

CHAPTER 13 - SOLID WASTE MANAGEMENT

SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT

SECTION .0100 - HAZARDOUS WASTE

15A NCAC 13A .0101 GENERAL

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

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

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

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

(d) 40 CFR 260.1 through 260.5 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 260.11, "Incorporation by Reference" is incorporated by reference including subsequent amendments and editions.

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

- (1) Persons interested in receiving rule-making notices concerning the North Carolina Hazardous Waste Management Rules shall submit a written request to the Hazardous Waste Section, 1646 Mail Service Center, Raleigh, N.C. 27699-1646 or send an email request to DENR.DWM_Rules@ncdenr.gov. Upon receipt of each request, individuals shall be placed on a list to receive notices.
- (2) Material incorporated by reference in the Federal Register may be obtained electronically free of charge from the United States Environmental Protection Agency website at <http://www.epa.gov/laws-regulations/regulations>.
- (3) All material is available for inspection at the Department of Environmental Quality, Hazardous Waste Section, 217 West Jones Street, Raleigh, NC and at <https://deq.nc.gov/about/divisions/waste-management/hw/rules>.

*History Note: Authority G.S. 130A-294(c);
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Amended Eff. October 1, 1993; April 1, 1993; October 1, 1992; December 1, 1991;
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Temporary Amendment Eff. May 30, 2017 (replaced by the rule effective March 1, 2018);
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. June 24, 2017;
Amended Eff. July 1, 2020; March 1, 2018.*

15A NCAC 13A .0102 DEFINITIONS

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

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

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

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

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

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

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Temporary Amendment Eff. January 1, 2009;
Amended Eff. July 1, 2010;
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Amended Eff. July 1, 2016;
Temporary Amendment Eff. May 30, 2017 (replaced by the rule effective March 1, 2018);
Readopted Eff. March 1, 2018.

15A NCAC 13A .0103 PETITIONS - PART 260

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

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

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

History Note: Authority G.S. 130A-294(c);
Eff. November 19, 1980;

*Amended Eff. June 1, 1988; May 1, 1987; January 1, 1986; October 1, 1985;
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Temporary Amendment Eff. December 1, 2015;
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15A NCAC 13A .0104 PUBLIC INFORMATION - PART 2

- (a) The provisions concerning requests for information in 40 CFR 2.100 to 2.108 (Subpart A), "Procedures for Disclosure of Records Under the Freedom of Information Act" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 2.107 is not incorporated by reference.
- (b) The address: Hazardous Waste Section - Records Request, Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646 is substituted for the addresses of the Records, FOIA, and Privacy Branch, Office of Environmental Information, Environmental Protection Agency, 1200 Pennsylvania Ave., N.W., Washington, DC 20460 in 40 CFR 2.101(a) and the Headquarters Freedom of Information Operations (1105), 1200 Pennsylvania Ave., N.W., Washington, DC 20460 in 40 CFR 2.213(a).
- (c) The provisions concerning confidentiality of business information in 40 CFR 2.201 to 2.311 (Subpart B), "Confidentiality of Business Information" are incorporated by reference including subsequent amendments and 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 are not incorporated by reference.

*History Note: Authority G.S. 130A-294(c);
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Recodified from 15A NCAC 13A .0005 Eff. August 30, 1990;
Amended Eff. April 1, 1993; October 1, 1990;
Recodified from 15A NCAC 13A .0004 Eff. December 20, 1996;
Amended Eff. May 1, 2002; August 1, 2000;
Readopted Eff. March 1, 2018.*

15A NCAC 13A .0105 RCRA / HAZARDOUS WASTE PERMIT REQUIREMENTS - PART 124

- (a) 40 CFR 124.1 through 124.21 (Subpart A), "General Program Requirements" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 124.31 through 124.33 (Subpart B), "Specific Procedures Applicable to RCRA Permits" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 124.31(a), 124.32(a), and 124.33(a) are not incorporated by reference.
- (1) The following shall be substituted for the provisions of 40 CFR 124.31(a) that are not incorporated by reference:
- (A) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units and shall also apply to RCRA part B applications seeking renewal of permits for such units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a "significant change" is any change that would qualify as a class 3 permit modification under 40 CFR 270.42.
- (B) The requirements of this section shall not apply to permit modifications under 40 CFR 270.42 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.
- (2) The following shall be substituted for the provisions of 40 CFR 124.32(a) that are not incorporated by reference:

- (A) Applicability. The requirements of this section shall apply to all RCRA part B applications seeking initial permits for hazardous waste management units.
 - (B) The requirements of this section shall apply to RCRA part B applications seeking renewal of permits for such units under 40 CFR 270.51.
 - (C) The requirements of this section shall not apply to permit modifications under 40 CFR 270.42 or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.
- (3) The following shall be substituted for the provisions of 40 CFR 124.33(a) that is not incorporated by reference:
 Applicability. The requirements of this section apply to all applications seeking RCRA permits for hazardous waste management units.

History Note: Authority G.S. 130A-294(c);
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 Recodified from 15A NCAC 13A .0005 Eff. December 20, 1996;
 Amended Eff. August 1, 1998;
 Readopted Eff. March 1, 2018.

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

- (a) 40 CFR 261.1 through 261.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 261.10 through 261.11 (Subpart B), "Criteria for Identifying the Characteristics of Hazardous Waste and for Listing Hazardous Waste" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 261.20 through 261.24 (Subpart C), "Characteristics of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 261.30 through 261.35 (Subpart D), "Lists of Hazardous Wastes" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 261.38 through 261.41 (Subpart E), "Exclusions/Exemptions" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 261.140 through 261.151 (Subpart H), "Financial Requirements for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 261.170 through 261.179 (Subpart I), "Use and Management of Containers" are incorporated by reference including subsequent amendments and editions.
- (h) 40 CFR 261.190 through 261.200 (Subpart J), "Tank Systems" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 261.400 through 261.420 (Subpart M), "Emergency Preparedness and Response for Management of Excluded Hazardous Secondary Materials" are incorporated by reference including subsequent amendments and editions.
- (j) 40 CFR 261.1030 through 261.1049 (Subpart AA), "Air Emission Standards for Process Vents" are incorporated by reference including subsequent amendments and editions.
- (k) 40 CFR 261.1050 through 261.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks" are incorporated by reference including subsequent amendments and editions.
- (l) 40 CFR 261.1080 through 261.1090 (Subpart CC), "Air Emission Standards for Tanks and Containers" are incorporated by reference including subsequent amendments and editions.
- (m) The Appendices to 40 CFR Part 261 are incorporated by reference including subsequent amendments and editions.

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

- (a) 40 CFR 262.1 through 262.18 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions. In addition, a small quantity generator shall maintain aisle space of at least two feet in a central accumulation area to allow the unobstructed movement of personnel, fire prevention equipment, spill control equipment, and decontamination equipment.
- (b) 40 CFR 262.20 through 262.27 (Subpart B), "Manifest Requirements Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 262.30 through 262.35 (Subpart C), "Pre-Transport Requirements Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 262.40 through 262.44 (Subpart D), "Recordkeeping and Reporting Applicable to Small and Large Quantity Generators" are incorporated by reference including subsequent amendments and editions. In addition, a generator shall keep records of inspections and results of inspections required by Section 40 CFR 262.16 and 262.17 for three years from the date of the inspection.
- (e) 40 CFR 262.70 (Subpart G), "Farmers" is incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 262.80 through 262.89 (Subpart H), "Transboundary Movements of Hazardous Waste for Recovery or Disposal" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 262.200 through 262.216 (Subpart K), "Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material for Laboratories Owned by Eligible Academic Entities" are incorporated by reference including subsequent amendments and editions.
- (h) 40 CFR 262.230 through 262.233 (Subpart L), "Alternative Standards for Episodic Generation" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 262.250 through 262.265 (Subpart M), "Preparedness, Prevention, and Emergency Procedures for Large Quantity Generators" are incorporated by reference with subsequent amendments and editions. In addition, a large quantity generator shall maintain aisle space of at least two feet in a central accumulation area to allow the unobstructed movement of personnel, fire prevention equipment, spill control equipment, and decontamination equipment.
- (j) The Appendix to 40 CFR Part 262 is incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c);
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**15A NCAC 13A .0108 STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE -
PART 263**

- (a) 40 CFR 263.10 through 263.12 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 263.20 through 263.25 (Subpart B), "Compliance with the Manifest System and Recordkeeping" are incorporated by reference including subsequent amendments and editions.
- (c) Upon discovering a significant manifest discrepancy, the transporter shall attempt to reconcile the discrepancy with the waste generator (e.g. with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the transporter on the 16th day shall submit to the Department a letter describing the discrepancy and attempts to reconcile it with a copy of the manifest or shipping paper at issue.
- (d) "Manifest discrepancies" means differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a transporter actually transports. Significant discrepancies in quantity shall be as follows: for bulk waste, variations greater than 10 percent in weight; and, for batch waste, any variation in piece count (e.g. a discrepancy of one drum in a truckload). Significant discrepancies in type are obvious differences that may be discovered by inspection or waste analysis (e.g. waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper).
- (e) 40 CFR 263.30 through 263.31 (Subpart C), "Hazardous Waste Discharges" are incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c);
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15A NCAC 13A .0109 STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES - PART 264

- (a) Any person who treats, stores, or disposes of hazardous waste shall comply with the requirements set forth in this Section. The treatment, storage, or disposal of hazardous waste is prohibited except as provided in this Section.
- (b) 40 CFR 264.1 through 264.4 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 264.10 through 264.19 (Subpart B), "General Facility Standards" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 264.30 through 264.37 (Subpart C), "Preparedness and Prevention" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 264.50 through 264.56 (Subpart D), "Contingency Plan and Emergency Procedures" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 264.70 through 264.77 (Subpart E), "Manifest System, Recordkeeping, and Reporting" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 264.90 through 264.101 (Subpart F), "Releases From Solid Waste Management Units" are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 264.90(a)(2).
- (h) 40 CFR 264.110 through 264.120 (Subpart G), "Closure and Post-Closure" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 264.140 through 264.151 (Subpart H), "Financial Requirements" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 264.143(a)(3), (a)(4), (a)(5), (a)(6), 40 CFR 264.145(a)(3), (a)(4), (a)(5), (a)(6), and Section 15 of 40 CFR 264.151(a)(1) are not incorporated by reference.
 - (1) The following shall be substituted for the provisions of 40 CFR 264.143(a)(3) that are not incorporated by reference:
 The owner or operator shall deposit the full amount of the closure cost estimate at the time the fund is established.
 - (2) The following shall be substituted for the provisions of 40 CFR 264.143(a)(6) and 264.145(a)(6) that are not incorporated by reference:

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

- (3) The following shall be substituted for the provisions of 40 CFR 264.145(a)(3) that are not incorporated by reference:
- (A) Except as otherwise provided in Part (i)(3)(B) of this Rule, the owner or operator shall deposit the full amount of the post-closure cost estimate at the time the fund is established.
 - (B) If the Department finds that the owner or operator of an inactive hazardous waste disposal unit is unable to provide financial assurance for post-closure through any other option (e.g. surety bond, letter of credit, or corporate guarantee), a plan for annual payments to the trust fund over the term of the RCRA post-closure permit shall be established by the Department as a permit condition.
- (4) The following shall be substituted for Section 15 of 40 CFR 264.151(a)(1) that is not incorporated by reference:
- Section 15. Notice of Payment. The trustee shall notify the Department of payment to the trust fund, by certified mail within 10 days following said payment to the trust fund. The notice shall contain the name of the Grantor, the date of payment, the amount of payment, and the current value of the trust fund.
- (5) Concerning financial assurance for corrective action, the owner or operator shall choose from the financial instrument options provided in 40 CFR 264.145 Subpart H, or any combination of the financial instruments allowed by the Section to satisfy corrective action financial assurance requirements of 40 CFR 264.100 and 264.101. The wording of the financial assurance instrument or instruments shall be consistent with the wording provided in 40 CFR 264.151. The wording of the instrument used shall be modified to include the term "corrective action," as applicable.
- (j) 40 CFR 264.170 through 264.179 (Subpart I), "Use and Management of Containers" are incorporated by reference including subsequent amendments and editions.
- (k) 40 CFR 264.190 through 264.200 (Subpart J), "Tank Systems" are incorporated by reference including subsequent amendments and editions.
- (l) The following are requirements for Surface Impoundments:
- (1) 40 CFR 264.220 through 264.232 (Subpart K), "Surface Impoundments" are incorporated by reference including subsequent amendments and editions.
 - (2) The following are additional standards for surface impoundments:
 - (A) the liner system shall consist of at least two liners;
 - (B) artificial liners shall be equal to or greater than 30 mils in thickness;
 - (C) clayey liners shall be equal to or greater than five feet in thickness and have a maximum permeability of 1.0×10^{-7} cm/sec;
 - (D) clayey liner soils shall have the same characteristics as described in Subparts (r)(4)(B)(ii), (iii), (iv), (vi), and (vii) of this Rule;
 - (E) a leachate collection system shall be constructed between the upper liner and the bottom liner;
 - (F) a leachate detection system shall be constructed below the bottom liner; and
 - (G) surface impoundments shall be constructed in such a manner to prevent landsliding, slippage, or slumping.
- (m) 40 CFR 264.250 through 264.259 (Subpart L), "Waste Piles" are incorporated by reference including subsequent amendments and editions.
- (n) 40 CFR 264.270 through 264.283 (Subpart M), "Land Treatment" are incorporated by reference including subsequent amendments and editions.
- (o) 40 CFR 264.300 through 264.317 (Subpart N), "Landfills" are incorporated by reference including subsequent amendments and editions.
- (p) A long-term storage facility shall meet groundwater protection, closure and post-closure, and financial requirements for disposal facilities as specified in Paragraphs (g), (h), and (i) of this Rule.

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

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

- (1) In addition to the location standards set forth in Paragraph (c) of this Rule, the Department, in determining whether to issue a permit for a hazardous waste management facility, shall consider the risks posed by the proximity of the facility to: water table levels; flood plains; water supplies; public water supply watersheds; mines; population centers; natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites; and shall consider whether provisions have been made for buffer zones. The Department shall also consider ground water travel time, soil pH, soil cation exchange capacity, soil characteristics, composition, and permeability; slope; climate; local land use; transportation factors such as proximity to waste generators, route, route safety, and method of transportation; aesthetic factors such as the visibility, appearance, and noise level of the facility; potential impact on air quality; and existence of seismic activity and cavernous bedrock. The basis for issuing or denying the permit are found in 40 CFR 264 as adopted by reference in this Rule.
- (2) The following minimum separation distances shall be required of all hazardous waste management facilities except that existing facilities shall be required to meet these minimum separation distances to the maximum extent feasible:
 - (A) All hazardous waste management facilities shall be located at least 0.25 miles from institutions including but not limited to schools, health care facilities and prisons, unless the owner or operator demonstrates that no risks shall be posed by the proximity of the facility.
 - (B) All hazardous waste treatment and storage facilities shall comply with the following separation distances: all hazardous waste shall be treated and stored a minimum of 50 feet from the property line of the facility; except that all hazardous waste with ignitable, incompatible, or reactive characteristics shall be treated and stored a minimum of 200 feet from the property line of the facility if the area adjacent to the facility is zoned for any use other than industrial or is not zoned.
 - (C) All hazardous waste landfills, long-term storage facilities, land treatment facilities, and surface impoundments shall comply with the following separation distances:
 - (i) all hazardous waste shall be located a minimum of 200 feet from the property line of the facility;
 - (ii) each hazardous waste landfill, long-term storage, or surface impoundment facility shall be constructed so that the bottom of the facility is 10 feet or more above the historical high ground water level. The historical high ground water level shall be determined by measuring the seasonal high ground water levels and predicting the long-term maximum high ground water level from published data on similar North Carolina topographic positions, elevations, geology, and climate; and
 - (iii) all hazardous waste shall be located a minimum of 1,000 feet from the zone of influence of any existing off-site ground water well used for drinking water, and outside the zone of influence of any existing or planned on-site drinking water well.
 - (D) Hazardous waste storage and treatment facilities for liquid waste that is classified as hazardous waste due to the Toxicity Characteristic, as defined in 40 CFR 261.24, or is classified as Acute Hazardous Waste or Toxic Waste, as defined in 40 CFR 261.30(b), and is stored or treated in tanks or containers shall not be located:
 - (i) in the recharge area of an aquifer that is designated as an existing sole drinking water source as defined in the Safe Drinking Water Act, Section .1424(e) [42 U.S.C. 300h-3(e)] unless an adequate secondary containment system, as described in 40 CFR 264, is constructed, and after consideration of applicable factors in Subparagraph (r)(3) of this Rule, the owner or operator demonstrates no risk to public health;
 - (ii) within 200 feet of surface water impoundments or surface water stream with continuous flow as defined by the United States Geological Survey;

- (iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and 15A NCAC 18C .0102;
 - (iv) in an area that will allow direct surface or subsurface discharge to the watershed for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
 - (v) within 200 feet horizontally of a 100-year floodplain elevation;
 - (vi) within 200 feet of a seismically active area; and
 - (vii) within 200 feet of a mine, cave, or cavernous bedrock.
- (3) The Department shall require any hazardous waste management facility to comply with greater separation distances or other protective measures when necessary to avoid risks posed by the proximity of the facility to: water table levels; flood plains; water supplies; public water supply watersheds; mines; population centers; natural resources such as wetlands, endangered species habitats, parks, forests, wilderness areas, and historical sites; or to provide a buffer zone as required by this Rule. The Department shall also require protective measures when necessary to avoid unreasonable risks posed by the soil pH, soil cation exchange capacity, soil characteristics, composition, and permeability; slope; climate; local land use; transportation factors such as proximity to waste generators, route, route safety, and method of transportation; aesthetic factors such as the visibility, appearance, and noise level of the facility; potential impact on air quality; and the existence of seismic activity and cavernous bedrock. In determining whether to require greater separation distances or other protective measures, the Department shall consider the following factors:
- (A) all proposed hazardous waste activities and procedures to be associated with the transfer, storage, treatment, or disposal of hazardous waste at the facility;
 - (B) the type of hazardous waste to be treated, stored, or disposed of at the facility;
 - (C) the volume of waste to be treated, stored, or disposed of at the facility;
 - (D) land use issues including the number of permanent residents in proximity to the facility and their distance from the facility;
 - (E) the adequacy of facility design and plans for containment and control of sudden and non-sudden accidental events in combination with adequate off-site evacuation of potentially impacted populations;
 - (F) other land use issues including the number of institutional and commercial structures such as airports and schools in proximity to the facility, their distance from the facility, and the particular nature of the activities that take place in those structures;
 - (G) the lateral distance and slope from the facility to surface water supplies or to watersheds draining into surface water supplies;
 - (H) the vertical distance, and type of soils and geologic conditions separating the facility from the water table;
 - (I) the direction and rate of flow of ground water from the sites and the extent and reliability of on-site and nearby data concerning seasonal and long-term groundwater level fluctuations;
 - (J) potential air emissions including rate, direction of movement, dispersion and exposure, whether from planned or accidental, uncontrolled releases; and
 - (K) any other relevant factors.
- (4) The following are additional location standards for hazardous waste landfills, hazardous waste long-term storage facilities, and hazardous waste surface impoundments:
- (A) A hazardous waste landfill, long-term storage, or a surface impoundment facility shall not be located:
 - (i) in the recharge area of an aquifer that is an existing sole drinking water source;
 - (ii) within 200 feet of a surface water stream with continuous flow;
 - (iii) in an area that will allow direct surface or subsurface discharge to WS-I, WS-II or SA waters or a Class III Reservoir as defined in 15A NCAC 02B .0200 and 15A NCAC 18C .0102;
 - (iv) in an area that will allow direct surface or subsurface discharge to a watershed for a Class I or II Reservoir as defined in 15A NCAC 18C .0102;
 - (v) within 200 feet horizontally of a 100-year flood hazard elevation;
 - (vi) within 200 feet of a seismically active area; and

- (vii) within 200 feet of a mine, cave, or cavernous bedrock.
 - (B) A hazardous waste landfill or long-term storage facility shall be located in geologic formations with the following soil characteristics:
 - (i) the depth of the unconsolidated soil materials shall be equal to or greater than 20 feet;
 - (ii) the percentage of fine-grained soil material shall be equal to or greater than 30 percent passing through a number 200 sieve;
 - (iii) soil liquid limit shall be equal to or greater than 30;
 - (iv) soil plasticity index shall be equal to or greater than 15;
 - (v) soil compacted hydraulic conductivity shall be a maximum of 1.0×10^{-7} cm/sec;
 - (vi) soil Cation Exchange Capacity shall be equal to or greater than 5 milliequivalents per 100 grams;
 - (vii) soil Potential Volume Change Index shall be equal to or less than 4; and
 - (viii) 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.
 - (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: the hazardous properties of the waste to be managed; the type of management proposed for the wastes; the mass and volume of the wastes; 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.
 - (B) For the purposes of this Rule, public notice shall include: notification of the boards of county commissioners of the county where the proposed site is to be located and all contiguous counties in North Carolina; a legal advertisement placed in a newspaper or newspapers serving those counties; and provision of a news release to at least one newspaper, one radio station, and one TV station serving these counties. Public notice shall include the time, place, and purpose of the meetings required by this Rule.
 - (C) No less than 30 days after the first public meeting transcript is available at the local public library, the owners and operators shall hold at least one additional public meeting in order to attempt to resolve community concerns. The owners and operators shall provide 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.
- (D) The application, written transcripts of all public meetings, any additional material submitted or used at the meetings, and any additions or corrections to the application, including any responses to notices of deficiencies shall be submitted to the local library closest to and in the county of the proposed site, with a request that the information be made available to the public until the permit decision is made.
 - (E) The Department shall consider unresolved community concerns in the permit review process and impose final permit conditions based on sound scientific, health, safety, and environmental principles as authorized.
- (s) 40 CFR 264.550 through 264.555 (Subpart S), "Special Provisions for Cleanup" are incorporated by reference including subsequent amendments and editions.
 - (t) 40 CFR 264.570 through 264.575 (Subpart W), "Drip Pads" are incorporated by reference including subsequent amendments and editions.
 - (u) 40 CFR 264.600 through 264.603 (Subpart X), "Miscellaneous Units" are incorporated by reference including subsequent amendments and editions.
 - (v) 40 CFR 264.1030 through 264.1049 (Subpart AA), "Air Emission Standards for Process Vents" are incorporated by reference including subsequent amendments and editions.
 - (w) 40 CFR 264.1050 through 264.1079 (Subpart BB), "Air Emission Standards for Equipment Leaks" are incorporated by reference including subsequent amendments and editions.
 - (x) 40 CFR 264.1080 through 264.1091 (Subpart CC), "Air Emission Standards for Tanks, Surface Impoundments, and Containers" are incorporated by reference including subsequent amendments and editions.
 - (y) 40 CFR 264.1100 through 264.1110 (Subpart DD), "Containment Buildings" are incorporated by reference including subsequent amendments and editions.
 - (z) 40 CFR 264.1200 through 264.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives Storage" are incorporated by reference including subsequent amendments and editions.
 - (aa) Appendices to 40 CFR Part 264 are incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c);
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Amended Eff. July 1, 1995; October 1, 1993; April 1, 1993; October 1, 1992;
Recodified from 15A NCAC 13A .0009 Eff. December 20, 1996;
Amended Eff. August 1, 2004; April 1, 2001; April 1, 1999;
Temporary Amendment Eff. May 30, 2017 (replaced by the rule effective March 1, 2018);
Readopted Eff. March 1, 2018.*

15A NCAC 13A .0110 INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES - PART 265

- (a) 40 CFR 265.1 through 265.4 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 265.10 through 265.19 (Subpart B), "General Facility Standards" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 265.30 through 265.37 (Subpart C), "Preparedness and Prevention" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 265.50 through 265.56 (Subpart D), "Contingency Plan and Emergency Procedures" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 265.70 through 265.77 (Subpart E), "Manifest System, Recordkeeping, and Reporting" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 265.90 through 265.94 (Subpart F), "Ground-Water Monitoring" are incorporated by reference including subsequent amendments and editions.

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

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

(1) The following shall be substituted for the provisions of 40 CFR 265.143(a)(3) that are not incorporated by reference:

The owner or operator shall deposit the full amount of the closure cost estimate at the time the fund is established.

(2) The following shall be substituted for the provisions of 40 CFR 265.143(a)(6) and 265.145(a)(6) that are not incorporated by reference:

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

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

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

(B) If the Department finds that the owner or operator of an inactive hazardous waste disposal unit is unable to provide financial assurance for post-closure through any other option (e.g. surety bond, letter of credit, or corporate guarantee), a plan for annual payments to the trust fund during the interim status period shall be established by the Department by use of an order.

(i) 40 CFR 265.170 through 265.178 (Subpart I), "Use and Management of Containers" are incorporated by reference including subsequent amendments and editions.

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

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

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

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

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

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

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

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

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

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

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

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

(v) 40 CFR 265.1100 through 265.1110 (Subpart DD), "Containment Buildings" are incorporated by reference including subsequent amendments and editions.

- (w) 40 CFR 265.1200 through 265.1202 (Subpart EE), "Hazardous Waste Munitions and Explosives Storage" are incorporated by reference including subsequent amendments and editions.
- (x) Appendices to 40 CFR Part 265 are incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c);
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Amended Eff. July 1, 1995; April 1, 1993; October 1, 1992; February 1, 1992;
Recodified from 15A NCAC 13A .0010 Eff. December 20, 1996;
Amended Eff. November 1, 2005; August 1, 2000; April 1, 1999;
Temporary Amendment Eff. May 30, 2017 (replaced by the rule effective March 1, 2018);
Readoption Eff. March 1, 2018.*

15A NCAC 13A .0111 STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES - PART 266

- (a) 40 CFR 266.20 through 266.23 (Subpart C), "Recyclable Materials Used in a Manner Constituting Disposal" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 266.70 (Subpart F), "Recyclable Materials Utilized for Precious Metal Recovery" is incorporated by reference including subsequent amendments and editions. Off-site recycling facilities that receive materials described in 40 CFR 266.70(a) shall mark or label each container and tank holding recyclable materials at off-site precious metal recycling facilities with the words "Recyclable Material."
- (c) 40 CFR 266.80 (Subpart G), "Spent Lead-Acid Batteries Being Reclaimed" is incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 266.100 through 266.112 (Subpart H), "Hazardous Waste Burned in Boilers and Industrial Furnaces" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 266.200 through 266.206 (Subpart M), "Military Munitions" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 266.210 through 266.360 (Subpart N), "Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 266.500 through 266.510 (Subpart P), "Hazardous Waste Pharmaceuticals" are incorporated by reference including subsequent amendments and editions.
- (h) Appendices to 40 CFR Part 266 are incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c);
Eff. July 1, 1985;
Amended Eff. June 1, 1990; June 1, 1988; February 1, 1988; December 1, 1987;
Transferred and Recodified from 10 NCAC 10F .0039 Eff. April 4, 1990;
Recodified from 15A NCAC 13A .0012 Eff. August 30, 1990;
Amended Eff. January 1, 1995; April 1, 1993; August 1, 1991; October 1, 1990;
Recodified from 15A NCAC 13A .0011 Eff. December 20, 1996;
Amended Eff. April 1, 2006; April 1, 2003; April 1, 1999; August 1, 1998;
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15A NCAC 13A .0112 LAND DISPOSAL RESTRICTIONS - PART 268

- (a) 40 CFR 268.1 through 268.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 268.10 through 268.14 (Subpart B), "Schedule for Land Disposal Prohibition and Establishment of Treatment Standards" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 268.20 through 268.39 (Subpart C), "Prohibitions on Land Disposal" are incorporated by reference including subsequent amendments and editions.

- (d) 40 CFR 268.40 through 268.49 (Subpart D), "Treatment Standards" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 268.50 (Subpart E), "Prohibitions on Storage" is incorporated by reference including subsequent amendments and editions.
- (f) Appendices to 40 CFR Part 268 are incorporated by reference including subsequent amendments and editions.

*History Note: Authority G.S. 130A-294(c);
Eff. August 1, 1987;
Amended Eff. June 1, 1990; June 1, 1989; June 1, 1988; February 1, 1988;
Transferred and Recodified from 10 NCAC 10F .0042 Eff. April 4, 1990;
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Amended Eff. April 1, 1995; January 1, 1995; April 1, 1993; February 1, 1991;
Recodified from 15A NCAC 13A .0012 Eff. December 20, 1996;
Amended Eff. November 1, 2005; August 1, 2000; August 1, 1998;
Temporary Amendment Eff. May 30, 2017 (replaced by the rule effective March 1, 2018);
Readopted Eff. March 1, 2018.*

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

- (a) 40 CFR 270.1 through 270.6 (Subpart A), "General Information" are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 26, 1983" shall be substituted for "July 26, 1982" contained in 40 CFR 270.1(c).
- (b) 40 CFR 270.10 through 270.29 (Subpart B), "Permit Application" are incorporated by reference including subsequent amendments and editions.
- (c) In addition to the specific Part B Permit Application information requirements for all hazardous waste facilities as defined in 40 CFR 270.14, the owners and operators of hazardous waste facilities shall provide the following information:
 - (1) description and documentation of the public meetings as required in 15A NCAC 13A .0109(r)(7);
 - (2) a description of the hydrological and geological properties of the site including flood plains, depth to water table, ground water travel time, seasonal and long-term groundwater level fluctuations, proximity to public water supply watersheds, consolidated rock, soil pH, soil cation exchange capacity, soil characteristics, composition, and permeability; existence of cavernous bedrock and seismic activity; slope; mines; climate; location and withdrawal rates of surface water users within the immediate drainage basin and well water users within a one mile radius of the facility; water quality information of both surface and groundwater within 1000 feet of the facility; and a description of the local air quality;
 - (3) a description of the facility's proximity to and potential impact on wetlands, endangered species habitats, parks, forests, wilderness areas, historical sites, mines, and air quality;
 - (4) a description of local land use including residential, industrial, commercial, recreational, agricultural, and the proximity to schools and airports;
 - (5) a description of: the proximity of the facility to waste generators and population centers; a description of the method of waste transportation; the comments of the local community and state transportation authority on the proposed route; and route safety. Comments shall include proposed alternative routes and restrictions necessary to protect the public health;
 - (6) a description of facility aesthetic factors including visibility, appearance, and noise level; and
 - (7) a description of any other objective factors that the Department determines are related and relevant to the proper siting and operation of the facility.
- (d) In addition to the specific Part B Permit Application information requirements for hazardous waste disposal facilities as defined in 40 CFR 270.17 through 270.19 and 270.21, owners, and operators of hazardous waste landfills or longterm storage facilities shall provide the following information:
 - (1) design drawings and specifications of the leachate collection and removal system;
 - (2) design drawings and specifications of the artificial impervious liner;
 - (3) design drawings and specifications of the clay or clay-like liner below the artificial liner, and a description of the permeability of the clay or clay-like liner; and
 - (4) a description of how hazardous wastes will be treated prior to placement in the facility.
- (e) In addition to the specific Part B Permit Application information requirements for surface impoundments as defined in 40 CFR 270.17, owners and operators of surface impoundments shall provide the following information:

- (1) design drawings and specifications of the leachate collection and removal system;
 - (2) design drawings and specifications of all artificial impervious liners;
 - (3) design drawings and specifications of all clay or clay-like liners and a description of the clay or clay-like liner; and
 - (4) design drawings and specifications that show that the facility has been constructed in a manner that will prevent landsliding, slippage, or slumping.
- (f) 40 CFR 270.30 through 270.33 (Subpart C), "Permit Conditions" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 270.40 through 270.43 (Subpart D), "Changes to Permit" are incorporated by reference including subsequent amendments and editions.
- (h) 40 CFR 270.50 through 270.51 (Subpart E), "Expiration and Continuation of Permits" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 270.60 through 270.66 (Subpart F), "Special Forms of Permits" are incorporated by reference including subsequent amendments and editions.
- (j) 40 CFR 270.70 through 270.73 (Subpart G), "Interim Status" are incorporated by reference including subsequent amendments and editions. For the purpose of this incorporation by reference, "January 1, 1986" shall be substituted for "November 8, 1984" contained in 40 CFR 270.73(c).
- (k) 40 CFR 270.235, (Subpart I), "Integration with Maximum Achievable Control Technology (MACT) Standards" is incorporated by reference including subsequent amendments and editions.
- (l) The following are additional permitting requirements for hazardous waste facilities.
- (1) An applicant applying for a permit for a hazardous waste facility shall submit a disclosure statement to the Department as a part of the application for a permit, a permit renewal, or a permit modification that involves a change in owner or operator. The disclosure statement shall be supported by an affidavit attesting to the truth and completeness of the facts asserted in the statement and shall include:
 - (A) a brief description of the form of the business (e.g. partnership, sole proprietorship, corporation, association, or other);
 - (B) the name and address of any hazardous waste facility constructed or operated after October 21, 1976 by the applicant or any parent or subsidiary corporation if the applicant is a corporation;
 - (C) a list identifying any legal action taken against any facility identified in Part (l)(1)(B) of this Rule involving:
 - (i) any administrative ruling or order issued by any state, federal, or local authority relating to revocation of any environmental or waste management permit or license, or to a violation of any state or federal statute or local ordinance relating to waste management or environmental protection;
 - (ii) any judicial determination of liability or conviction under any state or federal law or local ordinance relating to waste management or environmental protection; and
 - (iii) any pending administrative or judicial proceeding of the type described in this Part; and
 - (D) the identification of each action described in Part (l)(1)(C) of this Rule shall include the name and location of the facility that the action concerns, the agency or court that heard or is hearing the matter, the title, docket or case number, and the status of the proceeding.
 - (2) In addition to the information set forth in Subparagraph (l)(1) of this Rule, the Department shall require from any applicant additional information as it deems necessary to satisfy the requirements of G.S. 130A-295. The information may include:
 - (A) the names, addresses, and titles of all officers, directors, or partners of the applicant and of any parent or subsidiary corporation if the applicant is a corporation;
 - (B) the name and address of any company in the field of hazardous waste management in which the applicant business or any of its officers, directors, or partners, hold an equity interest and the name of the officer, director, or partner holding such interest; and
 - (C) a copy of any administrative ruling or order and of any judicial determination of liability or conviction described in Part (l)(1)(C) of this Rule, and a description of any pending administrative or judicial proceeding in that item.

- (3) If the Department finds that any part or parts of the disclosure statement is not necessary to satisfy the requirements of G.S. 130A-295, the information shall not be required.
- (m) An applicant for a new or modification to an existing commercial facility permit shall provide a description and justification of the need for the facility.
- (n) Requirements for Off-site Recycling Facilities.
- (1) The permit requirements of 15A NCAC 13A .0109 apply to owners and operators of off-site recycling facilities unless excluded in Subparagraph (n)(2) of this Rule.
 - (2) Requirements of Subparagraphs (n)(4), (5), (6), (7) and (8) of this Rule do not apply to owners and operators of off-site recycling facilities that recycle only precious metals as described in 40 CFR 40 CFR 266.70(a).
 - (3) Off-site facilities that recycle precious metals shall comply with the regulations as described in 15A NCAC 13A .0111(b).
 - (4) Notwithstanding any other statement of applicability, the following provisions of 40 CFR 264 shall apply to owners and operators of off-site recycling facilities except those excluded in Subparagraph (n)(2) of this Rule:
 - (A) Subpart B - General Facility Standards;
 - (B) Subpart C - Preparedness and Prevention;
 - (C) Subpart D - Contingency Plan and Emergency Procedures;
 - (D) Subpart E - Manifest System, Recordkeeping and Reporting;
 - (E) Subpart G - Closure and Post-closure;
 - (F) Subpart H - Financial Requirements;
 - (G) Subpart I - Use and Management of Containers;
 - (H) Subpart J - Tank Systems;
 - (I) 264.101 - Corrective Action for Solid Waste Management Units;
 - (J) Subpart X - Miscellaneous Units; and
 - (K) Subpart DD - Containment Buildings.
 - (5) The requirements listed in Subparagraph (n)(4) of this Rule apply to the entire off-site recycling facility, including all recycling units, staging and process areas, and permanent and temporary storage areas for wastes.
 - (6) The following provisions of 15A NCAC 13A .0109 shall apply to owners and operators of off-site recycling facilities:
 - (A) the substitute financial requirements of Rule .0109(i)(1), (2) and (4); and
 - (B) the additional standards of Rule .0109(r)(1), (2), (3), (6) and (7).
 - (7) The owner or operator of an off-site recycling facility shall keep a written operating record at his facility.
 - (8) The following information shall be recorded and maintained in the operating record until closure of the facility:
 - (A) a description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or recycling at the facility;
 - (B) the location of all hazardous waste within the facility and the quantity at each location. This information shall include cross-references to specific manifest document numbers if the waste was accompanied by a manifest; and
 - (C) documentation of the fate of all hazardous wastes received from off-site or generated on-site. This shall include records of the sale, reuse, off-site transfer, or disposal of all waste materials.
- (o) Permit Fees for Commercial Hazardous Waste Facilities.
- (1) An applicant for a permit modification for a commercial hazardous waste facility shall pay an application fee for the Class of permit modification defined in 40 CFR 270.42 as follows:
 - (A) Class 1 permit modification \$100;
 - (B) Class 2 permit modification \$1,000; or
 - (C) Class 3 permit modification \$5,000.Class 1 permit modifications identified in Appendix I to 40 CFR 270.42 that do not require prior approval of the Division Director are excluded from the fee requirement.
 - (2) The application fee for a new permit, permit renewal, or permit modification shall accompany the application, and is non-refundable. The application shall be considered incomplete until the fee is paid. Checks shall be made payable to: Division of Waste Management.

History Note: Authority G.S. 130A-294(c); 130A-294.1; 130A-295(a)(1),(2), (c);
 Eff. November 19, 1980;
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 Amended Eff. August 1, 1990;
 Recodified from 15A NCAC 13A .0014 Eff. August 30, 1990;
 Amended Eff. April 1, 1993; August 1, 1991; October 1, 1990;
 Recodified from 15A NCAC 13A .0013 Eff. December 20, 1996;
 Amended Eff. August 1, 2008; April 1, 2006; August 1, 2004; April 1, 2001; August 1, 2000;
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 Readopted Eff. March 1, 2018.

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

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

History Note: Authority G.S. 130A-294(c);
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 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;
 Amended Eff. March 1, 2018.

15A NCAC 13A .0115 ANNUAL REPORTS

History Note: Authority G.S. 130A-294(c);
 Eff. January 1, 1984;
 Transferred and Recodified from 10 NCAC 10F .0037 Eff. April 4, 1990;
 Recodified from 15A NCAC 13A .0004 Eff. August 30, 1990;
 Repealed Eff. May 1, 1991;
 Recodified from 15A NCAC 13A .0015 Eff. December 20, 1996.

15A NCAC 13A .0116 COMMERCIAL HAZARDOUS WASTE FACILITY SCORING FOR CATEGORY DETERMINATION

- (a) The Department shall evaluate all commercial hazardous waste facilities to determine a score for each facility in accordance with Paragraph (c) of this Rule.
- (b) A commercial hazardous waste facility (other than an incinerator or a land disposal facility) with a volume of waste of 20,000 tons or less per year of hazardous waste and having a total score pursuant to Paragraph (c) of this Rule of equal to or less than 40 is designated as a "special purpose commercial hazardous waste 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

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

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

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

Type of Treatment Being Performed	Score
Storage Only	1
Solvent Recovery	2
Metal Recovery	2
Energy Recovery	2
Fuel Blending	2
Aqueous Treatment	3
Stabilization	2
Incineration	5
Residuals Management	5
Other Treatment	2

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

Nature of Hazardous Waste (from Annual Report as listed in the Permit)	Score
Corrosive	1
Ignitable	2
Reactive	3
Toxicity Characteristic	2
Listed Toxic	2
Acute	3

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

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

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

Uniformity, Similarity, Lack of Diversity of Waste Streams (Number of EPA Waste Codes) As Listed in the Permit	Score
Less than 5	1
5-75	2

Greater than 75 3

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

TABLE 6

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

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

TABLE 7

Compliance History for Past Two Years	Score
Class II Violations	1
Class I Violations	2
Penalties	3
Injunctions	5

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

TABLE 8

Changes in "sensitive land use"	Score
Increases	
Greater than 5 percent – less than 10 percent increase in the number of residential housing units as compared to the baseline.	1
Greater than or equal to 10 percent increase in the number of residential housing units as compared to the baseline, or 30 percent increase in the number of total sensitive land uses over a period of the previous four years.	2
Greater than 50 percent increase in the number of non-residential sensitive land uses as compared to the baseline.	1
Decreases	
Greater than 5 percent – less than 10 percent decrease in the number of residential housing units as compared to the baseline.	-1
Greater than or equal to 10 percent decrease in the number of residential housing units as compared to the baseline, or 30 percent decrease in the number of total sensitive land uses over a period of the previous four years.	-2
Greater than 50 percent decrease in the number of non-residential sensitive land uses as compared to the baseline.	-1

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

"Baseline" means:

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

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

TABLE 9

Reclamation (Credit Given)	Score
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Pretreatment for Off-site Reclamation

1

On-site Reclamation

2

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

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

Category	Minimum Inspections
1	2 per month
2	4 per month
3	6 per month
4	8 per month
5	10 per month

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

15A NCAC 13A .0117 FEE SCHEDULE FOR COMMERCIAL HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

(a) A commercial hazardous waste treatment, storage, or disposal facility other than a special purpose facility shall pay monthly, in addition to the fees applicable to all hazardous waste storage, treatment, or disposal facilities as 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 any time when hazardous waste is managed or during periods of maintenance, repair, testing, or calibration. Each facility shall submit an operational schedule to the Department on a quarterly basis.

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

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

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

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

- (a) 40 CFR 279.1 (Subpart A), "Definitions" is incorporated by reference including subsequent amendments and editions, except that the Definition for "Used Oil" is defined by G.S. 130A-290(b) and is not incorporated by reference.
- (b) 40 CFR 279.10 through 279.12 (Subpart B), "Applicability" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 279.20 through 279.24 (Subpart C), "Standards for Used Oil Generators" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 279.30 through 279.32 (Subpart D), "Standards for Used Oil Collection Centers and Aggregation Points" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 279.40 through 279.47 (Subpart E), "Standards for Used Oil Transporter and Transfer Facilities" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 279.50 through 279.59 (Subpart F), "Standards for Used Oil Processors and Re-Refiners" are incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 279.60 through 279.67 (Subpart G), "Standards for Used Oil Burners Who Burn Off-Specification Used Oil for Energy Recovery" are incorporated by reference including subsequent amendments and editions.
- (h) 40 CFR 279.70 through 279.75 (Subpart H), "Standards for Used Oil Fuel Marketers" are incorporated by reference including subsequent amendments and editions.
- (i) 40 CFR 279.80 through 279.81 (Subpart I), "Standards for Use as a Dust Suppressant and Disposal of Used Oil" are incorporated by reference including subsequent amendments and editions. G.S. 130A-309.15 provides additional information for prohibited acts regarding used oil, including used oil as a dust suppressant.

History Note: Authority G.S. 130A-294(b),(c);
Eff. October 1, 1993;
Recodified from 15A NCAC 13A .0018 Eff. December 20, 1996;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. May 30, 2017 (replaced by the rule effective March 1, 2018);
Readopted Eff. March 1, 2018.

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

- (a) 40 CFR 273.1 through 273.9 (Subpart A), "General" are incorporated by reference including subsequent amendments and editions.
- (b) 40 CFR 273.10 through 273.20 (Subpart B), "Standards for Small Quantity Handlers of Universal Waste" are incorporated by reference including subsequent amendments and editions.
- (c) 40 CFR 273.30 through 273.40 (Subpart C), "Standards for Large Quantity Handlers of Universal Waste" are incorporated by reference including subsequent amendments and editions.
- (d) 40 CFR 273.50 through 273.56 (Subpart D), "Standards for Universal Waste Transporters" are incorporated by reference including subsequent amendments and editions.
- (e) 40 CFR 273.60 through 273.62 (Subpart E), "Standards for Destination Facilities" are incorporated by reference including subsequent amendments and editions.
- (f) 40 CFR 273.70 (Subpart F), "Import Requirements" is incorporated by reference including subsequent amendments and editions.
- (g) 40 CFR 273.80 through 273.81 (Subpart G), "Petitions to Include Other Wastes Under 40 CFR Part 273" are incorporated by reference including subsequent amendments and editions, except that 40 CFR 273.80(a) and (b), are not incorporated by reference.
 - (1) The following shall be substituted for the provisions of 40 CFR 273.80(a) that are not incorporated by reference:
Any person seeking to add a hazardous waste or a category of hazardous waste to this Part may petition for a regulatory amendment under this Subpart, 15A NCAC 02I .0501 and 40 CFR 260.23.
 - (2) The following shall be substituted for the provisions of 40 CFR 273.80(b) that are not incorporated by reference:
To be successful, the petitioner shall demonstrate to the satisfaction of the Administrator that regulation under the universal waste regulations of 40 CFR Part 273 is:

- (A) appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the hazardous waste program;
- (B) the petition shall include the information required by 15A NCAC 02I .0501; and
- (C) the petition shall also address as many of the factors listed in 40 CFR 273.81 as are appropriate for the waste or waste category addressed in the petition.

History Note: Authority G.S. 130A-294(c);
Eff. January 1, 1996;
Recodified from 15A NCAC 13A .0019 Eff. December 20, 1996;
Amended Eff. April 1, 2001; August 1, 1998;
Temporary Amendment Eff. May 30, 2017 (replaced by the rule effective March 1, 2018);
Readopted Eff. March 1, 2018.