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

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0535

DEADLINE FOR RECEIPT: August 11, 2022

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

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

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

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

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

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

2					
3	15A NCAC 13B	.0535	APPLICATION REQUIREMENTS FOR C&DLF FACILITIES		
4	(a) New permit as defined in G.S. 130A-294(a3)(1)a, c, d, and e. An applicant for a new C&DLF permit as defined				
5	in G.S. 130A-294(a3)(1)a, c, d, and e shall meet the requirements of Rule .0536 of this Section prior to submitting an				
6	application for a	permit to	o construct.		
7	(1)	Permit	Permit to Construct. An application for a permit to construct for a new permit as defined in G.S.		
8		130A-2	(94(a3)(1)a, c, d, and e shall contain the following:		
9		(A)	a facility plan that describes the comprehensive development of the C&DLF facility		
10			prepared in accordance with Rule .0537 of this Section;		
11		(B)	a design hydrogeologic report prepared in accordance with Rule .0538(b) of this Section;		
12		(C)	an engineering plan for the initial phase of landfill development prepared in accordance		
13			with Rule .0539 of this Section;		
14		(D)	a construction quality assurance plan prepared in accordance with Rule .0541 of this		
15			Section;		
16		(E)	an operation plan prepared in accordance with Rule .0542 of this Section;		
17		(F)	a closure and post-closure plan prepared in accordance with Rule .0543 of this Section;		
18		(G)	monitoring plans prepared in accordance with Rule .0544 of this Section;		
19		(H)	an environmental compliance history for the applicant in accordance with G.S. 130A-		
20			295.3; and		
21		(I)	for an applicant that is not a federal, State, or local government, an organization chart		
22			showing the ownership structure of the applicant.		
23	(2)	Permit	to Operate. The owner and operator shall meet the pre-operative requirements of the permit		
24		to const	truct to qualify the constructed C&DLF unit for a permit to operate.		
25	(b) New permit as defined in G.S. 130A-294(a3)(1)b. An application for a new C&DLF permit as defined in G.S.				
26	130A-294(a3)(1)	b. shall <u>i</u>	identify the proposed expansion and shall contain:		
27	(1)	a facili	ty plan that describes the comprehensive development of the C&DLF facility prepared in		
28		accorda	ance with Rule .0537 of this Section;		
29	(2)	-	overnment approval in accordance with Rule .0536(c)(11) of this Section;		
30	(3)	information that demonstrates compliance with the rules of this Section;			
31	<u>(4)</u> (3)		ronmental compliance history for the applicant in accordance with G.S. 130A-295.3; and		
32	<u>(5)(4)</u>		applicant that is not a federal, State, or local government, an organization chart showing the		
33			hip structure of the applicant.		
34		1	ermit. An application for an amendment to the permit shall contain:		
35	(1)		ated design hydrogeologic report prepared in accordance with Rule .0538(b) of this Section;		
36	(2)	an upda	ated engineering plan prepared in accordance with Rule .0539 of this Section;		

2 Section; 3 (4) an updated operation plan prepared in accordance with Rule .0542 of this Section; 4 (5) an updated closure and post-closure plan prepared in accordance with Rule .0543 of this Section; 5 (6) an updated environmental compliance history for the applicant in accordance with G.S. 130A-295.3; 7 and 8 (8) for an applicant that is not a federal, State, or local government, an updated organization chart 9 showing the ownership structure of the applicant. 10 (d) Modifications to the permit. The owner or operator may propose to modify plans that were prepared and approved 11 in accordance with the requirements set forth in Rules .0531 through .0546 of this Section. A complete application 12 shall identify the requirement(s) proposed for modification and provide information that demonstrates compliance 14 (e) A permit for closure and post-closure. An application for closure and post-closure permit shall contain: 15 (1) an updated construction quality assurance plan prepared in accordance with Rule .0543 of this Section; 18 (3) an updated closure plan and updated post-closure plan prepared in accordance with Rule .0543 of this Section; 19 this Section; and this Section; 18 (3)	1	(3)	an updated construction quality assurance plan prepared in accordance with Rule .0541 of this			
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24 Eff. January 1, 2007; 25 Readopted Eff. September 16, 2021.2021;	22					
25 <i>Readopted Eff. September 16</i> , 2021.2021;	23	History Note:	Authority G.S. 130A-294;			
	24		Eff. January 1, 2007;			
26 <u>Amended Eff. Pending Legislative Review of Session Law Amendments Under Separate Submittal.</u>	25		Readopted Eff. September 16, 2021.<u>2021</u>.			
	26		Amended Eff. Pending Legislative Review of Session Law Amendments Under Separate Submittal.			

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

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .1617

DEADLINE FOR RECEIPT: August 11, 2022

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

1 2 15A NCAC 13B .1617 is amended as published in 36:20 NCR 1634 as follows:

2						
3	15A NCAC 13B .1617		APPLICATION REQUIREMENTS FOR MSWLF FACILITIES			
4	(a) New permit a	as defined in G.S. 130A-294(a3)(1)a, c, d, and e. An applicant for a new MSWLF permit as defined				
5	in G.S. 130A-294	in G.S. 130A-294(a3)(1)a, c, d, and e shall meet the requirements of Rule .1618 of this Section prior to submitting an				
6	application for a	permit t	o construct.			
7	(1)	Permit	to Construct. A complete application for a permit to construct for a new permit as defined in			
8		G.S. 13	30A-294(a3)(1)a, c, d, and e shall contain the following:			
9		(A)	a facility plan that describes comprehensive development of the MSWLF facility prepared			
10			in accordance with Rule .1619 of this Section;			
11		(B)	an engineering plan that is prepared for the initial phase of landfill development prepared			
12			in accordance with Rule .1620 of this Section;			
13		(C)	a construction quality assurance plan prepared in accordance with Rule .1621 of this			
14			Section;			
15		(D)	an operation plan prepared in accordance with Rule .1625 of this Section;			
16		(E)	a closure and post-closure plan prepared in accordance with Rule .1629 of this Section;			
17		(F)	the design hydrogeologic report and monitoring plans prepared in accordance with Rule			
18			.1623(b) of this Section;			
19		(G)	an environmental compliance history for the applicant in accordance with G.S. 130A-			
20			295.3; and			
21		(H)	for an applicant that is not a federal, State, or local government, an organization chart			
22			showing the ownership structure of the applicant.			
23	(2)	Permit	to Operate. The owner or operator shall meet the pre-operative requirements of the permit to			
24		constru	act to qualify the constructed MSWLF unit for a permit to operate.			
25	(b) New permit	as defin	ed in G.S. 130A-294(a3)(1)b. A complete application for a new MSWLF permit as defined			
26	in G.S. 130A-294	4(a3)(1)	b shall identify the proposed expansion and shall contain:			
27	(1)	a facili	ty plan that describes the comprehensive development of the MSWLF facility prepared in			
28		accord	ance with Rule .1619 of this Section;			
29	(2)	local g	overnment approval in accordance with Rule .1618(c)(6) of this Section;			
30	<u>(3)</u>	inform	ation that demonstrates compliance with the rules of this Section;			
31	<u>(4)</u> (3)	an envi	ironmental compliance history for the applicant in accordance with G.S. 130A-295.3; and			
32	<u>(5)(4)</u>	for an a	applicant that is not a federal, State, or local government, an organization chart showing the			
33		owners	ship structure of the applicant.			
34	(c) Amendment	(c) Amendment to the permit. An application for an amendment to the permit shall contain:				
35		(1)	an updated engineering plan prepared in accordance with Rule .1620 of this Section;			
36		(2)	an updated construction quality assurance plan prepared in accordance with Rule .1621 of			
37			this Section;			

1		(3)	an updated operation plan prepared in accordance with Rule .1625 of this Section;		
2		(4)	an updated closure and post-closure plan prepared in accordance with Rule .1629 of this		
3			Section;		
4		(5)	an updated design hydrogeologic report and monitoring plans prepared in accordance with		
5			Rule .1623(b) of this Section;		
6		(6)	an updated environmental compliance history for the applicant in accordance with G.S.		
7			130A-295.3; and		
8		(7)	for an applicant that is not a federal, State, or local government, an updated organization		
9			chart showing the ownership structure of the applicant.		
10	(d) Modificatio	Modifications to the permit. The owner or operator may propose to modify plans that were prepared and approved			
11	in accordance w	in accordance with the requirements set forth in this Section. A complete application shall identify the requirement(s)			
12	proposed for modification and provide information that demonstrates compliance with the rules of this Section.				
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14	(1)	an upda	ated engineering plan prepared in accordance with Rule .1620 of this Section;		
15	(2)	an upd	ated construction quality assurance plan prepared in accordance with Rule .1621 of this		
16		Section	;		
17	(3)	an upda	ated closure plan and updated post-closure plan prepared in accordance with Rule .1629 of		
18		this Sec	ption; and		
19	(4)	for an	applicant that is not a federal, State, or local government, an updated organization chart		
20		showin	g the ownership structure of the applicant.		
21					
22	History Note:	Authori	ity G.S. 130A-294;		
23		Eff. Oct	tober 9, 1993;		
24		Readop	ted Eff. September 16, 2021.2021;		
25		<u>Amende</u>	ed Eff. Pending Legislative Review of Session Law Amendments Under Separate Submittal.		
26					