(6) of this Rule;
- (5) the hours of operation, staffing, parking for visitors and employees, and traffic routing;
- (6) methods for vector control, dust and odor control, drainage and erosion control, fire prevention, and daily cleanup;
- (7) record keeping procedures;
- (8) planned compliance with the operational and closure requirements of Rule .0302 of this Section;
- (9) for sites that will accept, process, or recycle construction and demolition wastes, a description of how the site will comply with 40 CFR Part 61(M), G.S. 130A-444 through 452, and the rules adopted thereunder;
- (10) a contingency plan that shall address planned operations in the event of loss of power, loss of communications, storm surges, scale malfunctions, and scale software malfunctions; in the event that the disposal site, haul route, or transfer equipment is not available; or during conditions exceeding design parameters. The owner or operator of the site shall provide back-up equipment, and contact information to obtain the equipment, and plans to by-pass the site in case of equipment breakdown. The contingency plan shall be kept updated on-site and shall include site specific emergency procedures and contact information in case of emergencies;
- (11) additional information for activities or features that the owner or operator may propose that are not otherwise described in this Paragraph, or that the Division may request if it is necessary to determine compliance with the rules of this Subchapter;
- (12) in addition to the information required in this Paragraph, sites that are proposing to accept scrap tires shall also include the information required by Rule .1106(d) of this Subchapter in the operations plan, if it is not already required to be submitted by this Rule; and
- (13) in addition to the information required in this Paragraph, sites that are proposing to accept medical waste shall also include the information required by Rule .1204(b)(4) of this Subchapter in the operations plan, if it is not already required to be submitted by this Rule.
- (e) The Division shall review all permit applications in accordance with Rule .0203 of this Subchapter.
- (f) Plans and documents submitted in the permit application in accordance with this Rule shall be incorporated into the permit when the permit is issued by the Division, and the site shall comply with the permit in accordance with Rule .0203(d) of this Subchapter.
- (g) Permits issued by the Division for treatment and processing facilities are valid for five years; and are subject to the permit fees set forth in G.S. 130A-295.8.

1 (h) Modifications to the plans. The owner or operator may request to modify plans that were incorporated into the
2 permit by the Division in accordance with Paragraph (f) of this Rule by submitting the request to the Division,
3 including the modified plan and a demonstration showing how the proposed modifications comply with the rules of
4 this Section. The Division shall respond to the request in writing within the timeline provided in G.S. 130A-295.8(e),
5 and the response shall either approve or deny the request as submitted or request that additional information be
6 submitted for the Division to consider the request. The Division's approval shall be based on whether the modification
7 complies with the rules of this Subchapter. If the Division approves the request as submitted or upon receiving the
8 additional information requested, the Division's written approval and the revised pages of the plan shall be added to
9 the sites operating record. The owner or operator shall not implement the modification until the Division has issued
10 an approval.

11 (i) Sites that received a permit from the Division prior to the readopted effective date of this Rule shall comply with
12 the rules of this Section with the following exceptions:

- 13 (1) buildings, structures, and waste handling areas constructed prior to the readopted effective date of
14 this Rule shall not be required to comply with Paragraph (a) of this Rule for the permitted operational
15 boundary of the site[footprint] existing on the readopted effective date of this Rule, or any
16 replacements or modifications within that existing permitted operational boundary; [footprint]; and
17 (2) if a building, structure, or waste handling area was constructed prior to the readopted effective date
18 of this Rule, and is expanded beyond [its] the existing permitted operational boundary [footprint]
19 after the readopted effective date of this Rule, the permitted operational boundary [footprint] that
20 was existing on the readopted effective date of this Rule shall not be required to comply with
21 Paragraph (a) of this Rule, but the expansion areas shall comply with these requirements.

22 (j) Site buildings, structures, and waste handling areas that are exempt from the requirements of Paragraph (a) of this
23 Rule shall continue to comply with the siting and buffer requirements stated in their permit issued prior to the
24 readoption date of this Rule, if any.

- 25 (1) Site and operation plans;
26 (2) An approval letter from the unit of local government having zoning authority over the area where
27 the facility is to be located, stating that the proposed facility meets all of the requirements of the
28 local zoning ordinance, or that the site is not zoned; and
29 (3) Any other information pertinent to the proposed facility.

30
31 *History Note: Authority G.S. 130A-294;*
32 *Eff. April 1, 1982;*
33 *Amended Eff. February 1, 1991-1991;*
34 *Readopted Eff. January 1, 2021.*
35

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0302

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(2), lines 11-13, what is the purpose of this sentence? Is it to serve as notice?

In (a)(5), line 19, who will determine what equipment is necessary? The owner or operator, or the Division?

Also on line 19, what are "safe and sanitary practices"? Does your regulated public know?

In (a)(9), line 32, you have already incorporated 15A NCAC 04 by reference and you don't need to do so again. State "... 02B, as well as 15A NCAC 04;"

On Page 2, line 1, please underline the addition of "(b)"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0302 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0302 OPERATIONAL AND CLOSURE REQUIREMENTS**

4 ~~(a) Any person who maintains or operates~~ The owner or operator of a solid waste treatment and processing facility
5 ~~(site)~~ shall maintain and operate the ~~facility site~~ in accordance ~~the permit conditions and the plans incorporated into~~
6 ~~the permit in accordance with Rule .0301(f) of this Section, and with the following requirements: practices unless~~
7 ~~otherwise specified in the permit:~~

8 ~~(1) Operational plans shall be approved and followed as specified for the facility;~~

9 ~~(1)(2) A a facility site shall only accept wastes that which it is permitted to receive;~~

10 ~~(2)(3) Water that comes in contact with solid waste will leachate shall~~ be contained on-site or properly
11 treated prior to discharge from the site. A NPDES National Pollutant Discharge Elimination System
12 (NPDES) permit may be required by the Department's Division of Water Resources prior to
13 discharge to surface waters;

14 ~~(3)(4) Equipment equipment~~ for fire control shall be available;

15 ~~(4)(5) Effective~~ vector control measures shall be applied to control flies, rodents, and other insects or
16 vermin;

17 ~~(5)(6) Equipment shall be provided in the storage and charging areas and elsewhere as needed or as may~~
18 ~~be required in order to maintain the facility in a sanitary condition; and the owner or operator shall~~
19 ~~provide any equipment that is necessary to maintain the site using safe and sanitary practices for the~~
20 ~~preservation of the public health and welfare and the environment by preventing the generation of~~
21 ~~leachate, the attraction of vectors, the release of odors, and the release of waste or leachate to the~~
22 ~~environment;~~

23 ~~(6)(7) Appropriate barrier methods such as fencing or diking shall be provided to confine material subject~~
24 ~~to be blown by the wind within the site. area. At the conclusion of each day of operation, all~~
25 ~~windblown material resulting from the operation shall be collected and disposed of or containerized~~
26 ~~returned to the area by the owner or operator. operator;~~

27 ~~(7) sites that are permitted by the Division to accept scrap tires shall also comply with Section .1100 of~~
28 ~~this Subchapter;~~

29 ~~(8) sites that are permitted by the Division to accept medical waste shall also comply with Section .1200~~
30 ~~of this Subchapter;~~

31 ~~(9) sites shall comply with 15A NCAC 02D, 02L, and the surface water quality standards in 15A NCAC~~
32 ~~02B; and shall also comply with 15A NCAC 04 which is incorporated by reference including~~
33 ~~subsequent amendments and editions;~~

34 ~~(10) the owner or operator shall submit to the Division upon request any information or records required~~
35 ~~to be kept under the conditions of the permit or the rules of this Section; and~~

36 ~~(11) the owner or operator shall only conduct the solid waste management activities that the site is~~
37 ~~permitted to conduct.~~

1 (b) When a site ceases the acceptance of waste, closure of the site shall comply with the following requirements:

2 (1) The owner or operator shall remove all waste from the site property and dispose of it at a facility
3 permitted by the Division to receive such waste no less than 120 days after the date the site ceased
4 the acceptance of waste.

5 (2) The owner or operator shall comply with the closure requirements specified in the permit issued by
6 the Division.

7 (3) For a site that accepts medical waste, the owner or operator shall also meet the requirements of
8 Section .1200 of this Subchapter.

9 (4) The owner or operator shall notify the Division in writing that the site has been closed in accordance
10 with this Rule.

11 (5) The Division shall conduct an inspection to determine compliance with Subparagraphs (1) through
12 (3) of this Paragraph.

13 (6) When a site has been closed in accordance with this Paragraph, the permit is terminated, and any
14 future solid waste management at the site shall require a new permit.

15
16 *History Note:* Authority G.S. 130A-294;

17 Eff. April 1, ~~1982~~, 1982;

18 Readopted Eff. January 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0401

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (b), so that I'm clear – you are requiring transfer stations that were permitted under the old rules to submit an assessment to come into compliance with the readopted rules? If so, how will this affect the exemption in (a)(2)? Will those not need to be included in the assessment?

In (d), Page 2, line 20, deemed by whom?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0401 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **SECTION .0400 - TRANSFER STATIONS FACILITIES**

4
5 **15A NCAC 13B .0401 APPLICATION REQUIREMENTS PURPOSE AND APPLICABILITY**

6 ~~This Rule contains the information required for a permit application for each transfer facility. A minimum of three~~
7 ~~sets of the following information shall be required in each application:~~

- 8 (1) ~~Site and operation plans;~~
9 (2) ~~An approval letter from the unit of local government having zoning authority over the area where~~
10 ~~the facility is to be located, stating that the proposed facility meets all the requirements of the local~~
11 ~~zoning ordinance, or that the site is not zoned; and~~
12 (3) ~~Any other information pertinent to the proposed facility.~~

13 (a) Owners or operators of transfer stations shall comply with applicable federal, State, and local laws, rules,
14 regulations, and ordinances, and shall comply with the rules of this Section as follows:

- 15 (1) Transfer stations that did not receive a permit to operate from the Division prior to the readopted
16 effective date of this Rule shall comply with the rules of this Section.
17 (2) Transfer stations that received a permit to operate from the Division prior to the readopted effective
18 date of this Rule shall comply with the rules of this Section with the following exceptions:
19 (A) buildings, structures, and waste handling areas constructed prior to the readopted effective
20 date of this Rule shall not be required to comply with Rule .0403(a), (b)(1), or (b)(2) of
21 this Section for the permitted operational boundary of the transfer station[footprint]
22 existing on the readopted effective date of this Rule, or any replacements or modifications
23 within that existing permitted operational boundary;[footprint]; and
24 (B) if a building, structure, or waste handling area was constructed prior to the readopted
25 effective date of this Rule, and is expanded beyond [its] the existing permitted operational
26 boundary of the transfer station[footprint] after the readopted effective date of this Rule, the
27 permitted operational boundary [footprint] that was existing on the readopted effective date
28 of this Rule shall not be required to comply with Rule .0403(a), (b)(1), or (b)(2) of this
29 Section, but the expansion areas shall comply with these requirements.

30 Transfer station buildings, structures, and waste handling areas that are exempt from the
31 requirements of Rule .0403(a), (b)(1), and (b)(2) of this Section by this Subparagraph shall continue
32 to comply with the comparable siting, buffer, and construction requirements stated in their permit
33 issued prior to the [readoption] readopted effective date of this Rule.

34 (b) Transition period: Transfer stations that have an effective permit issued [permitted] by the Division prior to the
35 readopted effective date of this Rule shall submit to the Division an assessment report demonstrating compliance with
36 the following conditions and the rules of this Section by no later than six months from the readopted effective date of
37 this Rule:

1 (1) The assessment report shall include an assessment of the status of the building, access roads,
2 parking, and leachate collection system of the current operations compared to the design of the site
3 as stated in the site permit, the plans incorporated into the permit by Rule .0404(d) of this Section,
4 and the rules of this Section. If required by G.S. 89C or G.S. 89E and not under the purview of
5 another licensed profession, the assessment report or parts thereof shall be prepared by a licensed
6 professional engineer or a licensed geologist.

7 (2) The assessment report shall contain recommendations for any actions necessary to comply with the
8 rules of this Section. The Division shall notify the owner or operator of the site in writing within 12
9 months of receipt of the report of the changes required to comply with the rules of this Section, if
10 any.

11 (3) The site shall complete the actions required to comply with the rules of this Section within three
12 years of receipt of the Division's notification of the required changes. The site may submit a request
13 to extend this deadline to the Division in writing. The request shall include the reasons for the request
14 and the anticipated date that the work will be completed. The Division shall approve an extension
15 of the deadline in writing if the Division determines that the scope of work needed to comply with
16 the rules of this Section cannot be completed in three years.

17 (c) Unless otherwise prohibited from accepting waste by local ordinance, transfer stations are not subject to service
18 area restrictions if the receiving disposal site permit includes the origin of waste as identified by franchise or local
19 government approval.

20 (d) Wastes entering the State via a transfer station are deemed out-of-state waste to the point of disposal, regardless
21 of any further processing, recycling, or other reduction activity.

22 (e) The transportation of regulated medical waste shall not be subject to the rules of this Section, but shall comply
23 with Section .1200 of this Subchapter. Transfer stations that receive or transport solid waste by rail, roadway, or water
24 shall be subject to the rules of this Section.

25
26 *History Note: Authority G.S. 130A-294;*

27 *Eff. April 1, 1982;*

28 *Amended Eff. February 1, ~~1991~~1991;*

29 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0402

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 19, what are "reasonable steps"? Who will determine this?

On line 20, who will determine what is "reasonable" here? What are "adverse impacts"?

In (b), line 22, under what circumstances will this request be made?

What is the purpose of Paragraph (c)?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0402 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0402 ~~OPERATIONAL REQUIREMENTS~~ GENERAL REQUIREMENTS**

4 ~~Any person who maintains or operates a transfer facility shall maintain and operate the facility in conformance with~~
5 ~~the following practices unless otherwise specified in the permit.~~

6 ~~(1) — Operational plans shall be approved and followed as specified for the facility;~~

7 ~~(2) — A facility shall only accept those wastes which it is permitted to receive;~~

8 ~~(3) — Water that comes into contact with solid waste will be contained on site or properly treated prior to~~
9 ~~discharge from the site. An NPDES permit may be required prior to discharge to surface waters;~~

10 ~~(4) — Equipment for fire control shall be available;~~

11 ~~(5) — Effective vector control measures shall be applied to control flies, rodents, and other insects or~~
12 ~~vermin;~~

13 ~~(6) — Equipment shall be provided in the storage and charging areas and elsewhere as needed or as may~~
14 ~~be required in order to maintain the facility in a sanitary condition; and~~

15 ~~(7) — Appropriate method shall be provided to confine material subject to be blown by the wind within~~
16 ~~the area. At the conclusion of each day of operation, all windblown material resulting from the~~
17 ~~operation shall be collected and returned to the area by the owner or operator.~~

18 (a) The owner or operator of a transfer station (site) shall comply with the conditions of the permit issued by the
19 Division. In the event of noncompliance with the permit, the owner or operator shall take all reasonable steps to
20 prevent releases to the environment and shall carry out such measures as are reasonable to prevent adverse impacts to
21 human health or the environment.

22 (b) The owner or operator shall submit to the Division upon request any information or records required to be kept
23 under the conditions of the permit or the rules of this Section.

24 (c) In an enforcement action, necessity to halt or reduce the permitted activity to maintain compliance with the
25 conditions of the permit shall not be a defense. Notification of anticipated noncompliance does not stay any existing
26 permit condition.

27 (d) The owner or operator may submit an application for a permit amendment or modification in accordance with
28 G.S. 130A-294(a3). The filing of an application for a permit modification or amendment, or a notification of a
29 significant change in accordance with G.S. 130A-295.2(g), does not stay any existing permit condition.

30 (e) The Division shall deny an application for a permit for the reasons provided in G.S. 130A-294(a)(4)c. The Division
31 may suspend or revoke a permit in accordance with G.S. 130A-23. If the Division denies a permit application or
32 revokes or suspends a permit, the Division shall notify the owner or operator in writing of the reasons for the permit
33 action.

34 (f) If construction is not commenced within 18 months following the issuance date of the permit approval to construct,
35 or an amendment to the permit approval to construct, then the permit shall expire.

36 (g) The owner or operator shall operate and maintain all sites and related appurtenances that are installed or used by
37 the owner or operator to achieve compliance with the conditions of the permit, the plans incorporated in the permit in

1 accordance with Rule .0404(d) of this Section, and any documents referenced in the permit and the rules of this
2 Section.

3 (h) The site shall only conduct the solid waste management activities that the site is permitted to conduct. Construction
4 and operation of additional solid waste management activities at the site shall not impede site operations.

5 (i) Site permits issued by the Division in accordance with this Section are valid for the life-of-site operations in
6 accordance with Rule .0207 of this Subchapter, not to exceed 60 years from the date of the first permit issued for the
7 site.

8 (j) Sites permitted under the rules of this Section shall be subject to the permit fees set forth in G.S. 130A-295.8.

9 (k) The owner or operator shall report to the Division verbally or in writing within 24 hours from the time the owner
10 or operator becomes aware of the circumstances of any release or discharge of leachate or contaminants outside the
11 leachate collection system or other containment component at the site.

12
13 *History Note: Authority G.S. 130A-294;*

14 *Eff. April 1, ~~1982~~, 1982;*

15 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0403

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(2), line 10, you've already incorporated these standards by reference. End the sentence after .0300.

Consider ending (a)(5)(A) and (B) with semicolons on lines 26 and 27, with an "and" at the end of line 24. This will mirror (a)(6)(A) through (D).

In (b)(2), Page 2, line 4, and elsewhere the term is used, what is a "tipping point"? Does your regulated public know?

In (b)(9), line 21, what do you mean by "unauthorized" entry? Unauthorized by whom?

In (b)(15), line 36, I take it you mean "fugitive dust emissions" as defined in Rule 15A NCAC 02D .0540?

In (b)(17), Page 3, line 4, state "40 CFR 61, Subpart M,"

On line 4, where are these rules located within the Code?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0403 is adopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0403 SITING AND DESIGN REQUIREMENTS**

4 (a) A transfer station (site) shall meet the following siting requirements:

- 5 (1) Floodplain Restrictions: The portions of the site containing the buildings, leachate collection
6 systems, and any areas where storage or processing of solid waste occurs shall not be located in the
7 100-year floodplain.
- 8 (2) Cultural Resources Restrictions: A site shall not damage or destroy a property of archaeological or
9 historical significance that has been listed on the National Register of Historic Places or included
10 on the Study List for the Register pursuant to 07 NCAC 04R .0206 and .0300 which are incorporated
11 by reference including subsequent amendments and editions.
- 12 (3) State Nature and Historic Preserve Restrictions: The location, access, size, and operation of the site
13 shall not have an adverse impact on any component included in the State Nature and Historic
14 Preserve pursuant to G.S. 143-260.10.
- 15 (4) Endangered and Threatened Species Restrictions: A site shall not jeopardize the continued existence
16 of endangered or threatened species or result in the destruction or adverse modification of a critical
17 habitat, protected under the Federal Endangered Species Act of 1973, Public Law 93-205, as
18 amended.
- 19 (5) Clean Water Act requirements: a site or site operations shall:
 - 20 (A) not cause a discharge of pollutants into waters of the United States, including wetlands,
21 that violates any requirements of the Clean Water Act, including the National Pollutant
22 Discharge Elimination System (NPDES) requirements pursuant to Section 402 of the Clean
23 Water Act.
 - 24 (B) comply with Section 404 of the Clean Water Act.
 - 25 (C) not cause the discharge of a nonpoint source of pollution to waters of the United States,
26 including wetlands, that violates any requirement of an area-wide or Statewide water
27 quality management plan that has been approved under Section 208 or 319 of the Clean
28 Water Act.
- 29 (6) Buffer Requirements: Unless otherwise stated in the site permit or local zoning requires larger
30 buffers, the waste loading, unloading, and storage areas at the site shall be:
 - 31 (A) no less than 100 feet from supply wells;
 - 32 (B) no less than 100 feet from property lines;
 - 33 (C) no less than 50 feet from waters of the State as defined in G.S. 143-212, or wetlands as
34 defined in 40 CFR 232.2; and
 - 35 (D) surrounded by an unused and cleared area of no less than 25 feet to allow access for fire or
36 emergency response vehicles.

37 (b) Sites shall meet the following design requirements:

- (1) Sites shall be designed and constructed so that all solid waste receiving, handling, transfer, and storage occurs on an impervious surface, such as concrete or asphalt, unless otherwise stated in the site permit.
- (2) Tipping areas shall be located within an enclosed building or covered area to prevent precipitation from coming into contact with waste, and all waste shall be contained in the tipping area unless otherwise stated in the site permit.
- (3) All recovered materials and recyclables stored at the site shall comply with G.S. 130A-309.05(c).
- (4) The site shall be designed to operate within the capacity specified in the permit to accommodate estimated waste volumes, and within schedules prescribed in the permit for removal of all waste streams and materials permitted to be handled at the site. Other activities occurring at a site shall not prohibit compliance with the operational requirements in Rule .0405 of this Section.
- (5) A water supply shall be provided for cleaning site floors, walls, and equipment.
- (6) Leachate, including wash water and process water, shall be collected and contained within the site's collection and containment system described in the site permit.
- (7) All vehicles and containers that contain solid waste shall be staged within the perimeter of a leachate collection system or shall ~~be covered and in compliance~~ comply with Rule ~~.0405(c) .0405~~ of this ~~Subchapter. Section.~~
- (8) Leachate collection and treatment systems shall be designed to facilitate the removal of leachate and wastewater, and may include pipes, manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and liner splices.
- (9) The site design shall include barriers such as fencing and gates to prevent unauthorized entry and to minimize the escape of windblown materials off site.
- (10) In accordance with G.S. 130A-295.5, sites shall be designed and operated so that traffic congestion from loading and unloading of collection and transportation vehicles is minimized beyond the site entrance onto the public road, and beyond any egress ramp approved by the N.C. Department of Transportation.
- (11) An all-weather road that is accessible by the Division and loaded collection vehicles shall be provided from the entrance gate to the unloading, receiving, and tipping areas.
- (12) Storage areas for waste materials shall be designed to prevent potential fires from spreading outside the storage area, to prevent vectors, and to prevent the escape of waste, leachate, odors, dust, and litter from the site.
- (13) If materials banned from landfill disposal in accordance with G.S. 130A-309.10(f) or recyclable materials will be stored on site, the site design shall include a storage area for these materials that is separate from the areas used for handling of waste meant for disposal.
- (14) Sites shall be designed and operated to prevent the attraction of vectors.
- (15) Sites shall be designed and operated to minimize the spread of odors and fugitive dust emissions generated by solid waste over the property line to comply with 15A NCAC 02D .0540 and .1806.

1 (16) Sites shall be designed, operated, and maintained to direct surface water run-on and run-off to
2 prevent ponding or collection of surface water in waste handling and storage areas.

3 (17) Sites that intend to accept, process, or recycle construction and demolition wastes shall be designed
4 to comply with 40 CFR Part 61(M), G.S. 130A-444 through 452, and the rules adopted thereunder.

5

6 *History Note:* *Authority G.S. 130A-294;*

7 *Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0404

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (b), line 7, please replace "are" with "shall be"

In (f), line 25, why do you need the language "by the Division in accordance with the rules of this Section"? Wouldn't "The owner or operator may request to modify plans that were incorporated into the permit by submitting the request to the Division" suffice?

On line 27, I suggest inserting a semicolon after the citation, so it reads, "... G.S. 130A-295.8(e); the response..."

In (g)(1)(G), Page 2, line 7, capitalize "State" since you mean NC.

In (g)(2), line 15, it seems you are missing language after "if any;" Should this be "... the proposed use is allowed within any existing zoning and that any necessary..."?

In (g)(3), line 18, the agency is the Department of Natural and Cultural Resources.

In (g)(3), lines 20-22, DNCR is administering the endangered or threatened species program?

In (h)(1), line 25, what are "construction drawings"? Does your regulated public know?

Please end (h)(1)(C), line 28, with a semicolon, rather than a comma.

In (h)(1)(F), line 36, and elsewhere the term is used, what is a "tipping floor"? Does your regulated public know?

In (i), Page 3, line 14, what do you mean by "discussion"?

In (i)(8), line 32, state "40 CFR 61, Subpart M,"

On lines 32 and 33, where are these rules located within the Code?

In (i)(9)(A), line 36, what do you mean by "description"?

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

In (i)(9)(B), Page 4, line 1, what is “proper” functioning here? Does your regulated public know?

In (j)(1), Page 4, line 25, please end the sentence with a semicolon, not a period.

In (j)(2), line 26, what are these “activities necessary to satisfy the closure criteria”? Does your regulated public know? Is it only complying with Rule .0406?

In (m), line 35, please insert a hyphen in the citation.

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

1 15A NCAC 13B .0404 is adopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0404 APPLICATION REQUIREMENTS**

4 (a) Applications for transfer station permits submitted in accordance with Paragraph (c) of this Rule shall be submitted
5 to the Division of Waste Management Solid Waste Section for review and approval prior to commencement of
6 construction or operation of a transfer station (site).

7 (b) Permit applications for transfer stations are subject to the permit application fees required by G.S. 130A-295.8.

8 (c) In accordance with Rule .0201 of this Subchapter, a permit for a transfer station shall have two parts:

9 (1) Permit Approval to Construct. An application for a permit approval to construct a transfer station
10 shall meet the requirements of Paragraphs (g) through (m) of this Rule and shall be submitted to the
11 Division prior to commencing construction of the site. The application shall include the plans
12 required in Paragraphs (g) through (j) of this Rule.

13 (2) Permit Approval to Operate. The owner or operator shall meet the pre-operative requirements listed
14 in the permit approval to construct to qualify for a permit approval to operate. Construction
15 documentation as outlined in Paragraph (n) of this Rule shall be submitted to the Division prior to
16 receiving waste at the site. The site shall not begin receiving waste until a permit approval to operate
17 has been issued by the Division.

18 (d) Permits issued by the Division in accordance with this Section shall incorporate all plans approved by the Division
19 that are required to be submitted by Paragraphs (g) through (j) of this Rule, and a Corrective Action Plan if required
20 in accordance with Rule .0405(a)(2) of this Section.

21 (e) Amendment to the permit. The owner or operator shall submit an application to amend the permit for a change in
22 ownership or corporate structure of a permitted site. The owner or operator shall notify the Division within 30 days of
23 a change in ownership or corporate structure in accordance with G.S. 130A-295.2(g).

24 (f) Modifications to the plans. The owner or operator may request to modify plans that were incorporated into the
25 permit by the Division in accordance with the rules of this Section by submitting the request to the Division, including
26 the modified plan and a demonstration showing how the proposed modifications comply with the rules of this Section.
27 The Division shall respond to the request in writing within the timeline provided in G.S. 130A-295.8(e), and the
28 response shall either approve or deny the request as submitted or request that additional information be submitted for
29 the Division to consider the request. The Division's approval shall be based on whether the modification complies
30 with the rules of this Subchapter. If the Division approves the request as submitted or upon receiving the additional
31 information requested, the Division's written approval and the revised pages of the plan shall be added to the site's
32 operating record. The owner or operator shall not implement the modification until the Division has issued an approval.

33 (g) Site Plan. An application for a permit for a site shall contain a site plan that includes the following information:

34 (1) an aerial photograph, representative of existing conditions, at a scale of a least one inch equals 400
35 feet, showing the area within one quarter mile of the proposed site's boundaries with the following
36 identified:

37 (A) property lines of the entire property where the site will be located;

- (B) existing land use and zoning;
- (C) location of all private residences, commercial and industrial buildings, public or private utilities, roads, and schools;
- (D) on-site easements;
- (E) location of potable wells and public water supplies;
- (F) historic sites described in Rule .0403(a)(2) of this Section;
- (G) state nature and historic preserves described in Rule .0403(a)(3) of this Section;
- (H) the existing topography and features of the site including general surface water drainage patterns and watersheds, 100-year floodplains, perennial and intermittent streams, rivers, and lakes; and
- (I) the classification of the surface water drainage from the site in accordance with 15A NCAC 02B .0300.
- (2) a siting report demonstrating compliance with the siting criteria of Rule .0403(a) of this Section, including a letter from the unit of government having zoning jurisdiction over the site that states that the proposed use is allowed within the existing zoning, if any; that any necessary zoning approval or permit has been obtained, and that states the local zoning buffers that apply to the site.
- (3) letters from both the State Historic Preservation Office and the Natural Heritage Program within the Department of Cultural and Natural Resources stating whether the proposed use of the site as a solid waste transfer station will impact the historic sites described in Rule .0403(a)(2) of this Section; State nature and historic preserves described in Rule .0403(a)(3) of this Section; or the endangered or threatened species described in Rule .0403(a)(4) of this Section located on the transfer station property.
- (h) Construction Plan. An application for a permit for a site shall contain a construction plan that includes the following items:
- (1) Construction drawings showing:
- (A) existing and proposed contours;
- (B) property boundaries;
- (C) the location of barriers, fences, or other structures that control access to the site,
- (D) buffer areas and distances to wells, residences, wetlands and water bodies and descriptions of any buffer requirements by local government zoning regulations;
- (E) the water diversion, collection, conveyance, erosion and sedimentation control, treatment, storage, and discharge facilities that will be used, such as drainage patterns and surface water drainage control structures both within the area and at the site perimeter, including berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets, velocity breaks, sodding, erosion matting, or other methods of erosion control;
- (F) the solid waste storage, loading, and unloading areas, including the tipping floor;

- (G) buildings and facilities that will be used in the operation, including their horizontal and vertical dimensions;
- (H) concrete foundations or pads and identification of all other ground cover for the site operation;
- (I) location of scales and weigh stations that will be used in the operation;
- (J) a survey grid with base lines and monuments that will be used for field control;
- (K) access roads and traffic flow patterns to and within the site;
- (L) leachate collection, control, and treatment systems including pipes, manholes, trenches, berms, collection sumps or basins, pumps, risers, liners, and liner splices; and
- (M) materials management handling areas for sites that will manage pre-sorted recyclables and any materials diverted from the incoming waste stream; and
- (2) a description of how the site will comply with the design requirements of Rule .0403(b) of this Section.
- (i) Operations Plan. An application for a permit for a site shall contain an operations plan that shall include a discussion of each of the following items:
- (1) the type and quantity of waste that will be accepted, the anticipated sources of the waste accepted, the intended destination of waste removed from the site, and the intended destination of recovered materials if any are proposed to be removed from the site;
- (2) the procedures and anticipated processing and storage times for the activities that the site is proposing to conduct, such as receiving, screening, processing, handling, salvaging, storage, and removal of waste and recovered materials including recyclables, wastes banned from landfill disposal in accordance with G.S. 130A-309.10(f), and special wastes as defined in G.S. 130A-290(a)(40);
- (3) the hours of operation, staffing, parking for visitors and employees, and traffic routing;
- (4) methods for vector control, dust and odor control, drainage and erosion control, fire prevention, and daily cleanup;
- (5) record-keeping procedures;
- (6) groundwater and surface water monitoring and corrective action, if required by the Division in accordance with Rule .0405(a)(2) of this Section;
- (7) planned compliance with the operational requirements of Rule .0405 of this Section;
- (8) for sites that will accept, process, or recycle construction and demolition wastes, a description of how the site will comply with 40 CFR Part 61(M), G.S. 130A-444 through 452, and the rules adopted thereunder;
- (9) for sites designed with a leachate collection system, a leachate management plan that includes the following:
- (A) a description of the performance and design concepts for the leachate collection system and any storm water segregation included in the engineering design;

- (B) monitoring procedures for leachate storage tanks, if present, to ensure proper functioning;
- (C) operational control methods to ensure that surface water is diverted from the operational area, and the tipping floor is free of standing water; and
- (D) a process to abandon or remove the leachate collection system upon closure of the site. The Division may allow leachate collection systems to remain in place for future use if the owner or operator provides documentation of measures taken to comply with the requirements of this Section and to protect human health and safety and the environment, such as capping or blocking of any discharge points or open-ended piping to prevent unintended collection, storage, or discharge of leachate. The Division may also require recordation and land use restrictions in accordance with Rule .0406(7) of this Section;
- (10) a contingency plan that shall address planned operations in the event of loss of power, loss of communications, storm surges, scale malfunctions, and scale software malfunctions; in the event that the disposal site, haul route, or transfer equipment is not available; or during conditions exceeding design parameters. The owner or operator of a site shall provide back-up equipment, and contact information to obtain the equipment, and plans to by-pass the site in case of equipment breakdown. The contingency plan shall be kept updated on-site and shall include site-specific emergency procedures and contact information in case of emergencies; and
- (11) additional information for activities or features that the owner or operator is proposing that are not otherwise described in this Paragraph, or that the Division may request if it is necessary to determine compliance with the rules of this Subchapter.
- (j) Closure Plan. An application for a permit for a site shall contain a closure plan that describes the steps necessary to close the site at any point during the active life of the site in accordance with the requirements in Rule .0406 of this Section. The closure plan shall include the following information:
- (1) a description of all activities, including the removal of any remaining solid wastes or materials from the site, activities required for the closure of the site, and abandonment of all on-site systems.
- (2) a schedule for completing all activities necessary to satisfy the closure criteria set forth in Rule .0406 of this Section;
- (3) the cost estimate for closure and post closure activities; and
- (4) a plan for retention of operating record and receipts including those from closure activities.
- (k) Sites shall comply with financial responsibility requirements in accordance with G.S. 130A-295.2 and Section .1800 of this Subchapter. If the Division requires the site to conduct post-closure care in accordance with Rule .0406(b) of this Section, the site shall maintain financial assurance during the post-closure care period until released from post-closure care by the Division.
- (l) Owners or operators of sites are subject to the compliance history review requirements in G.S. 130A-295.3.
- (m) Sites shall comply with the traffic study requirements in G.S. 130A.295.5.
- (n) Following completion of construction but prior to commencing operations, the owner or operator shall submit to the Division the as-built drawings and a final construction report that the site has been constructed in accordance with

1 the Division-approved drawings and specifications in the permit to construct. If required by G.S. 89C, these items
2 shall be certified by a licensed professional engineer.

3
4 *History Note: Authority G.S. 130A-294;*
5 *Eff. January 1, 2021.*
6

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0405

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, what do you mean by "approved"? Are these the plans that are incorporated into the permit?

In (a)(3)(D), line 27, what do you mean by "type"? Is it the type of waste? If so, I think the language should read "the area, as well as the type and amount of waste that caught fire;"

On line 28, delete the "and" before "a plan"

On line 29, insert a semicolon after "information" and before "and the date"

In (a)(6), lines 35-36, you have already incorporated these standards by reference. Just state, "The site shall comply with 15A NCAC 04, and the owner or operator..."

In (a)(7), Page 2, line 6, under what circumstances will this request be made?

In (a)(8)(A), line 10, what is "liquid waste"? And since you have not yet referred to "PCB waste" please spell it out here as you did in (a)(9)(B).

In (a)(9)(C), line 31, what is "mil" here? Millimeters? Is this a known abbreviation for your regulated public?

Please end line 33 with a semicolon, not a period.

In (a)(10), Page 3, line 3, what is "proper" disposal here?

In (a)(11), line 12, what is a "tipping floor"?

In (c), line 25, please replace the comma after "Subchapter" with a comma.

In (c)(9), Page 4, line 10, I do not understand this cross-reference. Is the intent to refer to 02L .0106?

In (e)(1), line 12, unauthorized by whom?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 3, 2020

In (e)(4), to whom should the signs be “clear and legible”? The public? If so, state that.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0405 is adopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0405 OPERATIONAL REQUIREMENTS**

4 (a) The owner or operator of a transfer station (site) shall maintain and operate the site in accordance with the approved
5 operations plan submitted in accordance with Rule .0404(i) of this Section and the following conditions:

6 (1) Dust and Odor Control. Fugitive dust emissions generated by site operations shall comply with 15A
7 NCAC 02D .0540. The site shall comply with 15A NCAC 02D .1806 for odors.

8 (2) Groundwater and Surface Water ~~Monitoring and Corrective Action~~ Requirements. The site shall
9 prevent the release of leachate and contaminants to groundwater and surface water and shall not
10 cause an exceedance of the groundwater quality standards in 15A NCAC 02L or the surface water
11 quality standards in 15A NCAC 02B. In the event of a release of leachate or contaminants to the
12 environment, the site shall comply with 15A NCAC 02L. 02L and the surface water quality
13 standards in 15A NCAC 02B.

14 (3) Fire Protection and Control.

15 (A) Open burning of solid waste is prohibited at all sites, unless approval has been obtained
16 from the Division, and from the Division of Air Quality in accordance with 15A NCAC
17 02D .1900, and from the local government prior to any burning activity.

18 (B) Hot ashes, hot loads, or cinders shall not be accepted at a site. The waste screening
19 procedures required in accordance with Subparagraph (8) of this Paragraph and described
20 in the operations plan shall address identification and rejection of loads containing hot
21 ashes and cinders.

22 (C) The operator of a site shall provide equipment on-site to control fires and make documented
23 arrangements with a local fire protection agency to provide fire-fighting services.

24 (D) The operator shall verbally notify the Division of fires that occur at a site within 24 hours
25 of the fire and shall submit a written report to the Division within 15 days of the fire. The
26 report shall include the site name and permit number; the date and time of the fire; actions
27 taken by the operator in response to the fire; the cause of the fire; the area, type, and amount
28 of waste that caught fire; and a plan of action to prevent fires in the future; the name and
29 title of the person submitting the information, and the date the information is submitted.

30 (4) Vector Control. Owners or operators of a site shall operate and maintain the site to prevent on-site
31 populations of vectors.

32 (5) Noise Control. Noise levels shall meet local ordinances if they exist. If local ordinances for noise
33 do not exist, noise levels for site operations, except fire and safety alarms, shall not exceed 85
34 decibels at the property line.

35 (6) Erosion and Sedimentation Control Requirements. The site shall comply with 15A NCAC 04, which
36 is incorporated by reference including subsequent amendments and editions; and the owner or

operator shall utilize erosion and sedimentation control measures that prevent sediment from leaving the site and prevent on-site erosion.

- (7) Training. During hours of operation, an operator trained in accordance with G.S. 130A-309.25 shall be on-site. Sites shall provide all staff with no less than eight hours of training updates annually that includes a review of the operations plan and permit documents. Documentation of the training shall be placed in the operating record and provided to the Division upon request.

- (8) Waste Screening. Sites shall comply with the following waste screening requirements:

(A) Site personnel shall screen incoming loads weekly at a rate of no less than five percent of the average daily waste tonnage reported in the site's annual report for the previous year. Site personnel shall be trained annually to identify liquid waste, hazardous waste, PCB waste, special wastes as defined in G.S. 130A-290(a)(40), wastes banned from landfill disposal in accordance with G.S. 130A-309.10(f) if the site receiving the waste for disposal is a landfill, and wastes that the intended final disposal site is not permitted by the Division to accept. The screening shall be conducted as described in the approved operations plan prepared in accordance with Rule .0404(i) of this Section. Waste screening and rejected wastes shall be recorded in writing, and the records shall be kept on site for no less than five years and shall be made available to the Division during a site inspection or upon request.

(B) The owner or operator shall include in the operations plan a plan to manage any identified hazardous and liquid wastes. The plan shall address identification, removal, storage, and final disposal of the waste.

- (9) Waste Acceptance: Sites shall not accept the following:

(A) hazardous waste unless the site is permitted by the Division in accordance with 15A NCAC 13A to receive such waste;

(B) polychlorinated biphenyls (PCB) wastes as defined in 40 CFR 761.3, which is incorporated by reference, including subsequent amendments and editions, and may be accessed at www.ecfr.gov at no cost;

(C) asbestos waste unless the waste is received and handled in compliance with the requirements of 40 CFR 61.150, which is incorporated by reference, including subsequent amendments and editions, and may be accessed at www.ecfr.gov at no cost. Bags shall be no less than six mil thick and shall be labeled with the warning required by 40 CFR 61.150(a)(1)(iv) that they contain asbestos-containing materials. Sites shall provide notice to the landfill facility receiving the asbestos waste prior to disposal.

(D) waste banned by G.S. 130A-309.10 at the disposal destination; and

(E) waste banned by local law or ordinance at the disposal destination. ~~destination; and~~

(F) ~~waste banned from disposal by a local law or an ordinance at the place of waste origin.~~

(10) Windblown waste: Site staff shall conduct daily inspections for windblown waste on the site property. Windblown litter from site operations discovered during the daily inspections or observed on adjacent properties shall be picked up and containerized for proper disposal by the end of each operating day, unless the landowner of the adjacent property denies access to site staff. The site shall prevent waste from being blown outside the waste handling areas by the wind, using methods such as:

(A) requiring that vehicles entering and leaving the site keep waste covered;

(B) providing skirts, such as rubber belting or brushes, around the top of chutes to minimize the space between the chute and the hauling trailer at sites with chutes and hoppers; or

(C) preventing waste from leaving the site using methods such as fencing, netting, or diking.

(11) Site Cleaning and Maintenance: Unless otherwise stated in the site permit, all waste shall be removed from the tipping floor, the truck loading bays, and from behind push walls by the end of each day of operation and disposed of in accordance with this Subchapter. The tipping floor, push walls, and truck loading bays shall be cleaned with a pressure washer no less than once per month. The remaining areas of the site building including side walls and any material storage areas outside of the building shall be cleaned with a pressure washer no less than twice per year. Wash water generated from cleaning waste handling areas shall be contained and treated as leachate. Cleaning and maintenance records shall be maintained and made available to the Division upon request.

(b) Water that comes into contact with solid waste is leachate and shall be collected from the site for disposal to an approved facility or discharged directly from the site into a sanitary sewer line. A National Pollutant Discharge Elimination System (NPDES) permit may be required prior to the discharge of leachate to surface waters, as provided by 40 CFR Parts 258.26 and 258.27, which are incorporated by reference, including subsequent amendments and editions, and may be accessed at www.ecfr.gov at no cost.

(c) All vehicles and containers being used for the temporary storage of solid waste shall be maintained to be leak-resistant in accordance with Rule .0105 of this Subchapter; ~~and or~~ shall be stored so that any ~~potential release of~~ leachate from the vehicles or containers will be collected to prevent the release of leachate to the environment. ~~by the leachate collection system.~~

(d) Operating Record and Recordkeeping requirements. The owner or operator of a site shall retain an operating record in electronic or hard copy format at the site, or in an alternative location stated in the permit. The records required by Subparagraphs (1) and (2) of this Paragraph shall be maintained for no less than five years. The records required by Subparagraphs (3) through (9) of this Paragraph shall be maintained for the life of the site. The operating record shall contain the following information:

(1) records of waste inspections, monitoring results, certifications of training, and training procedures required by the rules of this Section;

(2) amounts by weight of solid waste received at the site including county and state of generation, in accordance with G.S. 130A-309.09D;

- (3) demonstrations, certifications, findings, monitoring, testing, or analytical data required by the rules of this Section;
- (4) closure or post-closure care monitoring, testing, or analytical data required by the rules of this Section;
- (5) cost estimates and financial assurance documentation required by Section .1800 of this Subchapter;
- (6) site audit records, compliance records, maintenance records, and inspection reports;
- (7) a copy of the current Permit to Construct and Permit to Operate;
- (8) a copy of the plans that have been incorporated into the permit in accordance with Rule .0404(d) of this Section; and
- (9) a Corrective Action Plan, if required by Subparagraph (a)(2) of this Rule.

(e) Access requirements.

- (1) Sites shall be secured to prevent unauthorized entry by means such as gates, chains, berms, or fences.
- (2) An attendant shall always be on duty at the site while it is open for public use to ensure compliance with operational requirements.
- (3) The access roads shall be of all-weather construction and maintained to be accessible by loaded collection vehicles and by the Division.
- (4) Signs shall be posted at the site entrances unless otherwise stated in the site permit. The signs shall be constructed of a durable, weather-resistant material. The signs shall be clear and legible and show the name of the operator of the site, emergency contact information, the operating hours of the site, the permit number of the current permit authorizing operations at the site, the types of waste that can be accepted under the permit, and that hazardous waste and liquid waste cannot be accepted at the site.

*History Note: Authority G.S. 130A-294;
Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0406

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, you refer first to "site" (singular) and then "all sites" (plural). Should "all sites" be "the site" or "each site"?

In (a)(3), line 11, what are "closure activities"?

On line 12, consider stating "180 days after beginning the closure activities in Subparagraph (2) of this Paragraph."

In (a)(4), line 16, what do you mean by "describe"?

In (a)(6), line 19, what is this "approved" plan? The one in the permit?

In (a)(7)(A), lines 25-26, what do you mean by "is discoverable during a title search for the site property"? Will recordation at the Register of Deeds not suffice?

On line 27, what is the "operating record"?

In (a)(7)(C), line 33, please make "rules" lowercase.

And so that I'm clear – the language on lines 32-36 is prospective, and the land will no longer be restricted if the following conditions are met? If so, I think you could state that more clearly.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0406 is adopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0406 CLOSURE REQUIREMENTS**

4 (a) The owner or operator of a transfer station (site) shall schedule and document closure of all sites in accordance
5 with the following criteria:

6 (1) The owner or operator shall submit written notification to the Division no less than 90 days prior to
7 the proposed date of cessation of waste acceptance at a site.

8 (2) The owner or operator shall begin closure activities no later than 30 days after the date of the final
9 receipt of waste at the site.

10 (3) The owner or operator shall remove all waste from the site in accordance with the requirements of
11 this Subchapter, and complete closure activities of the site in accordance with the site permit and
12 the rules of this Section within 180 days following the beginning of closure as specified in
13 Subparagraph (2) of this Paragraph.

14 (4) When the requirements of Subparagraph (3) of this Paragraph have been met, the owner or operator
15 shall notify the Division in writing that the requirements have been met. The notification shall
16 describe how the requirements were met and shall be placed in the operating record.

17 (5) A final inspection for closure shall be conducted by the Division to verify that the conditions of
18 closure have been met.

19 (6) Leachate collection systems, if present, shall be closed in accordance with the approved leachate
20 management plan submitted in accordance with Rule .0404(i)(9) of this Section.

21 (7) Recordation and Land Use Restrictions.

22 (A) If the site has been required by the Division to conduct a corrective action program
23 following closure of the site in accordance with this Rule, or elects to leave a leachate
24 collection system or tank in place for future use, the owner or operator shall record a notice
25 for the site property at the local county Register of Deeds office that is discoverable during
26 a title search for the site property, and notify the Division that the notice has been recorded
27 and a copy has been placed in the operating record. The notice shall be in accordance with
28 G.S. 130A-310.71(e) or G.S. 143B-279.10.

29 (B) The notice shall notify any potential purchaser of the property that the land has been used
30 as a solid waste management facility and its use may be restricted by the Division.

31 (C) Upon written request by the owner or operator, the Division shall provide the land owner
32 of record documentation to record with the county Register of Deeds, stating that site use
33 is no longer restricted if all post-closure care activities required by the Rules of this Section
34 are completed, the Division authorizes termination of any corrective action program in
35 accordance with 15A NCAC 02L .0106, and the leachate collection system has been
36 removed.

1 (b) If the Division requires groundwater or surface water monitoring or corrective action at a site in accordance with
2 Rule .0405(a)(2) of this Section, the monitoring and corrective action at the site shall continue in a post-closure care
3 period until the Division authorizes termination of corrective action at the site in accordance with 15A NCAC 02L
4 .0106.

5
6 *History Note: Authority G.S. 130A-294;*
7 *Eff. January 1, 2021.*
8

1 15A NCAC 13B .0501 - .0502 are repealed through readoption as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0501 APPROVED DISPOSAL METHODS**

4 **15A NCAC 13B .0502 OPEN DUMPS**

5
6 *History Note: Authority G.S. 130A-294;*

7 *Eff. April 1, 1982;*

8 *Amended Eff. August 1, 2008; October 9, 1993; January 4, 1993; December 1, 1990; September 1,*

9 *1990; August 1, 1988; February 1, ~~1988~~, 1988;*

10 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0503

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 5, since you refer to an "ISWLF unit" should "unit" be added to the definition of the term in Rule .0101(27)?

In (a)(1), line 24, please replace the period after "Restriction" with a colon to be consistent with the rest of the Paragraph.

In (a)(2), line 28, end the sentence after ".0300."

In (b)(1), Page 2, line 8, delete the comma after "site"

In (b)(2), line 14, "unauthorized" by whom?

In (b)(3)(B), line 23, are these State requirements set in a Rule or law? Are they known?

On line 24, delete the "and" at the end of the line.

In (b)(3)(C), line 26, please insert an "and" at the end of the line.

In (b)(4)(B), line 36, please insert a comma after "permitted site" Please note the same thing for (b)(4)(C), Page 3, line 10.

In (b)(4)(B), Page 3, lines 2 and 3, is "mil" known to your regulated public? And on line 6, what about "cm/sec"?

On lines 7 and 8, what is "direct and uniform contact"?

In (b)(4)(C), line 10, should "for" in "by the Division for an ISWLF unit" be "as"?

On line 17, I don't see that the term "seasonal high groundwater table" is defined by Rule .0532. Did you intend to refer to another Rule or should the term be different here

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

In (b)(7), Page 4, line 26, delete this language, as you've already incorporated these Rules by reference.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0503 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0503 SITING AND DESIGN REQUIREMENTS FOR ~~DISPOSAL SITES~~INDUSTRIAL**
4 **SOLID WASTE LANDFILLS**

5 (a) An industrial solid waste landfill unit ("site" or "ISWLF unit") ~~Disposal sites~~ shall comply with the following
6 siting requirements in order for a permit to be issued:

7 (1) ~~A site shall meet the following siting requirements:~~

8 (a) ~~A site located in a floodplain shall not restrict the flow of the 100-year flood, reduce the~~
9 ~~temporary water storage capacity of the floodplain or result in washout of solid waste so~~
10 ~~as to pose a hazard to human life, wildlife or land or water resources.~~

11 (b) ~~A site shall be located in consideration of the following:~~

12 (i) ~~a site shall not cause or contribute to the taking of any endangered or threatened~~
13 ~~species of plants, fish, or wildlife;~~

14 (ii) ~~a site shall not result in the destruction or adverse modification of the critical~~
15 ~~habitat of endangered or threatened species as identified in 50 C.F.R. Part 17~~
16 ~~which is hereby incorporated by reference including any subsequent amendments~~
17 ~~and editions. This information is available for inspection at the Department of~~
18 ~~Environment, Health, and Natural Resources, Division of Solid Waste~~
19 ~~Management, 401 Oberlin Road, Raleigh, North Carolina 27605 where copies~~
20 ~~can be obtained at no cost;~~

21 (iii) ~~a site shall not damage or destroy an archaeological or historical site; and~~

22 (iv) ~~a site shall not cause an adverse impact on a state park, recreation or scenic area,~~
23 ~~or any other lands included in the state nature and historic preserve.~~

24 (1) Floodplain Restriction. A site shall not be located in the 100-year floodplain in accordance with
25 G.S. 143-215.54(c) and S.L. 2000-150.

26 (2) Cultural Resources Restrictions: A site shall not damage or destroy a property of archaeological or
27 historical significance that has been listed on the National Register of Historic Places or included
28 on the Study List for the Register pursuant to 07 NCAC 04R .0206 and .0300, which are incorporated
29 by reference including subsequent amendments or editions.

30 (3) State Nature and Historic Preserve Restrictions: A site shall not have an adverse impact on any
31 component included in the State Nature and Historic Preserve pursuant to G.S. 143-260.10.

32 (4) Endangered and Threatened Species Restrictions: A site shall not jeopardize the continued existence
33 of endangered or threatened species or result in the destruction or adverse modification of a critical
34 habitat, protected under the Federal Endangered Species Act of 1973, Public Law 93-205, as
35 amended.

- (5)(e) A ~~new~~ site disposing of putrescible wastes shall not be located within 10,000 feet of an airport runway used by turbojet aircraft or within 5,000 feet of an airport runway used by piston-type aircraft; and
- (6)(d) A site shall have available ~~adequate suitable~~ soils for cover either on-site or from off-site.
- (b)(2) ~~A site shall comply with the following design requirements for a permit to be issued: A site shall meet the following design requirements:~~
- (1)(a) ~~If the site accepts waste types that are expected to generate explosive gases, The~~ the concentration of explosive gases generated by the site, shall not exceed:
- (A)(i) twenty-five percent of the lower explosive limit for the explosive gases in on-site site structures, excluding structures (excluding gas control or recovery system components; components); and
- (B)(ii) the lower explosive limit for the explosive gases at the property boundary;
- (2)(b) ~~A site shall not allow uncontrolled public access so as to expose the public to potential health and safety hazards at the disposal site; A site shall be secured to prevent unauthorized entry by means such as gates, chains, berms, and fences.~~
- (3)(e) A site shall meet the following surface water requirements:
- (A)(i) A site shall not cause a discharge of pollutants into waters of the ~~state~~ State that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), under Section 402 of the Clean Water Act, as amended, or that is in violation of 15A NCAC 02B, standards promulgated under G.S. 143-214.1 and G.S. 143-215;
- (B)(ii) A site shall not cause a discharge of dredged material or fill material into waters of the ~~state~~ State that is in violation of the requirements under Section 404 of the Clean Water Act, as amended, or that is in violation of any ~~state~~ State requirements regulating the discharge of dredged or fill material into waters of the ~~state~~, State, including wetlands; and
- (C)(iii) A site shall not cause non-point source pollution of waters of the ~~state~~ State that violates assigned water quality standards. 15A NCAC 02B.
- (D) A site shall comply with Rule .0602 of this Subchapter.
- (4)(d) A site shall meet the following ~~ground water~~ groundwater protection requirements:
- (A)(i) ~~A site, except for land clearing and inert debris landfills subject to Rule .0564(8)(e) of this Section, A site shall comply with G.S. 130A-295.6(f).be designed so that the bottom elevation of solid waste will be a minimum of four feet above the seasonal high water table;~~
- (B)(ii) ~~Operators of new industrial solid waste landfills, lateral expansions of existing industrial solid waste landfills, and industrial solid waste landfills receiving solid waste on or after January 1, 1998 shall submit to the Division a design which satisfies one of the following criteria: A site that has not previously been permitted by the Division for an ISWLF unit, or a lateral expansion of an existing permitted site shall be designed with a leachate collection system, a closure cap system, and a composite liner system consisting of an~~

upper component and lower component. The upper component of the composite liner system shall consist of a flexible membrane liner (FML) no less than 30 mil thick. FML components consisting of high-density polyethylene (HDPE) shall be no less than 60 mil thick. The lower component of the composite liner system shall consist of a layer of compacted soil no less than two feet thick with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. FML components consisting of high density polyethylene (HDPE) shall be no less than 60 mil thick. The FML component shall be installed in direct and uniform contact with the compacted soil component.

(C)(A) An owner or operator applying for a permit for a site that has not previously been permitted by the Division for an ISWLF unit, or a lateral expansion of an existing permitted site may submit a request to the Division to be exempt from the requirements of Part (B) of this Subparagraph. The request shall be submitted in writing with the proposed site information required to be submitted in accordance with Rule .0504(c) of this Section. The request shall include a description of the types of waste proposed to be disposed of at the site, and a proposed site design that will ensure demonstrates that the post-settlement bottom elevation of the waste will be a minimum of four feet above both the seasonal high groundwater [table] table, as defined in Rule .0532 of this Section, and the bedrock datum plane contours as required by G.S. 130A-295.6(f). The site design shall also demonstrate that the ground water-groundwater quality standards or interim maximum allowable contaminant levels established under 15A NCAC 2L.02L will not be exceeded in the uppermost aquifer at the compliance boundary established by the Division in accordance with 15A NCAC 2L.02L. The site design shall be based upon modeling methods that include the hydrogeologic characteristics of the site and surrounding lands; the climatic factors of the area; and the volume and physical and chemical characteristics of the leachate. The Division shall approve the request if the request and the proposed site design comply with Article 9 of Chapter 130A of the General Statutes and the rules of this Subchapter. acceptable to the Division, which shall include, at a minimum, the following factors:

- (I) — the hydrogeologic characteristics of the facility and surrounding lands;
- (II) — the climatic factors of the area; and
- (III) — the volume and physical and chemical characteristics of the leachate; or

(B) a design with a leachate collection system, a closure cap system, and a composite liner system consisting of two components: the upper component shall consist of a minimum 30 ml flexible membrane (FML), and the lower components shall consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. FML components consisting of high density polyethylene (HDPE) shall be at least 60 ml thick.

- 1 ~~The FML component shall be installed in direct and uniform contact with the compacted~~
2 ~~soil component.~~
- 3 (iii) ~~The Division reserves the right to require an applicant to submit a liner design if the~~
4 ~~groundwater protection demonstration is Sub item (ii) in of this Paragraph is not~~
5 ~~satisfactory.~~
- 6 (D)(iv) ~~Industrial solid waste landfills~~ A site shall comply with ground water standards established
7 ~~under 15A NCAC 2L Rule .0601 of this Subchapter. at the compliance boundary.~~
- 8 (5)(e) A site shall not engage in open burning of solid ~~waste.~~ waste unless approval has been obtained
9 from the Division, and from the Division of Air Quality in accordance with 15A NCAC 02D .1900,
10 and from the local government prior to any burning activity.
- 11 (6)(f) ~~A site, except a land clearing and inert debris landfill, A site shall meet the following buffer~~
12 ~~requirements:~~
- 13 (A)(i) A site that received site study approval from the Division in accordance with Rule
14 .0504(a)(1) of this Section prior to the readopted effective date of this Rule shall maintain
15 a buffer of 50 feet between all property lines and disposal areas. A site that receives site
16 study approval after the readopted effective date of this Rule shall maintain a buffer of no
17 less than 200 feet ~~A 50-foot minimum buffer~~ between all property lines and disposal areas;
- 18 (B)(ii) A site shall have a buffer of no less than 500 feet ~~500-foot minimum buffer~~ between the
19 disposal area and residential structures private dwellings and supply wells existing at the
20 time that the Division site study approval in accordance with Rule .0504(a)(1) of this
21 Section; and disposal areas; and
- 22 (C)(iii) A site shall have a buffer of no less than 50 feet ~~50-foot minimum buffer~~ between the
23 disposal area and any stream, river, lake, pond, or other waters of the State as defined in
24 G.S. 143-212; streams and rivers and disposal areas; and
- 25 (7)(g) A site shall comply with the requirements in 15A NCAC 04 for sedimentation and erosion control.
26 15A NCAC 04 is incorporated by reference including subsequent amendments and editions.
27 ~~Requirements of the Sedimentation Pollution Control Law (15A NCAC 4) shall be met.~~

29 History Note: Authority G.S. 130A-294;

30 Eff. April 1, 1982;

31 Amended Eff. October 1, 1995; January 4, 1993; February 1, 1991; September 1, ~~1990~~ 1990;

32 Readopted Eff. January 1, 2021.
33

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0504

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(1), lines 15-16, what are you saying here? Should it state "Paragraph (b) of this Rule, along with the site-specific..."? But the notice will include site-specific conditions, rather than the permit?

In (a)(2), line 17, consider deleting "Division shall specify the" and just state "and the reasons that prevent..."

In (b), lines 22 and 23, consider deleting "and the application" and replacing it with "which"

In (c)(1), line 27, this is the only Rule where you deleted the scale. Was this intentional?

In (c)(1)(D), line 33, the photograph will identify the location of the general topology? If not, you may want to retain "and other details regarding the" that you are proposing to delete.

In (c)(3)(A), Page 2, line 9, how is this confirmed by the Division?

In (c)(3)(A)(iii), line 13, what is the "Unified Soil Classification System"? Is this known to your regulated public?

In (c)(3)(A)(iv), line 14, what are "solution features"?

In (c)(3)(A)(vii), line 26, delete the "and"

There is a lot of new language in (c)(3)(C). Was this added in response to public comment?

In (c)(3)(C)(iii), line 36, I do not see that term defined in Rule .0532. Please clarify what you mean.

In (c)(3)(C)(iv), Page 3, line 3, and elsewhere you use the term, what do you mean by "discussion"? (See (c)(7), (d)(4)(B), (d)(7), (e)(4), and (e)(5))

On line 6, delete the "and"

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

In (c)(3)(D), line 8, please insert “a” before “groundwater”

In (c)(3)(E), line 14, insert an “and” after “benchmark;”

In (c)(4), what does this mean? Your regulated public may know, but I do not, so I wanted to ask.

On line 18, replace “which” with “that”

In (c)(5), line 29, I think you are missing language after “for” Should this “for a site”?

In (c)(6), line 31, replace “which” with “that”

In (c)(8), line 35, what do you mean by “describes”?

In (c)(8)(E), Page 4, line 5, how does this work? Required by whom? On line 7, what do you mean by “initially”?

Please begin (c)(9) and (10) with capital letters to be consistent with the rest of the Paragraph.

In (c)(9), line 10, it’s the “Department of Natural and Cultural Resources”

On lines 12-13, so that I’m clear – DNCR administers the endangered and threatened species program?

In (c)(10), who will this be requested?

In (d)(4)(B), Page 5, line 17, end the sentence after “control” so it reads “control;” and

In (d)(5), line 20, what is “typical” here? Who determines it? Does your regulated public know?

In (d)(6), line 29, insert a semicolon and “and” after “Section”

In (e)(1), Page 6, line 3, what do you mean by “sufficient” here? Who determines this?

Insert an “and” at the end of (e)(4), line 8.

In (f)(1), line 13, delete the “and” at the end of the line.

In (f)(2), line 15, replace the period after “Subchapter” with a semicolon and insert “and”

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0504 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0504 APPLICATION REQUIREMENTS FOR SANITARY LANDFILLS INDUSTRIAL**
4 **SOLID WASTE LANDFILLS**

5 ~~A permit for a sanitary landfill shall be based upon a particular stream of identified waste, as set forth in Rule~~
6 ~~.0504(1)(g)(i) and (ii) of this Section. Any substantial change in the population or area to be served, or in the type,~~
7 ~~quantity or source of waste shall require a new permit and operation plan, including waste determination procedures~~
8 ~~where appropriate.~~

9 ~~(1) The following information shall be required for reviewing a site application for a proposed sanitary landfill:~~

10 ~~(a) The permit applicant for an industrial solid waste landfill unit ("ISWLF unit" or "site") permit shall prepare a site~~
11 ~~study in accordance with Paragraph (c) of this Rule, and submit the site study to the Division. The Division shall~~
12 ~~review the site study for a proposed new site prior to consideration of an application for a permit. Following review~~
13 ~~of the site study, the Division shall notify the applicant that either:~~

14 ~~(1) the site is deemed suitable for establishing an ISWLF unit and the applicant may prepare an~~
15 ~~application for a permit in accordance with Paragraph (b) of this Rule; and the site-specific~~
16 ~~conditions and design requirements stated in the notification, if any; or~~

17 ~~(2) the site is deemed unsuitable for establishing an ISWLF unit and the Division shall specify the~~
18 ~~reasons that prevent the ISWLF unit from being operated in accordance with Chapter 130A Article~~
19 ~~9 of the General Statutes, the rules of this Subchapter, and any applicable federal laws and~~
20 ~~regulations.~~

21 ~~(b) When the site has been deemed suitable for an ISWLF unit by the Division in accordance with Subparagraph~~
22 ~~(a)(1) of this Rule, the permit applicant shall submit to the Division one electronic copy of a permit application, and~~
23 ~~the application shall contain the plans described in Paragraphs (d) through (f) of this Rule. A permit for a site shall be~~
24 ~~based upon a particular type and source of waste, as identified in the operation plan required by Paragraph (e) of this~~
25 ~~Rule.~~

26 ~~(c) The site study shall contain the following information:~~

27 ~~(1)(a) An aerial photograph on a scale of at least 1 inch equals 400 feet showing the area within one-fourth~~
28 ~~mile of the proposed site's boundaries with the following specifically identified:~~

29 ~~(A)(i) Entire entire property owned or leased by the person proposing the disposal site;~~

30 ~~(B)(ii) Land land use and zoning;~~

31 ~~(C)(iii) Location location of all homes, industrial buildings, public or private utilities, and roads;~~

32 ~~(D)(iv) Location location of wells, watercourses, dry runs, and other applicable details regarding~~
33 ~~the general topography; and~~

34 ~~(E)(v) Flood plains-floodplains.~~

35 ~~(2)(b) A map on a scale of at least 1 inch equals 1000 feet showing the area within two miles of the~~
36 ~~proposed site's boundaries with that identifies known groundwater users, potential or existing~~

sources of groundwater and surface water pollution, water intakes, airports and runways, and subdivisions, the following specifically identified:

- (i) Known ground water users;
- (ii) Potential or existing sources of ground water and surface water pollution;
- (iii) Water intakes;
- (iv) Airport and runways; and
- (v) Subdivisions.

(3)(e) A geological and hydrological study of the site which that provides:

(A)(i) Soil soil borings for which the numbers and depths have been confirmed by the Division and lab testing of selected soil samples that provide:

- (i)(A) standard penetration resistance;
- (ii)(B) particle size analysis;
- (iii)(C) soil classification using the Unified Soil Classification System;
- (iv)(D) geologic considerations such as slopes and solution features; (slopes, solution features, etc.);
- (v)(E) undisturbed representative geologic samples of the unconfined or confined or semiconfined hydrological units within a depth of 50 feet that provide the following information for each major lithologic unit the units:
 - (I) saturated hydraulic conductivity or by in situ (or by in situ);
 - (II) volume percent water; water, and
 - (III) porosity;
- (vi)(F) remolded sample of cover soils that provide the provide:
 - (I) saturated hydraulic conductivity,
 - (II) total porosity, and
 - (III) atterberg limits; and

(vii) boring logs; and

(B)(vii)(G) stratigraphic stratigraphic cross sections identifying hydrogeologic and lithologic units, and stabilized water table elevations; hydrogeological units including lithology;

(C) water table information, including:

- (i)(viii)(H) tabulation of water table elevations at time of boring, 24 hours, hours after boring, and seven days after boring; days (The number of cased borings to provide this information shall be confirmed by the Division.); and
- (ii) tabulations of stabilized water table elevations over time in order to develop an understanding of seasonal fluctuations in the water table;
- (iii) an estimation of the seasonal high water groundwater table, as defined in Rule .0532 of this Section, based on stabilized water table readings, hydrographs of

- 1 wells in the area, precipitation and other meteorological data, and any other
2 information available; and
- 3 (iv) a discussion of any natural or man-made activities that have the potential for
4 causing water table fluctuations, including tidal variations, river stage changes,
5 flood pool changes of reservoirs, high volume production wells, and injection
6 wells; and
- 7 ~~[(ix)](4)~~ boring logs; ~~and~~
- 8 (D) groundwater contour map based on the estimated long-term seasonal high water
9 groundwater table that is superimposed on a topographic map and includes the location of
10 all borings and rock cores and the water table elevations or potentiometric data at each
11 location used to generate the groundwater contours;
- 12 ~~(E)](B)]~~(ii) A ~~a boundary plat topographic map of the site~~ locating soil borings with accurate
13 horizontal and vertical control which controls that are tied to a permanent onsite
14 benchmark;
- 15 ~~[(C)]~~(iii) A ~~a~~ potentiometric map of the ~~[uppermost]~~ surficial aquifer based on stabilized water
16 table elevations; and
- 17 ~~(F)](D)]~~(iv) A ~~a~~ report summarizing the geological and hydrological evaluation.
- 18 ~~(4)(d)~~ A conceptual design plan presenting special engineering features or considerations which ~~must~~ shall
19 be included or maintained in site construction, operation, ~~maintenance~~ maintenance, and closure.
- 20 ~~(e)~~ Local government approvals:
- 21 (i) ~~If the site is located within an incorporated city or town, or within the extra territorial~~
22 ~~jurisdiction of an incorporated city or town, the approval of the governing board of the city~~
23 ~~or town shall be required. Otherwise, the approval of the Board of Commissioners of the~~
24 ~~county in which the site is located shall be required. Approval may be in the form of either~~
25 ~~a resolution or a vote on a motion. A copy of the resolution, or the minutes of the meeting~~
26 ~~where the vote was taken, shall be forwarded to the Division.~~
- 27 (5) A copy of the franchise or local government approval from each unit of local government in whose
28 jurisdiction the site is located in accordance with G.S 130A-294(b1). No franchise or local
29 government approval shall be required for site used to dispose of waste generated solely by the
30 permit applicant.
- 31 ~~(6)(ii)~~ A letter from the unit of government having zoning jurisdiction over the site which states that the
32 proposal meets all of the requirements of the local zoning ordinance, or that the site is not zoned.
- 33 ~~(7)(f)~~ A discussion of compliance with siting standards in Rule ~~0503(1)~~ 0503(a) of this Section.
34 Subchapter.
- 35 ~~(8)(g)~~ A report ~~indicating~~ that describes the following:
- 36 (A)(i) population and area to be served;
- 37 (B)(ii) type, ~~quantity~~ quantity, and source of ~~waste~~; waste that will be disposed of at the site;

- (C)(iii) the equipment that will be used for operating the site;
- (D)(iv) a proposed water quality groundwater monitoring plan including surface water sampling locations, well location locations, and well schematics showing proposed screened interval, depth depth, and construction; and
- (E)(v) additional information or a more detailed geologic report may be required depending on specifics of the site. if it is necessary to determine compliance with the rules of this Subchapter. This report may be based on physical evidence, initially, or due to information obtained from the site plan application.
- (9) letters from both the State Historic Preservation Office and the Natural Heritage Program within the Department of Cultural and Natural Resources stating whether the proposed use of the property will impact the historic sites described in Rule .0503(a)(2) of this Subchapter; State nature and historic preserves described in Rule .0503(a)(3) of this Subchapter; or the endangered or threatened species described in Rule .0503(a)(4) of this Subchapter located at the site.
- (10) additional information for activities or features that the owner or operator is proposing that are not otherwise described in this Rule, or that the Division may request if it is necessary to determine compliance with the rules of this Subchapter.
- (h) ~~Any other information pertinent to the suitability of the proposed site.~~
- (2) ~~The following information shall be required for reviewing a construction plan application for a proposed sanitary landfill:~~
- (d) Construction Plan. An application for a permit for the site shall contain a construction plan that shall include the following information:
- (1)(a) ~~A a map showing existing features including to include:~~ existing topography of the site on a scale of no less than one inch equals 200 feet with five-foot contours, benchmarks, springs, streams, potential groundwater monitoring sites, pertinent geological features, and soil boring locations;
- (i) ~~existing topography of the site on a scale of at least 1 inch equals 200 feet with five foot contours;~~
- (ii) ~~bench marks;~~
- (iii) ~~springs;~~
- (iv) ~~streams;~~
- (v) ~~potential ground water sites;~~
- (vi) ~~pertinent geological features; and~~
- (vii) ~~soil boring locations.~~
- (2)(b) ~~A a grading plan that provides:~~ provides proposed excavated contours, soil boring locations, locations and elevations of dikes or trenches, designated buffer zones, diversion and controlled removal of surface water from the work areas, and proposed utilities and structures;
- (i) ~~proposed excavated contours;~~
- (ii) ~~soil boring locations;~~

- (iii) ~~locations and elevations of dikes or trenches;~~
- (iv) ~~designated buffer zones;~~
- (v) ~~diversion and controlled removal of surface water from the work areas; and~~
- (vi) ~~proposed utilities and structures.~~
- (3)(e) ~~A construction plan that provides:~~ a site development plan showing the following:
- (A) ~~phases or progression of construction and operation in increments of five years up to the~~
life-of-site of the ISWLF;
- (B)(i) ~~engineering design for liners, liners and leachate collections systems;~~
- (C)(ii) ~~proposed final contours showing removal of surface water runoff; and~~
- (D)(iii) ~~locations of slope drains or other drop structures; structures.~~
- (4)(d) ~~An an~~ erosion control plan that identifies the following:
- (A)(i) ~~locations of temporary erosion control measures such as sediment (sediment-basins, stone~~
filters, terraces, or silt fences; fences, etc.);
- (B)(ii) ~~locations of permanent erosion control measures such as rip (rip-rap, energy dissipators,~~
ditch stabilization, or pipe drains; drain, etc.); earthwork calculations; calculations for
temporary and permanent erosion control measures; a discussion of compliance with 15A
NCAC 04 for sedimentation and erosion control, which is incorporated by reference
including subsequent amendments and editions; and
- (C)(iii) ~~seeding specifications and schedules.~~
- (5)(e) ~~Engineering engineering~~ diagrams showing typical sections of: of dikes, trenches, diversions, and
sediment basins;
- (i) ~~dikes,~~
- (ii) ~~trenches,~~
- (iii) ~~diversions, and~~
- (iv) ~~sediment basins.~~
- (6)(f) ~~A minimum of two cross sections~~ two cross sections per operational area showing soil borings,
original elevations, proposed excavated depths, proposed final elevations, and the seasonal high
groundwater table and bedrock datum plane contours in accordance with Rule .0503(b)(4)(C) of this
Section. [the groundwater elevation, and soil borings; and] showing:
- (i) ~~original elevations,~~
- (ii) ~~proposed excavated depths,~~
- (iii) ~~proposed final elevations,~~
- (iv) ~~ground water elevation, and~~
- (v) ~~soil borings.~~
- (g) ~~Site development showing phases or progression of operation in five year or ten year phases of~~
construction and operation.
- (7) a discussion of compliance with the design requirements in Rule .0503(b) of this Section.

1 ~~(e)(h)~~ Operations Plan. An application for a permit for the site shall contain an operations plan that shall include the
2 following information: A written report that contains the following:

3 (1)(i) ~~a~~ A copy of the deed or other legal description of the landfill-site that would be sufficient as a
4 description in an instrument of conveyance and property owner's name;

5 (2)(ii) name and emergency contact information for the Name of individual responsible for operation,
6 maintenance, and closure operation and maintenance of the site;

7 (3) type, quantity, and source of waste that will be disposed of at the site;

8 (4) a discussion of compliance with the operational requirements in Rule .0505 of this Section;

9 (5) a discussion of compliance with the monitoring requirements of Section .0600 of this Subchapter;

10 (f) Closure and Post-Closure Care Plan. An application for a permit for the site shall contain a closure and post-
11 closure plan that shall include the following information:

12 (1) a description of the closure of the site, including quantification of the life-of-site, closure and final
13 cover procedures, and projected use of land after closure; and

14 (2) a description of the post-closure care period of the site, including maintenance and monitoring
15 procedures, and a discussion of compliance with Section .0600 of this Subchapter.

16 (3) the cost estimate for closure and post-closure activities as required under Section .1800 of this
17 Subchapter.

18 (g) If required by G.S. 89C or 89E and not under the purview of another licensed profession, a licensed professional
19 engineer or licensed geologist shall certify the information submitted in accordance with Paragraphs (c) through (f) of
20 this Rule.

21 (h) The Division shall review all permit applications in accordance with Rule .0203 of this Subchapter.

22 (i) Plans and documents submitted in the permit application in accordance with this Rule shall be incorporated into
23 the permit when the permit is issued by the Division, and the site shall comply with the permit in accordance with
24 Rule .0203(d) of this Subchapter.

25 (j) Modifications to the plans. The owner or operator may request to modify plans that were incorporated into the
26 permit by the Division in accordance with the Paragraph (i) of this Rule by submitting the request to the Division,
27 including the modified plan and a demonstration showing how the proposed modifications comply with the rules of
28 this Section. The Division shall respond to the request in writing within the timeline provided in G.S. 130A-295.8(e),
29 and the response shall either approve or deny the request as submitted or request that additional information be
30 submitted for the Division to consider the request. The Division's approval shall be based on whether the modification
31 complies with the rules of this Subchapter. If the Division approves the request as submitted or upon receiving the
32 additional information requested, the Division's written approval and the revised pages of the plan shall be added to
33 the site's operating record. The owner or operator shall not implement the modification until the Division has issued
34 an approval.

35 (iii) ~~Projected use of land after completion of the sanitary landfill;~~

36 (iv) ~~Anticipated lifetime of the project;~~

- 1 ~~(v) Description of systematic usage of area, operation, orderly development and completion of the~~
2 ~~sanitary landfill;~~
3 ~~(vi) Earthwork calculations;~~
4 ~~(vii) Seeding specifications and schedules;~~
5 ~~(viii) Calculations for temporary and permanent erosion control measures;~~
6 ~~(ix) Any narrative necessary to describe compliance with the Sedimentation Pollution Control Act of~~
7 ~~1973 (15A NCAC 4);~~
8 ~~(x) A discussion of compliance with design requirements in Rule .0503(2) of this Section.~~
9

10 *History Note: Authority G.S. 130A 294;*

11 *Eff. April 1, 1982;*

12 *Amended Eff. January 1, 1985;*

13 *Temporary Amendment Eff. October 1, 1987, For a Period of 180 Days to expire on March 29,*
14 *1988;*

15 *Amended Eff. July 1, 2013; February 1, 1991; September 1, 1990; March 1, ~~1988-1988;~~*

16 *Readopted Eff. January 1, 2021.*
17

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0505

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(1)(A), line 22, state "... shall be compacted and covered at the end..."

In (a)(2)(C), line 36, end the sentence after "04"

In (a)(5)(A), Page 2, line 15, I do not see that term defined in Rule .0532. Please clarify.

In (a)(6)(A), line 23, unauthorized by whom?

In (a)(6)(B), line 26, trained by whom?

On line 27, what is "active" waste management?

In (a)(6)(C), line 30, so that I'm clear – the road doesn't have to allow access to the public?

In (a)(7)(B), Page 3, line 2, what is "liquid waste"?

In (a)(9)(D), line 32, state "40 CFR 61, Subpart M,"

On line 33, delete the commas after "receipt" and "waste"

In (a)(10)(E), Page 4, line 24, under what circumstances will this request be made?

In (b), so that I'm clear – the construction plan is addressed here, but not the closure plan in Rule .0504(f)?

In (c), Page 5, this is a very long sentence. I suggest ending the first sentence after "operator" on line 2. Then state "This shall be the specified..."

On line 3, who or what shall comply with Section .0600? What are you trying to establish here?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0505 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0505 OPERATIONAL AND CLOSURE REQUIREMENTS FOR INDUSTRIAL SOLID**
4 **WASTE LANDFILLS ~~SANITARY LANDFILLS~~**

5 ~~(a) Any person who maintains or operates~~ The owner or operator of an industrial solid waste landfill unit (site) a
6 ~~sanitary landfill site~~ shall maintain and operate the site in conformance with the permit and the plans incorporated into
7 the permit in accordance with Rule .0504(i) of this Section, and with Sections .0600 and .1800 of this Subchapter, and
8 the following: following practices, unless otherwise specified in the permit:

9 (1) ~~Plan and Permit Requirements~~

10 (a) ~~Construction plans shall be approved and followed.~~

11 (b) ~~Specified monitoring and reporting requirements shall be met.~~

12 (2) ~~Spreading and Compacting Requirements~~

13 (a) ~~Solid waste shall be restricted into the smallest area feasible.~~

14 (b) ~~Solid waste shall be compacted as densely as practical into cells.~~

15 (1)(3) Solid waste shall be managed within the disposal area throughout the life-of-site and post-closure
16 care period to prevent the escape of waste and the attraction of vectors and scavenging, and to
17 minimize fires and the generation of odors. The owner or operator shall comply with this
18 requirement using either the following compaction and cover procedures, or other procedures that
19 the owner or operator may include in the operations plan and the closure and post-closure plan
20 required by Rule .0504 of this Section that shall be as effective as the compaction and cover
21 procedures: Cover Requirements

22 (A)(a) Solid waste shall be [compacted] compacted; and shall be covered at the end of after each
23 day of operation, operation with a compacted layer of at least no less than six inches of
24 soil, suitable cover or as specified by the Division.

25 (B)(b) Areas ~~which that~~ will not have additional wastes placed on them for the next 12 months,
26 months or more, but where final termination of disposal operations has not occurred, shall
27 be covered with a minimum of no less than one foot of intermediate cover, compacted soil.

28 (C)(c) After final termination of disposal operations at the site ~~or a major part thereof,~~ or upon
29 revocation of a permit, the area shall be covered with at least no less than two feet of
30 suitable compacted earth, soil.

31 (2)(4) ~~Erosion Control Requirements~~ Requirements:

32 (A)(a) ~~Adequate erosion~~ Erosion control measures shall be practiced to prevent silt from leaving
33 the site.

34 (B)(b) ~~Adequate erosion~~ Erosion control measures shall be practiced to prevent ~~excessive~~ on-site
35 erosion.

36 (C) The site shall comply with 15A NCAC 04, which is incorporated by reference including
37 subsequent amendments and editions.

1 (3)(5) ~~Drainage Control Requirements~~ Requirements:

2 (A)(a) ~~Surface water shall be diverted from the operational area.~~

3 (B)(b) ~~Surface water shall not be impounded over or in waste.~~

4 (C)(c) ~~Completed areas~~ Areas that have been covered in accordance with Subparagraph (1) of this
5 Paragraph shall be adequately sloped to allow surface water runoff in a controlled manner.

6 (4)(6) ~~Vegetation Requirements~~ Requirements:

7 (A)(a) ~~Within six months after~~ After final termination of disposal operations at the site ~~or a major~~
8 ~~part thereof~~ or upon revocation of a permit, the site area shall be stabilized with native
9 ~~grasses;~~ grasses within the timeframe established in the construction plan incorporated into
10 the permit in accordance with Rule .0504(i) of this Section.

11 (B)(b) ~~Temporary seeding will~~ shall be utilized ~~as if it is necessary to stabilize the site.~~ site or
12 prevent erosion.

13 (5)(7) ~~Water Protection Requirements~~ Requirements:

14 (A)(a) The separation distance of four feet between waste and the seasonal high groundwater
15 water table as defined in Rule .0532 of this Section shall be maintained. ~~maintained unless~~
16 ~~otherwise specified by the Division in the permit.~~

17 (B)(b) Solid waste shall not be disposed of in water.

18 (C)(c) Leachate shall be contained on site or ~~properly~~ properly treated prior to discharge. ~~An A National~~
19 Pollutant Discharge Elimination System (NPDES) NPDES permit issued by the
20 Department of Environmental Quality, Division of Water Resources in accordance with
21 15A NCAC 02B may be required prior to the discharge of leachate to surface waters.

22 (6)(8) ~~Access and Security Requirements~~ Requirements:

23 (A)(a) The site shall be ~~adequately~~ adequately secured to prevent unauthorized entry by means of such as
24 gates, chains, berms, or fences. fences, and other security measures approved by the
25 Division, to prevent unauthorized entry.

26 (B)(b) ~~An attendant individual trained in landfill operations~~ shall be on duty at the site ~~at all times~~
27 ~~while it the site is open for public use and during active waste management operations to~~
28 ensure compliance with operational requirements.

29 (C)(c) The access road to the site shall be of all-weather construction and maintained ~~in good~~
30 ~~condition~~ to allow access by Division staff and fire-fighting vehicles.

31 (D)(d) Dust control measures shall be implemented. ~~implemented where necessary.~~

32 (7)(9) ~~Sign Requirements~~ Requirements:

33 (A)(a) Signs providing information on ~~disposal dumping~~ disposal procedures, the hours during which the
34 site is open for public use, the permit ~~number~~ number, emergency contact information, and
35 ~~other pertinent~~ other information specified in the permit conditions shall be posted at the
36 site entrance.

1 (B)(b) Signs shall be posted stating the types of waste that shall not be accepted at the site, such
2 as that no hazardous waste, or liquid waste, construction and demolition waste, or
3 municipal solid waste, waste can be received without written permission from the Division.

4 (C)(e) Traffic signs or markers shall be provided as necessary to promote an orderly traffic pattern
5 to direct traffic to and from the discharge area to minimize traffic congestion. area and to
6 maintain efficient operating conditions.

7 (8)(10) Safety ~~Requirements~~ Requirements:

8 (A)(a) Open ~~burning~~ burning, as defined in 15A NCAC 02D Section .1900, of solid waste is
9 ~~prohibited~~ prohibited unless approval has been obtained from the Division, and from the
10 Division of Air Quality in accordance with 15A NCAC 02D .1900, and from the local
11 government prior to any burning activity.

12 (B)(b) ~~Equipment shall be provided~~ The owner or operator of the site shall maintain equipment
13 on-site to control accidental fires ~~or and~~ arrangements shall be made with the local fire
14 protection agency to ~~immediately~~ provide fire-fighting services. services when needed.

15 (C)(e) Fires that occur at the site a sanitary landfill shall be reported to the Division by verbal
16 notice within 24 hours and a written notification shall be submitted within 15 days.

17 (D)(d) The removal of solid waste from the site a sanitary landfill is prohibited unless the owner
18 or operator ~~owner/operator~~ approves and the removal is not performed on the working face.

19 (E)(e) Containers such as tubes, barrels, drums, tanks, cans, and bottles ~~Barrels and drums~~ shall
20 not be disposed of unless they are empty and perforated ~~sufficiently~~ to ensure that no liquid
21 waste or hazardous waste is contained therein.

22 (9)(11) Waste Acceptance and Disposal ~~Requirements~~ Requirements:

23 (A)(a) A site shall only accept those ~~solid wastes which~~ that it is permitted to receive. The site
24 ~~landfill owner or operator~~ shall notify the Division within 24 hours of attempted disposal
25 of any waste the site landfill is not permitted to receive, including waste from outside the
26 area the site landfill is permitted to serve.

27 (B)(b) No hazardous waste or liquid waste shall be accepted or disposed of at a site in a sanitary
28 landfill.

29 (C)(e) ~~Spoiled foods, animal carcasses, abattoir waste, hatchery waste, and other animal waste~~
30 ~~delivered to the disposal site~~ If the site has been permitted by the Division to receive
31 putrescible waste, this waste shall be covered upon receipt. immediately.

32 (D)(d) Asbestos waste shall be managed in accordance with 40 CFR 61(M). Asbestos waste shall
33 be covered upon receipt, with soil or compacted waste, to prevent airborne conditions.
34 Asbestos waste shall be disposed of using methods that prevent unintended exposure of
35 asbestos by future land-disturbing activities, such as disposal in a marked area separate and
36 apart from other solid wastes or recording the latitude and longitude coordinates of the

1 asbestos area within the existing landfill footprint. The disposal methods shall be described
2 in the operations plan required by Rule .0504(e) of this Section.

3 ~~Asbestos waste that is packaged in accordance with 40 CFR 61, which is adopted by~~
4 ~~reference in accordance with G.S. 150B-14(e), may be disposed of separate and apart from~~
5 ~~other solid wastes at the bottom of the working face or in an area not contiguous with other~~
6 ~~disposal areas, in either case, in virgin soil. Separate areas shall be clearly marked so that~~
7 ~~asbestos is not exposed by future land disturbing activities. The waste shall be covered~~
8 ~~immediately with soil in a manner that will not cause airborne conditions. Copies of 40~~
9 ~~CFR 61 may be obtained and inspected at the Division.~~

10 (E)(e) Wastewater treatment sludges shall not be accepted for disposal, unless otherwise specified
11 in the site permit. may only be used as a soil conditioner and incorporated into the final
12 two feet of cover. Sludges shall be examined for acceptance by Waste Determination
13 procedures in Rule .0103(e) of this Subchapter.

14 (10)(12) Miscellaneous Requirements-Other Requirements:

15 (A)(a) Effective vector. Vector control measures shall be applied to control flies, rodents, and other
16 insects or vermin. vermin when necessary.

17 (B)(b) Appropriate Barrier methods such as fencing and diking shall be provided at the site within
18 the area to confine solid waste subject to be blown by the wind. At the conclusion of each
19 day of operation, all windblown material resulting from the operation shall be collected
20 and disposed of returned to the area by the owner or operator.

21 (C) The owner or operator of a site shall comply with the financial responsibility requirements
22 set forth in G.S. 130A-295.2

23 (D) A site that accepts scrap tires shall also comply with Section .1100 of this Subchapter.

24 (E) The owner or operator shall submit to the Division upon request any information or records
25 required to be kept under the conditions of the permit or the rules of this Section.

26 (b) When a site has ceased the acceptance of waste, closure of the site shall comply with the following requirements:

27 (1) The owner or operator shall notify the Division in writing that the site has been closed in accordance
28 with the rules of this Section and the construction plan required in accordance with Rule .0504(d)
29 of this Section.

30 (2) The owner or operator shall provide certification that final cover has been installed as described in
31 the construction plan required in accordance with Rule .0504(d) of this Section.

32 (3) The Division shall conduct an inspection to determine compliance with closure requirements. If the
33 site has been closed in accordance with the rules of this Section and the construction plan required
34 in accordance with Rule .0504(d) of this Section, the Division shall issue a closure letter to the
35 owner or operator that confirms closure of the site, and provides post-closure conditions for the site
36 as set forth in Paragraph (c) of this Rule.

1 (c) When a site has been closed in accordance with the requirements of this Rule, post-closure maintenance and water
2 quality monitoring shall be the responsibility of the owner or operator, and shall be specified in the closure letter
3 issued by the Division in accordance with Paragraph (b) of this Rule, and shall comply with Section .0600 of this
4 Subchapter.

5 (d) When a site has been closed in accordance with this Rule, the permit is terminated. Any future solid waste
6 management or disposal at the site shall require a new permit.

7
8 *History Note: Filed as a Temporary Amendment Eff. November 1, 1987, For a Period of 180 Days to Expire on*
9 *April 28, 1988;*

10 *Authority G.S. 130A-294;*

11 *Eff. April 1, 1982;*

12 *Amended Eff. September 1, 1990; February 1, 1988; January 1, ~~1985-1985~~;*

13 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0508

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 5, what is "site" here? The incinerator?

In (a)(2), line 11, end the sentence after ".0300"

In (a)(6), lines 32-33, why do you need this note, given the language in Subparagraph (c)(4)?

In (c)(1)(G), Page 2, line 11, capitalize "State" since you mean NC.

In (c)(1)(H), line 12, insert a comma after "site"

In (c)(2), line 18, it seems you are missing language after "if any;" Should this be "... the proposed use is allowed within any existing zoning and that any necessary..."?

In (c)(3), line 21, it's the Department of Natural and Cultural Resources.

On lines 23-24, DNCR is administering the endangered or threatened species program?

In (d)(1), line 29, replace the semicolon after "accepted" with a comma.

In (d)(8), Page 3, line 8, how will this request be made? Will this be treated as an amended application?

In (g), line 17, consider replacing "are" with "shall be" in both places.

In (i), line 32, what does "if any" modify? Should line 31 read, "continue to comply with any siting and buffer..."?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0508 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0508 SITING AND APPLICATION REQUIREMENTS FOR INCINERATORS**

4 ~~Five sets of plans shall be required for each application.~~

5 (a) An incinerator for the disposal of solid waste (site) shall meet the following siting requirements:

6 (1) Floodplain Restrictions: Any portions of the site property containing the incinerator building and
7 areas where storage or processing of solid waste occurs shall not be located in the 100-year
8 floodplain.

9 (2) Cultural Resources Restrictions: A site shall not damage or destroy a property of archaeological or
10 historical significance that has been listed on the National Register of Historic Places or included
11 on the Study List for the Register pursuant to 07 NCAC 04R .0206 and .0300, which are incorporated
12 by reference including subsequent amendments and editions.

13 (3) State Nature and Historic Preserve Restrictions: The location, access, size, and operation of the site
14 shall not have an adverse impact on any component included in the State Nature and Historic
15 Preserve pursuant to G.S. 143-260.10.

16 (4) Endangered and Threatened Species Restrictions: A site shall not jeopardize the continued existence
17 of endangered or threatened species or result in the destruction or adverse modification of a critical
18 habitat, protected under the Federal Endangered Species Act of 1973, Public Law 93-205, as
19 amended.

20 (5) Clean Water Act requirements: a site or its operations shall:

21 (A) not cause a discharge of pollutants into waters of the United States, including wetlands,
22 that violates any requirements of the Clean Water Act, including the National Pollutant
23 Discharge Elimination System (NPDES) requirements pursuant to Section 402 of the Clean
24 Water Act.

25 (B) comply with Section 404 of the Clean Water Act.

26 (C) not cause the discharge of a nonpoint source of pollution to waters of the United States,
27 including wetlands, that violates any requirement of an area-wide or Statewide water
28 quality management plan that has been approved under Section 208 or 319 of the Clean
29 Water Act.

30 (6) The permit issued by the Division for the site shall state the site-specific buffer requirements for the
31 site. When determining the site-specific buffers, the Division shall include any buffers required by
32 the incinerator permit issued by the Division of Air Quality for the site. [Note: Incinerators are also
33 subject to the requirements of 15A NCAC 02D.]

34 (b) A permit applicant shall submit to the Division one electronic copy of a permit application, and the application
35 shall contain the plans described in Paragraphs (c) and (d) of this Rule.

36 (c) Site Plan. An application for a permit for incinerator for the disposal of solid waste shall contain a site plan that
37 includes the following information:

- 1 (1) an aerial photograph, representative of existing conditions, at a scale of a least one inch equals 400
2 feet, showing the area within one quarter mile of the proposed site's boundaries with the following
3 identified:
- 4 (A) property lines of the entire property where the site will be located;
5 (B) existing land use and zoning;
6 (C) location of all private residences, commercial and industrial buildings, public or private
7 utilities, roads, and schools;
8 (D) on-site easements;
9 (E) location of potable wells and public water supplies;
10 (F) historic sites described in Subparagraph (a)(2) of this Rule;
11 (G) state nature and historic preserves described in Subparagraph (a)(3) of this Rule;
12 (H) the existing topography and features of the site including general surface water drainage
13 patterns and watersheds, 100-year floodplains, perennial and intermittent streams, rivers,
14 and lakes; and
15 (I) the classification of the surface water drainage from the site in accordance with 15A NCAC
16 02B .0300;
- 17 (2) a letter from the unit of government having zoning jurisdiction over the site that states that the
18 proposed use is allowed within the existing zoning, if any; that any necessary zoning approval or
19 permit has been obtained, and that states the local zoning buffers that apply to the site;
- 20 (3) letters from both the State Historic Preservation Office and the Natural Heritage Program within the
21 Department of Cultural and Natural Resources stating whether the proposed use of the property will
22 impact the historic sites described in Subparagraph (a)(2) of this Rule; State nature and historic
23 preserves described in Subparagraph (a)(3) of this Rule; or the endangered or threatened species
24 described in Subparagraph (a)(4) of this Rule located at the site; and
- 25 (4) a copy of the valid air quality permit for the operation of the incinerator issued by the Department
26 of Environmental Quality, Division of Air Quality in accordance with 15A NCAC 02D.
- 27 (d) Operations Plan. An application for a permit for incinerator for the disposal of solid waste shall contain an
28 operations plan that shall include a discussion of each of the following items:
- 29 (1) the type and quantity of wastes that will be accepted; including the anticipated sources of the wastes
30 accepted, and the intended destination of materials and ash removed from the site;
31 (2) the procedures for receiving, storing, incineration, and removal of waste and ash, including the
32 anticipated storage and incineration times;
33 (3) the hours of operation and staffing;
34 (4) methods for daily cleanup;
35 (5) record-keeping procedures;
36 (6) planned compliance with the operational and closure requirements of Rule .0509 of this Section;

- (7) a contingency plan that shall address planned operations in the event of loss of power, loss of communications, storm surges, scale malfunctions, and scale software malfunctions; in the event that the disposal site, haul route, or transfer equipment is not available; or during conditions exceeding design parameters. The owner or operator of the site shall provide back-up equipment, and contact information to obtain the equipment, and plans to by-pass the site in case of equipment breakdown. The contingency plan shall be kept updated on-site and shall include site specific emergency procedures and contact information in case of emergencies;
- (8) additional information that the Division may request pertaining to the site operations if it is necessary to determine compliance with the rules of this Subchapter; and
- (9) in addition to the information required in this Paragraph, incinerators that are permitted by the Division to accept medical waste shall also include the information required by Rule .1204(b)(4) of this Subchapter in the operations plan.
- (e) The Division shall review all permit applications in accordance with Rule .0203 of this Subchapter.
- (f) Plans and documents submitted in the permit application in accordance with this Rule shall be incorporated into the permit when the permit is issued by the Division, and the site shall comply with the permit in accordance with Rule .0203(d) of this Subchapter.
- (g) Permits issued by the Division for incinerators are valid for five years, and are subject to the permit fees set forth in G.S. 130A-295.8.
- (h) Sites that received a permit from the Division prior to the readopted effective date of this Rule shall comply with the rules of this Section with the following exceptions:
- (1) buildings, structures, and waste handling areas constructed prior to the readopted effective date of this Rule shall not be required to comply with Paragraph (a) of this Rule for the footprint existing on the readopted effective date of this Rule, or any replacements or modifications within that existing footprint; and
- (2) if a building, structure, or waste handling area was constructed prior to the readopted effective date of this Rule, and is expanded beyond its existing footprint after the readopted effective date of this Rule, the footprint that was existing on the readopted effective date of this Rule shall not be required to comply with Paragraph (a) of this Rule, but the expansion areas shall comply with these requirements.
- (i) Site buildings, structures, and waste handling areas that are exempt from the requirements of Paragraph (a) of this Rule shall continue to comply with the siting and buffer requirements stated in their permit issued prior to the readoption date of this Rule, if any.
- ~~(1) Site and operation plans of the proposed incinerator;~~
- ~~(2) A copy of the air quality permit application to the Division of Environmental Management, Department of Environment, Health and Natural Resources;~~

- 1 ~~(3) — An approval letter from the unit of local government having zoning authority over the area where~~
2 ~~the facility is to be located stating that the site meets all of the requirements of the local zoning~~
3 ~~ordinance, or that the site is not zoned; and~~
4 ~~(4) — The type, quantity and source of waste for disposal.~~

5
6 *History Note:* *Authority G.S. 130A-294;*
7 *Eff. April 1, 1982;*
8 *Amended Eff. February 1, 1991; September 1, ~~1990~~ 1990;*
9 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0509

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 4, so that I'm clear – Rule .0101(24) defines an incinerator as a device designed to dispose of "solid, semi-solid, or gaseous combustible waste" This Rule is only governing only incinerators used for solid waste and not the other types allowed?

In (a)(1), line 8, what are "safe and sanitary" practices? Who determines this?

On line 11, please end the sentence with a period to be consistent with the rest of the Paragraph.

In (a)(5), line 23, will the owner or operator be the one to determine what equipment is necessary here?

In (a)(10), Page 2, line 1, under what circumstances will this request be made?

On line 3, please underline "(b)"

In (b)(2), line 7, why not state "shall comply with any closure requirements" and delete the "if any" on line 8?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0509 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0509 OPERATIONAL AND CLOSURE REQUIREMENTS FOR INCINERATORS**

4 ~~(a) Any person who maintains or operates an~~ An owner or operator of an incinerator for the disposal of solid waste
5 ~~(site) shall maintain and operate the site in conformance~~ comply with the permit conditions, the plans incorporated
6 into the permit in accordance with Rule .0508(f) of this Section, and the following requirements: following practices,
7 ~~unless otherwise specified in the permit:~~

- 8 (1) ~~All incinerators sites~~ shall be sited, designed, operated, and maintained using safe and sanitary
9 practices for the preservation of the public health and welfare and the environment by preventing
10 the generation of leachate, the attraction of vectors, the release of odors, and the release of waste or
11 leachate to the environment; designed and operated in a manner so as to prevent the creation of a
12 nuisance or potential health hazard;
- 13 ~~(2) The incinerator plant shall be so situated, equipped, operated, and maintained as to minimize~~
14 ~~interference with other activities in the area;~~
- 15 ~~(3) All solid waste to be disposed of at the site shall be confined to the dumping area. Adequate storage~~
16 ~~facilities shall be provided;~~
- 17 ~~(2) The storage of solid waste at the site shall comply with Rule .0104 of this Subchapter and the~~
18 ~~conditions of the permit issued by the Division.~~
- 19 ~~(3) Sites that are permitted by the Division to accept medical waste shall also comply with Section .1200~~
20 ~~of this Subchapter.~~
- 21 ~~(4) Effective vector~~ Vector ~~control measures shall be applied to prevent or control on-site populations~~
22 ~~of flies, rodents, and other insects or vermin; vermin.~~
- 23 ~~(5) The owner or operator shall provide equipment that is necessary to maintain the site in compliance~~
24 ~~with Subparagraph (1) of this Paragraph. Equipment shall be provided in the storage and charging~~
25 ~~areas and elsewhere as needed or as may be required in order to maintain the plant in a sanitary~~
26 ~~condition;~~
- 27 ~~(6) All ash and waste residue from the site incinerator plant shall be promptly disposed of at an approved~~
28 ~~sanitary landfill a solid waste management facility permitted by the Division to receive such waste.~~
29 ~~site;~~
- 30 ~~(7) An air quality permit issued by the Department of Environmental Quality, Division of Air Quality~~
31 ~~Division of Environmental Management, Department of Environment, Health, and Natural~~
32 ~~Resources, shall be obtained prior to site operation. operation;~~
- 33 ~~(8) A site shall only accept those solid wastes which that it is permitted to receive. receive; and~~
- 34 ~~(9) Water that comes into contact with solid waste~~ Leachate shall ~~will be contained on-site or properly~~
35 treated prior to discharge. A NPDES permit A National Pollutant Discharge Elimination System
36 (NPDES) permit issued by the Department of Environmental Quality, Division of Water Resources
37 in accordance with 15A NCAC 02B may be required prior to discharge to surface waters.

- 1 (10) The owner or operator shall submit to the Division upon request any information or records required
2 to be kept under the conditions of the permit or the rules of this Section.
- 3 (b) When a site ceases the acceptance of waste, closure of the site shall comply with the following requirements:
- 4 (1) The owner or operator shall remove all waste, including ash, from the site property and dispose of
5 the waste at a facility permitted by the Division to receive such waste no less than 120 days after
6 the date the incinerator ceased the acceptance of waste.
- 7 (2) The owner or operator shall comply with the closure requirements specified in the permits issued
8 by the Division and the Division of Air Quality, if any.
- 9 (3) For a site that accepts medical waste, the owner or operator shall also meet the requirements of
10 Section .1200 of this Subchapter;
- 11 (4) The owner or operator shall notify the Division in writing that the site has been closed in accordance
12 with this Rule.
- 13 (5) The Department shall conduct an inspection to determine compliance with Subparagraphs (1)
14 through (3) of this Paragraph.
- 15 (6) When a site has been closed in accordance with this Paragraph, the permit is terminated, and any
16 future solid waste management at the site shall require a new permit.

17

18 *History Note:* *Authority G.S. 130A-294;*
19 *Eff. April 1, 1982;*
20 *Amended Eff. September 1, ~~1990~~1990;*
21 *Readopted Eff. January 1, 2021.*
22

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0510

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

On line 8, are you defining "site" to be the language on lines 6-7? If so, I think that can be clarified.

On line 9, what is the difference between "site" and "facility"?

On line 9, what do you mean by "at or near"?

On line 10, what does "such as maintenance, water quality monitoring, and explosive gas monitoring" modify?

On line 11, under what circumstances will this request be made?

And so that I'm clear – on line 12, the Division will ask for a copy of the letter that it sent the owner or operator? And I note that line 9 refers to a closure letter or permit. So, the Division will have a copy of the permit for closure?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0510 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0510** ~~CLOSURE CONDITIONS~~ POST-CLOSURE CARE REQUIREMENTS FOR
4 CLOSED C&DLF AND MSWLF UNITS EXEMPTED FROM OTHER C&DLF
5 AND MSWLF RULES

6 The owner or operator of a closed construction and demolition landfill unit or municipal solid waste landfill unit that
7 is required to comply with this Rule in accordance with Rule .0531 of this Section or Rule .1601 of this Subchapter
8 (site) shall comply with the post-closure care requirements specified in the permit conditions, the closure plan for the
9 facility, and the closure letter or permit for closure issued by the Division to the site at or near the time of closure,
10 such as maintenance, water quality monitoring, and explosive gas monitoring. The owner or operator shall also comply
11 with Section .0600 of this Subchapter. The owner or operator shall submit to the Division upon request any information
12 or records required to be kept under the permit conditions, the closure letter, or the rules of this Subchapter.

13 ~~(a) When the disposal site has been closed in accordance with Rule .0505 of this Subchapter, the operator shall:~~

14 ~~(1) Notify the Division in writing in order that a site inspection may be made by the Division to~~
15 ~~determine compliance with closure procedures; and~~

16 ~~(2) Provide test holes as specified by the Division, to determine compliance for final cover.~~

17 ~~(b) An inspection shall be made by a representative of the Division and a written statement will be supplied to the~~
18 ~~operator concerning the closure of the site.~~

19 ~~(c) When a solid waste disposal site has been closed in accordance with the requirements of the Division, future~~
20 ~~necessary maintenance and water quality monitoring shall be the responsibility of the owner and the operator and shall~~
21 ~~be specified in the closure letter.~~

22 ~~(d) When a solid waste disposal site has been closed in accordance with the requirements of the Division, the permit~~
23 ~~is terminated. Any future disposal at the site shall require a new permit.~~

24
25 *History Note: Authority G.S. 130A-294;*

26 *Eff. April 1, 1982;*

27 *Amended Eff. September 1, 1990; February 1, 1988, 1988;*

28 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0562

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), lines 13 and 14, why do you need "beneficial purpose" and "improving the land use potential"?

In (b)(4), is this referring to (b)(5)?

In (b)(6), line 26, I suggest you delete "is not exempt from, and" and just state "the beneficial fill shall comply with..."

In (b)(8), line 33, I do not see that term defined in Rule .0532. Please clarify.

In (c), the new language on lines 35-37 seem redundant, given the first sentence. I see from your form that it was added in response to public comment, so I am only asking – do you need it?

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

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0562 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0562 BENEFICIAL FILL**

4 ~~A permit is not required for beneficial fill activity that meets all of the following conditions:~~

- 5 (1) ~~The fill material consists only of inert debris strictly limited to concrete, brick, concrete block,~~
6 ~~uncontaminated soil, rock, and gravel.~~
7 (2) ~~The fill activity involves no excavation.~~
8 (3) ~~The purpose of the fill activity is to improve land use potential or other approved beneficial reuses.~~
9 (4) ~~The fill activity is not exempt from, and must comply with, all other applicable Federal, State, and~~
10 ~~Local laws, ordinances, rules, and regulations, including but not limited to zoning restrictions, flood plain~~
11 ~~restrictions, wetland restrictions, mining regulations, sedimentation and erosion control regulations. Fill~~
12 ~~activity shall not contravene groundwater standards.~~

13 (a) “Beneficial fill” means a fill activity to level or bring an area to grade for the beneficial purpose of stabilizing the
14 land or improving the land use potential using only inert debris waste.

15 (b) A solid waste management permit is not required for beneficial fill that meets the following conditions:

- 16 (1) any soils mixed with the beneficial fill or used for cover shall meet unrestricted use standards for
17 soils as defined in 130A-310.65;
18 (2) excavation shall not be conducted for the purpose of creating a beneficial fill area or expanding the
19 footprint of the existing beneficial fill area;
20 (3) in the absence of local ordinances pertaining to beneficial fill, the activity shall be limited in duration
21 to one year from the initial placement of material and no larger than one acre in size;
22 (4) the beneficial fill shall be setback from an adjacent property line a distance that allows for slope
23 construction and maintenance in accordance with this Rule;
24 (5) the beneficial fill shall be covered with a minimum of one foot of compacted soil and graded at a
25 slope no greater than a three horizontal to one vertical;
26 (6) the beneficial fill is not exempt from, and shall comply with, all other applicable federal, State, and
27 local laws, ordinances, rules, and regulations, including local zoning restrictions, flood plain
28 regulations, wetland regulations, mining regulations, and sedimentation and erosion control
29 regulations;
30 (7) the beneficial fill shall comply with the groundwater quality standards established in 15A NCAC
31 02L; and
32 (8) beneficial fill shall not be placed in waters of the State, or at or below the seasonal high groundwater
33 [table.] table as defined in Rule .0532 of this Section.

34 (c) Soil generated from properties where there has been no known release of contaminants shall not be subject to
35 regulation as a solid waste. This Rule and the solid waste permitting requirements under this Subchapter shall not
36 apply to fill activities solely consisting of soil generated from properties where there has been no known release of
37 contaminants.

1 (d) This Rule and the solid waste permitting requirements under this Subchapter shall ~~does~~ not apply to fill activities
2 solely consisting of soil generated from properties where there has been a release of contaminants, if the soil meets
3 unrestricted use standards for soils as defined in G.S. 130A-310.65.

4 (e) Fill activities using solid waste as the fill material that do not meet the requirements of this Rule are subject to
5 permitting as a solid waste management facility in accordance with this Subchapter.

6
7 *History Note: Authority G.S. 130A-294;*

8 *Eff. January 4, ~~1993~~, 1993;*

9 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0563

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (2), line 21, I suggest deleting "is not exempt from, and"

In (3), Page 2, line 11, replace the semicolon after "years" with a comma.

In (4)(a), line 16, I suggest replacing "shall be" before "a project" with "is"

On lines 16 and 17, isn't the use of "NC Department of Transportation" redundant with "State of North Carolina"?

In (4)(c), line 24, I suggest replacing "shall" with "does"

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0563 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0563 ~~APPLICABILITY REQ. FOR LAND CLEARING/INERT DEBRIS (LCID)~~**
4 **LANDFILLS GENERAL REQUIREMENTS FOR LCIDLFS**

5 Management of land clearing and inert debris shall be in accordance with the State hierarchy for managing solid waste
6 as provided for under G.S. 130A-309.04(a). Disposal in a landfill is considered to be the least desirable method of
7 managing land clearing and inert debris. Where landfilling is necessary, the requirements of this Rule apply. The
8 owner or operator of a land clearing and inert debris landfill (site) shall obtain a permit from the Division, unless
9 exempted from permitting pursuant to G.S. 130A-294(a)(4)a. A site shall comply with Rules .0564 through .0567 of
10 this Section, and the following requirements:

11 (1) The site shall accept only yard waste and inert debris waste for disposal. An individual permit from
12 the Division of Solid Waste Management is not required for Land Clearing and Inert Debris (LCID)
13 landfills that meet all of the following conditions:

14 (a) ~~_____~~ The facility is to be operated for the disposal of land clearing waste, inert debris, untreated
15 wood, and yard trash. Operations must be consistent and in compliance with the local
16 government solid waste management plan as approved by the Division of Solid Waste
17 Management.

18 (b) ~~_____~~ The total disposal area is under two acres in size.

19 (c) ~~_____~~ The facility and practices comply with the siting criteria under Rule .0564, and operational
20 requirements under Rule .0566.

21 ~~(2)(d)~~ The fill activity site is not exempt from, and must shall comply with all other Federal, federal, State,
22 and or Local local laws, ordinances, Rules, rules, regulations, and or orders, including but not limited
23 to zoning regulations, restrictions, flood plain regulations, restrictions, wetland regulations,
24 restrictions, sedimentation and erosion control regulations, requirements, and mining regulations.

25 ~~(2)~~ ~~_____~~ Where an individual permit is not required, the following applies:

26 (a) ~~_____~~ The owner of the land where the landfill is located must notify the Division on a prescribed
27 form, duly signed, notarized, and recorded as per Sub item (2)(b) of this Rule. The operator
28 of the landfill, if different from the land owner, shall also sign the notification form.

29 (b) ~~_____~~ The owner must file the prescribed notification form for recordation in the Register of
30 Deeds' Office. The Register of Deeds shall index the notification in the grantor index under
31 the name of the owner of the land in the county or counties in which the land is located. A
32 copy of the recorded notification, affixed with the Register's seal and the date, book and
33 page number of recording shall be sent to the Division of Solid Waste Management.

34 (c) ~~_____~~ When the land on which the Land Clearing and Inert Debris Landfill is sold, leased,
35 conveyed, or transferred in any manner, the deed or other instrument of transfer shall
36 contain in the description section in no smaller type than that used in the body of the deed

1 or less in size, and was required to record a notification for the site with the Register of Deeds' office
2 and submit the notification to the Division.

3 (6) ~~Landfills that are currently permitted as demolition landfills are required to comply with the~~
4 ~~following:~~

5 (a) ~~Only waste types as described in Sub item (3)(a) of this Rule may be accepted for disposal,~~
6 ~~as of the effective date of this Rule unless otherwise specified in the existing permit.~~

7 (b) ~~Operations must be in compliance with Rule .0566 of this Section as of the effective date~~
8 ~~of this Rule.~~

9 (c) ~~Existing demolition landfills must comply with the siting criteria requirements of these~~
10 ~~Rules as of January 1, 1998 or cease operations and close in accordance with these Rules.~~

11
12 *History Note:* Authority G.S. 130A-294; ~~130A-301~~; 130A-301.1;

13 *Eff. January 4, ~~1993~~.*1993;

14 *Readopted Eff. January 1, 2021.*
15

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0564

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (2), line 20, end the sentence after “.0300”

In (6), Page 2, lines 27-28, what is the authority to establish these outside of rulemaking? Will this be done on a case-by-case basis?

In (9), line 36, I do not see this term defined In Rule .0532. Please clarify.

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0564 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0564 SITING CRITERIA FOR LCIDLAND CLEARING AND INERT DEBRIS**
4 **(LCID) LANDFILLS**

5 The following siting criteria shall apply for Land Clearing and Inert Debris (LCID) landfills: A land clearing and inert
6 debris landfill (site) shall meet the following siting criteria:

- 7 (1) Floodplain Restrictions. Facilities or practices, The site shall not be located in the 100-year
8 floodplain.
- 9 (2) ~~Facilities or practices shall not cause or contribute to the taking of any endangered or threatened~~
10 ~~species of plants, fish, or wildlife.~~
- 11 (3) ~~Facilities or practices shall not result in the destruction or adverse modification of the critical habitat~~
12 ~~of endangered or threatened species as identified in 50 CFR Part 17 which is hereby incorporated~~
13 ~~by reference including any subsequent amendments and editions. This material is available for~~
14 ~~inspection at the Department of Environment, Health, and Natural Resources, Division of Solid~~
15 ~~Waste Management, 401 Oberlin Road, Raleigh, North Carolina 27605 where copies can be~~
16 ~~obtained at no cost.~~
- 17 (2)(4) Cultural Resources Restrictions. Facilities or practices The site and site operations shall not damage
18 or destroy an archaeological or historical site; a property of archaeological or historical significance
19 that has been listed on the National Register of Historic Places or included on the Study List for the
20 Register pursuant to 07 NCAC 04R .0206 and .0300, which are incorporated by reference including
21 subsequent amendments and editions.
- 22 (3)(5) State Nature and Historic Preserve Restrictions. Facilities or practices The site and site operations
23 shall not cause have an adverse impact on a state park, recreation or scenic area, or any other lands
24 included in the state nature and historic preserve; any component included in the State Nature and
25 Historic Preserve pursuant to G.S. 143-260.10.
- 26 (4) Endangered and Threatened Species Restrictions. The site and site operations shall jeopardize the
27 continued existence of endangered or threatened species or result in the destruction or adverse
28 modification of a critical habitat, protected under the Federal Endangered Species Act of 1973,
29 Public Law 93-205, as amended.
- 30 (5) Clean Water Act requirements. The site and site operations shall:
- 31 (a) not cause a discharge of pollutants into waters of the United States, including wetlands,
32 that violates any requirements of the Clean Water Act, including the National Pollutant
33 Discharge Elimination System (NPDES) requirements pursuant to Section 402 of the Clean
34 Water Act.
- 35 (b) comply with Section 404 of the Clean Water Act.
- 36 (c) not cause the discharge of a nonpoint source of pollution to waters of the United States,
37 including wetlands, that violates any requirement of an area-wide or Statewide water

- 1 quality management plan that has been approved under Section 208 or 319 of the Clean
2 Water Act.
- 3 ~~(6) Facilities shall not be located in any wetland as defined in the Clean Water Act, Section 404(b).~~
4 ~~(7) It must be shown that adequate suitable soils are available for cover, either on site or from on or off~~
5 ~~site.~~
- 6 ~~(8) Land Clearing and Inert Debris landfills shall meet the following surface and ground water~~
7 ~~requirements:~~
- 8 ~~(a) Facilities or practices shall not cause a discharge of pollutants into waters of the state that~~
9 ~~is in violation of the requirements of the National Pollutant Discharge Elimination System~~
10 ~~(NPDES), under Section 402 of the Clean Water Act, as amended.~~
- 11 ~~(b) Facilities or practices shall not cause a discharge of dredged materials or fill material into~~
12 ~~waters of the state that is in violation of the requirements under Section 404 of the Clean~~
13 ~~Water Act, as amended.~~
- 14 ~~(c) Facilities or practices shall not cause non point source pollution of waters of the state that~~
15 ~~violates assigned water quality standards.~~
- 16 ~~(d) Waste in landfills with a disposal area greater than two acres shall be placed a minimum of~~
17 ~~four feet above the seasonal high water table, except where an alternative separation is~~
18 ~~approved by the Division.~~
- 19 ~~(e) Waste in landfills with a disposal area less than two acres shall be placed above the seasonal~~
20 ~~high water table.~~
- 21 ~~(6)(9)~~ Buffer Requirements. The facility The site shall maintain meet the following minimum
22 requirements:
- 23 (a) 50 feet from the waste boundary to ~~all surface~~ waters of the ~~state~~ State as defined in G.S.
24 143-212.
- 25 (b) 100 feet from the waste boundary ~~disposal area~~ to property lines, residential dwellings,
26 commercial or public buildings, and potable wells.
- 27 ~~(e)~~ The Division may establish alternative buffers in the permit conditions if it is necessary for the
28 preservation of public health and the environment. ~~Buffer requirements may be adjusted as~~
29 ~~necessary to insure adequate protection of public health and the environment.~~
- 30 ~~(7)(10)~~ The site shall establish and maintain an access road around the waste boundary for access by
31 emergency or fire-fighting vehicles and equipment. The facility shall meet all requirements of any
32 applicable zoning ordinance.
- 33 ~~(8)~~ The site shall have soil available for cover either on site or from on or off site.
- 34 ~~(9)~~ The site and site operations shall comply with 15A NCAC 02L for protection of groundwater
35 quality. The bottom elevation of the waste shall be no less than four feet above the seasonal high
36 groundwater [table.] table as defined in Rule .0532 of this Section.

1 *History Note:* *Authority G.S. 130A-294;*
2 *Eff. January 4, ~~1993~~, 1993;*
3 *Readopted Eff. January 1, 2021.*
4

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0565

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a)(1), line 10, insert a comma after "site property" and before "including"

In (a)(4), line 21, the agency is the "Department of Natural and Cultural Resources"

On lines 23-24, DNCR administers the program for endangered and threatened species?

In (a)(6)(B), Page 2, line 1, how will this work? Will the application be amended to include this information?

In (a)(7)(C), line 16, and (a)(7)(L), line 26, please hyphenate "on site" or make it one word.

In (a)(7)(N), Page 3, line 6, end the sentence after "control"

In (a)(8)(C), line 24, please insert an article at the beginning, like "the"

In (a)(9)(C), line 33, please replace the period after "Section" with a semicolon and "and"

In (a)(10), will this be an amended application?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0565 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0565 APPLICATION REQUIREMENTS FOR LCIDLAND CLEARING/INERT**
4 **DEBRIS (LCID) LANDFILLS**

5 ~~(a) Five sets of plans, maps, and reports shall be required with each application. A permit applicant for a proposed~~
6 ~~land clearing and inert debris landfill (site) permit shall submit one electronic copy of an application to the Division~~
7 ~~that shall contain the following information: The seal of a professional engineer is required when submitting plans~~
8 ~~for a Land Clearing and Inert Debris (LCID) landfill.~~

9 (1) ~~The following information is required in order to review and approve the siting of a Land Clearing~~
10 ~~and Inert Debris (LCID) landfill: a copy of the deed for the site property including the property~~
11 ~~owner's name, the parcel identification number, and a legal description of the property;~~

12 ~~(2)(a) An~~ an approval letter from the unit of local government having zoning authority over the area where
13 the ~~facility~~ site is to be located stating that the site meets ~~all of~~ the requirements of the local zoning
14 ordinance, or that the site is not ~~zoned~~ zoned;

15 ~~(3)(b) Location on a county road map, map showing the location of the site;~~

16 ~~(c) Information showing that the bottom elevation of the waste shall be four feet above the seasonal~~
17 ~~high water table. Seasonal high water table elevations shall be obtained from on site test borings,~~
18 ~~test pits, or from other geological or water table investigations, studies, or reports from the~~
19 ~~immediate area of the proposed facility.~~

20 ~~(4) letters from both the State Historic Preservation Office and the Natural Heritage Program within the~~
21 ~~Department of Cultural and Natural Resources stating whether the proposed use of the property will~~
22 ~~impact the historic sites described in Rule .0564(a)(2) of this Section; State nature and historic~~
23 ~~preserves described in Rule .0564(a)(3) of this Section; or the endangered or threatened species~~
24 ~~described in Rule .0564(a)(4) of this Section located at the site; and~~

25 ~~(5)(d) A written report indicating that the facility shall comply with all the requirements set forth under a~~
26 ~~description of how the site will comply with Rule .0564 of this Section. Section;~~

27 ~~(e) A copy of the deed or other legal description of the site that would be sufficient as a description in~~
28 ~~an instrument of conveyance, showing property owner's name.~~

29 ~~(f) Any other information pertinent to the suitability of the proposed facility.~~

30 ~~(6)(2) The following shall be provided on a map or aerial photograph with a scale of at least no less than~~
31 ~~one inch equals four hundred feet showing the following in an area within one-fourth mile of the~~
32 ~~site:~~

33 ~~(A)(a) Entire the entire property or portion thereof owned or leased by the person providing the~~
34 ~~disposal site, where the site is proposed to be located.~~

35 ~~(B)(b) Location the location of all homes, buildings, public or private utilities, roads, wells,~~
36 ~~watercourses, water or other impoundments, and any other applicable features or details.~~

- 1 that the Division may request if it is necessary to determine compliance with this
2 Subchapter;
- 3 (C)(e) ~~the 100-year floodplain flood plain~~ boundaries, if ~~any~~ any;
- 4 (D)(d) ~~Wetland boundaries, if any.~~ boundaries of wetlands as defined in Section 404(b) of the
5 Clean Water Act, if any;
- 6 (E)(e) ~~Historical or archaeological sites, if any.~~ the boundaries of sites described in Rule .0564(2)
7 and (3) of this Section, if any.
- 8 (f) ~~Park, scenic, or recreation area boundaries, if any.~~
- 9 (7)(3) ~~Development~~ development and design plans and ~~details,~~ drawings for the site, at a scale of ~~at least~~
10 no less than one inch equals one hundred feet, ~~feet with one inch equals forty feet preferred, and~~
11 with specifications containing the following information: ~~information shall be submitted with the~~
12 application for a proposed Land Clearing and Inert Debris (LCID) landfill:
- 13 (A)(a) ~~Property or site property boundaries,~~ boundary, fully dimensioned with bearings and
14 distances, tied to North Carolina grid coordinates where available; ~~reasonably feasible.~~
- 15 (B)(b) ~~Easements and rights of way.~~ easements and rights-of-way;
- 16 (C)(e) ~~Existing pertinent existing~~ on site and adjacent structures such as houses, buildings, wells,
17 roads and bridges, water and sewer utilities, septic fields, and storm drainage ~~features.~~
18 features;
- 19 (D)(d) ~~Proposed proposed~~ and existing roads, points of ingress and egress, and ~~egress along with~~
20 access ~~control~~ controls such as gates, fences, or ~~berms.~~ berms;
- 21 (E)(e) ~~Buffer buffer~~ and set back lines ~~along with the and~~ buffered boundaries or features;
22 boundary or feature.
- 23 (F)(f) ~~springs.~~ Springs, streams, creeks, rivers, ponds, and other surface waters and
24 ~~impoundments.~~ impoundments;
- 25 (G)(g) ~~Wetlands, if any.~~ wetlands, if any;
- 26 (H)(h) ~~Boundary~~ boundary of the proposed waste ~~area.~~ area;
- 27 (I) ~~the proposed bottom elevation of the waste in relation to the seasonal high groundwater~~
28
- 29 (J)(i) ~~Existing existing~~ topography with contours at a minimum of five-foot ~~five foot~~ intervals.
30 Where necessary, a A smaller interval shall be utilized if it is necessary to clarify existing
31 topographic ~~conditions.~~ conditions;
- 32 (K)(i) ~~Proposed proposed~~ excavation, grading, and final contours at a minimum of five-foot ~~five~~
33 foot intervals. Where necessary, a A smaller interval shall be utilized if it is necessary to
34 clarify proposed grading. Excavation, grading, and fill material side slopes shall not exceed
35 a ratio of three horizontal to one vertical; ~~one (3:1).~~
- 36 (L)(k) ~~Where~~ where an on site borrow pit for operational and final cover is proposed, indicate the
37 borrow pit excavation and grading plan with contours at a minimum of five-foot ~~five foot~~

- 1 intervals. ~~Where necessary, a~~ A smaller interval shall be utilized if it is necessary to clarify
- 2 proposed ~~grading, grading:~~
- 3 (M)(4) ~~Proposed~~ proposed surface water control features and devices such as slope drains, storm
- 4 water pipes, inlets, culverts, and ~~channels, channels:~~
- 5 (N)(m) ~~Information~~ information showing that the project meets the requirements of 15A NCAC
- 6 04 for sedimentation and erosion control, which is incorporated by reference including
- 7 subsequent amendments and editions; 15A NCAC 4, Sedimentation Control Rules.
- 8 (O)(n) ~~Location~~ location of test borings or test pits, if used to determine the seasonal high
- 9 groundwater water table elevation; and elevation, shall be shown on the plans.
- 10 (P)(e) ~~A minimum of no less than two~~ cross-sections, one each along each major axis, per
- 11 operational area showing original elevations, proposed excavation, and proposed final
- 12 elevations; showing:
- 13 (i) ~~Original elevations.~~
- 14 (ii) ~~Proposed excavation.~~
- 15 (iii) ~~Proposed final elevations.~~
- 16 (8)(4) ~~An operational an operations plan addressing the requirements under in Rule .0566 of this Section~~
- 17 that shall contain and containing the following information; information shall be submitted with the
- 18 application for a proposed Land Clearing and Inert Debris (LCID) landfill:
- 19 (A)(a) ~~Name, the name, address, and phone number~~ number, and e-mail address of the site owner
- 20 and operator; individual responsible for operation and maintenance of the facility.
- 21 (b) ~~Projected use of the land after completion.~~
- 22 (B)(e) ~~Description a description of systematic usage of disposal area, operation, and development~~
- 23 of the site; orderly development and closure of the landfill.
- 24 (C)(d) ~~Type, type, source, and quantity of waste to be accepted, accepted; and~~
- 25 (D)(e) ~~An an emergency contingency plan, including fire-fighting procedures; fire fighting~~
- 26 procedures.
- 27 (9) a closure and post-closure plan addressing the requirements in Rule .0567 of this Section that shall
- 28 contain the following information:
- 29 (A) the procedures and schedule for closure of the site;
- 30 (B) the projected use of the property after closure of the site; and
- 31 (C) the procedures and schedule for post-closure care maintenance, and for post-closure
- 32 groundwater, surface water, or explosive gas monitoring if it is required by the Division to
- 33 determine compliance with Rule .0566(11) or (13) of this Section.
- 34 (10) other information that the Division may request if it is necessary to determine compliance with the
- 35 rules of this Subchapter.

1 (b) If required by G.S. 89C or 89E and not under the purview of another licensed profession, a licensed professional
2 engineer or licensed geologist shall certify the information submitted in accordance with Subparagraphs (a)(6) through
3 (a)(10) of this Rule.

4 (c) The Division shall review all permit applications in accordance with Rule .0203 of this Subchapter.

5 (d) Plans and documents submitted in the permit application in accordance with this Rule shall be incorporated into
6 the permit when the permit is issued by the Division, and the site shall comply with the permit in accordance with
7 Rule .0203(d) of this Subchapter.

8 (e) Modifications to the plans. The owner or operator may request to modify plans that were incorporated into the
9 permit by the Division in accordance with the Paragraph (d) of this Rule by submitting the request to the Division,
10 including the modified plan and a demonstration showing how the proposed modifications comply with the rules of
11 this Section. The Division shall respond to the request in writing within the timeline provided in G.S. 130A-295.8(e),
12 and the response shall either approve or deny the request as submitted or request that additional information be
13 submitted for the Division to consider the request. The Division's approval shall be based on whether the modification
14 complies with the rules of this Subchapter. If the Division approves the request as submitted or upon receiving the
15 additional information requested, the Division's written approval and the revised pages of the plan shall be added to
16 the site's operating record. The owner or operator shall not implement the modification until the Division has issued
17 an approval.

18 (f) The permit issued by the Division shall be recorded with the Register of Deeds in the same manner as sanitary
19 landfills in accordance with G.S. 130A-301.

20
21 *History Note: Authority G.S. 130A-294;*

22 *Eff. January 4, ~~1993~~, 1993;*

23 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0566

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In Item (3), so that I'm clear – the site must be covered with the soil monthly or when it reaches one acre, whichever happens first? And once it reaches one acre, the soil must be deposited monthly?

On line 14, what is "active" area here?

In (4), line 22, replace "which" with "that"

In (5), line 26, end the sentence after "04"

In (6), line 30, unauthorized by whom?

In (10)(b), Page 2, line 4, are "hot loads" defined as the language on line 6?

In (10)(c), line 8, documented how?

In (10)(d), line 14, what do you mean by "type"? Is it the type of waste? If so, I think the language should read "the area, as well as the type and amount of waste that caught fire;"

Also on line 14, delete the "and" before "a plan"

On line 15, insert a semicolon after "information" and before "and the date"

In (11), I recommend you retain the breaking down of the language into Sub-Items for ease of reading. Then move the new language from lines 20-23 to the left margin. If you do this, please retain "Twenty-five" on line 18, as it is starting a new clause.

On lines 22-23, under what circumstances will this request be made?

In (14), so that I'm clear – you want the site contact name and site contact number?

In (15), line 35, what is "beneficial reuse"?

Amanda J. Reeder
Commission Counsel

Date submitted to agency: December 3, 2020

In (16), Page 3, line 1, under what circumstances will this request be made?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0566 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0566 OPERATIONAL REQUIREMENTS FOR LCIDLFS ~~REQ. FOR LAND~~**
4 **CLEARING/INERT DEBRIS (LCID) LANDFILLS**

5 Land Clearing and Inert Debris (LCID) landfills The owner or operator of a land clearing and inert debris landfill
6 (site) shall comply with the permit conditions, the plans incorporated into the permit in accordance with Rule .0565(d)
7 of this Section, and meet the following operational requirements:

8 ~~(1) Operational plans shall be approved and followed as specified for the facility.~~

9 ~~(1)(2)~~ The facility site shall only accept those solid wastes that ~~which~~ it is permitted to receive.

10 ~~(2)(3)~~ Solid waste in the landfill shall be compacted, restricted to the smallest area feasible and compacted
11 as densely as practical into cells. Slopes shall not exceed a three horizontal to one vertical ratio at
12 any time.

13 ~~(3)(4)~~ All waste shall be covered with no less than six inches of soil monthly. Adequate soil cover shall be
14 applied monthly, or when the active area reaches one acre in size, whichever occurs first. Any soils
15 used for cover at a site shall meet unrestricted use standards for soils as defined in 130A-310.65.

16 ~~(4)(5)~~ 120 calendar days after completion of any phase of disposal operations, or upon revocation of a
17 permit, the disposal area ~~Areas~~ that will not have additional wastes placed on them for three months
18 or more, but where final termination of disposal operations has not occurred, shall be covered with
19 a minimum of no less than one foot of suitable soil cover sloped to allow direct the flow of surface
20 water from the landfill, and stabilized with vegetative ground cover or other stabilizing material.
21 runoff in a controlled manner. The Division may require further action ~~in order~~ to correct any
22 condition which the Division determines is or may become ~~be~~ injurious to the public health, or a
23 nuisance to the community.

24 ~~(5)(6)~~ Adequate erosion control measures, structures, or devices shall be utilized to prevent silt from
25 leaving the site and to prevent ~~excessive on site erosion. erosion,~~ and shall comply with 15A NCAC
26 04, which is incorporated by reference including subsequent amendments and editions.

27 ~~(7)~~ Provisions for a ground cover sufficient to restrain erosion ~~must shall be accomplished within 30~~
28 working days or 120 calendar days upon completion of any phase of landfill development.

29 ~~(6)(8)~~ The facility site shall be adequately secured by ~~means of~~ barriers such as gates, chains, berms, and
30 fences fences, etc. to prevent unauthorized access. ~~access except when an operator is on duty.~~ An
31 attendant operator shall be on duty at all times while the site landfill is open for public use to assure
32 compliance with operational requirements and to prevent acceptance of unauthorized wastes.

33 ~~(7)(9)~~ Access roads shall be of all-weather construction and shall be maintained to allow access by vehicles
34 transporting waste, Department staff, and fire-fighting vehicles. ~~properly maintained.~~

35 ~~(8)(10)~~ Surface water shall be diverted from the working face and shall not be impounded over waste.

36 ~~(9)(11)~~ Solid waste shall not be disposed of in water.

37 ~~(10)(12)~~ Fire Protection and Control.

- (a) ~~Open burning of solid waste is prohibited.~~ Open burning of solid waste is prohibited, unless approval has been obtained from the Division, the local government, and the Division of Air Quality in accordance with 15A NCAC 02D .1900 prior to any burning activity.
- (b) Hot ashes, hot loads, or cinders shall not be disposed of in the landfill. The waste screening procedures described in the operations plan in accordance with this Rule shall address identification and rejection of loads containing hot ashes and cinders.
- (c) The owner or operator shall provide equipment on-site to control fires and make documented arrangements with a local fire protection agency to provide fire-fighting services.
- (d) The owner or operator shall provide verbal notification to the Division of fires that occur at site within 24 hours of the fire and shall submit written notification to the Division within 15 days of the fire. The notification shall include the site name and permit number; the date and time of the fire; actions taken by the owner or operator in response to the fire; the cause of the fire; the area, type, and amount of waste that caught fire; and a plan of action to prevent fires in the future; the name and title of the person submitting this information, and the date the information is submitted.
- ~~(11)(13)~~ The concentration of explosive gases generated by the site facility shall not exceed:
- (a) ~~25~~ Twenty five percent of the lower explosive limit for the gases in facility structures, site structures; or
- (b) ~~The~~ the lower explosive limit for the gases at the property boundary. The Division may require quarterly monitoring of explosive gases if it is necessary to determine compliance with this Item. If the Division requires monitoring, the Division shall provide written notice of the requirement to the owner or operator.
- ~~(12)(14)~~ Leachate shall be contained and managed onsite. Leachate shall be properly managed on site through the use of current best management practices.
- ~~(13)(15)~~ A site shall comply with 15A NCAC 02L for the protection of groundwater quality, and the surface water quality standards established in 15A NCAC 02B. Should the Division deem it necessary, ground water or surface water monitoring, or both, may be required as provided for under Rules .0601 and .0602 of this Subchapter.
- ~~(14)(16)~~ A sign shall be posted at the facility site entrance showing the site contact name and number, number in case of an emergency and the permit number, the permit number, emergency contact information, and the waste types accepted for disposal at the site. The permit number requirement is not applicable for facilities not requiring an individual permit.
- (15) Inert debris waste accepted at the site shall be placed within the permitted landfill footprint unless it is being processed for recycling or beneficial reuse. Inert debris waste shall not be placed as beneficial fill as defined in Rule .0562 within the site buffer areas or elsewhere on the property unless stated in the site permit.

1 (16) The owner or operator shall submit to the Division upon request any information or records required
2 to be kept under the conditions of the permit or the rules of this Section.

3
4 *History Note:* *Authority G.S. 130A-294;*
5 *Eff. January 4, ~~1993~~.1993;*
6 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0567

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (b)(2), line 14, consider stating "within 120 days after beginning the closure activities." And do you want this to mirror Rule .0406 by referring to the (b)(1)?

In (c)(1)(A), line 25, what is "integrity and effectiveness"? Does your regulated public know?

In (c)(1)(F), Page 2, how will the determination be made and how will these additional requirements be communicated?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0567 is adopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0567 CLOSURE AND POST-CLOSURE CARE REQUIREMENTS FOR LCIDLFS**

4 (a) The owner or operator of a land clearing and inert debris landfill (site) shall implement the closure of the site in
5 accordance with this Rule and the plans incorporated into the permit in accordance with Rule .0565(d) of this Section.

6 The owner or operator shall notify the Division no less than 90 days prior to the expected closure of the site.

7 (b) Closure Requirements.

8 (1) The owner or operator of a site shall begin closure activities no later than 30 days after the final
9 receipt of wastes. The disposal area shall be covered with no less than one foot of soil cover sloped
10 to direct the flow of surface water from the landfill and stabilized with vegetative ground cover or
11 other stabilizing material.

12 (2) The owner or operator of a site shall complete closure activities in accordance with the closure and
13 post-closure care plan incorporated into the permit in accordance with Rule .0565(d) of this Section
14 within 120 days following the beginning of closure.

15 (3) Within 30 days of completion of closure of the site, the owner or operator shall submit to the
16 Division a certification verifying that closure has been completed in accordance with the closure
17 plan. If required by G.S. 89C, the certification shall be completed by a licensed professional
18 engineer.

19 (4) When a site has been closed in accordance with this Rule, the permit is terminated. Any future solid
20 waste management or disposal at the site shall require a new permit.

21 (c) Post-Closure Care Requirements.

22 (1) Following closure of the site, the owner or operator shall conduct post-closure care in accordance
23 with the closure and post-closure care plan incorporated into the permit in accordance with Rule
24 .0565(d) of this Section, and the following requirements:

25 (A) maintenance of the integrity and effectiveness of any cap system, including making repairs
26 to the cover to correct the effects of settlement, subsidence, erosion, or other events, and
27 preventing surface water run-on and run-off from eroding or otherwise damaging the cap
28 system;

29 (B) maintenance of the vegetative cover of the cap, and ensuring that trees and other woody
30 vegetation do not become established on the cap;

31 (C) maintenance of vehicle and fire-fighting lanes to allow access to the entire waste boundary
32 of the site;

33 (D) groundwater, surface water, and explosive gas monitoring in accordance with the closure
34 and post closure care plan, if it is required by the Division to determine compliance with
35 Rule .0566(11) or (13) of this Section;

1 (E) maintenance of the operating record by the owner or operator. The operating record shall
2 be made available to the Division for inspection upon request during the post-closure care
3 period; and

4 (F) any additional actions that the Division may require to correct any condition that the
5 Division determines may be injurious to the public health or a nuisance to the community.

6 (2) Property lines shall not be altered to result in reduction of the buffer areas set forth in Rule .0564(6)
7 of this Section or stated in the site permit.

8 (3) The buffer areas set forth in Rule .0564(6) of this Section or stated in the site permit shall not be
9 developed or utilized for residential, commercial, industrial, or institutional purposes, including
10 above-ground or below-ground construction or improvements such as utilities, roads, parking lots,
11 and sidewalks.

12 (4) Post-closure care shall be conducted for 10 years.

13
14 History Note: Authority G.S. 130A-294;

15 Eff. January 1, 2021.
16

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0601

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 5, to be consistent with the other rules in this Subchapter, replace “(hereinafter, “site”)” with “(site)”

In (c)(1), line 12, insert a comma after “site”

In (d), how will monitoring wells be required pursuant to this Rule?

In (f), I am only asking – you are referring to rules that are already referred to in (b). Why are you restating these specific requirements here? Is it to emphasize the specific point?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0601 is readopted as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0601 ~~GROUND-WATER~~ GROUNDWATER MONITORING**

4 (a) This Rule shall apply to a sanitary landfill that is not subject to Rules .0531 through .0546 or Section .1600 of this
5 Subchapter (hereinafter “site”). This Rule shall apply for the life of the site and the post-closure care period of the site.

6 (b) A site shall be subject to the groundwater requirements and standards in 15A NCAC 02L .0101 through .0114 and
7 15A NCAC 02L .0201 through .0202.

8 ~~(c)(a) The Division shall require a solid waste management facility to~~ A site shall provide such ground water
9 groundwater monitoring capability as the Division determines to be necessary to detect the effects of the site facility
10 on ground water-groundwater in the area. In making such a determination, the Division shall consider the following
11 factors:

- 12 (1) the design of the site facility, the nature of the processes it will use, and the type of waste it will
13 handle;
14 (2) soil and other geological conditions in the area;
15 (3) nearness of ground water-groundwater to the site facility;
16 (4) uses that are being or may be made of any ground water-groundwater that may be affected by the
17 site facility; and
18 (5) any other factors that ~~reasonably~~ relate to the potential for ground water-groundwater effects from
19 the site facility.

20 ~~(b) Responsibility for sample collection and analysis will be defined as a part of the permit condition.~~

21 ~~(c) Any other information that the Division deems pertinent to the development of a ground water monitoring system~~
22 ~~will be required.~~

23 (d) All monitoring wells required pursuant to this Rule shall comply with monitoring well construction standards of
24 15A NCAC 2C .0105, 02C .0108. Copies of 15A NCAC 2C may be obtained from and inspected at the Division.

25 ~~(e) The owner or operator of a site shall submit a~~ A record of the monitoring well installation shall be filed with to
26 the Division upon completion of the installation. monitoring wells.

27 ~~(f) Groundwater quality monitoring wells shall be constructed of materials, and by procedures, approved by the~~
28 ~~Division.~~

29 (f) The site shall not cause an exceedance of the groundwater quality standards and interim maximum allowable
30 concentrations established under 15A NCAC 02L .0202 in the uppermost aquifer at the review boundary or
31 compliance boundary as established in 15A NCAC 02L .0107 and .0108.

32
33 *History Note: Authority G.S. 130A-294;*

34 *Eff. April 1, 1982;*

35 *Amended Eff. September 1, 1990; August 1, 1988; January 1, ~~1985~~ 1985;*

36 *Readopted Eff. January 1, 2021.*
37

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0602

DEADLINE FOR RECEIPT: Friday, December 11, 2020

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 call our office to inquire concerning the staff recommendation.

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

In (a), line 5, to be consistent with the other rules in this Subchapter, replace “(hereinafter, “site”)” with “(site)”

In (b)(1), line 10, here you refer to “process” (singular) but in Rule .0601(c)(1), you refer to “processes” (plural). Should these be the same?

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

Amanda J. Reeder
Commission Counsel
Date submitted to agency: December 3, 2020

1 15A NCAC 13B .0602 is readopted with changes as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0602 SURFACE WATER MONITORING**

4 (a) ~~The Division shall require a solid waste management facility to~~ This Rule shall apply to a sanitary landfill that is
5 ~~not subject to Rules .0531 through .0546 or Section .1600 of this Subchapter (hereinafter "site"). This Rule shall apply~~
6 ~~for the life of the site and the post-closure care period of the site.~~

7 (b) ~~The owner or operator of a site shall provide such surface water monitoring capability as the Division determines~~
8 ~~to be necessary to detect the effects of the site facility on surface water in the area. waters contained on or bordering~~
9 ~~the site property.~~ In making ~~such a~~ this determination, the Division shall consider the following factors:

- 10 (1) the design of the ~~site, facility,~~ the nature of the process it will use, and the type of waste it will
11 handle;
12 (2) drainage patterns and other hydrological conditions in the area;
13 (3) nearness of surface water to the ~~site; facility;~~
14 (4) uses that are being or may be made of any surface water that may be affected by the ~~site; facility;~~
15 and
16 (5) any other factors that ~~reasonably~~ relate to the potential for surface water effects from the ~~site, facility.~~

17 (b) ~~Responsibility for sample collection and analysis will be defined as a part of the permit conditions.~~

18 (c) ~~Any other information that the Division deems pertinent to the development of a surface water monitoring system~~
19 ~~will be required.~~

20 (c) The site shall not cause an exceedance of the surface water standards established under 15A NCAC 02B .0200.

21 [If a surface water quality standard is not established in 15A NCAC 02B .0200 for any detected constituent or
22 parameter, the owner or operator shall obtain a determination from the Division on establishing a surface water
23 standard using EPA Nationally Recommended Water Quality Criteria which can be viewed on the Department's
24 website at https://deq.nc.gov/about/divisions/water-resources/planning/classification-standards/surface-water
25 standards.]

26
27 *History Note: Authority G.S. 130A-294;*

28 *Eff. April 1, 1982; 1982;*

29 *Readopted Eff. January 1, 2021.*

1 15A NCAC 13B .0701 - .0706 are repealed through readoption as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .0701 ADMINISTRATIVE PENALTIES**

4 **15A NCAC 13B .0702 STANDARDS**

5 **15A NCAC 13B .0703 PROCEDURE FOR ASSESSMENT: REVOCATION OF PERMIT**

6 **15A NCAC 13B .0704 PAYMENTS: HEARING**

7 **15A NCAC 13B .0705 STAY OF PENALTY ASSESSMENT**

8 **15A NCAC 13B .0706 WAIVER OF ADMINISTRATIVE HEARING**

9
10 *History Note: Authority G.S. 130A-22(f);*

11 *Eff. April 1, 1982;*

12 *Amended Eff. September 1, 1990; February 1, 1988; May 1, 1987; October 1, ~~1984~~1984;*

13 *Repealed Eff. January 1, 2021.*

1 15A NCAC 13B .1301 is repealed through readoption as published in 35:04 NCR 451 as follows:

2
3 **15A NCAC 13B .1301 MANNER OF DISPOSITION OF FETAL REMAINS**

4
5 *History Note: Authority G.S. 130A-309.26;*

6 *Eff. October 1, 1990;*

7 *Temporary Amendment Eff. December 22, 1997;*

8 *Amended Eff. April 1, ~~1999-1999~~;*

9 *Repealed Eff. January 1, 2021.*