

1 15A NCAC 13A .0106 is amended under temporary procedure as follows:

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15A NCAC 13A .0106 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PART 261

(a) 40 CFR 261.1 through 261.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 261.1(a)(1) (80 FR 1773, Jan. 13, 2015), 261.1(c)(6) (50 FR 663, Jan. 4, 1985), 261.4(a)(7) (81 FR 85713, Nov. 28, 2016), 261.5 (75 FR 13001-13002, ~~Mar. 18, 2010~~)**Mar. 18, 2010**, and 261.6(c)(2)(iv) (81 FR 85713, Nov. 28, 2016) are incorporated by reference.

(b) 40 CFR 261.10 through 261.11 (Subpart B), "Criteria for Identifying the Characteristics of Hazardous Waste and for Listing Hazardous Waste" are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 261.20 through 261.24 (Subpart C), "Characteristics of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 261.30 through 261.37 (Subpart D), "Lists of Hazardous Wastes" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 261.33(e) and (f) (71 FR 40259, July 14, 2006) are incorporated by reference.

(e) 40 CFR 261.38 through 261.41 (Subpart E), "Exclusions/Exemptions" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 261.140 through 261.151 (Subpart H), "Financial Requirements for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 261.170 through 261.179 (Subpart I), "Use and Management of Containers" are incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 261.190 through 261.200 (Subpart J), "Tank Systems" are incorporated by reference including subsequent amendments and editions.

(i) 40 CFR 261.400 through 261.420 (Subpart M), "Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 261.420(g) (80 FR 1782, Jan. 13, 2015) is incorporated by reference.

(j) 40 CFR 261.1030 through 261.1049 (Subpart AA), "Air Emission Standards for Process Vents" are incorporated by reference including subsequent amendments and editions.

(k) 40 CFR 261.1050 through 261.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks" are incorporated by reference including subsequent amendments and editions.

(l) 40 CFR 261.1080 through 261.1090 (Subpart CC), "Air Emission Standards for Tanks and Containers" are incorporated by reference including subsequent amendments and editions.

(m) The Appendices to 40 CFR Part 261 are incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c); 150B-21.6;
Eff. November 19, 1980;
Amended Eff. June 1, 1988; February 1, 1988; December 1, 1987;*

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August 1, 1987;
Transferred and Recodified from 10 NCAC 10F .0029 Eff. April 4, 1990;
Recodified from 15A NCAC 13A .0007 Eff. August 30, 1990;
Amended Eff. January 1, 1996; April 1, 1993; February 1, 1992;
December 1, 1990;
Recodified from 15A NCAC 13A .0006 Eff. December 20, 1996;
Amended Eff. April 1, 2007; August 1, 2000;
Temporary Amendment Eff. January 1, 2009;
Amended Eff. July 1, 2010;
Temporary Amendment Eff. December 1, 2015;
Amended Eff. July 1, ~~2016~~2016;
Temporary Amendment Eff. May 30, 2017.

1 15A NCAC 13A .0107 is amended under temporary procedure as follows:

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15A NCAC 13A .0107 STDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE - PART 262

(a) 40 CFR 262.10 (81 FR 85715, Nov. 28, 2016), 262.11 (75 FR 13004, Mar. 18, 2010), and ~~through~~ 262.12 (81 FR 85715, Nov. 28, 2016) (Subpart A), "General" are incorporated by ~~reference including subsequent amendments and editions~~ reference.

(b) 40 CFR 262.20 through 262.27 (Subpart B), "The Manifest" are incorporated by reference including subsequent amendments and ~~editions~~ editions, except that the section heading for 40 CFR 262 Subpart B (79 FR 7558, Feb. 7, 2014) is incorporated by reference.

(c) 40 CFR 262.30 through 262.34 (Subpart C), "Pre-Transport Requirements" are incorporated by reference including subsequent amendments and ~~editions~~ editions, except that the section heading for 40 CFR 262 Subpart C (45 FR 33142, May 19, 1980), 40 CFR 262.32 (70 FR 10817, [Mar. 4, 2005]) [Mar. 4, 2005], and 262.34 (75 FR 13004, Mar. 18, 2010) are incorporated by reference.

(d) 40 CFR 262.40 through 262.44 (Subpart D), "Recordkeeping and Reporting" are incorporated by reference including subsequent amendments and ~~editions~~ editions, except that the section heading for 40 CFR 262 Subpart D and 40 CFR 262.40(c) (48 FR 3981, Jan. 28, 1983), 262.41 (75 FR 13005, Mar. 18, 2010), and 262.43, the section heading for 262.44 and 262.44 (52 FR 35899, Sept. 23, 1987) are incorporated by reference. In addition, a generator shall keep records of inspections and results of inspections required by Section 262.34 for at least three years from the date of the inspection.

(e) 40 CFR 262.50 through 262.58 (Subpart E), "Exports of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 262.60 (Subpart F), "Imports of Hazardous Waste" is incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 262.70 (Subpart G), "Farmers" is incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 262.80 through 262.89 (Subpart H), "Transfrontier Shipments of Hazardous Waste for Recovery within the OECD" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 262.89(e) is not incorporated by reference.

(i) 40 CFR 262.200 (75 FR 79308, Dec. 20, 2010), 262.201 through 262.205 (73 FR 72954, Dec. 1, 2008), 262.206 (75 FR 79308, Dec. 20, 2010), 262.207 through 262.211 (73 FR 72954, Dec. 1, 2008), 262.212 (75 FR 79308, Dec. 20, 2010), 262.213 (73 FR 72954, Dec. 1, 2008), 262.214 (75 FR 79308, Dec. 20, 2010), and 262.215 and through 262.216 (73 FR 72954, Dec. 1, 2008) (Subpart K), "Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities" ~~is~~ are incorporated by ~~reference including subsequent amendments and editions~~ reference.

(j) The appendix to 40 CFR Part 262 is incorporated by reference including subsequent amendments and editions.

History Note: Authority G.S. 130A-294(c); 150B-21.6;

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Eff. November 19, 1980;
Amended Eff. December 1, 1988; June 1, 1988; August 1, 1987; May 1, 1987;
Transferred and Recodified from 10 NCAC 10F .0030 Eff. April 4, 1990;
Amended Eff. August 1, 1990;
Recodified from 15A NCAC 13A .0008 Eff. August 30, 1990;
Amended Eff. April 1, 1993; October 1, 1990;
Recodified from 15A NCAC 13A .0007 Eff. December 20, 1996;
Amended Eff. July 1, 2016; April 1, 2010; November 1, 2007; January 1, 2007; April 1, 2001;
August 1, ~~1998~~1998;
Temporary Amendment Eff. May 30, 2017.

1 15A NCAC 13A .0109 is amended under temporary procedure as follows:

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15A NCAC 13A .0109 STANDARDS FOR OWNERS/OPERATORS OF HWTSD FACILITIES - PART 264

(a) Any person who treats, stores or disposes of hazardous waste shall comply with the requirements set forth in this Section. The treatment, storage or disposal of hazardous waste is prohibited except as provided in this Section.

(b) 40 CFR 264.1 through 264.4 (Subpart A), "~~General~~," "~~General~~" are incorporated by reference including subsequent amendments and ~~editions~~-~~editions~~, except that 40 CFR 264.1(g)(1) and 264.1(g)(3) (71 FR 40272, July 14, 2006) are incorporated by reference.

(c) 40 CFR 264.10 through 264.19 (Subpart B), "General Facility ~~Standards~~," "~~Standards~~" are incorporated by reference including subsequent amendments and ~~editions~~-~~editions~~, except that 40 CFR 264.15(b)(4) (71 FR 16903, Apr. 4, 2006) is incorporated by reference.

(d) 40 CFR 264.30 through 264.37 (Subpart C), "Preparedness and ~~Prevention~~," "~~Prevention~~" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 264.50 through 264.56 (Subpart D), "Contingency Plan and Emergency ~~Procedures~~," "~~Procedures~~" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 264.70 through 264.77 (Subpart E), "Manifest System, Recordkeeping, and ~~Reporting~~," "~~Reporting~~" are incorporated by reference including subsequent amendments and ~~editions~~-~~editions~~, except that 40 CFR 264.71(c) (81 FR 85727, Nov. 28, 2016) and 264.75 (51 FR 28556, Aug. 8, 1986) are incorporated by reference.

(g) 40 CFR 264.90 through 264.101 (Subpart F), "Releases From Solid Waste Management ~~Units~~," "~~Units~~" are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 264.90(a)(2).

(h) 40 CFR 264.110 through 264.120 (Subpart G), "Closure and ~~Post-Closure~~," "~~Post-Closure~~" are incorporated by reference including subsequent amendments and editions.

(i) 40 CFR 264.140 through 264.151 (Subpart H), "Financial ~~Requirements~~," "~~Requirements~~" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 264.143(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 264.145(a)(3), (a)(4), (a)(5), and 40 CFR 264.151(a)(1), Section 15 are not incorporated by reference.

(1) The following shall be substituted for the provisions of 40 CFR 264.143(a)(3) ~~which were~~that are not incorporated by reference:

The owner or operator shall deposit the full amount of the closure cost estimate at the time the fund is established. Within one year of February 1, 1987, an owner or operator using a closure trust fund established prior to February 1, 1987, shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or shall obtain other financial assurance as specified in this Section.

(2) The following shall be substituted for the provisions of 40 CFR 264.143(a)(6) ~~which were~~that are not incorporated by reference:

1 After the trust fund is established, whenever the current closure cost estimate changes, the owner or
2 operator shall compare the new estimate with the trustee's most recent annual valuation of the trust
3 fund. If the value of the fund is less than the amount of the new estimate, the owner or operator
4 within 60 days after the change in the cost estimate, shall either deposit an amount into the fund so
5 that its value after this deposit at least equals the amount of the current closure cost estimate, or
6 obtain other financial assurance as specified in this section to cover the difference.

7 (3) The following shall be substituted for the provisions of 40 CFR 264.145(a)(3) ~~which were~~ that are
8 not incorporated by reference:

9 (A) Except as otherwise provided in Part (i)(3)(B) of this Rule, the owner or operator shall
10 deposit the full amount of the post-closure cost estimate at the time the fund is established.

11 (B) If the Department finds that the owner or operator of an inactive hazardous waste disposal
12 unit ~~cannot~~ is unable to provide financial assurance for post-closure through any other
13 option (e.g. surety bond, letter of credit, or corporate guarantee), a plan for annual payments
14 to the trust fund over the term of the RCRA post-closure permit may be established by the
15 Department as a permit condition.

16 (4) The following additional requirement shall apply:

17 The trustee shall notify the Department of payment to the trust fund, by certified mail within 10
18 days following said payment to the trust fund. The notice shall contain the name of the Grantor, the
19 date of payment, the amount of payment, and the current value of the trust fund.

20 (j) 40 CFR 264.170 through 264.179 (Subpart I), "Use and Management of ~~Containers~~, Containers" are incorporated
21 by reference including subsequent amendments and ~~editions~~, editions, except that 40 CFR 264.170 (46 FR 2866, Jan.
22 12, 1981) and 264.174 (71 FR 16905, Apr. 4, 2006) are incorporated by reference.

23 (k) 40 CFR 264.190 through 264.200 (Subpart J), "Tank ~~Systems~~, Systems" are incorporated by reference including
24 subsequent amendments and ~~editions~~, editions, except that 40 CFR 264.191(a) and 264.195(e) (71 FR 16906, Apr. 4,
25 2006) are incorporated by reference.

26 (l) The following are requirements for Surface Impoundments:

27 (1) 40 CFR 264.220 through 264.232 (Subpart K), "Surface ~~Impoundments~~, Impoundments" are
28 incorporated by reference including subsequent amendments and editions.

29 (2) The following are additional standards for surface impoundments:

30 (A) ~~The~~ the liner system shall consist of at least two liners;

31 (B) ~~Artificial~~ artificial liners shall be equal to or greater than 30 mils in thickness;

32 (C) ~~Clayey~~ clayey liners shall be equal to or greater than five feet in thickness and have a
33 maximum permeability of 1.0×10^{-7} cm/sec;

34 (D) ~~Clayey~~ clayey liner soils shall have the same characteristics as described in Subparts
35 (r)(4)(B)(ii), (iii), (iv), (vi) and (vii) of this Rule;

36 (E) ~~A~~ a leachate collection system shall be constructed between the upper liner and the bottom
37 liner;

1 (F) ~~Aa~~ leachate detection system shall be constructed below the bottom liner; and

2 (G) ~~Surfaces~~surface impoundments shall be constructed in such a manner to prevent landsliding,
3 slippage or slumping.

4 (m) 40 CFR 264.250 through 264.259 (Subpart L), "Waste ~~Piles~~,"~~Piles~~" are incorporated by reference including
5 subsequent amendments and editions.

6 (n) 40 CFR 264.270 through 264.283 (Subpart M), "Land ~~Treatment~~,"~~Treatment~~" are incorporated by reference
7 including subsequent amendments and editions.

8 (o) 40 CFR 264.300 through 264.317 (Subpart N), "~~Landfills~~,"~~Landfills~~" are incorporated by reference including
9 subsequent amendments and editions.

10 (p) A long-term storage facility shall meet groundwater protection, closure and post-closure, and financial
11 requirements for disposal facilities as specified in Paragraphs (g), (h), and (i) of this Rule.

12 (q) 40 CFR 264.340 through 264.351 (Subpart O), "~~Incinerators~~,"~~Incinerators~~" are incorporated by reference
13 including subsequent amendments and editions.

14 (r) The following are additional location standards for facilities:

15 (1) In addition to the location standards set forth in 15A NCAC 13A .0109(c), the Department, in
16 determining whether to issue a permit for a hazardous waste management facility, shall consider the
17 risks posed by the proximity of the facility to water table levels, flood plains, water supplies, public
18 water supply watersheds, mines, natural resources such as wetlands, endangered species habitats,
19 parks, forests, wilderness areas, and historical sites, and population centers and shall consider
20 whether ~~provision~~provisions ~~has~~have been made for buffer zones as required by this Rule. The
21 Department shall also consider ground water travel time, soil pH, soil cation exchange capacity, soil
22 composition and permeability, slope, climate, local land use, transportation factors such as
23 proximity to waste generators, route, route safety, and method of transportation, aesthetic factors
24 such as the visibility, appearance, and noise level of the facility; potential impact on air quality,
25 existence of seismic activity and cavernous bedrock. The basis for issuing or denying the permit
26 are found in 40 CFR 264 as adopted by reference in this Rule.

27 (2) The following minimum separation distances shall be required of all hazardous waste management
28 facilities except that existing facilities shall be required to meet these minimum separation distances
29 to the maximum extent feasible:

30 (A) All hazardous waste management facilities shall be located at least 0.25 miles from
31 institutions including but not limited to schools, health care facilities and prisons, unless
32 the owner or operator ~~can demonstrate~~demonstrates that no risks shall be posed by the
33 proximity of the facility.

34 (B) All hazardous waste treatment and storage facilities shall comply with the following
35 separation distances: all hazardous waste shall be treated and stored a minimum of 50 feet
36 from the property line of the facility; except that all hazardous waste with ignitable,
37 incompatible or reactive characteristics shall be treated and stored a minimum of 200 feet

1 from the property line of the facility if the area adjacent to the facility is zoned for any use
2 other than industrial or is not zoned.

3 (C) All hazardous waste landfills, long-term storage facilities, land treatment facilities, and surface
4 impoundments, shall comply with the following separation
5 distances:

6 (i) All hazardous waste shall be located a minimum of 200 feet from the property
7 line of the facility;

8 (ii) Each hazardous waste landfill, long-term storage, or surface impoundment
9 facility shall be constructed so that the bottom of the facility is 10 feet or more
10 above the historical high ground water level. The historical high ground water
11 level shall be determined by measuring the seasonal high ground water levels and
12 predicting the long-term maximum high ground water level from published data
13 on similar North Carolina topographic positions, elevations, geology, and climate;
14 and

15 (iii) All hazardous waste shall be located a minimum of 1,000 feet from the zone of
16 influence of any existing off-site ground water well used for drinking water, and
17 outside the zone of influence of any existing or planned on-site drinking water
18 well.

19 (D) Hazardous waste storage and treatment facilities for liquid waste that is classified as TC
20 toxic, toxic, or acutely toxic and is stored or treated in tanks or containers shall not be
21 located:

22 (i) in the recharge area of an aquifer which is designated as an existing sole
23 drinking water source as defined in the Safe Drinking Water Act, Section .1424(e)
24 [42 U.S.C. 300h-3(e)] unless an adequate secondary containment system, as
25 described in 40 CFR 264 as adopted by reference in this Rule, is constructed, and
26 after consideration of applicable factors in Subparagraph (r)(3) of this Rule, the
27 owner or operator can demonstrate no risk to public health;

28 (ii) within 200 feet of surface water impoundments or surface water stream with
29 continuous flow as defined by the United States Geological Survey;

30 (iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II
31 or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and
32 15A NCAC 18C .0102;

33 (iv) in an area that will allow direct surface or subsurface discharge to the watershed
34 for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;

35 (v) within 200 feet horizontally of a 100-year floodplain elevation;

36 (vi) within 200 feet of a seismically active area as defined in Paragraph (c) of this
37 Rule; and

(vii) within 200 feet of a mine, cave, or cavernous bedrock.

(3) The Department shall require any hazardous waste management facility to comply with greater separation distances or other protective measures when necessary to avoid risks posed by the proximity of the facility to water table levels, flood plains, water supplies, public water supply watersheds, mines, natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites, and population centers or to provide a buffer zone as required by this Rule. The Department shall also require protective measures when necessary to avoid unreasonable risks posed by the soil pH, soil cation exchange capacity, soil composition and permeability, climate, transportation factors such as proximity to waste generators, route, route safety, and method of transportation, aesthetic factors such as the visibility, appearance, and noise level of the facility, potential impact on air quality, and the existence of seismic activity and cavernous bedrock. In determining whether to require greater separation distances or other protective measures, the Department shall consider the following factors:

- (A) ~~All~~all proposed hazardous waste activities and procedures to be associated with the transfer, storage, ~~treatment~~treatment, or disposal of hazardous waste at the facility;
- (B) ~~The~~the type of hazardous waste to be treated, stored, or disposed of at the facility;
- (C) ~~The~~the volume of waste to be treated, stored, or disposed of at the facility;
- (D) ~~Land~~land use issues including the number of permanent residents in proximity to the facility and their distance from the facility;
- (E) ~~The~~the adequacy of facility design and plans for containment and control of sudden and non-sudden accidental events in combination with adequate off-site evacuation of potentially adversely impacted populations;
- (F) ~~Other~~other land use issues including the number of institutional and commercial structures such as airports and schools in proximity to the facility, their distance from the facility, and the particular nature of the activities that take place in those structures;
- (G) ~~The~~the lateral distance and slope from the facility to surface water supplies or to watersheds draining directly into surface water supplies;
- (H) ~~The~~the vertical distance, and type of soils and geologic conditions separating the facility from the water table;
- (I) ~~The~~the direction and rate of flow of ground water from the sites and the extent and reliability of on-site and nearby data concerning seasonal and long-term groundwater level fluctuations;
- (J) ~~Potential~~potential air emissions including rate, direction of movement, dispersion and exposure, whether from planned or accidental, uncontrolled releases; and
- (K) ~~Any~~any other relevant factors.

(4) The following are additional location standards for landfills, long-term storage ~~facilities~~facilities, and hazardous waste surface impoundments:

- 1 (A) A hazardous waste landfill, long-term storage, or a surface impoundment facility shall not
2 be located:
- 3 (i) ~~In~~ the recharge area of an aquifer which is an existing sole drinking water
4 source;
 - 5 (ii) ~~Within~~ within 200 feet of a surface water stream with continuous flow as defined
6 by the United States Geological Survey;
 - 7 (iii) ~~In~~ an area that will allow direct surface or subsurface discharge to WS-I, WS-II
8 or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and
9 15A NCAC 18C .0102;
 - 10 (iv) ~~In~~ an area that will allow direct surface or subsurface discharge to a watershed
11 for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
 - 12 (v) ~~Within~~ within 200 feet horizontally of a 100-year flood hazard elevation;
 - 13 (vi) ~~Within~~ within 200 feet of a seismically active area as defined in Paragraph (c) of
14 this Rule; and
 - 15 (vii) ~~Within~~ within 200 feet of a mine, ~~ave~~ cave, or cavernous bedrock.
- 16 (B) A hazardous waste landfill or long-term storage facility shall be located in geologic
17 formations with the following soil characteristics:
- 18 (i) ~~The~~ the depth of the unconsolidated soil materials shall be equal to or greater than
19 20 feet;
 - 20 (ii) ~~The~~ the percentage of fine-grained soil material shall be equal to or greater than
21 30 percent passing through a number 200 sieve;
 - 22 (iii) ~~Soil~~ soil liquid limit shall be equal to or greater than 30;
 - 23 (iv) ~~Soil~~ soil plasticity index shall be equal to or greater than 15;
 - 24 (v) ~~Soil~~ soil compacted hydraulic conductivity shall be a maximum of 1.0×10^{-7}
25 cm/sec;
 - 26 (vi) ~~Soil~~ soil Cation Exchange Capacity shall be equal to or greater than 5
27 milliequivalents per 100 grams;
 - 28 (vii) ~~Soil~~ soil Potential Volume Change Index shall be equal to or less than 4; and
 - 29 (viii) ~~Soils~~ soils shall be underlain by a geologic formation having a rock quality
30 designation equal to or greater than 75 percent.
- 31 (C) A hazardous waste landfill or long-term storage facility shall be located in areas of low to
32 moderate relief to the extent necessary to prevent landsliding or slippage and slumping.
33 The site may be graded to comply with this standard.
- 34 (5) All new hazardous waste impoundments that close with hazardous waste residues left in place shall
35 comply with the standards for hazardous waste landfills in Subparagraph (r)(4) of this Rule unless
36 the applicant ~~can demonstrate~~ demonstrates that equivalent protection of public health and
37 environment is afforded by some other standard.

- 1 (6) The owners and operators of all new hazardous waste management facilities shall construct and
2 maintain a minimum of two observation wells, one upgradient and one downgradient of the
3 proposed facility; and shall establish background groundwater concentrations and monitor annually
4 for all hazardous wastes that the owner or operator proposes to store, treat, or dispose at the facility.
- 5 (7) The owners and operators of all new hazardous waste facilities shall demonstrate that the community
6 has had an opportunity to participate in the siting process by complying with the following:
 - 7 (A) The owners and operators shall hold at least one public meeting in the county in which the
8 facility is to be located to inform the community of all hazardous waste management
9 activities including but not limited to: the hazardous properties of the waste to be managed;
10 the type of management proposed for the wastes; the mass and volume of the wastes; and
11 the source of the wastes; and to allow the community to identify specific health, safety and
12 environmental concerns or problems expressed by the community related to the hazardous
13 waste activities associated with the facility. The owners and operators shall provide a
14 public notice of this meeting at least 30 days prior to the meeting. Public notice shall be
15 documented in the facility permit application. The owners and operators shall submit as
16 part of the permit application a complete written transcript of the meeting, all written
17 material submitted that represents community concerns, and all other relevant written
18 material distributed or used at the meeting. The written transcript and other written
19 material submitted or used at the meeting shall be submitted to the local public library
20 closest to and in the county of the proposed site with a request that the information be made
21 available to the public.
 - 22 (B) For the purposes of this Rule, public notice shall include: notification of the boards of
23 county commissioners of the county where the proposed site is to be located and all
24 contiguous counties in North Carolina; a legal advertisement placed in a newspaper or
25 newspapers serving those counties; and provision of a news release to at least one
26 newspaper, one radio station, and one TV station serving these counties. Public notice
27 shall include the time, place, and purpose of the meetings required by this Rule.
 - 28 (C) No less than 30 days after the first public meeting transcript is available at the local public
29 library, the owners and operators shall hold at least one additional public meeting in order
30 to attempt to resolve community concerns. The owners and operators shall provide public
31 notice of this meeting at least 30 days prior to the meeting. Public notice shall be
32 documented in the facility permit application. The owners and operators shall submit as
33 part of the permit application a complete written transcript of the meeting, all written
34 material submitted that represents community concerns, and all other relevant written
35 material distributed or used at the meeting.
 - 36 (D) The application, written transcripts of all public meetings and any additional material
37 submitted or used at the meetings, and any additions or corrections to the application,

1 including any responses to notices of deficiencies shall be submitted to the local library
2 closest to and in the county of the proposed site, with a request that the information be
3 made available to the public until the permit decision is made.

4 (E) The Department shall consider unresolved community concerns in the permit review
5 process and impose final permit conditions based on sound scientific, health, safety, and
6 environmental principles as authorized by applicable laws or rules.

7 (s) 40 CFR 264.550 through 264.555 (Subpart S), "Special Provisions for ~~Cleanup~~,~~Cleanup~~" are incorporated by
8 reference including subsequent amendments and editions.

9 (t) 40 CFR 264.570 through 264.575 (Subpart W), "Drip ~~Pads~~,~~Pads~~" are incorporated by reference including
10 subsequent amendments and editions.

11 (u) 40 CFR 264.600 through 264.603 (Subpart X), "Miscellaneous ~~Units~~,~~Units~~" are incorporated by reference
12 including subsequent amendments and editions.

13 (v) 40 CFR 264.1030 through 264.1049 (Subpart AA), "Air Emission Standards for Process ~~Vents~~,~~Vents~~" are
14 incorporated by reference including subsequent amendments and ~~editions~~,~~editions~~, except that 40 CFR 264.1030(b)(2)
15 (71 FR 40274, July 14, 2006) is incorporated by reference.

16 (w) 40 CFR 264.1050 through 264.1079 (Subpart BB), "Air Emission Standards for Equipment ~~Leaks~~,~~Leaks~~" are
17 incorporated by reference including subsequent amendments and ~~editions~~,~~editions~~, except that 40 CFR 264.1050(b)(3)
18 (71 FR 40274, July 14, 2006) is incorporated by reference.

19 (x) 40 CFR 264.1080 through 264.1091 (Subpart CC), "Air Emission Standards for Tanks, Surface Impoundments,
20 and ~~Containers~~,~~Containers~~" are incorporated by reference including subsequent amendments and editions.

21 (y) 40 CFR 264.1100 through 264.1102 (Subpart DD), "Containment ~~Buildings~~,~~Buildings~~" are incorporated by
22 reference including subsequent amendments and ~~editions~~,~~editions~~, except that 40 CFR 264.1101(c)(4) (71 FR 40274,
23 July 14, 2006) is incorporated by reference.

24 (z) 40 CFR 264.1200 through 264.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives
25 ~~Storage~~,~~Storage~~" are incorporated by reference including subsequent amendments and editions.

26 (aa) Appendices to 40 CFR Part 264 are incorporated by reference including subsequent amendments and editions.

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28 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*
29 *Eff. November 19, 1980;*
30 *Amended Eff. November 1, 1989; June 1, 1989; December 1, 1988; February 1, 1988;*
31 *Transferred and Recodified from 10 NCAC 10F .0032 Eff. April 4, 1990;*
32 *Amended Eff. August 1, 1990;*
33 *Recodified from 15A NCAC 13A .0010 Eff. August 30, 1990;*
34 *Amended Eff. July 1, 1995; October 1, 1993; April 1, 1993; October 1, 1992;*
35 *Recodified from 15A NCAC 13A .0009 Eff. December 20, 1996;*
36 *Amended Eff. August 1, 2004; April 1, 2001; April 1, ~~1999~~,~~1999~~;*
37 *Temporary Amendment Eff. May 30, 2017.*

1 15A NCAC 13A .0110 is amended under temporary procedure as follows:

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15A NCAC 13A .0110 INTERIM STATUS STDS FOR OWNERS-OP OF HWTSD FACILITIES - PART 265

(a) 40 CFR 265.1 through 265.4 (Subpart A), "~~General~~," "~~General~~" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 265.1(c)(5) and 265.1(c)(7) (71 FR 40274, July 14, 2006) are incorporated by reference.

(b) 40 CFR 265.10 through 265.19 (Subpart B), "General Facility ~~Standards~~," "~~Standards~~" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 265.15(b)(4) (71 FR 16908, Apr. 4, 2006) is incorporated by reference.

(c) 40 CFR 265.30 through 265.37 (Subpart C), "Preparedness and ~~Prevention~~," "~~Prevention~~" are incorporated by reference including subsequent amendments and editions, except that 265.35 is not incorporated by reference.

The following shall be substituted for the provisions of 265.35.

Required aisle space: The owner or operator must maintain aisle space of at least two feet to allow the unobstructed movement of personnel, fire prevention equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

(d) 40 CFR 265.50 through 265.56 (Subpart D), "Contingency Plan and Emergency ~~Procedures~~," "~~Procedures~~" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 265.70 through 265.77 (Subpart E), "Manifest System, Recordkeeping, and ~~Reporting~~," "~~Reporting~~" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 265.71(c) (81 FR 85727, Nov. 28, 2016) and 265.75 (51 FR 28556, Aug. 8, 1986) are incorporated by reference.

(f) 40 CFR 265.90 through 265.94 (Subpart F), "Ground-Water ~~Monitoring~~," "~~Monitoring~~" are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 265.110 through 265.121 (Subpart G), "Closure and ~~Post-Closure~~," "~~Post-Closure~~" are incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 265.140 through 265.151 (Subpart H), "Financial ~~Requirements~~," "~~Requirements~~" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 265.143(a)(3), (a)(4), (a)(5), (a)(6), and 40 CFR 265.145(a)(3), (a)(4), (a)(5), are not incorporated by reference.

(1) The following shall be substituted for the provisions of 40 CFR 265.143(a)(3) ~~which were~~that are not incorporated by reference: The owner or operator shall deposit the full amount of the closure cost estimate at the time the fund is established. By November 19, 1981, an owner or operator using a closure trust fund established prior to November 19, 1980 shall deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or shall obtain other financial assurance as specified in this Section.

(2) The following shall be substituted for the provisions of 40 CFR 265.143(a)(6) ~~which were~~that are not incorporated by reference: After the trust fund is established, whenever the current closure cost estimate changes, the owner or operator shall compare the new estimate with the trustee's most

1 recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new
2 estimate, the owner or operator within 60 days after the change in the cost estimate, shall either
3 deposit an amount into the fund so that its value after this deposit at least equals the amount of the
4 current closure cost estimate, or obtain other financial assurance as specified in this Section to cover
5 the difference; and

6 (3) The following shall be substituted for the provisions of 40 CFR 265.145(a)(3) ~~which were~~ that are
7 not incorporated by reference:

8 (A) Except as otherwise provided in Part (h)(3)(B) of this Rule, the owner or operator shall
9 deposit the full amount of the post-closure cost estimate at the time the fund is established.

10 (B) If the Department finds that the owner or operator of an inactive hazardous waste disposal
11 unit ~~cannot~~ is unable to provide financial assurance for post-closure through any other
12 option (e.g. surety bond, letter of credit, or corporate guarantee), a plan for annual payments
13 to the trust fund during the interim status period shall be established by the Department by
14 use of an Administrative Order.

15 (i) 40 CFR 265.170 through 265.178 (Subpart I), "Use and Management of ~~Containers~~ Containers" are incorporated
16 by reference including subsequent amendments and ~~editions~~ editions, except that 40 CFR 265.174 (71 FR 40275, July
17 14, 2006) is incorporated by reference. Additionally, the owner or operator shall keep records and results of required
18 inspections for at least three years from the date of the inspection.

19 (j) 40 CFR 265.190 through 265.202 (Subpart J), "Tank ~~Systems~~ Systems" are incorporated by reference including
20 subsequent amendments and ~~editions~~ editions, except that 40 CFR 265.195(d) (71 FR 16910, Apr. 4, 2006) and
21 265.201 (71 FR 40275, July 14, 2006) are incorporated by reference.

22 (k) 40 CFR 265.220 through 265.231 (Subpart K), "Surface ~~Impoundments~~ Impoundments" are incorporated by
23 reference including subsequent amendments and editions.

24 (l) 40 CFR 265.250 through 265.260 (Subpart L), "Waste ~~Piles~~ Piles" are incorporated by reference including
25 subsequent amendments and editions.

26 (m) 40 CFR 265.270 through 265.282 (Subpart M), "Land ~~Treatment~~ Treatment" are incorporated by reference
27 including subsequent amendments and editions.

28 (n) 40 CFR 265.300 through 265.316 (Subpart N), "~~Landfills~~ Landfills" are incorporated by reference including
29 subsequent amendments and editions.

30 (o) 40 CFR 265.340 through 265.352 (Subpart O), "~~Incinerators~~ Incinerators" are incorporated by reference
31 including subsequent amendments and editions.

32 (p) 40 CFR 265.370 through 265.383 (Subpart P), "Thermal ~~Treatment~~ Treatment" are incorporated by reference
33 including subsequent amendments and editions.

34 (q) 40 CFR 265.400 through 265.406 (Subpart Q), "Chemical, Physical, and Biological ~~Treatment~~ Treatment" are
35 incorporated by reference including subsequent amendments and editions.

36 (r) 40 CFR 265.440 through 265.445 (Subpart W), "Drip ~~Pads~~ Pads" are incorporated by reference including
37 subsequent amendments and editions.

1 (s) 40 CFR 265.1030 through 265.1049 (Subpart AA), "Air Emission Standards for Process ~~Vents~~, Vents" are
2 incorporated by reference including subsequent amendments and ~~editions~~, editions, except that 40 CFR 265.1030(b)(2)
3 and 265.1030(b)(3) (62 FR 64661, Dec. 8, 1997) are incorporated by reference.

4 (t) 40 CFR 265.1050 through 265.1079 (Subpart BB), "Air Emission Standards for Equipment ~~Leaks~~, Leaks" are
5 incorporated by reference including subsequent amendments and ~~editions~~, editions, except that 40 CFR 265.1050 (69 FR
6 22661, Apr. 26, 2004) is incorporated by reference.

7 (u) 40 CFR 265.1080 through 265.1091 (Subpart CC), "Air Emission Standards for Tanks, Surface Impoundments,
8 and ~~Containers~~, Containers" are incorporated by reference including subsequent amendments and editions.

9 (v) 40 CFR 265.1100 through 265.1102 (Subpart DD), "Containment ~~Buildings~~, Buildings" are incorporated by
10 reference including subsequent amendments and ~~editions~~, editions, except that 40 CFR 265.1101(c)(4) (71 FR 40276,
11 July 14, 2006) is incorporated by reference.

12 (w) 40 CFR 265.1200 through 265.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives
13 ~~Storage~~, Storage" are incorporated by reference including subsequent amendments and editions.

14 (x) Appendices to 40 CFR Part 265 are incorporated by reference including subsequent amendments and editions.

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16 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*
17 *Eff. November 19, 1980;*
18 *Amended Eff. June 1, 1989; December 1, 1988; June 1, 1988; February 1, 1988;*
19 *Transferred and Recodified from 10 NCAC 10F .0033 Eff. April 4, 1990;*
20 *Recodified from 15A NCAC 13A .0011 Eff. August 30, 1990;*
21 *Amended Eff. July 1, 1995; April 1, 1993; October 1, 1992; February 1, 1992;*
22 *Recodified from 15A NCAC 13A .0010 Eff. December 20, 1996;*
23 *Amended Eff. November 1, 2005; August 1, 2000; April 1, ~~1999~~, 1999;*
24 *Temporary Amendment Eff. May 30, 2017.*
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1 15A NCAC 13A .0111 is amended under temporary procedure as follows:

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15A NCAC 13A .0111 STDS FOR THE MGMT OF SPECIFIC HW/TYPES HWM FACILITIES - PART 266

- (a) 40 CFR 266.20 through 266.23 (Subpart C), "Recyclable Materials Used in a Manner Constituting **Disposal",Disposal**" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 266.70 (Subpart F), "Recyclable Materials Utilized for Precious Metal **Recovery",Recovery**" is incorporated by reference including subsequent amendments and editions. Off-site recycling facilities that receive materials described in 40 CFR 266.70(a) **mustshall** manage the materials in accordance with and comply with 40 CFR 262.34(a) as incorporated by reference in 15A NCAC 13A .0107(c), excluding **40 CFR** 262.34(a)(3). Each container and tank holding recyclable materials at off-site precious metal recycling facilities **mustshall** be labeled or marked with the words, "Recyclable Material".
- (c) 40 CFR 266.80 (Subpart G), "Spent Lead-Acid Batteries Being **Reclaimed",Reclaimed**" is incorporated by reference-including subsequent amendments and ~~editions~~-editions, except that 40 CFR 266.80(a) (81 FR 85727, Nov. 28, 2016) is incorporated by reference.
- (d) 40 CFR 266.100 through 266.112 (Subpart H), "Hazardous Waste Burned in Boilers and Industrial **Furnaces",Furnaces**" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 266.200 through 266.206 (Subpart M), "Military **Munitions",Munitions**" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 266.210 through 266.360 (Subpart N), "Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and **Disposal",Disposal**" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 266.255(a) (66 FR 27262, May 16, 2001) is incorporated by reference.
- (g) Appendices to 40 CFR Part 266 are incorporated by reference including subsequent amendments and editions.

History Note: Authority G.S. 130A-294(c); 150B-21.6;
Eff. July 1, 1985;
Amended Eff. June 1, 1990; June 1, 1988; February 1, 1988; December 1, 1987;
Transferred and Recodified from 10 NCAC 10F .0039 Eff. April 4, 1990;
Recodified from 15A NCAC 13A .0012 Eff. August 30, 1990;
Amended Eff. January 1, 1995; April 1, 1993; August 1, 1991; October 1, 1990;
Recodified from 15A NCAC 13A .0011 Eff. December 20, 1996;
Amended Eff. April 1, 2006; April 1, 2003; April 1, 1999; August 1, ~~1998~~,1998;
Temporary Amendment Eff. May 30, 2017.

1 15A NCAC 13A .0112 is amended under temporary procedure as follows:

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15A NCAC 13A .0112 LAND DISPOSAL RESTRICTIONS - PART 268

- (a) 40 CFR 268.1 through 268.14 (Subpart A), "~~General~~," "~~General~~" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 268.1(e)(1) (70 FR 45520, Aug. 5, 2005) and 268.7(a)(5) (71 FR 40278, July 14, 2006) are incorporated by reference.
- (b) 40 CFR 268.20 through 268.39 (Subpart C), "Prohibitions on Land ~~Disposal~~," "~~Disposal~~" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 268.21 through 268.29 are not incorporated by reference.
- (c) 40 CFR 268.40 through 268.49 (Subpart D), "Treatment ~~Standards~~," "~~Standards~~" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 268.50 (Subpart E), "Prohibitions on ~~Storage~~," "~~Storage~~" is incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 268.50(a) (71 FR 40279, July 14, 2006) is incorporated by reference.
- (e) Appendices to 40 CFR Part 268 are incorporated by reference including subsequent amendments and editions.

History Note: Authority G.S. 130A-294(c); 150B-21.6;
Eff. August 1, 1987;
Amended Eff. June 1, 1990; June 1, 1989; June 1, 1988; February 1, 1988;
Transferred and Recodified from 10 NCAC 10F .0042 Eff. April 4, 1990;
Recodified from 15A NCAC 13A .0013 Eff. August 30, 1990;
Amended Eff. April 1, 1995; January 1, 1995; April 1, 1993; February 1, 1991;
Recodified from 15A NCAC 13A .0012 Eff. December 20, 1996;
Amended Eff. November 1, 2005; August 1, 2000; August 1, ~~1998-1998~~;
Temporary Amendment Eff. May 30, 2017.

1 15A NCAC 13A .0113 is amended under temporary procedure as follows:

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3 **15A NCAC 13A .0113 THE HAZARDOUS WASTE PERMIT PROGRAM - PART 270**

4 (a) 40 CFR 270.1 through 270.6 (Subpart A), "General ~~Information~~, Information" are incorporated by reference
5 including subsequent amendments and ~~editions~~, editions, except that 40 CFR 270.1(a)(3), 270.1(c)(2)(i) and
6 270.1(c)(2)(iii) (71 FR 40279, July 14, 2006) are incorporated by reference. For the purpose of this incorporation by
7 reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 270.1(c).

8 (b) 40 CFR 270.10 through 270.29 (Subpart B), "Permit ~~Application~~, Application" are incorporated by reference
9 including subsequent amendments and editions.

10 (c) The following are additional Part B information requirements for all hazardous waste facilities:

11 (1) ~~Description~~, description and documentation of the public meetings as required in 15A NCAC 13A
12 .0109(r)(7);

13 (2) Aa description of the hydrological and geological properties of the site including flood plains, depth
14 to water table, ground water travel time, seasonal and long-term groundwater level fluctuations,
15 proximity to public water supply watersheds, consolidated rock, soil pH, soil cation exchange
16 capacity, soil characteristics and composition and permeability, existence of cavernous bedrock and
17 seismic activity, slope, mines, climate, location and withdrawal rates of surface water users within
18 the immediate drainage basin and well water users within a one mile radius of the facility; water
19 quality information of both surface and groundwater within 1000 feet of the facility, and a
20 description of the local air quality;

21 (3) Aa description of the facility's proximity to and potential impact on wetlands, endangered species
22 habitats, parks, forests, wilderness areas, historical sites, mines, and air quality;

23 (4) Aa description of local land use including residential, industrial, commercial, recreational,
24 ~~agricultural~~, agricultural, and the proximity to schools and airports;

25 (5) Aa description of the proximity of the facility to waste generators and population centers; a
26 description of the method of waste transportation; the comments of the local community and state
27 transportation authority on the proposed route, and route safety. Comments shall include proposed
28 alternative routes and restrictions necessary to protect the public health;

29 (6) Aa description of facility aesthetic factors including visibility, appearance, and noise level; and

30 (7) Aa description of any other objective factors that the Department determines are reasonably related
31 and relevant to the proper siting and operation of the facility.

32 (d) In addition to the specific Part B information requirements for hazardous waste disposal facilities, owners and
33 operators of hazardous waste landfills or longterm storage facilities shall provide the following information:

34 (1) ~~Design~~, design drawings and specifications of the leachate collection and removal system;

35 (2) ~~Design~~, design drawings and specifications of the artificial impervious liner;

36 (3) ~~Design~~, design drawings and specifications of the clay or clay-like liner below the artificial liner, and
37 a description of the permeability of the clay or clay-like liner; and

1 (4) Aa description of how hazardous wastes will be treated prior to placement in the facility.

2 (e) In addition to the specific Part B information requirements for surface impoundments, owners and operators of
3 surface impoundments shall provide the following information:

4 (1) Design drawings and specifications of the leachate collection and removal system;

5 (2) Design drawings and specifications of all artificial impervious liners;

6 (3) Design drawings and specifications of all clay or clay-like liners and a description of the clay
7 or clay-like liner; and

8 (4) Design drawings and specifications that show that the facility has been constructed in a
9 manner that will prevent landsliding, slippage, or slumping.

10 (f) 40 CFR 270.30 through 270.33 (Subpart C), "Permit Conditions," are incorporated by reference
11 including subsequent amendments and editions.

12 (g) 40 CFR 270.40 through 270.43 (Subpart D), "Changes to Permit," are incorporated by reference including
13 subsequent amendments and ~~editions~~, except that 40 CFR 270.42(l) and the entries under O.1 in the table of
14 appendix I to 40 CFR 270.42 (80 FR 58012, Sept. 25, 2015) are incorporated by reference.

15 (h) 40 CFR 270.50 through 270.51 (Subpart E), "Expiration and Continuation of Permits," are incorporated
16 by reference including subsequent amendments and editions.

17 (i) 40 CFR 270.60 through 270.68 (Subpart F), "Special Forms of Permits," are incorporated by reference
18 including subsequent amendments and editions, except that 40 CFR 270.67 and 270.68 are not incorporated by
19 reference.

20 (j) 40 CFR 270.70 through 270.73 (Subpart G), "Interim Status," are incorporated by reference including
21 subsequent amendments and editions. For the purpose of this incorporation by reference, "January 1, 1986" shall be
22 substituted for "November 8, 1985" contained in 40 CFR 270.73(c).

23 (k) 40 CFR 270.235, (Subpart I), "Integration with Maximum Achievable Control Technology (MACT)
24 Standards," is incorporated by reference including subsequent amendments and editions.

25 (l) The following are additional permitting requirements for hazardous waste facilities.

26 (1) An applicant applying for a permit for a hazardous waste facility shall submit a disclosure statement
27 to the Department as a part of the application for a permit or any time thereafter specified by the
28 Department. The disclosure statement shall be supported by an affidavit attesting to the truth and
29 completeness of the facts asserted in the statement and shall include:

30 (A) Aa brief description of the form of the business (e.g. partnership, sole proprietorship,
31 corporation, association, or other);

32 (B) The name and address of any hazardous waste facility constructed or operated after
33 October 21, 1976 by the applicant or any parent or subsidiary corporation if the applicant
34 is a corporation; and

35 (C) Aa list identifying any legal action taken against any facility identified in Part (l)(1)(B) of
36 this Rule involving:

- 1 (i) any administrative ruling or order issued by any state, ~~federal~~federal, or local
2 authority relating to revocation of any environmental or waste management
3 permit or license, or to a violation of any state or federal statute or local ordinance
4 relating to waste management or environmental protection;
- 5 (ii) any judicial determination of liability or conviction under any state or federal law
6 or local ordinance relating to waste management or environmental protection; and
7 (iii) any pending administrative or judicial proceeding of the type described in this
8 Part.
- 9 (D) ~~The~~the identification of each action described in Part (1)(1)(C) of this Rule shall include
10 the name and location of the facility that the action concerns, the agency or court that heard
11 or is hearing the matter, the title, docket or case number, and the status of the proceeding.
- 12 (2) In addition to the information set forth in Subparagraph (1)(1) of this Rule, the Department shall
13 require from any applicant such additional information as it deems necessary to satisfy the
14 requirements of G.S. 130A-295. Such information may include:
- 15 (A) ~~The~~the names, addresses, and titles of all officers, directors, or partners of the applicant
16 and of any parent or subsidiary corporation if the applicant is a corporation;
- 17 (B) ~~The~~the name and address of any company in the field of hazardous waste management in
18 which the applicant business or any of its officers, directors, or partners, hold an equity
19 interest and the name of the officer, director, or partner holding such interest; and
- 20 (C) ~~A~~a copy of any administrative ruling or order and of any judicial determination of liability
21 or conviction described in Part (1)(1)(C) of this Rule, and a description of any pending
22 administrative or judicial proceeding in that item.
- 23 (3) If the Department finds that any part or parts of the disclosure statement is not necessary to satisfy
24 the requirements of G.S. 130A-295, such information shall not be required.
- 25 (m) An applicant for a new, or modification to an ~~existing~~existing commercial facility ~~permit~~permit shall provide a
26 description and justification of the need for the facility.
- 27 (n) Requirements for Off-site Recycling Facilities.
- 28 (1) The permit requirements of 15A NCAC 13A .0109 apply to owners and operators of off-site
29 recycling facilities unless excluded in Subparagraph (2) of Paragraph ~~(n)~~(n) of this Rule.
- 30 (2) Requirements of 15A NCAC 13A .0113(n)(4), (5), (6), (7) and (8) do not apply to owners and
31 operators of off-site recycling facilities that recycle only precious metals as described in 40 CFR
32 266.70(a), as incorporated by reference in 15A NCAC 13A .0111(b).
- 33 (3) Off-site facilities that recycle precious metals shall follow the regulations as described in 15A
34 NCAC 13A .0111(b).
- 35 (4) Notwithstanding any other statement of applicability, the following provisions of 40 CFR Part 264,
36 as incorporated by reference, shall apply to owners and operators of off-site recycling facilities
37 except those excluded in 15A NCAC 13A .0113(n)(2):

- 1 (A) Subpart B - General Facility Standards;
- 2 (B) Subpart C - Preparedness and Prevention;
- 3 (C) Subpart D - Contingency Plan and Emergency Procedures;
- 4 (D) Subpart E - Manifest System, Recordkeeping and Reporting;
- 5 (E) Subpart G - Closure and Post-closure;
- 6 (F) Subpart H - Financial Requirements;
- 7 (G) Subpart I - Use and Management of Containers;
- 8 (H) Subpart J - Tank Systems;
- 9 (I) 264.101 - Corrective Action for Solid Waste Management Units;
- 10 (J) Subpart X - Miscellaneous Units; and
- 11 (K) Subpart DD - Containment Buildings.
- 12 (5) The requirements listed in Subparagraph (n)(4) of this Rule apply to the entire off-site recycling
- 13 facility, including all recycling units, staging and process areas, and permanent and temporary
- 14 storage areas for wastes.
- 15 (6) The following provisions of 15A NCAC 13A .0109 shall apply to owners and operators of off-site
- 16 recycling facilities:
- 17 (A) ~~The~~the substitute financial requirements of Rule .0109(i)(1), (2) and (4); and
- 18 (B) ~~The~~the additional standards of Rule .0109(r)(1), (2), (3), (6) and (7).
- 19 (7) The owner or operator of an off-site recycling facility shall keep a written operating record at his
- 20 facility.
- 21 (8) The following information ~~must~~shall be recorded, as it becomes available, and maintained in the
- 22 operating record until closure of the facility:
- 23 (A) ~~A~~a description and the quantity of each hazardous waste received, and the method(s) and
- 24 date(s) of its treatment, storage, or recycling at the facility;
- 25 (B) ~~The~~the location of all hazardous waste within the facility and the quantity at each location.
- 26 This information ~~must~~shall include cross-references to specific manifest document
- 27 numbers if the waste was accompanied by a manifest; and
- 28 (C) ~~Documentation~~documentation of the fate of all hazardous wastes received from off-site or
- 29 generated on-site. This shall include records of the sale, reuse, off-site transfer, or disposal
- 30 of all waste materials.
- 31 (o) Permit Fees for Commercial Hazardous Waste Facilities.
- 32 (1) An applicant for a permit modification for a commercial hazardous waste facility shall pay an
- 33 application fee for the Class of permit modification defined in 40 CFR 270.42 as follows:
- 34 (A) Class 1 permit modification \$100;
- 35 (B) Class 2 permit modification \$1,000; or
- 36 (C) Class 3 permit modification \$5,000.

1 Note: Class 1 permit modifications which do not require prior approval of the Division Director are excluded
2 from the fee requirement.

3 (2) The application fee for a new permit, permit renewal, or permit modification **mustshall** accompany
4 the application, and is non-refundable. The application shall be considered incomplete until the fee
5 is paid. Checks shall be made payable to: Division of Waste Management.
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7 *History Note: Authority G.S. 130A-294(c); 130A-294.1; 130A-295(a)(1),(2), (c); 150B-21.6;*
8 *Eff. November 19, 1980;*
9 *Amended Eff. November 1, 1989; June 1, 1988; February 1, 1988; December 1, 1987;*
10 *Transferred and Recodified from 10 NCAC 10F .0034 April 4, 1990;*
11 *Amended Eff. August 1, 1990;*
12 *Recodified from 15A NCAC 13A .0014 Eff. August 30, 1990;*
13 *Amended Eff. April 1, 1993; August 1, 1991; October 1, 1990;*
14 *Recodified from 15A NCAC 13A .0013 Eff. December 20, 1996;*
15 *Amended Eff. August 1, 2008; April 1, 2006; August 1, 2004; April 1, 2001; August 1, ~~2000~~, 2000;*
16 *Temporary Amendment Eff. May 30, 2017.*
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1 15A NCAC 13A .0118 is amended under temporary procedure as follows:

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15A NCAC 13A .0118 STANDARDS FOR THE MANAGEMENT OF USED OIL

(a) 40 CFR 279.1 (Subpart A), "~~Definitions~~," "~~Definitions~~" is incorporated by reference including subsequent amendments and editions, except that the Definition for "Used Oil" is defined by G.S. 130A-290(b) and is not incorporated by reference.

(b) 40 CFR 279.10 through 279.12 (Subpart B), "~~Applicability~~," "~~Applicability~~" are incorporated by reference including subsequent amendments and ~~editions~~-editions, except that 40 CFR 279.10(b)(3) (71 FR 40280, July 14, 2006) is incorporated by reference.

(c) 40 CFR 279.20 through 279.24 (Subpart C), "Standards for Used Oil ~~Generators~~," "~~Generators~~" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 279.30 through 279.32 (Subpart D), "Standards for Used Oil Collection Centers and Aggregation ~~Points~~," "~~Points~~" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 279.40 through 279.47 (Subpart E), "Standards for Used Oil Transporter and Transfer ~~Facilities~~," "~~Facilities~~" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 279.50 through 279.59 (Subpart F), "Standards for Used Oil Processors and ~~Re Refiners~~," "~~Re-Refiners~~" are incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 279.60 through 279.67 (Subpart G), "Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy ~~Recovery~~," "~~Recovery~~" are incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 279.70 through 279.75 (Subpart H), "Standards for Used Oil Fuel ~~Marketers~~," "~~Marketers~~" are incorporated by reference including subsequent amendments and editions.

(i) 40 CFR 279.80 through 279.81 (Subpart I), "Standards for Use as a Dust Suppressant and Disposal of Used Oil" are incorporated by reference including subsequent amendments and editions. ~~{Note: 40 CFR 279.82, 40 CFR 279.82~~ ~~which that~~ addresses used oil as a dust suppressant, is specifically not incorporated by reference. See also G.S. 130A-309.15 for prohibited acts regarding used ~~oil~~-oil.

(j) Additional State Requirements:

(1) By July 1 of each year the following persons shall notify the Department by submitting an annual report listing the type and quantity of used oil transported, collected, and recycled during the preceding calendar year, on Department forms:

- (A) ~~Persons~~persons transporting more than 500 gallons of used oil per week over public highways;
- (B) ~~Collection~~collection facilities that annually receive more than 6,000 gallons of used oil excluding the volume of used oil collected from individuals that change their own personal motor oil;
- (C) ~~Facilities~~facilities that annually recycle more than 10,000 gallons of used oil; and
- (D) ~~Public~~public used oil collection centers.

- 1 (2) The following persons ~~are not~~ shall not be required to comply with ~~15A NCAC 13A .0118(j)(1)~~ 15A
2 NCAC 13A .0118(j)(1):
- 3 (A) Anan electric utility that generates used oil ~~which~~ that is reclaimed, recycled, or re-refined
4 on-site for use in its operations; and
- 5 (B) Anan on-site burner that burns its own on-specification used oil provided that the facility
6 is in compliance with any Air Quality permit requirements established by the Department.
- 7 ~~(3) — An annual fee of twenty five dollars (\$25.00) shall be paid by all persons identified in 15A NCAC~~
8 ~~13A .0118(j)(1)(A) through .0118(j)(1)(C) by July 1 of each year.~~

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10 *History Note: Authority G.S. 130A-294(b),(c); 150B-21.6;*
11 *Eff. October 1, 1993;*
12 *Recodified from 15A NCAC 13A .0018 Eff. December 20, 1996;*
13 *Amended Eff. August 1, ~~2000~~ 2000;*
14 *Temporary Amendment Eff. May 30, 2017.*
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1 15A NCAC 13A .0119 is amended under temporary procedure as follows:

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15A NCAC 13A .0119 STANDARDS FOR UNIVERSAL WASTE MANAGEMENT - PART 273

(a) 40 CFR 273.1 through 273.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and ~~editions~~ editions, except that 40 CFR 273.8 (a)(2) (64 FR 36488, July 6, 1999) is incorporated by reference.

(b) 40 CFR 273.10 through 273.20 (Subpart B), "Standards for Small Quantity Handlers of Universal Waste" are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 273.30 through 273.40 (Subpart C), "Standards for Large Quantity Handlers of Universal Waste" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 273.50 through 273.56 (Subpart D), "Standards for Universal Waste Transporters" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 273.60 through 273.62 (Subpart E), "Standards for Destination Facilities" are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 273.70 (Subpart F), "Import Requirements" is incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 273.80 through 273.81 (Subpart G), "Petitions to include Other Wastes Under 40 CFR Part 273" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 273.81(b) (64 FR 36490, July 6, 1999) is incorporated by reference, and 40 CFR 273.80(a) and (b), are not incorporated by reference.

(1) The following shall be substituted for the provisions of 40 CFR 273.80(a) ~~which were~~that are not incorporated by reference:

Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment under this ~~Subpart~~Subpart, and 15A NCAC 24B .000115A NCAC 02I .0501 and 40 CFR 260.23.

(2) The following shall be substituted for the provisions of 40 CFR 273.80(b) ~~which were~~that are not incorporated by reference:

To be successful, the petitioner must demonstrate to the satisfaction of the Administrator that regulation under the universal waste regulations of 40 CFR Part 273 is:

(A) appropriate for the waste or category of ~~waste;~~waste, will improve management practices for the waste or category of ~~waste;~~waste, and will improve implementation of the hazardous waste program;

(B) the petition must include the information required by 15A NCAC 24B .000115A NCAC 02I .0501; and

(C) the petition shall also address as many of the factors listed in 40 CFR 273.81 as are appropriate for the waste or waste category addressed in the petition.

History Note: Authority G.S. 130A-294(c); 150B-21.6;

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Eff. January 1, 1996;
Recodified from 15A NCAC 13A .0019 Eff. December 20, 1996;
Amended Eff. April 1, 2001; August 1, ~~1998~~1998;
Temporary Amendment Eff. May 30, 2017.