

### **15A NCAC 13B .1603 GENERAL APPLICATION REQUIREMENTS AND PROCESSING**

(a) Applicability. An owner and operator of a proposed or existing facility shall submit an application document as detailed in Rule .1617 of this Section according to the criteria and scheduling requirements set forth in this Paragraph.

- (1) New facility. An owner and operator proposing to establish a MSWLF facility according to the following criteria shall submit a Site Study and subsequently, an application for a permit to construct as set forth in Paragraph (a) of Rule .1617.
  - (A) The owner and operator proposes to establish a new facility not previously permitted by the Division.
  - (B) The owner or operator proposes expanding the landfill facility in order to expand the MSWLF unit boundary approved in accordance with Subparagraph (a)(1) of Rule .1618.
  - (C) The owner or operator of an existing facility is scheduled to close an existing MSWLF unit not constructed with a base liner system and proposes to establish a new MSWLF unit.
  - (D) A transfer of facility ownership is proposed.
  - (E) A substantial change to the waste stream defined in the effective permit.
- (2) Amendment to the permit. A permit to construct issued in accordance with Paragraph (c) of this Rule approves a facility plan for the life of the MSWLF facility and a set of plans for the initial phase of landfill development. The owner and operator shall prepare an application to amend the permit to construct for any subsequent phase of landfill development in accordance with Paragraph (b) of Rule .1617 and submit the application:
  - (A) At least 180 days prior to the date scheduled for commencing construction; or
  - (B) Five years from the issuance date of the initial permit to construct or the most recent amendment, whichever occurs first.
- (3) Modifications to the permit. An owner or operator proposing changes to the plans approved in the permit shall request prior approval from the Division in accordance with Paragraph (c) of Rule .1617.
- (4) Transition for existing facilities.
  - (A) Existing MSWLF units. The owner and operator of an existing MSWLF unit shall submit an application for continuing operation and closing the MSWLF unit. The application shall be prepared in accordance with Paragraph (d) of Rule .1617 and shall be submitted on or before April 9, 1994. The operation plan required in the transition application shall be prepared and submitted according to Rule .1625 of this Section.
  - (B) Lateral expansion and new MSWLF units. Construction of a lateral expansion of an existing MSWLF unit or a new MSWLF unit is subject to the application requirements for permit renewal set forth in Subparagraph (5) of this Paragraph, unless the criteria set forth in Part (1)(C) of this Paragraph is applicable.
- (5) Permit renewal. The owner and operator shall prepare and submit an application for permit renewal in accordance with Paragraph (e) of Rule .1617 and the following:
  - (A) The following criteria is established for the scheduling permit renewal:
    - (i) Location of the MSWLF unit conforms to the requirements set forth in Items (1), (2), (3), (4), (5), and (6) of Rule .1622;
    - (ii) Construction of the MSWLF unit is approved by the effective permit and conforms to the requirements of Subparagraph (b)(1) of Rule .1624; and
    - (iii) Updated operation, closure and post-closure, and monitoring plans meet the requirements set forth in this Section.
  - (B) An owner or operator that demonstrates compliance with the criteria set forth in Part (A) of this Subparagraph shall submit an application five years from the issuance date of the original permit to construct or at least 180 days prior to the date scheduled for constructing a phase of landfill development not approved in the effective permit to construct, whichever occurs first.
  - (C) An owner or operator that cannot demonstrate compliance with the criteria set forth in Part (A) of this Subparagraph shall submit an application at least 180 days prior to the date scheduled for commencing construction of the base liner system.

(b) Application format guidelines. All applications and plans required by this Section shall be prepared in accordance with the following guidelines:

- (1) The initial application shall:
  - (A) Contain a cover sheet, stating the project title and location, the applicant's name, and the engineer's name, address, signature, date of signature and seal; and

- (B) Contain a statement defining the purpose of the submittal signed and dated by the applicant.
  - (2) The text of the application shall:
    - (A) Be submitted in a three ring binder;
    - (B) Contain a table of contents or index outlining the body of the application and the appendices;
    - (C) Be paginated consecutively; and
    - (D) Identify revised text by noting the date of revision on the page.
  - (3) Drawings. The engineering drawings for all landfill facilities shall be submitted using the following format:
    - (A) The sheet size with title blocks shall be at least 22 inches by 34 inches.
    - (B) The cover sheet shall include the project title, applicant's name, sheet index, legend of symbols, and the engineer's name, address, signature, date of signature, and seal.
    - (C) Where the requirements do not explicitly specify a minimum scale, maps and drawings shall be prepared at a scale which adequately illustrates the subject requirement(s).
  - (4) Number of copies. An applicant shall submit a minimum of five copies of each original application document and any revisions to the Division. The Division may request additional copies as necessary.
- (c) Permitting and public information procedures.
- (1) Purpose, Scope and Applicability.
    - (A) Purpose. The permitting process shall provide for public review of and input to permit documents containing the applicable design and operating conditions and shall provide for consideration of comments received and notification to the public of the final permit design.
    - (B) Scope. Public participation in the permitting process shall ensure that the public is informed regarding decisions affecting the management of MSWLFs located in their community. Public comment regarding permit renewals for existing facilities shall be limited to new information pertinent to the permit to construct a lateral expansion or a new MSWLF unit.
    - (C) Applicability. Applications for Permit to Construct a new facility or permit renewals for an existing facility or a modification to the permit involving corrective remedy selection required by Rule .1636 of this Section shall be subject to the requirements of this Paragraph. Applications submitted in accordance with Subparagraphs (a)(2), (a)(3), and (a)(4)(A) of this Rule are not subject to the requirements of this Paragraph.
  - (2) Draft Permits.
    - (A) Once an application is complete, the Division shall tentatively decide whether the permit should be issued or denied.
    - (B) If the Division decides the permit should be denied, a notice to deny shall be sent to the applicant. Reasons for permit denial shall be in accordance with Rule .0203(e) of this Subchapter.
    - (C) If the Division tentatively decides the permit should be issued, a draft permit shall be prepared.
    - (D) A draft permit shall contain (either expressly or by reference) all applicable terms and conditions for the permit.
    - (E) All draft permits shall be subject to the procedures of Subparagraphs (3), (4), (5), (6), (7) and (8) of this Paragraph, unless otherwise specified in those Subparagraphs.
  - (3) Fact Sheets.
    - (A) A fact sheet shall be prepared for every draft permit or notice to deny the permit.
    - (B) The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit to include, when applicable:
      - (i) A brief description of the type of facility or activity which is the subject of the draft permit;
      - (ii) The type and quantity of wastes which are proposed to be or are being disposed of;
      - (iii) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the permit application;
      - (iv) A description of the procedures for reaching a final decision on the draft permit, including:
        - (I) The beginning and ending dates of the comment period under Subparagraph (4) of this Paragraph and the address where comments will be received;
        - (II) Procedures for requesting a public hearing; and

- (III) Any other procedures by which the public may participate in the final decision; and
    - (v) Name and telephone number of a person to contact for additional information.
  - (C) The Division shall send this fact sheet to the applicant and, upon request to any other person.
- (4) Public Notice of Permit Actions and Public Comment Period.
  - (A) Scope.
    - (i) The Division shall give public notice that the following actions have occurred:
      - (I) A draft permit has been prepared; or
      - (II) A public hearing has been scheduled under Subparagraph (6) of this Paragraph; or
      - (III) A notice of intent to deny a permit has been prepared under Part (2)(B) of this Paragraph.
    - (ii) No public notice is required when a request for a permit modification is denied.
    - (iii) Written notice of denial shall be given to the permittee.
    - (iv) Public notices may describe more than one permit or permit action.
  - (B) Timing.
    - (i) Public notice of the preparation of a draft permit or a notice of intent to deny a permit shall allow at least 45 days for public comment.
    - (ii) Public notice of a public hearing shall be given at least 15 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)
  - (C) Methods. Public notice of activities described in Subpart (A)(i) of this Subparagraph shall be given by the following:
    - (i) By posting in the post office and public places of the municipalities nearest the site under consideration; or
    - (ii) By publication of a notice in a daily or weekly local newspaper of general circulation; and
    - (iii) By any other method deemed necessary or appropriate by the Division to give actual notice of the activities to persons potentially affected.
  - (D) Contents.
    - (i) General Public Notices. All public notices issued under this Part shall contain the following minimum information:
      - (I) Name, address and phone number of the office processing the permit action for which notice is being given;
      - (II) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
      - (III) A brief description of the business conducted at the facility or activity described in the permit application including the size and location of the facility and type of waste accepted;
      - (IV) A brief description of the comment procedures required by Subparagraphs (5) and (6) of this Paragraph, including a statement of procedures to request a public hearing (unless a hearing has already been scheduled), and other procedures by which the public may participate in the final permit decision;
      - (V) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of draft permits and fact sheets;
      - (VI) A description of the time frame and procedure for making a final determination on this facility application approval or disapproval;
      - (VII) Any additional information considered necessary or proper as required by the Division.
    - (ii) Public Notices for Public Hearing. In addition to the general public notice described in Subpart (i) of this Part, the public notice of a public hearing shall contain the following information:
      - (I) Reference to the dates of previous public notices relating to the permit action;
      - (II) Date, time, and place of the public hearing; and

- (III) A brief description of the nature and purpose of the public hearing, including the applicable rules and procedures; and
  - (IV) A concise statement of the issues raised by the persons requesting the hearing.
- (5) Public Comments and Requests for Public Hearings. During the public comment period provided, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in Subparagraph (9) of this Paragraph.
- (6) Public Hearings.
  - (A) Public Hearing Criteria.
    - (i) The Division shall hold a public hearing whenever on the basis of requests, a significant degree of public interest in a draft permit(s) is determined.
    - (ii) The Division may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the permit decision.
    - (iii) Public hearings held pursuant to this Rule shall be at a location convenient to the nearest population center to the subject facility.
    - (iv) Public notice of the hearing shall be given as specified in Subparagraph (4) of this Paragraph.
  - (B) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Subparagraph (4) of this Paragraph shall automatically be extended to the close of any public hearing under this Subparagraph. The hearing officer may also extend the comment period by so stating at the hearing.
  - (C) A tape recording or written transcript of the hearing shall be made available to the public.
- (7) Reopening of the Public Comment Period.
  - (A) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit action, the Division may take one or more of the following actions:
    - (i) Prepare a new draft permit, appropriately modified, under Subparagraph (2) of this Paragraph;
    - (ii) Prepare a fact sheet or revised fact sheet under Subparagraph (3) of this Paragraph and reopen the comment period under Subparagraph (4) of this Paragraph; or
    - (iii) Reopen or extend the comment period under Subparagraph (4) of this Paragraph to give interested persons an opportunity to comment on the information or arguments submitted.
  - (B) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under Subparagraph (4) of this Paragraph shall define the scope of the reopening.
  - (C) Public notice of any of the actions of this Subparagraph shall be issued under Subparagraph (4) of this Paragraph.
- (8) Final Permit Decision.
  - (A) After the close of the public comment period under Subparagraph (4) of this Paragraph on a draft permit or a notice of intent to deny a permit, the Division shall issue a final permit decision. The Division shall notify the applicant and each person who has submitted a written request for notice of the final permit decision. For the purposes of this Subparagraph, a final permit decision means a final decision to issue, deny or modify a permit.
  - (B) A final permit decision shall become effective upon the date of the service of notice of the decision unless a later date is specified in the decision.
- (9) Response to Comments.
  - (A) At the time that a final permit decision is issued under Subparagraph (8) of this Paragraph, the Division shall issue a response to comments. This response shall:
    - (i) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

- (ii) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any public hearing.
  - (B) The response to comments shall be made available to the public.
- (d) Permit approval or denial.
  - (1) The Division shall review all permit applications in accordance with Rule .0203 of Section .0200.
  - (2) Transition for existing facilities. The Division shall review applications submitted in accordance with Paragraph (d) of Rule .1617 according to the following schedule and criteria.
    - (A) The Division shall establish a review schedule for the plans which determines the adequacy of 50 percent of the plans by October 9, 1994 and 100 percent of the plans by October 9, 1996.
    - (B) The Division may issue partial approval for specific parts of an application.
    - (C) The Division shall determine the schedule for closing an existing MSWLF unit based on its review of the complete transition application and the following factors:
      - (i) Proximity of human and environmental receptors;
      - (ii) Design of the MSWLF unit;
      - (iii) Age of the MSWLF unit;
      - (iv) The size of the MSWLF unit;
      - (v) Type and quantities of waste disposed including sewage sludge;
      - (vi) Compliance record of the owner and operator;
      - (vii) A schedule for fulfilling the intent of the landfill design standards set forth in Rule .1624 of this Section; and
      - (viii) Resource value of the underlying aquifer, including; current and future uses; proximity and withdrawal rate of users; and ground-water quality and quantity.

*History Note: Authority G.S. 130A-294;  
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