

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATIONS: 15A NCAC 13A .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0108, .0109, .0110, .0111, .0112, .0113, .0114, .0118, .0119

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Each of these rules sets forth [G.S. 150B-21.6](#) as authority for the rulemaking. G.S. 150B-21.6 provides the requirements to incorporate text of referenced material without repeating the text, but it is not rulemaking authority. Please review if this citation is necessary in each history note.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0101

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 24, should the reflected title be "Incorporation by Reference" and not simply "References"? Please review

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0101 is amended as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0101 GENERAL**

4 (a) The Hazardous Waste Section of the Division of Waste Management shall administer the hazardous waste
5 management program for the State of North Carolina.

6 (b) In applying the federal requirements incorporated by reference throughout this Subchapter, the following
7 substitutions or exceptions shall apply:

8 When used in any of the federal regulations incorporated by reference throughout this Subchapter, except
9 where the context requires references to remain without substitution (including with regard to forms,
10 ~~publications~~publications, and regulations concerning international shipments, variances from land disposal
11 ~~restrictions~~restrictions, and other program areas over which the federal government retains sole authority):
12 "United States" shall mean the State of North Carolina; "Environmental Protection Agency," "~~EPA~~"EPA,"
13 and "Agency" shall mean the Department of Environmental Quality; and "Administrator," "Regional
14 Administrator," "Assistant ~~Administrator~~"Administrator," and "Director" shall mean the Secretary of the
15 Department of Environmental Quality. The North Carolina Solid Waste Management Act and other
16 applicable North Carolina General Statutes set forth in G.S. 130A shall be substituted for references to "the
17 Solid Waste Disposal Act," "the Resource Conservation and Recovery ~~Act~~"Act," and "RCRA" where
18 required by context.

19 (c) In the event that there are inconsistencies or duplications in the requirements of those Federal rules incorporated
20 by reference throughout this Subchapter and the State rules set out in this Subchapter, the provisions incorporated by
21 reference shall prevail except where the State rules are more stringent.

22 (d) 40 CFR 260.1 through 260.3 (Subpart A), "~~General~~,"General" are incorporated by reference including subsequent
23 amendments and editions.

24 (e) 40 CFR 260.11, "~~References~~,"References" is incorporated by reference including subsequent amendments and
25 editions.

26 (f) Copies of all materials in this Subchapter may be inspected or obtained as follows:

27 (1) Persons interested in receiving rule-making notices concerning the North Carolina Hazardous Waste
28 Management Rules shall submit a written request to the Hazardous Waste Section, 1646 Mail
29 Service Center, Raleigh, N.C. 27699-1646. Upon receipt of each request, individuals shall be placed
30 on a mailing list to receive notices.

31 (2) Material incorporated by reference in the Federal Register may be obtained electronically free of
32 charge from the U. S. Government Bookstore's website at
33 ~~<https://bookstore.gpo.gov/products/sku/769-004-00000-9?etid=>~~ for a cost of nine hundred twenty
34 ~~nine dollars (\$929.00) and United States Environmental Protection Agency website at~~
35 ~~<http://www.epa.gov/laws-regulations/regulations>,~~ free of charge. [http://www.epa.gov/laws-](http://www.epa.gov/laws-regulations/regulations)
36 [regulations/regulations](http://www.epa.gov/laws-regulations/regulations).

1 ~~(3) The North Carolina Hazardous Waste Management Rules may be obtained from the Hazardous~~
2 ~~Waste Section at the cost to the Section.~~

3 (4)(3) All material is available for inspection at the Department of Environmental Quality, Hazardous
4 Waste Section, 217 West Jones Street, Raleigh, NC and at ~~http://deq.nc.gov/about/divisions/waste-~~
5 ~~management/waste-management-rules/hazardous-waste-rules.~~
6 [http://deq.nc.gov/about/divisions/waste-management/hw/rules.](http://deq.nc.gov/about/divisions/waste-management/hw/rules)

7
8 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*
9 *Eff. September 1, 1979;*
10 *Amended Eff. June 1, 1989; June 1, 1988; August 1, 1987; May 1, 1987;*
11 *Transferred and Recodified from 10 NCAC 10F .0001 Eff. April 4, 1990;*
12 *Amended Eff. October 1, 1993; April 1, 1993; October 1, 1992; December 1, 1991;*
13 *Recodified from 15A NCAC 13A .0001 Eff. December 20, 1996;*
14 *Amended Eff. July 1, 2016; August 1, 2004; August 1, 2000; August 1, 1998; August 1, 1997;*
15 *Temporary Amendment Eff. May 30, 2017;*
16 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,*
17 *2017-2017;*
18 *Amended Eff. March 1, 2018.*
19

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0102

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 24, looking at 40 CFR 260.10, should "hazardous" be capitalized, as it appears to be a separate and independent clause? Please review

Line 35, define or delete "solely" Or is this term tracking specific statutory language? Please review

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0102 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0102 DEFINITIONS**

4 (a) The definitions contained in G.S. 130A-290 apply to this Subchapter.

5 (b) 40 CFR 260.10 (Subpart B), ~~"Definitions,"~~ "Definitions" is incorporated by reference, including subsequent
6 amendments and editions except that the definitions for "Disposal," "Landfill," "Management or hazardous waste
7 management," "Person," "Sludge," "Storage," and "Treatment" are defined by G.S. 130A-290 and are not incorporated
8 by reference and the definition in 260.10 for "Contained" is not incorporated by reference.

9 (c) The following definition shall be substituted for ~~"Contained":~~ "Contained:" "Contained" means held in a unit
10 (including a land-based unit as defined in this subpart) that meets the following criteria:

- 11 (1) the unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases
12 of the hazardous secondary materials or hazardous constituents originating from the hazardous
13 secondary materials to the environment, and is designed, as appropriate for the hazardous secondary
14 materials, to prevent releases of hazardous secondary materials to the environment. "Unpermitted
15 releases" means releases that are not covered by a permit (such as a permit to discharge to water or
16 air) and may include, but are not limited to, releases through surface transport by precipitation
17 runoff, releases to soil and groundwater, windblown dust, fugitive air emissions, and catastrophic
18 unit failures;
- 19 (2) the unit is properly labeled or otherwise has a system (such as a log) to immediately identify the
20 hazardous secondary materials in the unit; and
- 21 (3) the unit holds hazardous secondary materials that are compatible with other hazardous secondary
22 materials placed in the unit and is compatible with the materials used to construct the unit and
23 addresses any potential risks of fires or explosions.
- 24 (4) hazardous secondary materials in units that meet the applicable requirements of 40 CFR parts 264
25 or 265 are presumptively contained.

26 (d) The following additional definitions shall apply throughout this Subchapter:

- 27 (1) "Section" means the Hazardous Waste Section, in the Division of Waste Management, Department
28 of Environmental Quality.
- 29 (2) The "Department" means the Department of Environmental Quality (DEQ).
- 30 (3) "Division" means the Division of Waste Management (DWM).
- 31 (4) "Long Term Storage" means the containment of hazardous waste for an indefinite period of time in
32 a facility designed to be closed with the hazardous waste in place.
- 33 (5) "Off-site Recycling Facility" means any facility that receives shipments of hazardous waste from
34 off-site to be recycled or processed for recycling through any process conducted at the facility, but
35 does not include any facility owned or operated by a generator of hazardous waste solely to recycle
36 their own waste.

1 *History Note: Authority G.S. 130A 294(c); 150B-21.6;*
2 *Eff. September 1, 1979;*
3 *Amended Eff. June 1, 1989; June 1, 1988; February 1, 1987; October 1, 1986;*
4 *Transferred and Recodified from 10 NCAC 10F .0002 Eff. April 4, 1990;*
5 *Amended Eff. April 1, 1993; October 1, 1990; August 1, 1990;*
6 *Recodified from 15A NCAC 13A .0002 Eff. December 20, 1996;*
7 *Amended Eff. August 1, 2000;*
8 *Temporary Amendment Eff. January 1, 2009;*
9 *Amended Eff. July 1, 2010;*
10 *Temporary Amendment Eff. December 1, 2015;*
11 *Amended Eff. July 1, 2016.*
12 *Temporary Amendment Eff. May 30, ~~2017~~2017;*
13 *Readopted Eff. March 1, 2018.*
14

1 15A NCAC 13A .0103 is readopted as published in 32:08 NCR 739 as follows:

2

3 **15A NCAC 13A .0103 PETITIONS - PART 260**

4 (a) All rulemaking petitions for changes in this Subchapter shall be made in accordance with 15A NCAC 02I .0501.

5 (b) In applying the federal requirements incorporated by reference in Paragraph (c) of this Rule, 15A NCAC 02I
6 .0501 shall be substituted for references to 40 CFR 260.20.

7 (c) 40 CFR 260.21 through 260.43 (Subpart C), "Rulemaking ~~Petitions,~~ "Petitions" are incorporated by reference
8 including subsequent amendments and editions.

9

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

11 *Eff. November 19, 1980;*

12 *Amended Eff. June 1, 1988; May 1, 1987; January 1, 1986; October 1, 1985;*

13 *Transferred and Recodified from 10 NCAC 10F .0028 Eff. April 4, 1990;*

14 *Amended Eff. April 1, 1993; November 1, 1991; October 1, 1990;*

15 *Recodified from 15A NCAC 13A .0003 Eff. December 20, 1996;*

16 *Amended Eff. August 1, 2000;*

17 *Temporary Amendment Eff. January 1, 2009;*

18 *Amended Eff. July 1, 2010;*

19 *Temporary Amendment Eff. December 1, 2015;*

20 *Amended Eff. July 1, ~~2016-2016~~;*

21 *Readopted Eff. March 1, 2018.*

22

1 15A NCAC 13A .0104 is readopted as published in 32:08 NCR 739 as follows:

2

3 **15A NCAC 13A .0104 PUBLIC INFORMATION - PART 2**

4 (a) The provisions concerning requests for information in 40 CFR 2.100 to ~~2.121-2.108 (Subpart A)~~(Subpart A),
5 "Procedures for Disclosure of Records Under the Freedom of Information Act" are incorporated by reference including
6 subsequent amendments and editions, except that ~~40 CFR 2.106(b), 2.112(f), and 2.120 are~~40 CFR 2.107 is not
7 incorporated by reference.

8 (b) The ~~following address~~address: Hazardous Waste Section - Records Request, Division of Waste Management,
9 1646 Mail Service Center, Raleigh, NC 27699-1646 is substituted for the addresses of the Records, FOIA, and Privacy
10 Branch, Office of Environmental Information, Environmental Protection Agency, 1200 Pennsylvania Ave., N.W.,
11 Washington, DC 20460 in 40 CFR 2.101(a) and the Headquarters Freedom of Information Operations (1105)(1105),
12 is substituted for the address 1200 Pennsylvania Ave., N.W., Washington, DC 20460 in ~~40 CFR 2.106(a) and 2.213(a):~~
13 Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646.40 CFR 2.213(a).

14 (c) The provisions concerning confidentiality of business information in 40 CFR 2.201 to 2.311 (~~Subpart B~~)(Subpart
15 B), "Confidentiality of Business Information" are incorporated by reference including subsequent amendments and
16 editions, except that 40 CFR 2.209 (b) and (c), 2.301, 2.302, 2.303, 2.304, 2.306, 2.307, 2.308, 2.309, 2.310 and 2.311
17 are not incorporated by reference.

18

19 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*
20 *Eff. January 1, 1986;*
21 *Amended Eff. June 1, 1988;*
22 *Transferred and Recodified from 10 NCAC 10F .0040 Eff. April 4, 1990;*
23 *Amended Eff. August 1, 1990;*
24 *Recodified from 15A NCAC 13A .0005 Eff. August 30, 1990;*
25 *Amended Eff. April 1, 1993; October 1, 1990;*
26 *Recodified from 15A NCAC 13A .0004 Eff. December 20, 1996;*
27 *Amended Eff. May 1, 2002; August 1, ~~2000-2000~~;*
28 *Readopted Eff. March 1, 2018.*

29

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0105

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Lines 32 thru 33, for consistency purposes, why is the sentence for "Applicability." not a new line of text on line 33, with a "(A)" like lines 13 and 24? Please review

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0105 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0105 ~~GENERAL PROGRAM~~ RCRA / HAZARDOUS WASTE PERMIT**
4 **REQUIREMENTS - PART 124**

5 (a) 40 CFR 124.1 through 124.21 (Subpart A), "General Program ~~Requirements~~, Requirements" are incorporated by
6 reference including subsequent amendments and ~~editions, except that 40 CFR 124.2(c) is not incorporated by~~
7 ~~reference.~~ editions.

8 (b) 40 CFR 124.31 through 124.33 (Subpart B), "Specific Procedures Applicable to RCRA ~~Permits~~, Permits" are
9 incorporated by reference including subsequent amendments and editions, except that 40 CFR 124.31(a),
10 ~~124.32(a)~~ 124.32(a), and 124.33(a) are not incorporated by reference.

11 (1) The following shall be substituted for the provisions of 40 CFR 124.31(a) ~~which that~~ are not
12 incorporated by reference:

13 (A) Applicability. The requirements of this section shall apply to all RCRA part B applications
14 seeking initial permits for hazardous waste management units and shall also apply to
15 RCRA part B applications seeking renewal of permits for such units, where the renewal
16 application is proposing a significant change in facility operations. For the purposes of this
17 ~~Section~~, section, a "significant change" is any change that would qualify as a class 3 permit
18 modification under 40 CFR 270.42.

19 (B) The requirements of this ~~Section~~ section ~~do~~ shall not apply to permit modifications under
20 40 CFR 270.42 or to applications that are submitted for the sole purpose of conducting
21 post-closure activities or post-closure activities and corrective action at a facility.

22 (2) The following shall be substituted for the provisions of 40 CFR 124.32(a) ~~which that~~ are not
23 incorporated by reference:

24 (A) Applicability. The requirements of this ~~Section~~ section shall apply to all RCRA part B
25 applications seeking initial permits for hazardous waste management units.

26 (B) The requirements of this ~~Section~~ section shall apply to RCRA part B applications seeking
27 renewal of permits for such units under 40 CFR 270.51.

28 (C) The requirements of this ~~Section~~ section ~~do~~ shall not apply to permit modifications under 40
29 CFR 270.42 or permit applications submitted for the sole purpose of conducting post-
30 closure activities or post-closure activities and corrective action at a facility.

31 (3) The following shall be substituted for the provisions of 40 CFR 124.33(a) ~~which that are~~ is not
32 incorporated by reference: Applicability. The requirements of this ~~Section~~ section apply to all
33 applications seeking RCRA permits for hazardous waste management units.

34
35 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*

36 *Eff. November 19, 1980;*

37 *Amended Eff. February 1, 1988; October 1, 1986; July 1, 1986; July 1, 1985;*

38 *Transferred and Recodified from 10 NCAC 10F .0035 Eff. April 4, 1990;*

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Recodified from 15A NCAC 13A .0006 Eff. August 30, 1990;
Amended Eff. April 1, 1993; October 1, 1990;
Recodified from 15A NCAC 13A .0005 Eff. December 20, 1996;
Amended Eff. August 1, ~~1998-1998~~;
Readopted Eff. March 1, 2018.

1 15A NCAC 13A .0106 is readopted as published in 32:08 NCR 739 as follows:

2

3 **15A NCAC 13A .0106 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PART 261**

4 (a) 40 CFR 261.1 through 261.9 (Subpart A), "General" are incorporated by reference including subsequent
5 amendments and editions.

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

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

10 (d) 40 CFR 261.30 through ~~261.37~~261.35 (Subpart D), "Lists of Hazardous Wastes" are incorporated by reference
11 including subsequent amendments and editions.

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

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

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

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

20 (i) 40 CFR 261.400 through 261.420 (Subpart M), "Emergency Preparedness and Response for Management of
21 Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and
22 editions.

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

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

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

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

31

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

33 *Eff. November 19, 1980;*

34 *Amended Eff. June 1, 1988; February 1, 1988; December 1, 1987;*

35 *August 1, 1987;*

36 *Transferred and Recodified from 10 NCAC 10F .0029 Eff. April 4, 1990;*

37 *Recodified from 15A NCAC 13A .0007 Eff. August 30, 1990;*

1 *Amended Eff. January 1, 1996; April 1, 1993; February 1, 1992;*
2 *December 1, 1990;*
3 *Recodified from 15A NCAC 13A .0006 Eff. December 20, 1996;*
4 *Amended Eff. April 1, 2007; August 1, 2000;*
5 *Temporary Amendment Eff. January 1, 2009;*
6 *Amended Eff. July 1, 2010;*
7 *Temporary Amendment Eff. December 1, 2015;*
8 *Amended Eff. July 1, 2016.*
9 *Temporary Amendment Eff. May 30, ~~2017~~, 2017;*
10 *Readopted Eff. March 1, 2018.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0107

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 17, is the phrase "at least" necessary? Please review and consider deleting

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0107 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0107 ~~STDS~~STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS**
4 **WASTE - PART 262**

5 (a) 40 CFR ~~262.10~~262.1 through ~~262.12~~262.18 (Subpart A), "General" are incorporated by reference including
6 subsequent amendments and editions. In addition, a small quantity generator shall maintain aisle space of at least 2
7 feet in a central accumulation area to allow the unobstructed movement of personnel, fire prevention equipment, spill
8 control equipment, and decontamination equipment.

9 (b) 40 CFR 262.20 through 262.27 (Subpart B), ~~"The Manifest"~~"Manifest Requirements Applicable to Small and
10 Large Quantity Generators" are incorporated by reference including subsequent amendments and editions.

11 (c) 40 CFR 262.30 through ~~262.34~~262.35 (Subpart C), ~~"Pre-Transport Requirements"~~"Pre-Transport Requirements
12 Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments
13 and editions.

14 (d) 40 CFR 262.40 through 262.44 (Subpart D), ~~"Recordkeeping and Reporting"~~"Recordkeeping and Reporting
15 Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments
16 and editions. In addition, a generator shall keep records of inspections and results of inspections required by Section
17 ~~262.34~~40 CFR 262.16 and 262.17 for at least three years from the date of the inspection.

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

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

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

24 ~~(h)~~(f) 40 CFR 262.80 through 262.89 (Subpart H), ~~"Transfrontier Shipments of Hazardous Waste for Recovery within~~
25 ~~the OECD"~~"Transboundary Movements of Hazardous Waste for Recovery or Disposal" are incorporated by reference
26 including subsequent amendments and editions, ~~except that 40 CFR 262.89(e) is not incorporated by~~
27 ~~reference.~~editions.

28 ~~(i)~~(g) 40 CFR 262.200 through 262.216 (Subpart K), "Alternative Requirements for Hazardous Waste Determination
29 and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities" ~~is~~are incorporated
30 by reference including subsequent amendments and editions.

31 (h) 40 CFR 262.230 through 262.233 (Subpart L), "Alternative Standards for Episodic Generation" are incorporated
32 by reference including subsequent amendments and editions.

33 (i) 40 CFR 262.250 through 262.265 (Subpart M), "Preparedness, Prevention, and Emergency Procedures for Large
34 Quantity Generators" are incorporated by reference with subsequent amendments and editions. In addition, a large
35 quantity generator shall maintain aisle space of at least 2 feet in a central accumulation area to allow the unobstructed
36 movement of personnel, fire prevention equipment, spill control equipment, and decontamination equipment.

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

3

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

5 *Eff. November 19, 1980;*

6 *Amended Eff. December 1, 1988; June 1, 1988; August 1, 1987; May 1, 1987;*

7 *Transferred and Recodified from 10 NCAC 10F .0030 Eff. April 4, 1990;*

8 *Amended Eff. August 1, 1990;*

9 *Recodified from 15A NCAC 13A .0008 Eff. August 30, 1990;*

10 *Amended Eff. April 1, 1993; October 1, 1990;*

11 *Recodified from 15A NCAC 13A .0007 Eff. December 20, 1996;*

12 *Amended Eff. July 1, 2016; April 1, 2010; November 1, 2007; January 1, 2007; April 1, 2001;*

13 *August 1, 1998;*

14 *Temporary Amendment Eff. May 30, ~~2017~~,2017;*

15 *Readopted Eff. March 1, 2018.*

16

1 15A NCAC 13A .0108 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0108 ~~STDS~~STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS**
4 **WASTE - PART 263**

5 (a) 40 CFR 263.10 through 263.12 (Subpart A), "General" are incorporated by reference including subsequent
6 amendments and editions.

7 (b) 40 CFR 263.20 through 263.25 (Subpart B), "Compliance with the Manifest System and Recordkeeping" are
8 incorporated by reference including subsequent amendments and editions.

9 (c) Upon discovering a significant manifest discrepancy, the transporter shall attempt to reconcile the discrepancy
10 with the waste generator (e.g. with telephone conversations). If the discrepancy is not resolved within 15 days after
11 receiving the waste, the transporter on the 16th day shall submit to the Department a letter describing the discrepancy
12 and attempts to reconcile it with a copy of the manifest or shipping paper at issue.

13 (d) "Manifest discrepancies" means differences between the quantity or type of hazardous waste designated on the
14 manifest or shipping paper, and the quantity or type of hazardous waste a transporter actually transports. Significant
15 discrepancies in quantity shall be as follows: for bulk waste, variations greater than 10 percent in weight; and, for
16 batch waste, any variation in piece count (e.g. a discrepancy of one drum in a truckload). Significant discrepancies in
17 type are obvious differences that may be discovered by inspection or waste analysis (e.g. waste solvent substituted for
18 waste acid, or toxic constituents not reported on the manifest or shipping paper).

19 (e) 40 CFR 263.30 through 263.31 (Subpart C), "Hazardous Waste Discharges" are incorporated by reference
20 including subsequent amendments and editions.

21
22 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*
23 *Eff. November 19, 1980;*
24 *Amended Eff. June 1, 1988; August 1, 1987; May 1, 1987; October 1, 1986;*
25 *Transferred and Recodified from 10 NCAC 10F .0031 Eff. April 4, 1990;*
26 *Recodified from 15A NCAC 13A .0009 Eff. August 30, 1990;*
27 *Amended Eff. April 1, 1993; October 1, 1990;*
28 *Recodified from 15A NCAC 13A .0008 Eff. December 20, 1996;*
29 *Amended Eff. July 1, 2016; August 1, 2000;*
30 *Temporary Amendment Eff. May 30, ~~2017~~, 2017;*
31 *Readopted Eff. March 1, 2018.*
32

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0109

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Page 2, line 6 states "to cover the difference." However, 15A NCAC 13A .0110, page 2, line 3 states "to cover the difference; and" Should the language be consistent in these two rules? Please review.

Page 2, lines 14 thru 15 states the following:

"trust fund over the term of the RCRA post-closure permit ~~may~~ shall be established by the Department as a permit condition."

However, almost identical language in 15A NCAC 13A .0110, page 2, lines 11 thru 12 states the following:

"trust fund during the interim status period shall be established by the Department by use of an ~~Administrative Order.~~ order."

Should the language be consistent in these two rules? Please review.

Page 3, line 4, add a comma after "(vi)"

Page 3, lines 23 thru 34, consider placing the information after "the facility to:" in a list format

Page 3, line 30 states "soil ~~composition~~ composition." However, 15A NCAC 13A .0113, line 17 states "soil characteristics and composition and" Should the language be consistent in these two rules? Please review.

Page 4, line 5, does the use of the clause "but not limited to" track CFR language? If not, please delete

Page 4, line 31 states "as defined in" and line 32 states "as described in" Why are different terms used? Should it be either "defined" or "described"? Please review

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

Page 6, lines 14 thru 15 states “landfills, long-term storage ~~facilities~~ facilities, and hazardous waste surface impoundments” but line 16 thru 17 states “hazardous waste landfill, long-term storage, or a surface impoundment facility” Should the clause “hazardous waste” be used consistently, either before “landfills” or “surface impoundment”? Please review

Page 6, line 18, replace “which” with “that”

Page 7, line 26, should the “and” between “wastes;” and “the source” be deleted since there is an “and” between “wastes;” and “to allow the community”? It appears as though there are too many “ands” in this sentence. Please review

Page 7, lines 29 thru 33 appears to be duplicated on page 8, lines 10 thru 14. Please delete the duplicated language in one of the locations

Page 8, line 15, add a comma after “public meeting”

Page 8, line 15, delete the “and” between “meeting” and “any additional material” as there is an “and” on line 16 between “meeting” and “any additional additions”

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0109 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0109 STANDARDS FOR OWNERS/OPERATORS**
4 **OWNERS AND OPERATORS OF**
5 **HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL**
6 **FACILITIES - PART 264**

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

10 (b) 40 CFR 264.1 through 264.4 (Subpart A), "~~General~~,"General" are incorporated by reference including subsequent
11 amendments and editions.

12 (c) 40 CFR 264.10 through 264.19 (Subpart B), "~~General Facility Standards~~,"Standards" are incorporated by reference
13 including subsequent amendments and editions.

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

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

18 (f) 40 CFR 264.70 through 264.77 (Subpart E), "~~Manifest System, Recordkeeping, and Reporting~~,"Reporting" are
19 incorporated by reference including subsequent amendments and editions.

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

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

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

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

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

36 (2) The following shall be substituted for the provisions of 40 CFR 264.143(a)(6) and 264.145(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~~shall be established
15 by the Department as a permit condition.

16 (4) The following ~~additional requirement shall apply~~shall be substituted for Section 15 of 40 CFR
17 264.151(a)(1) that is not incorporated by reference:

18 Section 15. Notice of Payment. The trustee shall notify the Department of payment to the trust fund,
19 by certified mail within 10 days following said payment to the trust fund. The notice shall contain
20 the name of the Grantor, the date of payment, the amount of payment, and the current value of the
21 trust fund.

22 (5) Concerning financial assurance for corrective action, the owner or operator shall choose from the
23 financial instrument options provided in 40 CFR 264.145 Subpart H, or any combination of the
24 financial instruments allowed by the Section to satisfy corrective action financial assurance
25 requirements of 40 CFR 264.100 and 264.101. The wording of the financial assurance instrument
26 or instruments shall be consistent with the wording provided in 40 CFR 264.151. The wording of
27 the instrument used shall be modified to include the term "corrective action," as applicable.

28 (j) 40 CFR 264.170 through 264.179 (Subpart I), "Use and Management of ~~Containers~~Containers" are incorporated
29 by reference including subsequent amendments and editions.

30 (k) 40 CFR 264.190 through 264.200 (Subpart J), "Tank ~~Systems~~Systems" are incorporated by reference including
31 subsequent amendments and editions.

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

33 (1) 40 CFR 264.220 through 264.232 (Subpart K), "Surface ~~Impoundments~~Impoundments" are
34 incorporated by reference including subsequent amendments and editions.

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

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

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

- 1 (C) ~~Clayey~~clayey liners shall be equal to or greater than five feet in thickness and have a
2 maximum permeability of 1.0×10^{-7} cm/sec;
- 3 (D) ~~Clayey~~clayey liner soils shall have the same characteristics as described in Subparts
4 (r)(4)(B)(ii), (iii), (iv), (vi) and (vii) of this Rule;
- 5 (E) ~~A~~A leachate collection system shall be constructed between the upper liner and the bottom
6 liner;
- 7 (F) ~~A~~A leachate detection system shall be constructed below the bottom liner; and
- 8 (G) ~~Surface~~surface impoundments shall be constructed in such a manner to prevent landsliding,
9 ~~slippage~~slippage, or slumping.
- 10 (m) 40 CFR 264.250 through 264.259 (Subpart L), "~~Waste Piles~~,"Piles" are incorporated by reference including
11 subsequent amendments and editions.
- 12 (n) 40 CFR 264.270 through 264.283 (Subpart M), "~~Land Treatment~~,"Treatment" are incorporated by reference
13 including subsequent amendments and editions.
- 14 (o) 40 CFR 264.300 through 264.317 (Subpart N), "~~Landfills~~,"Landfills" are incorporated by reference including
15 subsequent amendments and editions.
- 16 (p) A long-term storage facility shall meet groundwater protection, closure and post-closure, and financial
17 requirements for disposal facilities as specified in Paragraphs (g), (h), and (i) of this Rule.
- 18 (q) 40 CFR 264.340 through 264.351 (Subpart O), "~~Incinerators~~,"Incinerators" are incorporated by reference
19 including subsequent amendments and editions.
- 20 (r) The following are additional location standards for facilities:
- 21 (1) In addition to the location standards set forth in ~~15A NCAC 13A .0109(c)~~,Paragraph (c) of this Rule,
22 the Department, in determining whether to issue a permit for a hazardous waste management
23 facility, shall consider the risks posed by the proximity of the facility ~~to~~to: ~~water table levels~~,levels;
24 ~~flood plains~~,plains; ~~water supplies~~,supplies; ~~public water supply watersheds~~,watersheds;
25 ~~mines~~,mines; ~~natural resources such as wetlands, endangered species habitats, parks, forests,~~
26 ~~wilderness areas, and historical sites, and population centers~~ population centers; natural resources
27 such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites;
28 and shall consider whether ~~provision has~~provisions have been made for buffer ~~zones~~,zones, as
29 ~~required by this Rule~~. The Department shall also consider ground water travel time, soil pH, soil
30 cation exchange capacity, soil ~~composition~~,composition, and ~~permeability~~,permeability; ~~slope,~~
31 ~~climate, local land use,~~slope; climate; local land use; transportation factors such as proximity to
32 waste generators, route, route safety, and method of ~~transportation~~,transportation; aesthetic factors
33 such as the visibility, appearance, and noise level of the facility; potential impact on air
34 ~~quality~~,quality; and existence of seismic activity and cavernous bedrock. The basis for issuing or
35 denying the permit are found in 40 CFR 264 as adopted by reference in this Rule.

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

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

8 (B) All hazardous waste treatment and storage facilities shall comply with the following
9 separation distances: all hazardous waste shall be treated and stored a minimum of 50 feet
10 from the property line of the facility; except that all hazardous waste with ignitable,
11 ~~incompatible~~incompatible, or reactive characteristics shall be treated and stored a
12 minimum of 200 feet from the property line of the facility if the area adjacent to the facility
13 is zoned for any use other than industrial or is not zoned.

14 (C) All hazardous waste landfills, long-term storage facilities, land treatment ~~facilities~~facilities,
15 and surface ~~impoundments~~impoundments shall comply with the following separation
16 distances:

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

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

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

30 (D) Hazardous waste storage and treatment facilities for liquid waste that is classified as ~~TC~~
31 ~~toxic, toxic, or acutely toxic~~hazardous waste due to the Toxicity Characteristic, as defined
32 in 40 CFR 261.24, or is classified as Acute Hazardous Waste or Toxic Waste, as described
33 in 40 CFR 261.30(b), and is stored or treated in tanks or containers shall not be located:

34 (i) in the recharge area of an aquifer ~~which~~that is designated as an existing sole
35 drinking water source as defined in the Safe Drinking Water Act, Section .1424(e)
36 [42 U.S.C. 300h-3(e)] unless an adequate secondary containment system, as
37 described in 40 CFR ~~264~~264, ~~as adopted by reference in this Rule~~, is constructed,

1 and after consideration of applicable factors in Subparagraph (r)(3) of this Rule,
2 the owner or operator ~~can demonstrate~~demonstrates no risk to public health;

- 3 (ii) within 200 feet of surface water impoundments or surface water stream with
4 continuous flow as defined by the United States Geological Survey;
- 5 (iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II
6 or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and
7 15A NCAC 18C .0102;
- 8 (iv) in an area that will allow direct surface or subsurface discharge to the watershed
9 for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
- 10 (v) within 200 feet horizontally of a 100-year floodplain elevation;
- 11 (vi) within 200 feet of a seismically active ~~area~~area; ~~as defined in Paragraph (c) of this~~
12 ~~Rule~~; and
- 13 (vii) within 200 feet of a mine, cave, or cavernous bedrock.

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

- 29 (A) ~~All~~all proposed hazardous waste activities and procedures to be associated with the
30 transfer, storage, ~~treatment~~treatment, or disposal of hazardous waste at the facility;
- 31 (B) ~~The~~the type of hazardous waste to be treated, stored, or disposed of at the facility;
- 32 (C) ~~The~~the volume of waste to be treated, stored, or disposed of at the facility;
- 33 (D) ~~Land~~land use issues including the number of permanent residents in proximity to the
34 facility and their distance from the facility;
- 35 (E) ~~The~~the adequacy of facility design and plans for containment and control of sudden and
36 non-sudden accidental events in combination with adequate off-site evacuation of
37 potentially ~~adversely~~ impacted populations;

- 1 (F) ~~Other~~other land use issues including the number of institutional and commercial structures
2 such as airports and schools in proximity to the facility, their distance from the facility, and
3 the particular nature of the activities that take place in those structures;
- 4 (G) ~~The~~the lateral distance and slope from the facility to surface water supplies or to watersheds
5 draining ~~directly~~ into surface water supplies;
- 6 (H) ~~The~~the vertical distance, and type of soils and geologic conditions separating the facility
7 from the water table;
- 8 (I) ~~The~~the direction and rate of flow of ground water from the sites and the extent and
9 reliability of on-site and nearby data concerning seasonal and long-term groundwater level
10 fluctuations;
- 11 (J) ~~Potential~~potential air emissions including rate, direction of movement, dispersion and
12 exposure, whether from planned or accidental, uncontrolled releases; and
- 13 (K) ~~Any~~any other relevant factors.
- 14 (4) The following are additional location standards for landfills, long-term storage ~~facilities~~facilities,
15 and hazardous waste surface impoundments:
- 16 (A) A hazardous waste landfill, long-term storage, or a surface impoundment facility shall not
17 be located:
- 18 (i) ~~In~~in the recharge area of an aquifer which is an existing sole drinking water
19 source;
- 20 (ii) ~~Within~~within 200 feet of a surface water stream with continuous ~~flow~~flow; as
21 defined by the United States Geological Survey;
- 22 (iii) ~~In~~in an area that will allow direct surface or subsurface discharge to WS-I, WS-II
23 or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and
24 15A NCAC 18C .0102;
- 25 (iv) ~~In~~in an area that will allow direct surface or subsurface discharge to a watershed
26 for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
- 27 (v) ~~Within~~within 200 feet horizontally of a 100-year flood hazard elevation;
- 28 (vi) ~~Within~~within 200 feet of a seismically active ~~area~~area; as defined in Paragraph (e)
29 of this Rule; and
- 30 (vii) ~~Within~~within 200 feet of a mine, ~~cave~~cave, or cavernous bedrock.
- 31 (B) A hazardous waste landfill or long-term storage facility shall be located in geologic
32 formations with the following soil characteristics:
- 33 (i) ~~The~~the depth of the unconsolidated soil materials shall be equal to or greater than
34 20 feet;
- 35 (ii) ~~The~~the percentage of fine-grained soil material shall be equal to or greater than
36 30 percent passing through a number 200 sieve;
- 37 (iii) ~~Soil~~soil liquid limit shall be equal to or greater than 30;

- (iv) ~~Soil~~soil plasticity index shall be equal to or greater than 15;
- (v) ~~Soil~~soil compacted hydraulic conductivity shall be a maximum of 1.0×10^{-7} cm/sec;
- (vi) ~~Soil~~soil Cation Exchange Capacity shall be equal to or greater than 5 milliequivalents per 100 grams;
- (vii) ~~Soil~~soil Potential Volume Change Index shall be equal to or less than 4; and
- (viii) ~~Soils~~soils shall be underlain by a geologic formation having a rock quality designation equal to or greater than 75 percent.

(C) A hazardous waste landfill or long-term storage facility shall be located in areas of low to moderate relief to the extent necessary to prevent landsliding or slippage and slumping. The site may be graded to comply with this standard.

(5) All new hazardous waste impoundments that close with hazardous waste residues left in place shall comply with the standards for hazardous waste landfills in Subparagraph (r)(4) of this ~~Rule~~Rule, ~~unless the applicant can demonstrate that equivalent protection of public health and environment is afforded by some other standard.~~

(6) The owners and operators of all new hazardous waste management facilities shall construct and maintain a minimum of two observation wells, one upgradient and one downgradient of the proposed facility; and shall establish background groundwater concentrations and monitor annually for all hazardous wastes that the owner or operator proposes to store, treat, or dispose at the facility.

(7) The owners and operators of all new hazardous waste facilities shall demonstrate that the community has had an opportunity to participate in the siting process by complying with the following:

(A) The owners and operators shall hold at least one public meeting in the county in which the facility is to be located to inform the community of all hazardous waste management activities ~~including~~including; ~~but not limited to~~: the hazardous properties of the waste to be managed; the type of management proposed for the wastes; the mass and volume of the wastes; and the source of the wastes; and to allow the community to identify specific health, safety and environmental concerns or problems expressed by the community related to the hazardous waste activities associated with the facility. The owners and operators shall provide a public notice of this meeting at least 30 days prior to the meeting. Public notice shall be documented in the facility permit application. The owners and operators shall submit as part of the permit application a complete written transcript of the meeting, all written material submitted that represents community concerns, and all other relevant written material distributed or used at the meeting. The written transcript and other written material submitted or used at the meeting shall be submitted to the local public library closest to and in the county of the proposed site with a request that the information be made available to the public.

1 (B) For the purposes of this Rule, public notice shall include: notification of the boards of
2 county commissioners of the county where the proposed site is to be located and all
3 contiguous counties in North Carolina; a legal advertisement placed in a newspaper or
4 newspapers serving those counties; and provision of a news release to at least one
5 newspaper, one radio station, and one TV station serving these counties. Public notice
6 shall include the time, place, and purpose of the meetings required by this Rule.

7 (C) No less than 30 days after the first public meeting transcript is available at the local public
8 library, the owners and operators shall hold at least one additional public meeting in order
9 to attempt to resolve community concerns. The owners and operators shall provide public
10 notice of this meeting at least 30 days prior to the meeting. Public notice shall be
11 documented in the facility permit application. The owners and operators shall submit as
12 part of the permit application a complete written transcript of the meeting, all written
13 material submitted that represents community concerns, and all other relevant written
14 material distributed or used at the meeting.

15 (D) The application, written transcripts of all public meetings and any additional material
16 submitted or used at the meetings, and any additions or corrections to the application,
17 including any responses to notices of deficiencies shall be submitted to the local library
18 closest to and in the county of the proposed site, with a request that the information be
19 made available to the public until the permit decision is made.

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

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

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

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

29 (v) 40 CFR 264.1030 through 264.1049 (Subpart AA), "Air Emission Standards for Process ~~Vents~~, Vents" are
30 incorporated by reference including subsequent amendments and editions.

31 (w) 40 CFR 264.1050 through 264.1079 (Subpart BB), "Air Emission Standards for Equipment ~~Leaks~~, Leaks" are
32 incorporated by reference including subsequent amendments and editions.

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

35 (y) 40 CFR 264.1100 through ~~264.1102~~ 264.1110 (Subpart DD), "Containment ~~Buildings~~, Buildings" are
36 incorporated by reference including subsequent amendments and editions.

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

3 (aa) Appendices to 40 CFR Part 264 are incorporated by reference including subsequent amendments and editions.
4

5 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*
6 *Eff. November 19, 1980;*
7 *Amended Eff. November 1, 1989; June 1, 1989; December 1, 1988; February 1, 1988;*
8 *Transferred and Recodified from 10 NCAC 10F .0032 Eff. April 4, 1990;*
9 *Amended Eff. August 1, 1990;*
10 *Recodified from 15A NCAC 13A .0010 Eff. August 30, 1990;*
11 *Amended Eff. July 1, 1995; October 1, 1993; April 1, 1993; October 1, 1992;*
12 *Recodified from 15A NCAC 13A .0009 Eff. December 20, 1996;*
13 *Amended Eff. August 1, 2004; April 1, 2001; April 1, 1999;*
14 *Temporary Amendment Eff. May 30, ~~2017~~,2017;*
15 *Readopted Eff. March 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0110

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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Page 2, lines 11 thru 12 states the following:

"trust fund during the interim status period shall be established by the Department by use of an ~~Administrative Order.~~ order."

However, almost identical language in 15A NCAC 13A .0109, page 2, lines 14 thru 15 states the following:

"trust fund over the term of the RCRA post-closure permit ~~may~~ shall be established by the Department as a permit condition."

Should the language be consistent in these two rules? Please review.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0110 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0110 INTERIM STATUS ~~STDS~~STANDARDS FOR OWNERS ~~O~~OWNERS AND**
4 **OPERATORS OF HWTSD~~HWTSD~~HAZARDOUS WASTE TREATMENT, STORAGE,**
5 **AND DISPOSAL FACILITIES - PART 265**

6 (a) 40 CFR 265.1 through 265.4 (Subpart A), "~~General~~,"General" are incorporated by reference including subsequent
7 amendments and editions.

8 (b) 40 CFR 265.10 through 265.19 (Subpart B), "General Facility ~~Standards~~,"Standards" are incorporated by reference
9 including subsequent amendments and editions.

10 (c) 40 CFR 265.30 through 265.37 (Subpart C), "Preparedness and ~~Prevention~~,"Prevention" are incorporated by
11 reference including subsequent amendments and editions, ~~except that 265.35 is not incorporated by reference.~~editions.
12 ~~The following shall be substituted for the provisions of 265.35.~~

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

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

18 (e) 40 CFR 265.70 through 265.77 (Subpart E), "Manifest System, Recordkeeping, and ~~Reporting~~,"Reporting" are
19 incorporated by reference including subsequent amendments and editions.

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

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

24 (h) 40 CFR 265.140 through ~~265.151~~265.150 (Subpart H), "Financial ~~Requirements~~,"Requirements" are incorporated
25 by reference including subsequent amendments and editions, except that 40 CFR 265.143(a)(3), (a)(4), (a)(5), (a)(6),
26 and 40 CFR 265.145(a)(3), (a)(4), (a)(5), and (a)(6) are not incorporated by reference.

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

33 (2) The following shall be substituted for the provisions of 40 CFR 265.143(a)(6) and 265.145(a)(6)
34 ~~which were~~that are not incorporated by reference: After the trust fund is established, whenever the
35 current closure cost estimate changes, the owner or operator shall compare the new estimate with
36 the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the
37 amount of the new estimate, the owner or operator within 60 days after the change in the cost

1 estimate, shall either deposit an amount into the fund so that its value after this deposit at least equals
2 the amount of the current closure cost estimate, or obtain other financial assurance as specified in
3 this Section to cover the difference; and

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

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

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

13 (i) 40 CFR 265.170 through 265.178 (Subpart I), "Use and Management of ~~Containers~~,Containers" are incorporated
14 by reference including subsequent amendments and editions. ~~Additionally, the owner or operator shall keep records~~
15 ~~and results of required inspections for at least three years from the date of the inspection.~~

16 (j) 40 CFR 265.190 through 265.202 (Subpart J), "Tank ~~Systems~~,Systems" are incorporated by reference including
17 subsequent amendments and editions.

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

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

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

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

26 (o) 40 CFR 265.340 through ~~265.352~~265.369 (Subpart O), "~~Incinerators~~,Incinerators" are incorporated by reference
27 including subsequent amendments and editions.

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

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

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

34 (s) 40 CFR 265.1030 through 265.1049 (Subpart AA), "Air Emission Standards for Process ~~Vents~~,Vents" are
35 incorporated by reference including subsequent amendments and editions.

36 (t) 40 CFR 265.1050 through 265.1079 (Subpart BB), "Air Emission Standards for Equipment ~~Leaks~~,Leaks" are
37 incorporated by reference including subsequent amendments and editions.

- 1 (u) 40 CFR 265.1080 through 265.1091 (Subpart CC), "Air Emission Standards for Tanks, Surface Impoundments,
2 and ~~Containers~~,Containers" are incorporated by reference including subsequent amendments and editions.
- 3 (v) 40 CFR 265.1100 through ~~265.1102~~265.1110 (Subpart DD), "Containment ~~Buildings~~,Buildings" are
4 incorporated by reference including subsequent amendments and editions.
- 5 (w) 40 CFR 265.1200 through 265.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives
6 ~~Storage~~,Storage" are incorporated by reference including subsequent amendments and editions.
- 7 (x) Appendices to 40 CFR Part 265 are incorporated by reference including subsequent amendments and editions.

8

9 *History Note: Authority G.S. 130A-294(c); 150B-21.6;*
10 *Eff. November 19, 1980;*
11 *Amended Eff. June 1, 1989; December 1, 1988; June 1, 1988; February 1, 1988;*
12 *Transferred and Recodified from 10 NCAC 10F .0033 Eff. April 4, 1990;*
13 *Recodified from 15A NCAC 13A .0011 Eff. August 30, 1990;*
14 *Amended Eff. July 1, 1995; April 1, 1993; October 1, 1992; February 1, 1992;*
15 *Recodified from 15A NCAC 13A .0010 Eff. December 20, 1996;*
16 *Amended Eff. November 1, 2005; August 1, 2000; April 1, 1999;*
17 *Temporary Amendment Eff. May 30, ~~2017~~,2017;*
18 *Readoption Eff. March 1, 2018.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0111

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 11, please consider moving the period for inside the quotation marks for "Material"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0111 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0111 ~~STDS~~STANDARDS FOR THE ~~MGMT~~MANAGEMENT OF SPECIFIC**
4 **~~HW/TYPES~~ HAZARDOUS WASTES AND SPECIFIC TYPES OF**
5 **HAZARDOUS WASTE MANAGEMENT FACILITIES - PART 266**

6 (a) 40 CFR 266.20 through 266.23 (Subpart C), "Recyclable Materials Used in a Manner Constituting
7 ~~Disposal~~,Disposal" are incorporated by reference including subsequent amendments and editions.

8 (b) 40 CFR 266.70 (Subpart F), "Recyclable Materials Utilized for Precious Metal ~~Recovery~~,Recovery" is
9 incorporated by reference including subsequent amendments and editions. Off-site recycling facilities that receive
10 materials described in 40 CFR 266.70(a) ~~must~~shall mark or label each container and tank holding recyclable materials
11 at off-site precious metal recycling facilities with the words "Recyclable Material". ~~manage the materials in~~
12 ~~accordance with and comply with 40 CFR 262.34(a) as incorporated by reference in 15A NCAC 13A .0107(e),~~
13 ~~excluding 262.34(a)(3).~~ Each container and tank holding recyclable materials at off site precious metal recycling
14 facilities ~~must be labeled or marked with the words, "Recyclable Material".~~

15 (c) 40 CFR 266.80 (Subpart G), "Spent Lead-Acid Batteries Being ~~Reclaimed~~,Reclaimed" is incorporated by
16 reference including subsequent amendments and editions.

17 (d) 40 CFR 266.100 through 266.112 (Subpart H), "Hazardous Waste Burned in Boilers and Industrial
18 ~~Furnaces~~,Furnaces" are incorporated by reference including subsequent amendments and editions.

19 (e) 40 CFR 266.200 through 266.206 (Subpart M), "Military ~~Munitions~~,Munitions" are incorporated by reference
20 including subsequent amendments and editions.

21 (f) 40 CFR 266.210 through 266.360 (Subpart N), "Conditional Exemption for Low-Level Mixed Waste Storage,
22 Treatment, Transportation and ~~Disposal~~,Disposal" are incorporated by reference including subsequent amendments
23 and editions.

24 (g) Appendices to 40 CFR Part 266 are incorporated by reference including subsequent amendments and editions.
25

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

27 *Eff. July 1, 1985;*

28 *Amended Eff. June 1, 1990; June 1, 1988; February 1, 1988; December 1, 1987;*

29 *Transferred and Recodified from 10 NCAC 10F .0039 Eff. April 4, 1990;*

30 *Recodified from 15A NCAC 13A .0012 Eff. August 30, 1990;*

31 *Amended Eff. January 1, 1995; April 1, 1993; August 1, 1991; October 1, 1990;*

32 *Recodified from 15A NCAC 13A .0011 Eff. December 20, 1996;*

33 *Amended Eff. April 1, 2006; April 1, 2003; April 1, 1999; August 1, 1998;*

34 *Temporary Amendment Eff. May 30, ~~2017~~,2017;*

35 *Readopted Eff. March 1, 2018.*
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37

1 15A NCAC 13A .0112 is readopted as published in 32:08 NCR 739 as follows:

2

3 **15A NCAC 13A .0112 LAND DISPOSAL RESTRICTIONS - PART 268**

4 (a) 40 CFR 268.1 through ~~268.14~~268.9 (Subpart A), "~~General~~", "General" are incorporated by reference including
5 subsequent amendments and editions.

6 (b) 40 CFR 268.10 through 268.14 (Subpart B), "Schedule for Land Disposal Prohibition and Establishment of
7 Treatment Standards" are incorporated by reference including subsequent amendments and editions.

8 ~~(b)(c)~~ (c) 40 CFR 268.20 through 268.39 (Subpart C), "~~Prohibitions on Land Disposal~~", "Disposal" are incorporated by
9 reference including subsequent amendments and editions, ~~except that 40 CFR 268.21 through 268.29 are not~~
10 ~~incorporated by reference.~~ editions.

11 ~~(e)~~(d) 40 CFR 268.40 through 268.49 (Subpart D), "~~Treatment Standards~~", "Standards" are incorporated by reference
12 including subsequent amendments and editions.

13 ~~(d)~~(e) 40 CFR 268.50 (Subpart E), "~~Prohibitions on Storage~~", "Storage" is incorporated by reference including
14 subsequent amendments and editions.

15 ~~(e)~~(f) Appendices to 40 CFR Part 268 are incorporated by reference including subsequent amendments and editions.

16

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

18 *Eff. August 1, 1987;*

19 *Amended Eff. June 1, 1990; June 1, 1989; June 1, 1988; February 1, 1988;*

20 *Transferred and Recodified from 10 NCAC 10F .0042 Eff. April 4, 1990;*

21 *Recodified from 15A NCAC 13A .0013 Eff. August 30, 1990;*

22 *Amended Eff. April 1, 1995; January 1, 1995; April 1, 1993; February 1, 1991;*

23 *Recodified from 15A NCAC 13A .0012 Eff. December 20, 1996;*

24 *Amended Eff. November 1, 2005; August 1, 2000; August 1, 1998;*

25 *Temporary Amendment Eff. May 30, ~~2017~~, 2017;*

26 *Readopted Eff. March 1, 2018.*

27

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0113

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 17 states "soil characteristics and composition and" "However, 15A NCAC 13A .0109, page 3, line 30, line 17 states "soil ~~composition~~ composition." Should the language be consistent in these two rules? Please review.

Line 17, add a comma after "composition" to be consistent with 15A NCAC 13A .0109, page 3, line 30

Line 28, please replace the comma after "proposed route" with a semicolon

Page 2, line 37, should there be an "and" at the end of this clause, as there are two more items on page 3. If there is the use of "and" is correct between "(B)" and "(C)," then should "(D)" begin with a capital letter? Please review

Page 3, line 26, replace "such" with "the"

Page 4, line 24, delete the comma after "recorded" and delete the clause "as it becomes available,"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0113 is readopted as published in 32:08 NCR 739 as follows:

2
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. For the purpose of this incorporation by reference, "January 26, 1983"
6 shall be substituted for "July 26, 1982" contained in 40 CFR 270.1(c).

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

9 (c) ~~The following are additional~~In addition to the specific Part B Permit Application information requirements for
10 all hazardous waste ~~facilities~~facilities as defined in 40 CFR 270.14, the owners and operators of hazardous waste
11 facilities shall provide the following information:

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

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

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

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

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

30 (6) ~~A~~A description of facility aesthetic factors including visibility, appearance, and noise level; and

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

33 (d) In addition to the specific Part B Permit Application information requirements for hazardous waste disposal
34 ~~facilities~~,facilities as defined in 40 CFR 270.17 through 270.19 and 270.21, owners, and operators of hazardous
35 waste landfills or longterm storage facilities shall provide the following information:

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

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

- 1 (3) ~~Design~~design drawings and specifications of the clay or clay-like liner below the artificial liner, and
2 a description of the permeability of the clay or clay-like liner; and
- 3 (4) ~~A~~ description of how hazardous wastes will be treated prior to placement in the facility.
- 4 (e) In addition to the specific Part B Permit Application information requirements for surface
5 ~~impoundments,~~impoundments as defined in 40 CFR 270.17, owners and operators of surface impoundments shall
6 provide the following information:
- 7 (1) ~~Design~~design drawings and specifications of the leachate collection and removal system;
- 8 (2) ~~Design~~design drawings and specifications of all artificial impervious liners;
- 9 (3) ~~Design~~design drawings and specifications of all clay or clay-like liners and a description of the clay
10 or clay-like liner; and
- 11 (4) ~~Design~~design drawings and specifications that show that the facility has been constructed in a
12 manner that will prevent landsliding, slippage, or slumping.
- 13 (f) 40 CFR 270.30 through 270.33 (Subpart C), "~~Permit Conditions~~,"Conditions" are incorporated by reference
14 including subsequent amendments and editions.
- 15 (g) 40 CFR 270.40 through 270.43 (Subpart D), "~~Changes to Permit~~,"Permit" are incorporated by reference including
16 subsequent amendments and editions.
- 17 (h) 40 CFR 270.50 through 270.51 (Subpart E), "~~Expiration and Continuation of Permits~~,"Permits" are incorporated
18 by reference including subsequent amendments and editions.
- 19 (i) 40 CFR 270.60 through. ~~270.68~~270.66 (Subpart F), "~~Special Forms of Permits~~,"Permits" are incorporated by
20 reference including subsequent amendments and ~~editions,~~editions. ~~except that 40 CFR 270.67 and 270.68 are not~~
21 ~~incorporated by reference.~~
- 22 (j) 40 CFR 270.70 through 270.73 (Subpart G), "~~Interim Status~~,"Status" are incorporated by reference including
23 subsequent amendments and editions. For the purpose of this incorporation by reference, "January 1, 1986" shall be
24 substituted for "~~November 8, 1985~~"1984" contained in 40 CFR 270.73(c).
- 25 (k) 40 CFR 270.235, (Subpart I), "~~Integration with Maximum Achievable Control Technology (MACT)~~
26 ~~Standards~~,"Standards" is incorporated by reference including subsequent amendments and editions.
- 27 (l) The following are additional permitting requirements for hazardous waste facilities.
- 28 (1) An applicant applying for a permit for a hazardous waste facility shall submit a disclosure statement
29 to the Department as a part of the application for a ~~permit or any time thereafter specified by the~~
30 ~~Department,~~permit, a permit renewal, or a permit modification that involves a change in owner or
31 operator. The disclosure statement shall be supported by an affidavit attesting to the truth and
32 completeness of the facts asserted in the statement and shall include:
- 33 (A) ~~A~~ brief description of the form of the business (e.g. partnership, sole proprietorship,
34 corporation, association, or other);
- 35 (B) ~~The~~the name and address of any hazardous waste facility constructed or operated after
36 October 21, 1976 by the applicant or any parent or subsidiary corporation if the applicant
37 is a corporation; and

1 (C) ~~A~~ list identifying any legal action taken against any facility identified in Part (l)(1)(B) of
2 this Rule involving:

3 (i) any administrative ruling or order issued by any state, ~~federal~~federal, or local
4 authority relating to revocation of any environmental or waste management
5 permit or license, or to a violation of any state or federal statute or local ordinance
6 relating to waste management or environmental protection;

7 (ii) any judicial determination of liability or conviction under any state or federal law
8 or local ordinance relating to waste management or environmental protection; and

9 (iii) any pending administrative or judicial proceeding of the type described in this
10 Part.

11 (D) ~~The~~the identification of each action described in Part (l)(1)(C) of this Rule shall include
12 the name and location of the facility that the action concerns, the agency or court that heard
13 or is hearing the matter, the title, docket or case number, and the status of the proceeding.

14 (2) In addition to the information set forth in Subparagraph (l)(1) of this Rule, the Department shall
15 require from any applicant ~~such~~ additional information as it deems necessary to satisfy the
16 requirements of G.S. 130A-295. ~~Such~~The information may include:

17 (A) ~~The~~the names, addresses, and titles of all officers, directors, or partners of the applicant
18 and of any parent or subsidiary corporation if the applicant is a corporation;

19 (B) ~~The~~the name and address of any company in the field of hazardous waste management in
20 which the applicant business or any of its officers, directors, or partners, hold an equity
21 interest and the name of the officer, director, or partner holding such interest; and

22 (C) ~~A~~ copy of any administrative ruling or order and of any judicial determination of liability
23 or conviction described in Part (l)(1)(C) of this Rule, and a description of any pending
24 administrative or judicial proceeding in that item.

25 (3) If the Department finds that any part or parts of the disclosure statement is not necessary to satisfy
26 the requirements of G.S. 130A-295, such information shall not be required.

27 (m) An applicant for a ~~new,~~new or modification to an ~~existing,~~existing commercial facility ~~permit,~~permit shall provide
28 a description and justification of the need for the facility.

29 (n) Requirements for Off-site Recycling Facilities.

30 (1) The permit requirements of 15A NCAC 13A .0109 apply to owners and operators of off-site
31 recycling facilities unless excluded in Subparagraph (2) ~~of Paragraph (n)-(n) of this Rule.~~

32 (2) Requirements of ~~15A NCAC 13A .0113(n)(4), Subparagraphs (n)(4), (5), (6), (7) and (8) of this Rule~~
33 do not apply to owners and operators of off-site recycling facilities that recycle only precious metals
34 as described in 40 CFR ~~266.70(a), 40 CFR 266.70(a), as incorporated by reference in 15A NCAC~~
35 ~~13A .0111(b).~~

36 (3) Off-site facilities that recycle precious metals shall ~~follow~~comply with the regulations as described
37 in 15A NCAC 13A .0111(b).

1 (4) Notwithstanding any other statement of applicability, the following provisions of 40 CFR ~~Part~~
2 ~~264.264 as incorporated by reference~~, shall apply to owners and operators of off-site recycling
3 facilities except those excluded in ~~15A NCAC 13A .0113(n)(2)~~: Subparagraph (n)(2) of this Rule:

- 4 (A) Subpart B - General Facility Standards;
- 5 (B) Subpart C - Preparedness and Prevention;
- 6 (C) Subpart D - Contingency Plan and Emergency Procedures;
- 7 (D) Subpart E - Manifest System, Recordkeeping and Reporting;
- 8 (E) Subpart G - Closure and Post-closure;
- 9 (F) Subpart H - Financial Requirements;
- 10 (G) Subpart I - Use and Management of Containers;
- 11 (H) Subpart J - Tank Systems;
- 12 (I) 264.101 - Corrective Action for Solid Waste Management Units;
- 13 (J) Subpart X - Miscellaneous Units; and
- 14 (K) Subpart DD - Containment Buildings.

15 (5) The requirements listed in Subparagraph (n)(4) of this Rule apply to the entire off-site recycling
16 facility, including all recycling units, staging and process areas, and permanent and temporary
17 storage areas for wastes.

18 (6) The following provisions of 15A NCAC 13A .0109 shall apply to owners and operators of off-site
19 recycling facilities:

- 20 (A) ~~The~~the substitute financial requirements of Rule .0109(i)(1), (2) and (4); and
- 21 (B) ~~The~~the additional standards of Rule .0109(r)(1), (2), (3), (6) and (7).

22 (7) The owner or operator of an off-site recycling facility shall keep a written operating record at his
23 facility.

24 (8) The following information ~~must~~shall be recorded, as it becomes available, and maintained in the
25 operating record until closure of the facility:

- 26 (A) ~~A~~a description and the quantity of each hazardous waste received, and the method(s) and
27 date(s) of its treatment, storage, or recycling at the facility;
- 28 (B) ~~The~~the location of all hazardous waste within the facility and the quantity at each location.
29 This information ~~must~~shall include cross-references to specific manifest document
30 numbers if the waste was accompanied by a manifest; and
- 31 (C) ~~Documentation~~documentation of the fate of all hazardous wastes received from off-site or
32 generated on-site. This shall include records of the sale, reuse, off-site transfer, or disposal
33 of all waste materials.

34 (o) Permit Fees for Commercial Hazardous Waste Facilities.

35 (1) An applicant for a permit modification for a commercial hazardous waste facility shall pay an
36 application fee for the Class of permit modification defined in 40 CFR 270.42 as follows:

- 37 (A) Class 1 permit modification \$100;

1 (B) Class 2 permit modification \$1,000; or

2 (C) Class 3 permit modification \$5,000.

3 ~~Note:~~ Class 1 permit modifications identified in Appendix I to 40 CFR 270.42 ~~which~~ that do not require prior
4 approval of the Division Director are excluded from the fee requirement.

5 (2) The application fee for a new permit, permit renewal, or permit modification ~~must~~ shall accompany
6 the application, and is non-refundable. The application shall be considered incomplete until the fee
7 is paid. Checks shall be made payable to: Division of Waste Management.

8

9 *History Note: Authority G.S. 130A-294(c); 130A-294.1; 130A-295(a)(1),(2), (c); 150B-21.6;*

10 *Eff. November 19, 1980;*

11 *Amended Eff. November 1, 1989; June 1, 1988; February 1, 1988; December 1, 1987;*

12 *Transferred and Recodified from 10 NCAC 10F .0034 April 4, 1990;*

13 *Amended Eff. August 1, 1990;*

14 *Recodified from 15A NCAC 13A .0014 Eff. August 30, 1990;*

15 *Amended Eff. April 1, 1993; August 1, 1991; October 1, 1990;*

16 *Recodified from 15A NCAC 13A .0013 Eff. December 20, 1996;*

17 *Amended Eff. August 1, 2008; April 1, 2006; August 1, 2004; April 1, 2001; August 1, 2000;*

18 *Temporary Amendment Eff. May 30, ~~2017~~ 2017;*

19 *Readopted Eff. March 1, 2018.*

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21

1 15A NCAC 13A .0114 is amended as published in 32:08 NCR 739 as follows:

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15A NCAC 13A .0114 ~~REQMNTS/AUTHORIZATION~~REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE ~~PROG~~PROGRAMS - PART 271

40 CFR 271.17, "Sharing of ~~information~~Information" has been incorporated by reference including subsequent amendments and editions.

History Note: Authority G.S. 130A-294(c); 150B-21.6;
Eff. January 1, 1986;
Amended Eff. June 1, 1988; December 1, 1987; August 1, 1987; May 1, 1987;
Transferred and Recodified from 10 NCAC 10F .0041 Eff. April 4, 1990;
Recodified from 15A NCAC 13A .0015 Eff. August 30, 1990;
Amended Eff. April 1, 1993; October 1, 1990;
Recodified from 15A NCAC 13A .0014 Eff. December 20, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24,
~~2017-2017~~;
Amended Eff. March 1, 2018.

1 15A NCAC 13A .0116 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0116 ~~SPECIAL—PURPOSE~~ COMMERCIAL HAZARDOUS WASTE FACILITY**
4 **SCORING FOR CATEGORY DETERMINATION**

5 (a) The Department shall evaluate all commercial hazardous waste facilities to determine a score for each facility in
6 accordance with Paragraph (c) of this Rule.

7 (b) A commercial hazardous waste facility (other than an incinerator or a land disposal facility) with a volume of
8 waste of 20,000 tons or less per year of hazardous waste and having a total score pursuant to Paragraph (c) of this
9 Rule of equal to or less than 40 is designated as a ~~special~~"special" purpose commercial hazardous waste
10 ~~facility-facility.~~" These facilities shall be classified as follows:

Total Score	Category
1-11	1
Greater than 11-18	2
Greater than 18-25	3
Greater than 25-32	4
Greater than 32-40	5

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18 (c) A score for each facility shall be determined by adding the total score for Paragraphs (d) through (k) of this Rule
19 and subtracting the score for Paragraph (l) of this Rule.

20 (d) A score shall be assigned for size of the facility by adding the applicable score for storage and the applicable score
21 for treatment using Table 1.

22
23 TABLE 1

Size of Facility	Constructed Capacity	Score
Storage: (gallons)	Less than 10,000	1
	10,000-100,000	2
	Greater than 100,000	3
Treatment: (gallons per day)	Less than 10,000	1
	10,000-100,000	2
	Greater than 100,000	3

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31 (e) A score shall be assigned for type of treatment permitted by adding the score for each type of treatment being
32 performed by the facility using Table 2.

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34 TABLE 2

Type of Treatment Being Performed	Score
Storage Only	1
Solvent Recovery	2

1	Metal Recovery	2
2	Energy Recovery	2
3	Fuel Blending	2
4	Aqueous Treatment	3
5	Stabilization	2
6	Incineration	5
7	Residuals Management	5
8	Other Treatment	2

9 (f) A score shall be assigned for the nature of hazardous waste being treated or stored by adding the score for each
10 type of waste managed at the facility using Table 3. However, if the facility is permitted for storage only and no
11 treatment is performed, the score for the nature of hazardous waste shall be reduced by one-half for each hazardous
12 waste stream stored only.

14 TABLE 3

15	Nature of Hazardous Waste	
16	(from Annual Report as listed in the Permit)	Score
17	Corrosive	1
18	Ignitable	2
19	Reactive	3
20	Toxicity Characteristic	2
21	Listed Toxic	2
22	Acute	3

23 (g) A score shall be assigned for volume of hazardous waste by using the applicable score in Table 4.

25 TABLE 4

26	Volume of Waste (Tons from Annual Report)	Score
27	Less than 2,000	1
28	2,000-10,000	2
29	10,000-20,000	3

30 (h) A score shall be assigned for uniformity, ~~similarity~~ similarity, and lack of diversity of waste streams by using the
31 applicable score in Table 5.

33 TABLE 5

34	Uniformity, Similarity, Lack of Diversity of	
35	Waste Streams (Number of EPA Waste Codes)	
36	As Listed in the Permit	Score
37	Less than 5	1

1	5-75	2
2	Greater than 75	3

3 (i) A score shall be assigned for predictability and treatability of site specific waste streams by using the applicable
4 score in Table 6.

6 TABLE 6

7	Predictability and Treatability of Waste Streams	Score
8	Simple Waste Streams and Treatment	1
9	Complex Waste Streams and Treatment	2
10	(Incompatibles, highly toxic, or multicode waste streams).	

11 (j) A score shall be assigned for compliance history for the past two years by using the highest applicable score in
12 Table 7.

14 TABLE 7

15	Compliance History for Past Two Years	Score
16	Class II Violations	1
17	Class I Violations	2
18	Penalties	3
19	Injunctions	5

20 (k) A score shall be assigned for annual changes, which ~~increase/decrease~~ increase or decrease "sensitive land use"
21 within a ¼ mile radius of the commercial hazardous waste facility's property boundary by using the applicable score
22 in Table 8. Each score shall be added together.

24 TABLE 8

25	Changes in "sensitive land use"	Score
26	Increases	
27	Greater than 5 percent – less than 10 percent increase in the number of residential	1
28	housing units as compared to the baseline.	
29	Greater than or equal to 10 percent increase in the number of residential housing	2
30	units as compared to the baseline, or 30 percent increase in	
31	the number of total sensitive land uses over	
32	a period of the previous four years.	
33	Greater than 50 percent increase in the number of non-residential sensitive	1
34	land uses as compared to the baseline.	
35	Decreases	
36	Greater than 5 percent – less than 10 percent decrease in the number of residential	-1
37	housing units as compared to the baseline.	

1 Greater than or equal to 10 percent decrease in the number of residential housing -2
 2 units as compared to the baseline, or 30 percent decrease in
 3 the number of total sensitive land uses over
 4 a period of the previous four years.

5 Greater than 50 percent decrease in the number of non-residential sensitive -1
 6 land uses as compared to the baseline.

7 "Sensitive land ~~use~~, use," as defined in G.S. 130A-295.01(f), includes residential housing, places of
 8 assembly, places of worship, schools, day care providers, and hospitals. Sensitive land use does not include
 9 retail businesses.

10 "~~Baseline~~," Baseline" means:

- 11 (1) for existing "Special Purpose Commercial Hazardous Waste Facilities" as the January 2008 data
- 12 collected from the local government that has planning jurisdiction over the site on which the facility
- 13 is located; and
- 14 (2) for new "Special Purpose Commercial Hazardous Waste Facilities" as the data from the local
- 15 government that has planning jurisdiction over the site on which the facility is located collected in
- 16 the year in which the facility permit is first issued.

17 (l) A score shall be assigned for on-site reclamation by using the applicable score in Table 9.

18
 19 TABLE 9

20 Reclamation (Credit Given)	20 Score
21 Pretreatment for Off-site Reclamation	21 1
22 On-site Reclamation	22 2

23 (m) The information referred to in Paragraphs (c) through (l) of this Rule shall be determined based on the facility's
 24 permit, the previous year's annual report, and compliance history. If no annual report was submitted, quarterly
 25 projections of waste volume shall be submitted to the Department by the facility. Each facility may be re-evaluated
 26 at any time new information is received by the Department concerning the factors in Paragraphs (c) through (l) of this
 27 Rule.

28 (n) The frequency of inspections at special purpose commercial hazardous waste facilities shall be determined by the
 29 facility's classification as follows:

31 Category	31 Minimum Inspections
32 1	32 2 per month
33 2	33 4 per month
34 3	34 6 per month
35 4	35 8 per month
36 5	36 10 per month

1 *History Note: Authority G.S. 130A-295.02(j);*
2 *Temporary Adoption Eff. February 15, 1991 for a period of 180 days to expire on*
3 *August 14, 1991;*
4 *ARRC Objection Lodged February 25, 1991;*
5 *ARRC Objection Removed March 21, 1991;*
6 *Eff. August 1, 1991;*
7 *Amended Eff. April 1, 1994;*
8 *Recodified from 15A NCAC 13A .0016 Eff. December 20, 1996;*
9 *Amended Eff. January 1, ~~2011-2011~~;*
10 *Readopted Eff. March 1, 2018.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0117

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 13, add "13A" between "NCAC .0116"

*Line 14, should the fee per ton be "\$4.50" or \$2.45, as stated in G.S. 130A-294.1(l)?
Please review or clarify*

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0117 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0117 FEE SCHEDULES ~~SCHEDULE~~ FOR COMMERCIAL HAZARDOUS WASTE**
4 **TREATMENT, STORAGE, AND DISPOSAL FACILITIES**

5 (a) A commercial hazardous waste ~~storage~~, treatment, storage, or disposal facility other than a special purpose facility
6 shall pay monthly, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities as
7 required by G.S. 130A-294.1, a charge of forty-one dollars (\$41.00) per hour of operation. The fee shall be paid for
8 any time when hazardous waste is managed or during periods of maintenance, repair, testing, or calibration. Each
9 facility shall submit an operational schedule to the Department on a quarterly basis.

10 (b) A special purpose commercial hazardous waste facility shall pay monthly, in addition to the fees applicable to all
11 hazardous waste treatment, storage or disposal facilities as required by G.S. 130A-294.1, a charge per ton of hazardous
12 waste received during the previous month and an additional charge based on the ~~frequency of inspections as noted in~~
13 ~~the following schedules:~~ Category as determined in 15A NCAC .0116. Effective January 1, 2013, a special purpose
14 commercial hazardous waste facility shall pay four dollars and fifty cents (\$4.50) per ton of hazardous waste received
15 and:

<u>Category</u>	<u>Monthly Fee</u>
<u>1</u>	<u>\$1,332.00</u>
<u>2</u>	<u>\$2,664.00</u>
<u>3</u>	<u>\$3,996.00</u>
<u>4</u>	<u>\$5,328.00</u>
<u>5</u>	<u>\$6,660.00</u>

22 (1) ~~Effective April 1, 2011 to December 31, 2011, three dollars and fifty cents (\$3.50) per ton of~~
23 ~~hazardous waste received and:~~

<u>Category</u>	<u>Fee</u>
<u>1</u>	<u>\$1,110.00</u>
<u>2</u>	<u>\$2,220.00</u>
<u>3</u>	<u>\$3,330.00</u>
<u>4</u>	<u>\$4,440.00</u>
<u>5</u>	<u>\$5,550.00</u>

30 (2) ~~Effective January 1, 2012 to December 31, 2012, four dollars (\$4.00) per ton of hazardous waste~~
31 ~~received and:~~

<u>Category</u>	<u>Fee</u>
<u>1</u>	<u>\$1,221.00</u>
<u>2</u>	<u>\$2,442.00</u>
<u>3</u>	<u>\$3,663.00</u>
<u>4</u>	<u>\$4,884.00</u>
<u>5</u>	<u>\$6,105.00</u>

1 (3) Effective January 1, 2013, four dollars and fifty cents (\$4.50) per ton of hazardous waste received
2 and:

3 Category	Fee
4 1	\$1,332.00
5 2	\$2,664.00
6 3	\$3,996.00
7 4	\$5,328.00
8 5	\$6,660.00

9
10 *History Note:* Authority G.S. 130A-295.02(h);
11 Temporary Adoption Eff. February 15, 1991 for a period of 180 days to expire on August 14, 1991;
12 ARRC Objection Lodged February 25, 1991;
13 ARRC Objection Removed March 21, 1991;
14 Eff. August 1, 1991;
15 Recodified from 15A NCAC 13A .0017 Eff. December 20, 1996;
16 Amended Eff. April 1, ~~2011-2011~~;
17 Readopted Eff. March 1, 2018.

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0118

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 21 incorporates 40 CFR 279.82, but then Line 23 specifies that 40 CFR 279.82 is not incorporated. Why not simply leave Line 21 to state "279.80 through 279.81" and delete any reference to 40 CFR 279.82, including the proposed amendment and the prior "Note" on line 22? Please review.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0118 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0118 STANDARDS FOR THE MANAGEMENT OF USED OIL**

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

7 (b) 40 CFR 279.10 through 279.12 (Subpart B), "~~Applicability~~,"Applicability" are incorporated by reference
8 including subsequent amendments and editions.

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

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

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

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

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

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

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

26 (j) ~~Additional State Requirements:~~

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

30 (A) ~~Persons transporting more than 500 gallons of used oil per week over public highways;~~

31 (B) ~~Collection facilities that annually receive more than 6,000 gallons of used oil excluding the~~
32 ~~volume of used oil collected from individuals that change their own personal motor oil;~~

33 (C) ~~Facilities that annually recycle more than 10,000 gallons of used oil; and~~

34 (D) ~~Public used oil collection centers.~~

35 (2) ~~The following persons are not required to comply with 15A NCAC 13A .0118(j)(1)~~

36 (A) ~~An electric utility that generates used oil which is reclaimed, recycled, or re refined on site~~
37 ~~for use in its operations; and~~

1 ~~(B) — An on-site burner that burns its own on-specification used oil provided that the facility is~~
2 ~~in compliance with any Air Quality permit requirements established by the Department.~~
3 ~~(3) — An annual fee of twenty five dollars (\$25.00) shall be paid by all persons identified in 15A NCAC~~
4 ~~13A .0118(j)(1)(A) through .0118(j)(1)(C) by July 1 of each year.~~

5
6 *History Note:* *Authority G.S. 130A-294(b),(c); 150B-21.6;*
7 *Eff. October 1, 1993;*
8 *Recodified from 15A NCAC 13A .0018 Eff. December 20, 1996;*
9 *Amended Eff. August 1, 2000;*
10 *Temporary Amendment Eff. May 30, ~~2017~~2017;*
11 *Readopted Eff. March 1, 2018.*

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REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13A .0119

DEADLINE FOR RECEIPT: Thursday, February 8, 2018

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

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

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

Line 32, add a semicolon after “.0501”

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

Abigail M. Hammond
Commission Counsel
Date submitted to agency: Wednesday, January 24, 2018

1 15A NCAC 13A .0119 is readopted as published in 32:08 NCR 739 as follows:

2
3 **15A NCAC 13A .0119 STANDARDS FOR UNIVERSAL WASTE MANAGEMENT - PART 273**

4 (a) 40 CFR 273.1 through 273.9 (Subpart A), "General" are incorporated by reference including subsequent
5 amendments and editions.

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

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

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

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

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

16 (g) 40 CFR 273.80 through 273.81 (Subpart G), "Petitions to ~~include~~Include Other Wastes Under 40 CFR Part 273"
17 are incorporated by reference including subsequent amendments and editions, except that 40 CFR 273.80(a) and (b),
18 are not incorporated by reference.

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

21 Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may
22 petition for a regulatory amendment under this ~~Subpart~~Subpart, and ~~15A NCAC 24B .0001~~15A
23 NCAC 02I .0501 and 40 CFR 260.23.

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

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

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

31 (B) the petition must include the information required by ~~15A NCAC 24B .0001~~15A NCAC
32 02I .0501 and

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

35
36 *History Note:* Authority G.S. 130A-294(c); 150B-21.6;

37 *Eff. January 1, 1996;*

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Recodified from 15A NCAC 13A .0019 Eff. December 20, 1996;
Amended Eff. April 1, 2001; August 1, 1998;
Temporary Amendment Eff. May 30, ~~2017~~, 2017;
Readopted Eff. March 1, 2018.