

15A NCAC 13B .0536 SITE STUDY FOR C&DLF FACILITIES

(a) Purpose. As required under Rule .0535 of this Section, the owner or operator shall prepare a site study that meets the requirements of this Rule. The Division shall review the site study for a proposed new facility prior to consideration of an application for a permit to construct to determine if the site is suitable for establishing a C&DLF unit because nothing would prevent the C&DLF unit from being able to be constructed and operated in accordance with Article 9 of Chapter 130A of the General Statutes, the rules of this Subchapter, and the Federal Resource Conservation and Recovery Act, as amended. Following review of the site study, the Division shall notify the applicant that either:

- (1) the site is deemed suitable for establishing a C&DLF unit and the applicant is authorized to prepare an application for a permit to construct in accordance with Rule .0535 of this Section and the site-specific conditions and design requirements stated in the notification, if any; or
- (2) the site is deemed unsuitable for establishing a C&DLF unit and shall specify the reasons that would prevent the C&DLF unit from being constructed and operated in accordance with Article 9 of Chapter 130A of the General Statutes, the rules of this Subchapter, and any applicable federal laws and regulations.

(b) Scope. The site shall be the land that is proposed for the landfill facility. The site study shall present a characterization of the land, incorporating various investigations and requirements pertinent to suitability of a C&DLF facility. The scope of the site study shall include criteria associated with the public health, public welfare, and the environment. The economic feasibility of a proposed site shall not be within the scope of this study. The information in the site study shall represent site characteristics and, if required by G.S. 89C, 89E, or 89F and not under the purview of another licensed profession, shall be prepared by licensed professional engineers, licensed geologists, licensed soil scientists, or licensed professional land surveyors. A C&DLF unit shall comply with the location restrictions set forth in Subparagraphs (c)(4) through (c)(10) of this Rule. To demonstrate compliance with specific criteria for each of the respective location restrictions, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study.

(c) The site study prepared for a C&DLF facility shall include the information required by this Paragraph.

- (1) Characterization study. The site characterization study area includes the landfill facility and a 2000-foot perimeter measured from the proposed boundary of the landfill facility. The study shall include an aerial photograph taken within one year of the date the site study is submitted to the Division, a report, and a local map. The map and photograph shall be at a scale of at least one inch equals 400 feet. The study shall identify the following:
 - (A) the entire property proposed for the disposal site and any on-site easements;
 - (B) existing land use and zoning;
 - (C) the location of residential structures and schools;
 - (D) the location of commercial and industrial buildings, and other potential sources of contamination;
 - (E) the location of potable wells and public water supplies;
 - (F) historic sites;
 - (G) state nature and historic preserves;
 - (H) the existing topography and features of the disposal site including: general surface water drainage patterns and watersheds, 100-year floodplains, perennial and intermittent streams, rivers, and lakes; and
 - (I) the classification of the surface water drainage from landfill site in accordance with 15A NCAC 02B .0300.
- (2) Proposed Facility Plan. A conceptual plan for the development of the facility shall be prepared that includes the drawings and reports described in Rule .0537(d)(1), (e)(1), (e)(2), and (e)(3) of this Section.
- (3) Site Hydrogeologic Report. The study shall be prepared in accordance with the requirements set forth in Rule .0538(a) of this Section.
- (4) Floodplain Location Restrictions. A C&DLF unit shall meet the floodplain requirements of G.S. 130A-295.6(c)(1) in accordance with the effective date and applicability requirements of S.L. 2007-550, s. 9.(b). C&DLF units that are not subject to the requirements of G.S. 130A-295.6(c)(1) shall not be located in floodplains unless the owners or operators demonstrate that the unit will not restrict the flow of the flood, reduce the temporary water storage capacity of the floodplain, or result in the carrying away of solid waste by flood waters.

- (5) Wetlands Location Restriction. For purposes of this Rule, "wetland" or "wetlands" shall mean the areas defined in 40 CFR 232.2(r). C&DLF units shall meet the wetland location restrictions of G.S. 130A-295.6(c)(2) in accordance with the effective date and applicability requirements of S.L. 2007-550, s. 9.(b). C&DLF units exempt from G.S. 130A-295.6(c)(2) shall not be located in wetlands, unless the owner or operator demonstrates the following for Division approval.
- (A) Where applicable under Section 404 of the Clean Water Act or G.S. 113A, 130A, or 143, the presumption that a practicable alternative to the proposed landfill facility is available which does not involve wetlands is rebutted.
 - (B) The construction and operation of the C&DLF unit shall not cause or contribute to violations of any applicable State water quality standards and shall not violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act.
 - (C) The construction and operation of the C&DLF unit shall not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973, or violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary.
 - (D) The construction and operation of the C&DLF unit shall not cause or contribute to degradation of wetlands.
 - (E) The owner or operator shall demonstrate the integrity of the C&DLF unit and its ability to protect ecological resources by addressing the following factors: erosion, stability, and migration potential of native wetland soils, muds, and deposits used to support the C&DLF unit; erosion, stability, and migration potential of dredged and fill materials used to support the C&DLF unit; the volume and chemical nature of the waste managed in the C&DLF unit; impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste; the potential effects of release of waste to the wetland and the resulting impacts on the environment; and any additional factors to demonstrate that ecological resources in the wetland are protected to the extent required under Section 404 of the Clean Water Act and G.S. 113A, 130A, and 143.
 - (F) The owner or operator shall demonstrate that steps have been taken to attempt to achieve no net loss of wetlands, as defined by acreage and function, by avoiding impacts to wetlands as required by Parts (A) through (D) of this Subparagraph and offsetting remaining unavoidable wetland impacts through compensatory mitigation actions such as restoration of existing degraded wetlands or creation of man-made wetlands.
 - (G) The Division may request additional information if it is necessary to determine compliance with this Subparagraph.
- (6) Unstable Area Location Restrictions. Owners and operators of C&DLF units proposed for location in an unstable area shall demonstrate that the C&DLF unit's design ensures that the integrity of any structural components of the C&DLF unit will not be disrupted. The owner and operator shall consider the following factors when determining whether an area is unstable:
- (A) on-site or local soil conditions that may result in differential settling;
 - (B) on-site or local geologic or geomorphologic features; and
 - (C) on-site or local human-made features or events, both surface and subsurface.
- (7) Cultural Resources Location Restrictions. A C&DLF unit shall not damage or destroy a property of archaeological or historical significance which has been listed on the National Register of Historic Places or included on the Study List for the Register pursuant to 07 NCAC 04R .0206 and .0300, which are incorporated by reference including subsequent amendments and editions. A letter from the State Historic Preservation Office within the Department of Natural and Cultural Resources stating whether the proposed use of the property will impact properties of archaeological or historical significance shall be included in the site study.
- (8) State Nature and Historic Preserve Location Restrictions. The location, access, size, and operation of the C&DLF unit shall not damage, destroy, or degrade any lands included in the State Nature and Historic Preserve pursuant to G.S. 143-260.10. A letter from the Natural Heritage Program Office within the Department of Natural and Cultural Resources stating whether the proposed use of the property will damage, destroy, or degrade state nature and historic preserve locations shall be included in the site study.

- (9) Water Supply Watersheds Location Restrictions.
- (A) At the time that an C&DLF unit receives the first permit approval to construct, a C&DLF unit shall not be located in the critical area of a water supply watershed, or in the watershed for a stream segment classified as WS-I, or in watersheds of other water bodies which indicate that no new landfills are allowed in accordance with 15A NCAC 02B .0200.
 - (B) A C&DLF unit that proposes to discharge leachate to surface waters shall obtain a National Pollution Discharge Elimination System (NPDES) Permit from the Department pursuant to Section 402 of the United States Clean Water Act.
 - (C) At the time that a C&DLF unit receives the first permit approval to construct, an C&DLF unit that proposes to discharge leachate to surface waters shall not be located within watersheds classified as WS-II or WS-III, or in watersheds of other water bodies which indicate that no new discharging landfills are allowed, in accordance with 15A NCAC 02B .0200.
- (10) Endangered and Threatened Species Location Restrictions. A C&DLF unit shall not jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973, Public Law 93-205, as amended.
- (11) Local government approvals for C&DLFs.
- (A) If the permit applicant is a unit of local government and the proposed C&DLF unit is located within the permit applicant's jurisdiction, the approval of the local governing board shall be required. Approval may be in the form of a resolution or a vote on a motion. A copy of the resolution or the minutes of the meeting where the vote was taken shall be submitted to the Division as part of the site study. Prior to issuance of approval, the jurisdictional local government where the C&DLF unit is to be located shall hold at least one public meeting to inform the community of the proposed waste management activities as described in the proposed facility plan prepared in accordance with Subparagraph (2) of this Paragraph. The local government where the C&DLF unit is to be located shall provide a public notice of the meeting at least 30 days prior to the meeting, shall place the proposed facility plan in a location accessible by the public, and shall make the location known in the public notice.
 - (B) A permit applicant other than the unit of local government with jurisdiction over the proposed C&DLF unit shall obtain a franchise in accordance with G.S. 130A-294(b1). A copy of the franchise shall be submitted to the Division as part of the site study. Prior to issuance of a franchise, the jurisdictional local government where the C&DLF unit is to be located shall conduct a public hearing in accordance with the public notification requirements of G.S. 130A-294(b1)(3) and in accordance with the publication and documentation requirements of Parts (C) and (D) of this Subparagraph.
 - (C) Public notice required by this Subparagraph shall be given by publication on the jurisdictional local government website, publication by a local news organization, and by other methods that the Division may request, such as posting in the post office and public places of the municipalities nearest the site under consideration, or posting on social media or mass mailings, if it is necessary to give actual notice of the activities to potentially affected persons. Public notice shall include time, place, and purpose of the meetings required by this Subparagraph.
 - (D) Public notice shall be documented in the site study. A recording or a written transcript of the meeting, all written material submitted representing community concerns, and all other written material distributed or used at the meeting pertaining to the proposed C&DLF unit shall be submitted as part of the site study.
 - (E) A letter from the unit of local government(s) having zoning jurisdiction over the site which states that the proposal meets all the requirements of the local zoning ordinance, or that the site is not zoned, shall be submitted to the Division as part of the site study.

History Note: Authority G.S. 130A-294;
Eff. January 1, 2007;
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