

## **15A NCAC 13B .1604 GENERAL REQUIREMENTS FOR MSWLF FACILITIES**

(a) **Applicability.** Permits issued by the Division for new and existing MSWLF facilities are subject to the requirements set forth in this Rule.

(b) **Terms of the Permit.** The Solid Waste Management Permit shall incorporate requirements necessary to comply with this Subchapter and the North Carolina Solid Waste Management Act including the provisions of this Paragraph.

- (1) **Division Approved Plan.** Permits issued subsequent to March 9, 1993 shall incorporate a Division approved plan.
  - (A) The scope of the Division approved plan shall be limited to the information necessary to comply with the requirements set forth in Rule .1617 of this Section.
  - (B) The Division approved plans are subject to and may be limited by the conditions of the permit.
  - (C) The Division approved plans for a new facility or permit renewal of an existing facility shall be described in the permit and shall include the following:
    - (i) Facility plan;
    - (ii) Engineering plan and Construction Quality Assurance Plan;
    - (iii) Operation plan;
    - (iv) Monitoring plan; and
    - (v) Closure and post-closure plan.
- (2) **Permit provisions.** All disposal facilities shall conform to the conditions set forth in the permit and the following provisions. Nothing in this Subparagraph shall be construed to limit the conditions the Division may otherwise impose on a permit:
  - (A) **Duty to Comply.** The permittee shall comply with all conditions of the permit.
  - (B) **Duty to Mitigate.** In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent adverse impacts on human health or the environment.
  - (C) **Duty to Provide Information.** The permittee shall furnish to the Division, any relevant information which the Division may request to determine whether cause exists for modifying or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Division, upon request, copies of records required to be kept by this permit.
  - (D) **Recordation Procedures.** The permittee shall comply with the requirements of Rule .0204 in order for a new permit to be effective.
  - (E) **Need to Halt or Reduce Activity Not a Defense.** It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
  - (F) **Permit Actions.** A permit may be modified, revoked and reissued, or terminated for cause in accordance with G.S. 130A-23. The filing of a request by the permittee for a permit modification or termination, or a notification of planned changes or anticipated noncompliance, does not stay any existing permit condition.
  - (G) **No Property Rights.** The Commission does not intend for a permit to convey any property rights of any sort or any exclusive privilege. A permit is not transferable.
  - (H) **Construction.** If construction does not commence within 18 months from the issuance date of the permit to construct, or an amendment to the permit, then the permittee shall obtain written approval from the Division prior to construction and comply with any conditions of the approval. In determining whether to approve construction, the division shall consider length of time elapsed since issuance of permit, any changes in applicable state and federal statutes and rules since issuance of the permit, and any changes in financial qualifications or environmental compliance status of the holder of the permit in accordance with G.S. 130A-295.2 and G.S. 130A-295.3.
  - (I) **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of

back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

- (J) Inspection and Entry. The permittee shall allow the Division, or an authorized representative, to:
  - (i) Enter the permittee's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this permit;
  - (ii) Have access to a copy of any records required to be kept under the conditions of this permit;
  - (iii) Inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated by the Division;
  - (iv) Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location; and
  - (v) Make photographs for the purpose of documenting items of compliance or noncompliance at waste management units, or where appropriate to protect legitimate proprietary interests, require the permittee to make such photos for the Division.
  
- (K) Monitoring and Records.
  - (i) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. The permittee shall split any required samples with the Division upon request.
  - (ii) The permittee shall retain records of all monitoring information required by the permit for the active life of the facility and for the post-closure care period.
  - (iii) Records of monitoring information shall include:
    - (I) The date, place, and time of sampling or measurements;
    - (II) The individual(s) who performed the sampling or measurements;
    - (III) The date(s) analyses were performed;
    - (IV) The individual(s) who performed the analyses;
    - (V) The analytical techniques or methods used (including equipment used); and
    - (VI) The results of such analyses.
  
- (L) Reporting Requirements.
  - (i) The permittee shall give notice to the Division as soon as possible of any planned physical alterations or additions to the permitted facility.
  - (ii) Monitoring results shall be reported at the intervals specified in the permit.
  - (iii) The permittee shall report orally within 24 hours from the time the permittee becomes aware of the circumstances of any release or discharge outside the liner, collection system or other containment component, any fire, or explosion from the permitted landfill facility. Such reports shall be made to the Division representative at the appropriate regional office of the Department of Environment and Natural Resources.
  - (iv) Where the permittee becomes aware that it failed to submit all relevant facts and corrected information in a permit application, or submitted incorrect information in a permit application or in any report to the Division, it shall submit such facts or information.
  
- (M) Survey for Compliance.
  - (i) Within 60 days of the permittee's receipt of the Division's written request, the permittee shall cause to be conducted a survey of active or closed portions of their facility in order to determine if operations (e.g., cut and fill boundaries, grades) are being conducted in accordance with the approved design and operational plans. The permittee shall report the results of such survey to the Division within 90 days of receipt of the Division's request.
  - (ii) A survey may be required by the Division:
    - (I) If there is reason to believe that operations are being conducted in a manner that deviates from the Division approved plans; or

- (II) As a periodic verification (but no more than annual) that operations are being conducted in accordance with the approved plans.
- (iii) If required by G.S. 89C, any survey performed pursuant to this Part shall be performed by a registered land surveyor duly authorized under North Carolina law to conduct such activities. [Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, by resolution dated March 31, 2011 that preparation of survey pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]
- (N) Additional Solid Waste Management Facilities. Construction and operation of additional solid waste management facilities at the landfill facility shall not impede operation of the MSWLF unit and shall be approved by the Division.
- (O) Existing Facilities. Permits issued by the Division prior to October 9, 1993 for the construction of a lateral expansion or a new MSWLF unit are subject to the requirements for permit renewal set forth in Subparagraph (a)(5) of Rule .1603.  
The owner or operator shall establish a schedule for permit renewal that demonstrates compliance with Rule .1603 of this Section.  
The owner or operator shall place the demonstration in the operating record and submit a copy to the Division for approval.

*History Note: Authority G.S. 130A-294;  
Eff. October 9, 1993;  
Amended Eff. May 1, 2011.*