

15A NCAC 13B .1637 IMPLEMENTATION OF THE CORRECTIVE ACTION PROGRAM

- (a) Based on the approved schedule for initiation and completion of remedial activities, the owner or operator shall:
- (1) Establish and implement a corrective action ground-water monitoring program that:
 - (A) At a minimum, as provided for in 40 CFR 258, meets the requirements of an assessment monitoring program under Rule .1634 of this Section;
 - (B) Indicates the effectiveness of the corrective action remedy; and
 - (C) Demonstrates compliance with ground-water protection standards pursuant to Paragraph (e) of this Rule.
 - (2) Implement the approved corrective action remedy; and
 - (3) Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures shall, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required. The following factors shall be considered by an owner or operator in determining whether interim measures are necessary:
 - (A) Time required to develop and implement a final remedy;
 - (B) Actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
 - (C) Actual or potential contamination of drinking water supplies or sensitive ecosystems;
 - (D) Further degradation of the ground water that may occur if remedial action is not initiated expeditiously;
 - (E) Weather conditions that may cause hazardous constituents to migrate or be released;
 - (F) Risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
 - (G) Other situations that may pose threats to human health or the environment.
- (b) The owner or operator or the Division may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Rule .1636(b) of this Section are not being achieved through the remedy selected. In such cases, the owner or operator shall implement other methods or techniques, as approved by the Division, that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination under Paragraph (c) of this Rule.
- (c) If the owner or operator or the Division determines that compliance with requirements under Rule .1636(b) of this Section cannot be practically achieved with any currently available methods, the owner or operator shall:
- (1) Submit a written report that documents that compliance with the requirements under Rule .1636(b) of this Section cannot be practically achieved with any currently available methods and gain approval from the Division. If required by G.S. 89C or G.S. 89E, a professional engineer or licensed geologist shall prepare these documents. [Note: The North Carolina Board of Examiners for Engineers and Surveyors and the Board of Licensing of Geologist has determined, via letters dated July 16, 2010 and November 30, 2010, that preparation of documents pursuant to this Paragraph constitutes practicing engineering or geology under G.S. 89C and G.S. 89E.];
 - (2) Implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment; and
 - (3) Implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
 - (A) Technically practicable;
 - (B) Consistent with the overall objective of the remedy; and
 - (4) Submit a report justifying the alternative measures to the Division for approval prior to implementing the alternative measures. Upon approval by the Division, this report shall be placed in the operating record.
- (d) All solid wastes that are managed pursuant to a remedy required under Rule .1636 of this Section, or an interim measure required under Paragraph (a) of this Rule, shall be managed in a manner:
- (1) That is protective of human health and the environment; and
 - (2) That complies with applicable RCRA requirements.
- (e) Remedies selected pursuant to Rule .1636 of this Section are considered complete when:
- (1) The owner or operator complies with the approved ground-water protection standards at all points within the plume of contamination that lie beyond the relevant point of compliance;

- (2) Compliance with the approved ground-water protection standards has been achieved by demonstrating that concentrations of Appendix II constituents have not exceeded these standards for a period of three consecutive years; and
 - (3) All actions required to complete the remedy have been satisfied.
- (f) Upon completion of the remedy, the owner or operator shall submit a report to the Division documenting that the remedy has been completed in compliance with Paragraph (e) of this Rule. This report shall be signed by the owner or operator and by the preparer of the report. If required by G.S. 89C or G.S. 89E, a professional engineer or licensed geologist shall prepare these documents. [Note: The North Carolina Board of Examiners for Engineers and Surveyors and the Board of Licensing of Geologist has determined, via letters dated July 16, 2010 and November 30, 2010, that preparation of documents pursuant to this Paragraph constitutes practicing engineering or geology under G.S. 89C and G.S. 89E.] Upon approval by the Division, this report shall be placed in the operating record.
- (g) When, upon completion of the certification, the Division determines that the corrective action remedy has been completed in accordance with Paragraph (e) of this Rule, the owner or operator shall be released from the requirements for financial assurance for corrective action under Rule .1628(d) of this Section.

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