

REGULATORY IMPACT ANALYSIS AND FISCAL NOTE

READOPTION AND AMENDMENTS TO 15A NCAC 13B .0400 TRANSFER FACILITIES

March 17, 2020, Revised April 13 2020

GENERAL INFORMATION

Agency: Environmental Management Commission

Department: Department of Environmental Quality
Division of Waste Management
Solid Waste Section
<https://deq.nc.gov/about/divisions/waste-management/solid-waste-section>

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Title of Rule Set: Transfer Stations

Citations: 15A NCAC 13B .0401 - .0406

Authority: G.S. 130A-294; G.S. 150B-21.3A

Impact Summary: - State Government Impact? Yes, in staff time
- Requires expenditure, distribution, or reallocation of State funds? No
- Local Government Impact? Yes, as facility owners/operators
- Impacts local government expenditures or revenues? Yes
- Private Industry Impact? Yes
- Substantial Economic Impact? No
- Federal Requirement? No

Appendices: Proposed Rule Text

PROPOSED RULE-MAKING SCHEDULE

<i>Date</i>	<i>Action</i>
09/11/2019	GWWMC Meeting: Approval of proposed text to go to EMC.
05/14/2020	EMC Meeting: Approval of rule text and regulatory impact analysis for public comment.
06/15/2020	Rules published in NC Register and Agency website Comment Period Begins.
06/30/2020	Earliest date for public hearing.
08/14/2020	Comment Period Ends.
09/10/2020	EMC Meeting: Approval of Hearing Officer's Report and Adoption of Rules.
10/15/2020	RRC meeting: Approval of rule text
11/01/2020	Earliest effective date for rules.

PURPOSE OF EXISTING RULES

The Division of Waste Management (Division) Solid Waste Section (Section) is responsible for regulating solid waste management within the state under the statutory authority of the Solid Waste Management Act, Article 9 of Chapter 130A of the General Statutes. Rules governing solid waste management adopted under this authority are codified at Title 15A, Subchapter 13B of the North Carolina Administrative Code. Pursuant to G.S. 130A-294(a)(4), the Division has the authority to develop a permit system governing the establishment and operation of solid waste management facilities through permit conditions.

Transfer facilities are defined in existing rule 15A NCAC 13B .0101(48) as being “a permanent structure with mechanical equipment used for the collection or compaction of solid waste prior to the transportation of solid waste for final disposal.” More specifically these facilities are generally a central or nearby location where trucks that collect waste from residences will deliver the waste for the purpose of emptying the vehicle and going back out to continue waste collection, instead of having to travel a greater distance to a landfill for final disposal. At the transfer station, the waste is generally deposited on a concrete pad, known as a tipping floor, under a structure for cover, and consolidated and deposited into larger tractor trailers to then be transported to a landfill for final disposal. The transfer station may also conduct other solid waste management activities on site under their permit conditions, such as separating out recyclables or items banned from landfills to divert these items from the landfill.

Existing Rules .0401 *Application Requirements* and .0402 *Operational Requirements* were promulgated in 1982 to provide very basic requirements for transfer facilities since the agency at the time had did not have extensive experience or background in regulating these facilities and their operation, and there were likely very few of them to regulate.

Since rule promulgation, the majority of requirements for each transfer station have been written into the site plan and the operational plan that are required to be submitted with the permit application in existing Rule .0401(1). As stated in existing Rule .0402(1), the operational plans had to be approved by the Division and followed by the transfer station once the permit was issued by the Division in accordance with Section .0200.

The existing rules in Section .0400 include no requirement regarding permit term or length. Rule .0201 stated that solid waste management facility permits issued under Subchapter 13B were to be issued for a duration of five years. Session Law 2012-187(s.15) revised G.S. 130A-294 to give sanitary landfills and transfer stations the option to apply for a permit for a duration of 10 years. Rule .0206 was promulgated effective July 2013 to establish requirements to allow for the option of a ten-year permit for these two facility types. Session Law 2015-286(s.4.9) revised G.S. 130A-294 again to require that permits issued for sanitary landfills and transfer stations be issued for the life-of-site. Rule .0201 was amended, and Rule .0206 was repealed effective September 2016, and Rule .0207 was adopted effective March 2017 to change the permit duration for sanitary landfills and transfer facilities from five or ten years to the life-of-site. The language proposed in Rules .0401-.0406 is consistent with the life-of-site permitting requirements in G.S. 130A-294(a)(2) and existing Rules .0201 and .0207, including amending the title of Section .0400 and the language throughout this Section to use the term “transfer station” instead of “transfer facility” to be consistent with the use of the term in statute, although neither term is defined in statute. The definition for “transfer facility” in Rule .0101(48) is being revised accordingly in a separate rule package. The term “transfer station” will be used throughout the remainder of this document.

REASON FOR RULE CHANGES

These rules are proposed for readoption in accordance with G.S. 150B-21.3A and are required to be readopted by the Environmental Management Commission by the deadline set by the Rules Review Commission of April 30, 2021. The Division is proposing to amend all of Section .0400 to have a structure and layout similar to the other Sections in Subchapter 13B for consistency and clarification. The proposed structure for Section .0400 *Transfer Stations* is as follows:

- .0401 Purpose and Applicability
- .0402 General Requirements
- .0403 Siting and Design Requirements
- .0404 Application Requirements
- .0405 Operational Requirements
- .0406 Closure Requirements

The intent of these changes is primarily to codify requirements that are already imposed on transfer stations by permit conditions and operational plans required to be followed under existing rule, and information provided by existing guidance documents and Division policy over the last two decades for all transfer stations across North Carolina. Requirements to conform to the life of site permitting requirements in general statute and

existing Rule .0207, and to promote consistency in transfer station siting, permit application submittal and review, and transfer station closure have been added in the proposed rule. This will make the rules more transparent, consistent and straightforward to Division staff, the regulated community, and the citizens of North Carolina, which may also help to prevent or reduce compliance issues and complaints, and time spent in discussions and technical assistance to clarify the requirements. The proposed rule will also reduce Division staff time spent periodically updating and reviewing guidance and policy documents that were used in lieu of rule requirements for the permit application process.

Although existing rules and procedures have not generated any major issues, the Division has encountered a myriad of minor issues over the last few decades in permitting and enforcement of transfer stations. The Division recognizes the expectation of the public that the state is providing adequate oversight for activities that may impact their communities now and for future generations. The limited set of existing rules were developed in the early 1980s, to regulate a small number of facilities that were built to move waste out of communities that had chosen to cease operating their own local landfills. The surrounding communities have long since outgrown some of these early transfer stations. More landfills have closed since that time, and new transfer stations have been built to manage the additional waste volumes. As North Carolina continues to grow, the annual per capita disposal rate remains steady at or near 1 ton per person per year, currently just over 10 million tons of waste needing to be managed per year on average. In fiscal year 2018-19, 5.1 million tons of solid waste passed through transfer stations on its way to a final disposal destination. That's roughly 40% of the total waste generated and disposed of during that year.

Transfer stations and other solid waste management facilities that were once located in rural areas are now being surrounded by commercial, industrial, and residential developments. Increased truck traffic, littering, noise, and odors are frequent complaints fielded by Division staff. Growing populations and development also mean there will be less space to build new landfills in much of NC as current landfills reach their capacity and must close. Many communities and private companies will fill that service void by constructing new transfer stations to haul waste to regional landfills. These proposed rules provide the basis for the siting and operations of these facilities to ensure both the public health and environment in those communities is being protected, while at the same time providing opportunity for industry growth, given that the reality of the economics of managing waste in the future will likely require more transfer stations in the absence of or in conjunction with new waste reduction initiatives and recycling options.

An additional reason for clarifying siting and operational requirements in rule is due to an increasing need for solid waste facilities to handle debris generated during a disaster or emergency such as a hurricane, tornado, flood, or ice storm. After a disaster occurs and communities begin cleaning up, a spike in the generation of waste occurs consisting mainly of vegetative and demolition waste, but also residential household waste, over a two to six-month period. During this recovery period, every solid waste management facility in and around the disaster area should be prepared to receive disaster debris and

household waste in higher volumes to facilitate the recovery. Therefore, it is more important now than ever to ensure that all transfer stations are not only prepared to receive waste volumes for increasing populations, but also these spikes in waste volumes after a disaster.

When a federal disaster is declared and FEMA steps in to review and approve requests for public assistance, a part of their review process to approve reimbursement for applicants is to ensure that any solid waste management facility that received or handled debris is a location that is not out of compliance with any federal requirements for the protection of water, historic places, natural areas, and endangered species; and that the waste was handled in compliance with state rules. Adding the siting and operational requirements to rule creates assurances for FEMA review staff that the siting and permitting of transfer stations was in compliance with federal requirements; and provides them with the basic state requirements that a transfer station needs to follow while handling disaster debris, which may assist with expediting the reimbursement process.

The Division is proposing to amend the two existing Rules .0401 and .0402 to establish the purpose and applicability of rules in Section .0400 and the general requirements for transfer stations; and move the application and operational requirements to new Rules .0404 and .0405. Since existing application and operation requirements are limited and vague or unclear, the proposed new rules will clarify requirements, such as stating what information needs to be submitted in the required plans, and will put into rule what has generally been required of these facilities in their permits, site plans, and operational plans, or done in practice. Note that under existing rule, the majority of operations are described in the operational plan submitted with the permit application to be approved by the Division, and existing Rule .0402(1) requires that transfer stations follow their approved operational plan. The Division is proposing to add siting, design, and closure requirements in new Rules .0403 and .0406 to be consistent with similar requirements for other types of solid waste management facilities in Subchapter 13B, and referring to other regulations for the protection of groundwater, surface water, historic sites, nature preserves, and endangered species. The regulations are discussed further in the baseline section below. As stated, the majority of the proposed rules codify existing Division and industry practice, and the proposed rule allows for exemptions for certain criteria, therefore the Section believes that the impacts from the proposed rules to existing facilities will be minimal.

BASELINE

The baseline for the proposed rule readoption package is the existing rules in 15A NCAC 13B .0100, .0200, and .0400, and Article 9 of Chapter 130A of the General Statutes, and the permits issued by the Division for transfer stations, which include site plans and operational plans that were approved by the Division and incorporated into the permit requirements when the permit was issued. Note that existing Rule .0203(d) requires that the permit be followed, and existing Rule .0402(1) requires that the operational plan be followed. The transfer station permits, site plans, and operational plans for individual facilities can be found on the Division's electronic document management system by searching for the transfer station's permit number and selecting the most recently issued

permit. The permit number for a transfer station can be found by searching through the Solid Waste Section's facility list online.

Link to the Division's Laserfiche online document management system:

<https://deq.nc.gov/about/divisions/waste-management/waste-management-rules-data/e-documents>

Link to the Solid Waste Section's Facility List online:

<https://deq.nc.gov/about/divisions/waste-management/sw/data/facility-lists>

In the absence of these rules, solid waste management is still subject to multiple federal regulations and North Carolina general statutes. The proposed rules add multiple references to these requirements for ease of review and/or information. Some examples of these referenced regulations are as follows (this list is not comprehensive):

Federal Regulations:

The Clean Water Act

The Safe Drinking Water Act

The Endangered Species Act

Marine Protection, Research, and Sanctuaries Act

National Historic Preservation Act

40 CFR 61(M) for handling of asbestos

NC General Statutes:

For solid waste management: G.S. 130A-17, 130A-22, 130A-23, 130A-290, 130A-294, 130A-295.2, 130A-295.3, 130A-295.5, 130A-295.8 (note transfer station permit fees are established in (d1)(11) and (12)), 130A-303, 130A-308, 130A-309, 130A-309.09D, 130A-309.10, 130A-309.25, and 130A-309.27.

For professional licensing: G.S. 89C, 89E, and 89F

Other NC Administrative Code:

15A NCAC 02B or Surface Water Protection

15A NCAC 02C for Monitoring Well Construction

15A NCAC 02L for Groundwater Protection

15A NCAC 04 for Sedimentation and Erosion Control

Note that 15A NCAC 02L .0106(d) regarding corrective action for groundwater protection provides specific requirements for activities conducted under the authority of a permit initially issued by the Department on or after December 30, 1983 pursuant to G.S. 143-215.1 or G.S. 130A-294 that results in an increase in concentration of a substance in

excess of the standards established under 15A NCAC 02L .0202.

PERMITTED FACILITIES POTENTIALLY AFFECTED BY THE RULE CHANGES

Rule changes to Section .0400 could potentially affect owners and operators of solid waste transfer stations that are permitted by the Division and regulated by the existing rules. There are currently **96** active permits for transfer stations, and of these, **57** are owned by local governments, and **39** are owned by private industry.

Note that for any mention of future transfer stations in this impact analysis, the Division historically has received applications for construction of a new transfer station at an average frequency of one to two per year. The Division does not expect that frequency to change in the next five to ten years. However, as the population increases across the state and in larger metropolitan areas, and smaller local government landfills reach capacity, the need for new transfer stations may be increasing in the following decades. Permitting of new landfills or landfill expansions is becoming more difficult due to the reduction in available open space from expanding development; and increasing community opposition to new landfills. The footprint of a transfer station is generally much smaller than a landfill, and the waste could be consolidated at transfer stations for transportation to landfills farther outside of metropolitan areas, or even out of state. Existing transfer stations historically have been closed or replaced at an average frequency of one or two every ten years or less, and the Division does not expect that frequency to change in the next ten years.

IMPACT ANALYSIS

Amendments to Rule .0401 Purpose and Applicability (titled Application Requirements in existing rule)

Description and Rationale for Amendments

Existing Rule .0401 establishes application requirements for transfer station permits. This rule is proposed to be amended to establish the purpose and applicability of Section .0400 as proposed. The application requirements will be moved to proposed new Rule .0404, therefore the changes to application requirements are discussed in the section below regarding that rule.

Since the siting and design requirements for transfer stations are being added to this Section of rules with this rule-making action, Paragraph (a) of this Rule clarifies the applicability of the rule amendments to transfer stations permitted by the Division prior to the readopted effective date of the rule and therefore would not necessarily have been constructed in accordance with the new siting and design requirements. The proposed language states that those existing transfer stations will be required to comply with the new rule requirements, except that buildings, structures, and waste handling areas constructed prior to the effective date, and any replacement or modifications made to the structures after the effective date of the Rule shall not be required to comply with the siting requirements in Rule .0403(a) or the design requirements in Rule .0403(b)(1) and

(b)(2). This language should allow an existing transfer station to remain in place without being considered “out of compliance” with the siting and design rules by the Division and will not prevent the existing structures from being modified or replaced within their existing footprint in the future.

The Division is proposing to exempt these existing facilities since they were already constructed and have been operating, and it is not the Division’s intention to have existing facilities be required to close if their location does not meet new siting requirements. The intent of the new siting and design requirements is to regulate the location and design of new transfer stations proposed for permitting and construction and is not expected to have an impact on the siting or the overall original design of existing transfer stations. The impact of proposed siting and design requirements on new transfer stations is addressed below in the discussion of Rule .0403.

Proposed Paragraph (b) of this Rule provides a transition period for existing transfer stations to come into compliance with the remaining design and operational requirements that they are not exempted from in Paragraph (a). This transition period requires that the owner or operator conduct a self-assessment of their transfer station to determine what changes, if any, they believe they will need to make to the transfer station to be in compliance with the new rules, that would not have already been required under existing rule and their existing operational plans, and submit a report to the Division with the results of the assessment within six months of the effective date of the Rule. The Division is then required to reply within twelve months stating which actions the owner or operator is required to take, and the owner or operator is then required to complete those actions within three years of the Division’s response unless the Division approves an extension. Therefore, if the existing transfer station owners/operators and the Division were each to utilize the full amount of time allotted in Paragraph (b), without a request for an extension or late submittals, all existing transfer stations would be required to comply with the new rules within a total of four and a half years from the effective date of the rules.

An alternative to establishing the requirement for a transition period and the submittal of the self-assessment report would be to state that all transfer stations shall comply with the proposed rules by a specific deadline, such as one year from the readopted effective date of the rules. While doing so would not negatively affect most transfer stations that are already in compliance, the Division expects that there may be a short list of transfer stations that may not be able to meet a short or specific deadline, and some flexibility would be beneficial to those transfer stations and the Division. The Division proposes instead to create this transition period and process of self-assessment and notification to provide more flexibility for the Division to work with any owner/operators that have existing infrastructure or other site design issues that they would like to resolve. It also provides a multi-year approach to allow budgeting for improvements, which is more critical for local government-owned transfer stations than those owned by private waste companies. This is consistent with transitions that have occurred with existing solid waste landfills in past implementation of new rules. An example would be where the service area that is served by the transfer station has vastly increased in population and the transfer station infrastructure is so longer sufficient to handle the volumes of waste being generated in

the service area.

While transfer stations with these types of issues may not have clearly or directly been out of compliance with existing rule or their existing permit in a way that required or allowed the Division to take enforcement action, the transfer station set-up or design as originally planned and constructed also needs updating to accommodate changing needs. While these updates may not need to be done directly as a result of the proposed rule changes since existing rule was open to interpretation, and neither the existing or proposed rules require updates to existing infrastructure for waste volume received directly, the Division and owner/operators would both like to use this transition period as an opportunity to allow transfer stations to identify their own updates needed, get concurrence or official “buy-in” from the Division of what is necessary in the Division’s response, and make the needed changes to their sites and updates to infrastructure under the three-year deadline, or an extension if approved.

Under normal/existing circumstances, if the Division were to require an action by a transfer station to come into compliance for a violation, they would normally have a deadline of 30 to 60 days to complete the action to avoid further enforcement. Also, under normal circumstances, the Division could only require a specific action if there was a violation of existing rule or permit to resolve and would have to notify the permittee of the violation. Having the written response from the Division stating what is needed for compliance and to update the transfer station could be beneficial to local governments, and potentially private industry, to secure funding for the work needed.

The Division has attempted to draft rule language that puts into rule what is currently required in the permit and operational plans for the operation and closure of transfer stations. The proposed rules do not require existing transfer stations to comply with the proposed new siting criteria or the impervious surface and cover design criteria. Since transfer stations permits were renewed every five years up until the statute was changed for permit length in 2012 (to ten years) and again in 2015 (to life-of-site), permit conditions at all 96 transfer stations have been updated to have the same general conditions and similar operational plans within the last 10 years. Because the Division expects that the majority of transfer stations are already in compliance with the new rules because they were required to comply with existing rule, their permit conditions, and their approved plans, the Division estimates that likely 75% or more of the 96 transfer stations will submit an assessment report that states that no actions are needed because they are already in compliance with the new rules.

The remaining estimated 25% of the transfer station assessment reports may list some actions that the owner or operator will be required to complete as a result of the new rule language. The Division will review the reports and the transfer station permits, approved plans, and recent inspection reports to determine what actions are needed for compliance. The Division will issue a response stating the actions that the transfer station is required to complete within three years to comply with the new rules. Note that the Division may require actions in addition to the actions provided by the owner/operator in the assessment report if they are required for compliance with the new rules.

Paragraph (c) provides clarification that restrictions on the service area from which a transfer station is allowed to accept waste must comply with any restriction imposed in a local government franchise and/or enforced by the receiving disposal facility and is not imposed by these rules. The reason this language is being added is because this is a question that is regularly asked of the Division by the regulated community, and/or is a frequent point of confusion or misunderstanding when there is a dispute regarding service areas. Under existing rule, the Division may have included the service area that was required by the local government franchise or receiving facility in a transfer station permit to provide information, but this sometimes led to confusion that it was the Division that had established the service area and should enforce the service area requirement, so the Division is now attempting in rule to clarify that the Division does not establish or enforce the service area for a transfer station.

This misunderstanding tends to occur during clean-up after an emergency or disaster event when there is a spike in the amount of waste generated. Communities are attempting to find additional locations to take their waste outside of their normal area, and transfer station owners/operators believe they cannot quickly make the decision between themselves and the local government or receiving facility to accept the additional waste (generated outside their normal area), and that they are required to have the Division intervene or approve this change or exception, which is not the case.

Paragraph (d) provides clarification that waste that has come into NC from out-of-state and is received at a transfer station is still considered to be out-of-state waste when it leaves the transfer station and is received at the disposal facility. It does not become in-state waste upon receipt at the disposal facility just because it came from a NC transfer station, even if the waste was in some way processed at the transfer station, such as sorting of the waste to recover recyclables. This language is also being added because this a question that is regularly asked of the Division or is often a point of confusion. The proposed language reflects what the Division has established under existing rule as policy. In general, properly designating waste as in-state or out-of-state waste assists the industry and the Division with estimating per capita waste generated in NC versus waste brought into NC from other states. The estimates are needed for reporting purposes to the Environmental Review Commission and the Fiscal Research Division in accordance with G.S. 130A-309.06(c).

Paragraph (e) refers to the existing life-of-site permit requirement in Rule .0207 and clarifies that the life-of-site shall not exceed 60 years as stated in G.S. 130A-294(a2). The clarification is needed since the first part of the definition of life-of-site in this statute as being "... the period from the initial receipt of solid waste at the facility until the facility reaches its final permitted elevations, ..." is referring to the elevation of a sanitary landfill, and a transfer station would not have a "final permitted elevation" since it is not a landfill. Therefore, only the second part of the definition, "which period shall not exceed 60 years" could be applied to a transfer station, and this rule language puts into rule how the Division has interpreted this definition and has applied it to transfer station life-of-site permits since the change was made to statute and Rule .0207 was effective.

Costs and Benefits by Entity

(1) Private Industry and Local Government-Owned Facilities

The Division estimates that each transfer station assessment and report submittal may cost the owner or operator between \$1,500 and \$3,000 for each of the 96 active transfer stations, for a total cost between \$147,000 to \$294,000 within six months of the effective date of the proposed rule. The proposed rule does not directly require that the assessment be completed by a professional engineer, but if G.S. 89C requires that any parts of the assessment report be completed by a professional engineer, this could potentially increase the total cost for some of the reports by \$250 to \$1,000. However, the Division expects that for approximately 75% of the 96 transfer stations, the assessment and report will be at the lower end of that range, if not below the range, since they are for the most part already in compliance with the proposed rules.

The transition period and self-assessment will provide a benefit to owner/operators who may have infrastructure or other issues that they need or wish to resolve that are not directly related to the change in rule language, but which can now be resolved under an extended timeframe, which is longer than it would be under normal compliance actions. The intention of some of these updates would be to avoid future compliance issues from deterioration of infrastructure, meaning another benefit would be the prevention of future violations and compliance cases, although this is difficult to quantify until the Division has received the assessment reports. The transition period and the notice from the Division with a clear deadline will also provide a benefit for local government owners/operators by giving them justification to obtain funding to complete some of the desired updates, while still allowing them extended time to obtain the funding and complete the updates.

Since the proposed rules do not require existing transfer stations to comply with the new siting criteria in Paragraph (a) or construction design criteria in Subparagraphs (b)(1) and (2), no costs or benefits are expected for existing facilities to have to comply with these criteria. The proposed amendments may provide a benefit to future transfer station applicants by providing greater detail and clarification on the purpose and applicability of these rules.

Paragraphs (c) through (e) provide the benefit of clarification and a minimal reduction in time spent by owners or operators contacting the Division to have questions or misunderstandings resolved.

(2) State Government

For the first year and a half following the adoption of the new rules, additional Division staff time will be spent reviewing assessment reports for the transition period and issuing notifications of the actions required for all 96 active transfer stations. As described above, the Division expects that approximately 75% of the 96 self-assessment reports will consist of short statements to the effect that the transfer station is already in compliance with the new rules since they were already required to comply with the requirements under existing rule, permit condition, and the approved plans. Therefore, the only additional Division staff time spent will be for issuing a short letter to each transfer station stating

that the Division has received and agrees with the assessment report and no further action is needed. If each letter takes an hour to generate and send out, (assuming the first letter sent can be used as a template thereafter), and we assume a total compensation of \$50.00 per hour for permitting engineers, and that approximately 70 to 85 response letters will be issued, they may cost a total of between \$3,500 and \$4,250 in Division staff time in the first year and a half following the effective date of the rules.

For the remaining approximately 25% of transfer stations that submit assessment reports listing some actions that the owner or operator believes will be required to be completed as a result of the new rule language, Division staff time will be spent reviewing the reports and the transfer station permits, approved plans, and recent inspection reports; and issuing the response stating the actions that the transfer station is required to complete. If each assessment report takes between one and three hours to review, and each response letter takes between two and five hours to generate and send out, and we assume a total compensation of \$50.00 per hour for permitting engineers, and that approximately 11 to 26 response letters will be issued, they may cost a total of between \$1,950 and \$11,200 in Division staff time in the first year and a half following the effective date of the rules.

During or near the end of the three-year period in which the actions are required to be completed, minimal staff time may also be spent reviewing and responding to requests for an extension of the three-year period. Since transfer stations are generally inspected by Division staff at least once every three years, an additional inspection to confirm completion of the required actions will not likely be needed. Follow-up inspections are possible if the transfer station requires an extension or is having difficulty coming into compliance, however follow-up inspections to confirm compliance are a normal part of the existing compliance and inspection process.

The proposed amendments may provide a benefit to Division staff by providing greater detail and clarification on the purpose and applicability of these rules, which may minimally reduce time spent in providing technical assistance and clarification on requirements to potential transfer station applicants or other Division staff.

A benefit of moving the requirements throughout this Section from permit conditions and plans into rule is that when requirements are put into permit condition or plan, the wording of the requirements may go through some limited legal review within the Division or by the applicant. By putting the common requirements into rule, the wording of requirements is subjected to a more extensive stakeholder and legal review and public comment process, which ensures that the majority of affected parties, Division staff, and attorneys who may have to interpret requirements can come to a consensus of the intent, wording, and interpretation of requirements. This gives Division staff and the owner/operators greater certainty that requirements are consistent for all transfer stations in wording and interpretation from a legal standpoint during enforcement cases. The consistency will then provide better protection for the Division against claims of being arbitrary or capricious in court cases for compliance orders.

(3) NC Citizens and Public Health and the Environment

The proposed amendments may provide a benefit to public health and the environment by establishing a transition period for compliance that allows older facilities the opportunity to update aging infrastructure, which will help avoid future violations such as leachate releases. The proposed amendments may also provide a benefit to citizens by providing greater detail and clarification on the purpose and applicability of these rules, and what will be required of existing transfer stations during the transition period and under the new rules.

Amendments to Rule .0402 General Requirements

(titled Operational Requirements in existing rule)

Description and Rationale for Amendments

Existing Rule .0402 establishes operational requirements for transfer stations. This rule is proposed to be amended to establish general requirements for transfer stations. The operational requirements will be moved to proposed Rule .0405, therefore the changes to operational requirements are discussed in the section below regarding that rule.

The proposed language in Paragraph (b) regarding submittal of records, Paragraph (f) regarding commencing construction, and Paragraph (h) regarding additional solid waste activities are requirements that are imposed on transfer stations via permit condition under existing rule. The proposed language in Paragraph (d) regarding amendment or modifications, Paragraph (e) regarding permit denial, revocation, or suspension, and Paragraph (i) regarding permit fees only provide information or point to general statutes that are applicable to transfer stations under existing rule. The proposed language in Paragraph (a) regarding permit compliance, Paragraph (c) regarding enforcement actions, and Paragraph (g) regarding operation and maintenance in compliance with the permit are requirements that may be understood as being required by existing general statutes or other rules (such as 15A NCAC 02L), but which the Division is proposing to add in this Rule as information/clarification because the requirements have been misunderstood in the past, and to be consistent with similar language found in Subchapter 13B rules for landfill permitting.

Paragraph (j) requires that a permittee report to the Division a release or discharge of leachate or contaminants from the transfer station within 24 hours of discovery. The intent of this language is to clarify the timeframe and format for the requirement to notify the Department of a discharge in 15A NCAC 02L .0106(b), which only states that the person shall notify the Department.

Costs and Benefits by Entity

(1) Private Industry and Local Government-Owned Facilities

Since the proposed language of this Rule is only putting into Rule or clarifying what is already required by existing permit conditions, general statutes, or existing rules, or provides only information or clarification, no additional costs are expected to be incurred for transfer station owners/operators as a result of the proposed language. The proposed

language provides a benefit through clarification of requirements and applicable statutes, and reduced staff time in discussions with Division staff to understand the requirements.

(2) State Government

Since the proposed language of this Rule is only putting into Rule or clarifying what is already required by existing permit conditions, general statutes, or existing rules, or provides only information or clarification, no state funds or additional Division staff time are expected to be needed as a result of the proposed language. The proposed language provides a benefit through clarification of requirements and applicable statutes, which may also reduce Division staff time spent providing technical assistance or explanation of requirements to the public, the regulated community, and other Division staff.

(3) NC Citizens and Public Health and the Environment

The proposed language provides a benefit to citizens through clarification of requirements. The requirement that notification to the Department of a discharge be done within 24 hours, either verbally or in writing, benefits public health and the environment by ensuring that the Division is aware of a discharge within a day, and can assist with ensuring that actions taken to comply with 15A NCAC 02L will be taken quickly and will minimize affects to public health and the environment.

Proposed Rule .0403 Siting and Design Requirements

Description and Rationale for New Rule

Paragraph (a) - Siting Requirements: The proposed siting requirements are being added to be consistent with similar requirements for landfills in Subchapter 13B, and with requirements in federal regulations, general statutes, and other rules for the protection of water, historic sites, nature preserves, and endangered species as mentioned above in the discussion of the baseline. The requirements are also being added for clarification to potential permit applicants so that they are aware that these factors need to be considered before deciding on a location for a transfer station. The growing population of North Carolina, especially in the expanding residential and business areas surrounding Raleigh, Durham, and Charlotte, may result in an increasing need for transfer stations to serve as a consolidation point for waste before transportation to landfills. The expansion will also result in the reduction of open space available for the siting of new landfills and new transfer stations, therefore it is important to have clear requirements in rule for the location and design of new transfer stations.

Proposed Rule .0401(a)(2) provides an exemption from the siting requirements for existing transfer stations that do not expand outside their existing building, structure, and waste handling area footprints, therefore the new siting requirements do not require any changes to those existing transfer stations. Since the requirements in Subparagraphs (a)(1) through (a)(5) are for the most part only referring to other regulations, or are intended to prevent non-compliance with other rules and regulations, such as requiring that transfer stations not be located in the 100-year floodplain to prevent non-compliance with existing Rule .0103(e), these siting requirements are not changing expectations for future transfer stations from what is currently expected in practice.

The buffer requirements proposed in Subparagraph (a)(6) are being added to be consistent with similar buffer requirements for the other solid waste management facility types in Subchapter 13B, and for the protection of surface water, drinking water, and adjacent property owners (for fire hazards, littering, and windblown waste). This proposed requirement would apply to the siting/location of future transfer stations and would also apply to expansions of existing transfer station buildings/structures or waste handling areas, outside of the existing permitted footprint, since an expansion is not exempted from the buffer requirements by Rule .0401. The Division has, in practice, or to comply with local zoning ordinances, generally requested or required 50 to 100-foot buffers before issuing a permit to construct, and so likely would have done the same in practice for future transfer stations if the proposed rules were not adopted. The Division has also allowed reduced buffers via permit condition or site plan where it may be logical to do so because of site-specific conditions, engineering, or topography; and the proposed rule still allows the Division to make exceptions via permit condition for the proposed buffer requirements if needed.

The proposed language may require that construction plans for a new transfer station, if already prepared, be revised to comply with the buffer requirements, or may require that a planned transfer station be moved to a new location or parcel. The proposed language may also require that expansion plans for an existing transfer station be revised to comply with buffer requirements or abandoned if the location does not allow for compliance with buffer requirements. It is likely that the Division would have required a revised plan and drawings or the selection of a new location to accommodate these buffers under existing rule also.

As of the date of this document, the Division is currently reviewing three applications for permits to construct new transfer stations and has reviewed the site plans for the proposed buffer requirements (2 in Mecklenburg County and 1 in Cherokee County). All three transfer stations as planned will comply with the proposed buffers requirements and would not need to be revised. The Division is also aware of two planned transfer stations in the Raleigh and Durham areas for private industry but has not received the permit applications or plan documents. Because the previous use of the planned locations for these facilities were waste or scrap handling businesses in industrial areas, the Division does not expect that the facilities will have difficulty meeting the siting or buffer requirements. Any future transfer stations planned for construction that have not received a permit to construct prior to the readopted effective date of the rule will be required to comply with the proposed buffer requirements, unless the Division allows for reduced buffers in the permit conditions based on site-specific conditions, engineering, or topography.

Paragraph (b) – Design Requirements: Proposed Rule .0403(b)(1) and (b)(2) require that all tipping floors and additional elective waste handling areas are located on an impervious surface such as concrete or asphalt and are under some type of cover such as a roof. A “tipping floor” is where waste is deposited, possibly sorted, and generally pushed into a tractor trailer positioned below grade. Even though existing rule did not

specifically require that a tipping floor be made of a concrete or asphalt pad and have a cover, they have historically been required by the Division in a permit to construct at transfer stations to prevent non-compliance with 15A NCAC 02L and existing Rule .0402(3) for the protection of surface water and groundwater. Therefore, the tipping floors at all existing transfer stations are already made of concrete or asphalt and are under the cover of a roof, with the exception of a few (3 to 5) existing transfer stations that have been permitted at their request to be constructed without a concrete pad or cover as long as they do not operate or handle waste during rain events. The proposed language will not change requirements for existing transfer facilities since proposed Rule .0401(a)(2) exempts them from compliance with Rule .0403(b)(1) and (b)(2). For future transfer stations, the Division would have continued to require a concrete or asphalt tipping floor and a roof in the permit to construct under existing rule for compliance with 15A NCAC 02L and existing Rule .0402(3). Future transfer stations that elect to have additional waste handling areas approved in their permit will be required to have a concrete or asphalt pad in these areas and have these areas under cover.

Subparagraphs (b)(3) regarding recovered materials, (b)(10) regarding minimizing traffic congestion, (b)(15) regarding odors and fugitive dust emissions, and (b)(17) regarding construction and demolition wastes are intended to provide clarification and information only by pointing to applicable federal regulations, general statutes, or other rules. Subparagraphs (b)(5) regarding water supply, (b)(6) requiring leachate containment, (b)(7) regarding staging of containers, (b)(8) regarding leachate collection systems, (b)(9) regarding barriers and unauthorized entry, and (b)(14) regarding vector attraction, are proposed for clarification of the similar requirements in existing Rule .0402(3), (5), (6), and (7). Subparagraphs (b)(4) regarding capacity and (b)(11) regarding access roads put into rule what is already required by permit condition for transfer stations. Subparagraphs (b)(12) regarding storage areas, (b)(13) regarding separation of banned items or recyclables, and (b)(16) regarding directing of surface water may require changes at existing transfer stations if they were not already designed in this manner, and at future transfer stations, as described below.

Subparagraph (b)(12) requires that storage areas and containers for waste shall be designed to prevent potential fires from spreading outside the storage area or container, to prevent the migration of vectors, and to prevent the escape of waste, leachate, odors, dust, and litter from the transfer station. The intent of adding this language is to ensure that owners and operators consider during the design phase ways to prevent or minimize non-compliance with requirements for containers in Rule .0105, and operational requirements for fire prevention and control, windblown materials, leachate releases, vector control, and odor control in existing Rule .0402 (which are now in proposed Rule .0405). Consideration of these operational requirements during the design phase will make it easier for the owner/operator to achieve compliance once the transfer station is constructed and operating.

Subparagraph (b)(13) requires that, if an owner/operator is requesting to accept recyclables and items banned from landfill disposal in addition to waste for disposal under their permit, the site design makes clear where these items will be stored on site, separate

from the areas where waste for disposal will be handled. The intent of adding this requirement is to require owners/operators to plan for and consider whether space is available to keep these items separate, because if space is not available, the transfer station should not accept these additional items, and the Division will not include acceptance of these items in the permit. These items should be kept separate to avoid confusion and having banned materials inadvertently mixed in with waste for disposal, and so it is clear to transfer station staff and Division staff during an inspection which areas contain waste meant for disposal and which areas contain waste intended for another use or destination.

Subparagraph (b)(15) requires that owners and operators consider during the design phase ways to best design and construct their transfer station to minimize odors and fugitive dust emissions to achieve compliance with the operational requirement to minimize fugitive dust emissions and odors for compliance with proposed Rule .0405(1), which references existing air quality rules 15A NCAC 02D .0540 and .1806. This may mean considering normal wind direction, topography, structures located downwind, and where on the property is best to construct the tipping floor to minimize possible complaints. It may also mean considering the use of mechanical controls such as misting systems for dust control.

Subparagraph (b)(16) requires that owners and operators consider during the design phase ways to best design and construct their transfer station to manage surface water run-on, run-off, and prevent ponding of surface water, to minimize the generation of leachate, or prevent non-compliance with existing rules .0103(e), .0402(3), 15A NCAC 04, and standards in 15A NCAC 02B, and now with proposed Rule .0405(a)(2), (a)(6), (a)(11), (b), and (c).

Costs and Benefits by Entity

(1) Private Industry and Local Government-Owned Facilities

Paragraph (a) – Siting Requirements:

Because existing transfer stations are exempted from compliance with Paragraph (a) if they do not expand outside their footprint (see Rule .0401(a)), these requirements will not have an impact on those existing transfer stations. Since the requirements of (1) through (5) are referencing other regulations that the transfer station would still have to comply with if the rule was not adopted, these requirements are not expected to create any additional cost for future transfer stations. Existing transfer stations that elect to expand outside their existing footprint will only have to comply with the buffer requirements of Subparagraph (a)(6) for the expansion area (see Rule .0401(b)(4)). This proposed rule may require them to modify existing expansion plans to meet the buffer requirements, if plans have already been drafted, but it would be unlikely to prevent existing transfer stations from being able to expand the footprint of their structures. If an operator were required to revise expansion plans for an application it may require some additional time spent by a professional engineer in revising the site plan and drawings, which could be between 8 and 16 hours. Assuming a total compensation of \$150.00 per hour, this cost could be between \$1,200 and \$2,400. Future transfer stations to be constructed will be

required to comply with the proposed siting requirements. It is likely however that the Division would have requested or required expansions or future transfer stations to revise their plans or location to meet these buffers in practice, for zoning ordinance or to prevent non-compliance with other regulations.

Having these requirements in rule may provide the benefit of clarification for owners and operators in the future during the process of siting/designing and securing funding for a future transfer station and may help avoid time wasted drafting plans on a property that may not meet required criteria.

Paragraph (b) – Design Requirements:

Subparagraphs (1) and (2): Because all existing transfer stations would be exempted from the requirements of these two subparagraphs by proposed Rule .0401(a)(2) within their existing footprint, no additional cost is expected to be incurred for existing facilities for these requirements. Any future transfer station would generally expect that they would be required by the Division to have a concrete or asphalt floor for the tipping floor, under some type of cover, generally a three-sided structure with a roof, since this is what is understood by the regulated community to be how a transfer station is constructed.

For future facilities or if an existing transfer station were to add additional waste handling areas outside of their existing footprint, the Division likely would have required a concrete or asphalt pad and a roof for the tipping floor and waste handling areas in the permit to construct under existing rule to avoid non-compliance with other rules for groundwater and surface water protection. If that were not the case, the estimated cost for a future transfer station to install a new concrete or asphalt tipping floor or waste handling area may be between \$10.00 and \$15.00 per square foot for a pad that is six-inch thick reinforced concrete on grade. Note that the thickness is not explicitly required in rule and could be double that amount if a twelve-inch thick slab or other additional protections or upgrades are elected by the owner/operator, with the intent being to lower future maintenance costs. Assuming a slab size of 1,000 to 2,500 square feet, the slab may cost a future transfer station between \$10,000 and \$25,000. Note that a roof is not explicitly required since the proposed rule states “enclosed building or covered area”, and some other type of less costly cover may be used in a smaller waste handling area, such as a permanently affixed tarp. The owner or operator would have the flexibility to determine whether they want to pay higher costs initially so that they can pay lower costs or spend less time on future maintenance, or the reverse. Assuming a structure size of 1,000 to 2,500 square feet, a structure with permanent cover may cost a future transfer station between \$1,000 and \$50,000.

The proposed amendments in Subparagraph (b)(1) and (b)(2) may provide a benefit to design engineers or construction companies that would be hired to plan and/or install the concrete or asphalt pads and roofs or other cover at least equal to the cost to the transfer station owners and operators described above.

Subparagraphs (b)(3) through (b)(8), (b)(9), (b)(10), (b)(11), (b)(14), and (b)(17) are for clarification of other regulatory requirements, or put into rule what was already required

in permit, therefore these subparagraphs are not expected to incur any costs on existing or future transfer stations. Having these requirements in rule may provide the benefit of clarification for owners and operators in the future during the process of siting/designing and securing funding for a future transfer station to avoid excessive discussion with Division staff to determine what the requirements are. They may also help avoid time wasted drafting plans on a property that may not meet required criteria, although this issue would generally have been avoided under existing rule through discussion with Division staff.

The action required of the transfer station owners/operators by Subparagraphs (b)(12), (b)(13), (b)(15), and (b)(16) is that they consider the factors provided in these Subparagraphs when they are in the design phase for their future transfer station or expansion of an existing transfer station for the purpose of preventing or minimizing future non-compliance with other rules and regulations. Again, the Division in practice attempts to have owners and operators consider these factors in the permitting process under existing rule. The Division expects that adding these factors into rule may reduce owner or operator staff time spent in multiple conversations with Division staff, and resubmitting multiple revised applications or additional documentation at the Division's request to ensure compliance with other rules and regulations, because all common requirements for design can now be found in this rule, and hopefully addressed by the applicant prior to the first application submittal.

The cost to owners/operators may be in additional time for an engineer (or professional engineer if required by G.S. 89C) during the design phase. If an engineer is required to design the transfer station and consider the factors in these Subparagraphs, and they would not have already done so at the Division's request during permitting, or their own best practices, consideration of these factors may add 8 to 40 hours to the design phase, assuming a total compensation of \$100 per hour, for a range of total costs of \$800 to \$4,000. If a professional engineer is required by G.S. 89C that may increase the total compensation to approximately \$150.00 per hour. However, this added time and effort would be outweighed by a greater reduction in operator and/or engineer time spent during the subsequent operational phase trying to address non-compliance, violations, complaints, and attempts to redesign the property after-the-fact to resolve problems that could have been prevented during the original design phase.

(2) State Government

Putting all of these siting and design requirements into rule provides a benefit to Division staff in potentially reducing the amount of time spent by Division permitting staff providing guidance, technical assistance, answering questions, and reviewing multiple revisions to applications from applicants due to the requirements being generally difficult to locate or review. The existing rules provide very little of the true requirements for transfer stations, and the majority of requirements are found in individual transfer station permits and operational plans. Having these requirements in rule will also provide a benefit to Division inspection/enforcement staff in reduced staff time spent providing technical assistance and guidance on complying with existing federal regulations, general statutes, other rules, and local ordinances; and in attempting to apply enforcement consistently to transfer

stations that may not have consistent requirements, or that may not be able to be consistently located.

(3) NC Citizens and Public Health and the Environment

Having these requirements in rule will provide a benefit to citizens by having all of the common requirements for all transfer stations in one location/document that can easily be linked to from the Division website, instead of having to search for permits and plans for individual facilities to find their requirements. Currently citizens can only find these documents by searching for a particular transfer station permit number (possibly by sorting for a particular county) on the Solid Waste Section's facility list webpage, then searching for that permit number in the Division's online document management system, then trying to determine which documents are permits and plans, and which permits and plans were most recently submitted. If the proposed rules are adopted, a link to the rules can be added to the Section's webpage for ease of review. Permits and operational plans will still contain any site-specific requirements.

Having these siting and design requirements in rule will also benefit public health and the environment because they provide direct references to federal regulations, general statutes, other rules, and local ordinances for the protection of groundwater, surface water, drinking water, historic preservation, nature preserves, endangered species, and adjacent properties that are all applicable to transfer stations.

Proposed Rule .0404 Application Requirements

Description and Rationale for New Rule

The permit application requirements in existing Rule .0401 are notably limited in comparison to existing rules for permit application for most of the other solid waste management facilities in Subchapter 13B. The rule only requires that the applicant submit a site plan, an operational plan, a letter of zoning approval, and "any other information pertinent to the proposed facility", but gave no indication of the type of information required to be included in the two plans, or what was meant by any other pertinent information, which allowed the Division flexibility in determining what information was required in the application. In practice, the Division has utilized internal policies based on experience over time to set the application requirements for these facility types since rule promulgation. While internal policies have made the requirements generally consistent over time, the lack of specificity in rule allows the potential for variation in requirements depending on the Division staff that are reviewing the permit, especially in the finer details. The Division is moving application requirements to proposed Rule .0404, and making the application requirements clear, specific, and consistent for all transfer stations to reduce the potential for varying requirements now and in the future, and to be consistent with requirements for other facility types in Subchapter 13B.

Because transfer station permits are issued for the life-of-site under existing Rule .0207, owner/operators will only be required to comply with the plan content requirements of Paragraphs (g) through (j) of this rule when they are submitting a permit application for a new transfer station, or when they are submitting a permit amendment application when

there is a change in ownership of the transfer station. Currently the Division only receives one to two new transfer station applications per year. There are 31 existing transfer stations that have not yet submitted a request to have their existing five or ten-year permit converted to a life-of-site permit, but they may do so by submitting the request quantifying the transfer station's life-of-site in accordance with existing Rule .0207(f), and would not be required to submit a full permit application unless their existing permit expires without having submitted a request to convert it. If a transfer station is only modifying a plan that is a part of their existing permit, they will only have to comply with proposed Rule .0404(f) for a permit modification by submitting the revised pages of the plan for approval.

The proposed language adds the submittal of a construction plan and a closure plan to the application requirements, in addition to the site plan and operations plan. The proposed rule also now states specifically what information is required to be included in each of these plans. The information required to be submitted by the proposed rule is information that is already being submitted under existing rule as the site and operations plans, as "any other information" (including construction and closure information), and internal policy before a permit to construct and/or permit to operate is issued by the Division, although it may not necessarily have been given the title of a "plan" when submitted.

The proposed rule also includes references to multiple existing federal regulations, general statutes, and other rule requirements, for the purpose of making clear that these requirements do apply, and have applied under existing rule, to transfer stations.

Costs and Benefits by Entity

(1) Private Industry and Local Government-Owned Facilities

Since existing Rule .0401 lacked detail and specificity of the information required to be submitted, the Division is putting into rule what was being required in practice, so the Division does not expect any additional costs to be incurred on transfer station owner/operators as a result of the proposed application requirements. If impacts did occur, they would be minimal and would be limited in scope to the one to two applications for new transfer stations submitted per year, or the unpredictable and infrequent change in ownership. The proposed requirements may provide a benefit in greater clarification and consistency and in pointing to the other existing regulations that apply, which may result in a reduction in application re-submittals with corrections, and discussion with Division staff to comply with requirements.

(2) State Government

Putting all of these application requirements into rule provides a benefit to Division staff in potentially reducing the amount of time spent by Division permitting staff providing guidance, technical assistance, answering questions, and reviewing multiple revisions to applications from applicants due to the requirements being generally difficult to locate or review. The existing rules provide very little detail for the application requirements for transfer stations, so applicants currently must contact Division staff to determine what is required to be submitted in an application.

(3) NC Citizens and Public Health and the Environment

Having these requirements in rule will provide a benefit to citizens by having all of the common application requirements for all transfer stations in one location that can easily be linked to from the Division website, instead of having to search for permits and plans for individual facilities to find their requirements as described above.

Proposed Rule .0405 Operational Requirements

Description and Rationale for New Rule

The operational requirements in existing Rule .0402 are notably limited in comparison to existing rules for operational requirements for most of the other solid waste management facilities in Subchapter 13B. The rule only requires that the applicant comply with the operational plan as approved by the Division and lists six other basic operational requirements. The Division is moving operational requirements to proposed Rule .0405, and making the operational requirements clear, specific, and consistent for all transfer stations to reduce the potential for varying requirements now and in the future, and to be consistent with requirements for other facility types in Subchapter 13B.

Since existing Rule .0401 required an operational plan, but did not state what information needed to be included in the operational plan, the Division has utilized internal policies based on experience over time to set requirements for what needed to be included in the operational plans that the transfer stations have been required to follow, and generally required the same types of information in the operational plans, although the applicant drafts and submits the plan with the application for Division approval. The proposed requirements of this rule are either being moved here from Rule .0402 or the common requirements in existing transfer station operational plans. They also refer to existing applicable State rules and federal regulations and provide additional detail or clarification.

The following requirements are being added to rule to refer to existing requirements in other rules, general statutes, and federal regulations for clarification and guidance, and are also required in existing permit conditions and/or operational plans:

- Paragraph (a) - operational conditions:
 - (1) - dust and odor control,
 - (2) - groundwater and surface water monitoring,
 - (3)(A) - open burning prohibition,
 - (6) - erosion and sedimentation control,
 - (7) - training,
 - (9) - prohibited wastes,
- Paragraph (b) - leachate containment, and
- Paragraph (c) - vehicles and containers.

The following requirements are being moved to proposed Rule .0405 from existing Rule .0402, with additional detail or clarification to be consistent with the detail in existing permit

conditions and/or operational plans for these items:

- Paragraph (a) - operational conditions:
 - (3)(C) - fire prevention equipment,
 - (4) - vector control,
 - (9) - prohibited wastes,
 - (10) - windblown waste, and
 - (11) - cleaning and maintenance.

The following are required in existing permit conditions and/or operational plans:

- Paragraph (a) - operational conditions:
 - (3)(B) – prohibition of hot waste ensures safety and fire prevention.
 - (3)(D) - 24-hour notice of fires ensures that the Division is aware of fires at the transfer station, and can ensure that the fire is extinguished quickly, negative impacts to human health and the environment are minimized, and procedures are put in place to try to prevent it from occurring again;
 - (5) - noise control ensures compliance with local ordinances, and prevents the transfer station from becoming a nuisance to the surrounding community; and
 - (8) - waste screening ensures that prohibited wastes are not inadvertently being accepted.
- Paragraph (d) - record-keeping ensures that records are kept and are available to verify compliance with the statutes and rules.
- Paragraph (e) - access control ensures that illegal dumping does not occur, that unauthorized persons do not have access to the wastes on site, and the general public is protected from injury by equipment being used on site. All-weather access roads ensure that access roads are maintained so that they do not become impassable and prevent timely processing and removal of waste.

Costs and Benefits by Entity

(1) Private Industry and Local Government-Owned Facilities

The proposed rule in general is not expected to add additional costs for transfer station owners/operators because it is putting into rule what has been historically required under existing rules and regulations, permit conditions, operational plans, and in practice by the Division. Minimal costs or benefits may be incurred if the additional specificity is not in line with some details included in existing rule or operational plans, but the Division expects that these requirements are consistent with what is required in existing operational plans.

If a transfer station did have to make some changes to their operations as a result of the proposed rule, this may require that their operations plan be revised to reflect the change. Since proposed Rule .0404(f) allows these plans to be updated by simply submitting the revised pages of the plan for approval, any cost for a revision would be minimal.

(2) State Government

The proposed rule is not expected to change the frequency of annual inspections or enforcement by Division staff since they are putting into rule what is already required by permit or operational plan. The proposed rule may provide a benefit to Division enforcement staff in reduced time spent on technical assistance, since it provides a straightforward location to refer potential permittees to if they are asking about requirements for transfer stations. The proposed rule may provide a benefit to Division staff by clarifying some requirements or giving them greater certainty that requirements are consistent for all transfer stations.

(3) NC Citizens and Public Health and the Environment

Having these requirements in rule will provide a benefit to citizens by having all of the common requirements for all transfer stations in one location that can easily be linked to from the Division website, instead of having to search for permits and plans for individual facilities to find their requirements as described above. The rules will provide clarification to the public of the requirements for transfer stations, which may either decrease or increase complaints, depending on the amount and types of complaints received on facilities now. This rule change is not expected to change the frequency of inspection or enforcement for the protection of health and the environment.

Proposed Rule .0406 Closure Requirements

Description and Rationale for New Rule

The Division is proposing to add these requirements to be consistent with rules for transfer station closure for other solid waste management facilities in Subchapter 13B, and for clarification of requirements. Since existing rule did not include any mention of closure requirements, the Division in practice has been including the requirements in permit conditions or issuing some type of letter or other written communication providing closure requirements near the time of closure.

The owner or operator would already be inclined to provide notification in writing to the Division that they intend to terminate a permit and that they have completed closure of the transfer station, because they would want to ensure that the Division does not issue an invoice for the annual permit fee for the upcoming year; and so that the Division can release them from any financial assurance requirements, if they exist (depending on permitted activities). The Division also already conducts an inspection under existing rule and permit conditions to ensure that no waste has been left on the property, as they would have under existing rule for general compliance and enforcement when provided notice of transfer station closure. The requirement to remove all waste from the transfer station is not technically a new requirement, because under existing rules if the permit was terminated/not renewed, but waste remained on the property after permit expiration, this would be a violation of existing Rule .0201(a), (b), or (c), and the Division would issue a notice of violation on that basis. The deadlines for notification to the Division of the intent to close, initiation of closure, and completion of closure may be considered new if the permit did not already provide such deadlines.

The main intent of establishing deadlines from the Division's perspective is to ensure that the closure process does not stretch out unnecessarily long. Since transfer stations have been required by permit condition to have removed all waste intended for disposal at the end of each day, the requirements to actually close a transfer station are likely minimal, and would depend on what other activities the owner/operator has requested in their permit to be conducted on the transfer station property, such as sorting and collection of recyclables, items banned from landfill disposal, or household hazardous wastes. Also, recovered materials generally intended for recycling or reuse are required by existing statute to have been removed/reduced by 75% within a year of receiving, so storage of recovered material should also be minimal.

The proposed rule requires closure of leachate collection systems, if present, in accordance with the leachate management plan that was incorporated into the permit. The intent of this requirement is to ensure that no leachate is left on site in tanks/containers or pipes that may cause contamination and non-compliance with 15A NCAC 02B or 02L or create contaminated soils. The intent is also to prevent any containers or pipes from being left open or open-ended which may create a public health hazard. While removal of the leachate collection system is preferable, the proposed rule would allow a transfer station to leave the system in place, if so stated in the leachate management plan, for use by the next property owner in the same manner that it was used by the existing transfer station. However, leaving the system in place, especially if parts of the system were buried or below grade, would require that a notice be recorded with the register of deeds on the property stating this information, and describing any land use restrictions.

The proposed rule also requires that a notice and any land use restrictions, if needed, be recorded with the register of deeds to notify a future property owner if an exceedance of groundwater quality standards in 15A NCAC 02L has been caused by the transfer station, and a corrective action program has been required by the Division. The notice and restrictions may be later removed if the exceedance is remediated and the property is released from the corrective action program by the Division. This requirement is being added to ensure that in the rare occurrence where a transfer station is under a corrective action program, anyone interested in purchasing the property will be made aware of the compliance issue and the associated liability. This is an existing requirement for contaminated sites under corrective action in G.S. 130A-310.71(e) and/or G.S. 143B-279.10, depending on the circumstances, and the proposed rule is referencing the requirement, and clarifying that it does apply to transfer stations if the facility or operations cause some kind of contamination.

The only new requirement is in requiring that a notice be recorded when a leachate collection system is left in place for future use. The purpose of adding this requirement is to notify future potential buyers that a leachate collection system, which may be partially underground, and may still contain some minimal leachate residuals, exists on the property. For example, the owner/operator may close the transfer station, sell the property, and choose to leave the leachate collection system in place because the buyer

also intends to use the property for a transfer station. Then after purchasing the property, the buyer's plan for the site use falls through and they must sell the property. The recordation would warn the next buyer of the leachate collection system on the property even though the Division was not made aware that the property was being sold again.

Costs and Benefits by Entity

(1) Private Industry and Local Government-Owned Facilities

The changes to transfer station owners/operators required by the proposed rule are to provide notifications and complete closure by the stated deadlines if the permit did not already provide such deadlines, to remove or close a leachate collection system if present as described in the leachate management plan in the permit, and to record the property if a corrective action program is required by the Division under 15A NCAC 02L. Since the closure activities for transfer stations in general are minimal as compared to other solid waste management facilities such as landfills, the Division expects that a deadline of six months to complete closure is more than enough time for a typical transfer station that was in compliance with existing rules and their permit requirements, and will not create any additional cost or burden to the owner/operator. Such a deadline may also have already been stated in the permit or operational plan under existing rule. Clarification of the timeframe and expectations for notification and for closure is expected to increase compliance and may provide a benefit to local government owners/operators when attempting to schedule and secure funding for closure.

If a transfer station did have to make some changes to their planned closure procedures as a result of the proposed rule, this may require that their operations or closure plan be revised to reflect the change. Since proposed Rule .0404(f) allows these plans to be updated by simply submitting the revised pages of the plan for approval, any cost for a revision would be minimal.

While recordation of a notice and land use restrictions is unlikely to occur at a transfer station, and is an existing requirement under G.S. 130A-310.71(e) and/or G.S. 143B-279.10 for contaminated sites under a corrective action program, if the owner/operator chooses to leave a leachate collection system in place after closure, the owner or operator would be required to pay the fee for the recordation, which may be between \$30.00 and \$50.00, and could also incur a reduction in the property value, which would be difficult to estimate without knowing the original value of the property or what the market would be at the time. It also may not affect the value at all if the potential buyer is interested in keeping the collection system. If the leachate collection system is removed, another recordation fee would be incurred by whoever removes it to record a release of the notice and restrictions from the Division, and the property value may return to market value if the value had decreased.

(2) State Government

The proposed rule is not expected to change the frequency of inspections or enforcement by Division staff since it is putting into rule what is generally already required by permit or operational plan. Putting requirements into rule may provide a benefit to Division staff in reduced time spent on technical assistance for the public, since it provides a straightforward location to refer potential permittees to if they are asking about requirements for transfer stations. It also provides clarification and specificity on some requirements, which may reduce time spent in discussions of interpretation of permit conditions.

The recordation requirement may add minimal time for Division staff to draft land use restrictions and review and verify the recording of documents, but these activities are already conducted as a normal part of compliance and enforcement activities for other facility types and illegal dumping. This minimal additional time could be vastly outweighed by a potential reduction in time spent later in discussions with attorneys or working on a court case to explain why the Division did not take some type of action or precaution to warn an unsuspecting buyer that they are purchasing a property with a leachate collection system in place if the property were to change hands multiple times after closure.

(3) NC Citizens and Public Health and the Environment

The proposed rule is not expected to change the frequency of inspection or enforcement for the protection of public health and the environment. The proposed rule will provide clarification to the public of the closure requirements for transfer stations. Having these requirements in rule will provide a benefit to citizens by having all of the common requirements for all transfer stations in one location/document that can easily be linked to from the Division website, instead of having to search for permits and plans for individual facilities to find their requirements.

The proposed rule will provide a benefit to public health and the environment by ensuring that no leachate collection system tanks/containers or pipes are left open or open-ended, or containing leachate that may cause contamination and non-compliance with 15A NCAC 02B or 02L or create contaminated soils. The proposed rule will provide a benefit to potential future property owners by providing notification at the register of deeds of any leachate collection system, contamination, or land use restrictions that might remain on property, and the associated liability.

CONCLUSION

- The proposed requirement for private industries and local governments that are the owners/operators of transfer stations to conduct a self-assessment and submit a report to the Division within 6 months is estimated to cost between \$1,500 and \$3,000 for each of the 96 active transfer stations, for a total statewide cost of between \$147,000 to \$294,000. The proposed rule amendments may also affect expenditures over the next five years if any improvements are required, but the impact would depend on the current state of the transfer station. The Division expects that the majority of transfer stations are already in compliance with the proposed rules, and that the Division would have required future transfer stations to meet the same requirements as existing transfer stations under permit condition

in the absence of the proposed rules. The proposed amendments are expected to benefit these entities through increased consistency and clarification which may reduce complaints or enforcement actions, and through reduced time spent in obtaining technical assistance from the Division for unclear requirements or misinterpretations.

- The proposed rule amendments may have an impact on Division staff time spent, however, they are not expected to affect the expenditure or distribution of State funds subject to the State Budget Act. The proposed requirement for Division staff to review the 96 self-assessment reports submitted by transfer stations and issue a response letter with required improvements within the first year and half following the effective date of the proposed rules may require approximately 135 hours of additional Division staff time. However, the Division expects that an equal amount of time may be saved over the next two to five years in reduced time spent providing technical assistance for siting and permitting requirements, or in discussions over the interpretation of operational and closure requirements.
- The proposed rule amendments are not expected to have an annual aggregate impact to the affected parties of greater than or equal to \$1 million.
- The proposed rule amendments are expected to benefit NC citizens and the environment through clarification of requirements to all parties, which may result in improved consistency, accountability, and compliance and reduced complaints and enforcement actions. Regulatory requirements will continue to be enforced by the Division through annual inspections and review of annual facility reports.

1 15A NCAC 13B .0401 is proposed for readoption with substantive changes as follows:

2
3 **SECTION .0400 - TRANSFER STATIONS FACILITIES**

4
5 ~~Rules .0401—.0402 of Title 15A Subchapter 13B of the North Carolina Administrative Code (T15A.13B~~
6 ~~.0401—.0402); have been transferred and recodified from Rules .0401—.0402 of Title 10 Subchapter 10G of the~~
7 ~~North Carolina Administrative Code (T10.10G .0401—.0402), effective April 4, 1990.~~

8
9 **15A NCAC 13B .0401 ~~APPLICATION REQUIREMENTS~~ PURPOSE AND APPLICABILITY**

10 ~~This Rule contains the information required for a permit application for each transfer facility. A minimum of three~~
11 ~~sets of the following information shall be required in each application:~~

- 12 (1) ~~Site and operation plans;~~
13 (2) ~~An approval letter from the unit of local government having zoning authority over the area where~~
14 ~~the facility is to be located, stating that the proposed facility meets all the requirements of the local~~
15 ~~zoning ordinance, or that the site is not zoned; and~~
16 (3) ~~Any other information pertinent to the proposed facility.~~

17 (a) Owners or operators of transfer stations as defined in Rule .0101 of this Subchapter shall comply with applicable
18 federal, State, and local laws, rules, regulations, and ordinances, and shall comply with the rules of this Section as
19 follows:

- 20 (1) Transfer stations that did not receive a permit to operate from the Division prior to the readopted
21 effective date of this Rule shall comply with the rules of this Section.
22 (2) Transfer stations that received a permit to operate from the Division prior to the readopted effective
23 date of this Rule shall comply with the rules of this Section with the following exceptions:
24 (A) buildings, structures, and waste handling areas constructed prior to the readopted effective
25 date of this Rule shall not be required to comply with Rule .0403(a), (b)(1), or (b)(2) of
26 this Section for the footprint existing on the readopted effective date of this Rule, or any
27 replacements or modifications within that existing footprint; and
28 (B) if a building, structure, or waste handling area was constructed prior to the readopted
29 effective date of this Rule, and is expanded beyond its existing footprint after the readopted
30 effective date of this Rule, the footprint that was existing on the readopted effective date
31 of this Rule shall not be required to comply with Rule .0403(a), (b)(1), or (b)(2) of this
32 Section, but the expansion areas shall comply with these requirements.

33 Transfer station buildings, structures, and waste handling areas that are exempt from the
34 requirements of Rule .0403(a), (b)(1), and (b)(2) of this Section by this Subparagraph shall continue
35 to comply with the comparable siting, buffer, and construction requirements stated in their permit
36 issued prior to the re Adoption date of this Rule.

1 The transportation of regulated medical waste shall not be subject to the rules of this Section, but shall comply with
2 Section .1200 of this Subchapter. Transfer stations that receive or transport solid waste by rail, roadway, or water
3 shall be subject to the rules of this Section.

4 (b) Transition period: Transfer stations permitted by the Division prior to the readopted effective date of this Rule
5 shall submit to the Division an assessment report demonstrating compliance with the following conditions and the
6 rules of this Section by no later than six months from the readopted effective date of this Rule:

7 (1) The assessment report shall include an assessment of the status of the building, access roads,
8 parking, and leachate collection system of the current operations compared to the design of the
9 facility as stated in the facility permit, the plans incorporated into the permit by Rule .0404(d) of
10 this Section, and the rules of this Section. If required by G.S. 89C or G.S. 89E and not under the
11 purview of another licensed profession, the assessment report shall be prepared by a licensed
12 professional engineer as defined in G.S. 89C-3 or a licensed geologist as defined in G.S. 89E-3.

13 (2) The assessment report shall contain recommendations for any actions necessary to comply with the
14 rules of this Section. The Division shall notify the owner or operator of the facility in writing within
15 12 months of receipt of the report of the changes required to comply with the rules of this Section,
16 if any.

17 (3) The facility shall complete the actions required to comply with the rules of this Section within three
18 years of receipt of the Division's notification of the required changes. The facility may submit a
19 request to extend this deadline to the Division in writing. The request shall include the reasons for
20 the request and the anticipated date that the work will be completed. The Division shall approve an
21 extension of the deadline in writing if the Division determines that the scope of work needed to
22 comply with the rules of this Section cannot be completed in three years.

23 (c) Unless otherwise prohibited from accepting waste by local ordinance, transfer stations are not subject to service
24 area restrictions if the receiving disposal facility permit includes the origin of waste as identified by franchise or local
25 government approval.

26 (d) Wastes entering the State via a transfer station are deemed out-of-state waste to the point of disposal, regardless
27 of any further processing, recycling, or other reduction activity.

28 (e) Transfer station permits issued by the Division in accordance with this Section are valid for the life-of-site
29 operations in accordance with Rule .0207 of this Subchapter, not to exceed 60 years from the date of the first permit
30 issued for the facility.

31
32 *History Note: Authority G.S. 130A-294;*

33 *Eff. April 1, 1982;*

34 *Amended Eff. February 1, 1991-1991;*

35 *Readopted Eff. November 1, 2020.*

1 15A NCAC 13B .0402 is proposed for readoption with substantive changes as follows:

2
3 **15A NCAC 13B .0402 OPERATIONAL REQUIREMENTS GENERAL REQUIREMENTS**

4 ~~Any person who maintains or operates a transfer facility shall maintain and operate the facility in conformance with~~
5 ~~the following practices unless otherwise specified in the permit.~~

6 ~~(1) Operational plans shall be approved and followed as specified for the facility;~~

7 ~~(2) A facility shall only accept those wastes which it is permitted to receive;~~

8 ~~(3) Water that comes into contact with solid waste will be contained on-site or properly treated prior to~~
9 ~~discharge from the site. An NPDES permit may be required prior to discharge to surface waters;~~

10 ~~(4) Equipment for fire control shall be available;~~

11 ~~(5) Effective vector control measures shall be applied to control flies, rodents, and other insects or~~
12 ~~vermin;~~

13 ~~(6) Equipment shall be provided in the storage and charging areas and elsewhere as needed or as may be~~
14 ~~required in order to maintain the facility in a sanitary condition; and~~

15 ~~(7) Appropriate method shall be provided to confine material subject to be blown by the wind within the~~
16 ~~area. At the conclusion of each day of operation, all windblown material resulting from the operation~~
17 ~~shall be collected and returned to the area by the owner or operator.~~

18 (a) The owner or operator shall comply with the conditions of the transfer station permit issued by the Division. In
19 the event of noncompliance with the permit, the owner or operator shall take all reasonable steps to prevent releases
20 to the environment and shall carry out such measures as are reasonable to prevent adverse impacts to human health or
21 the environment.

22 (b) The owner or operator shall submit to the Division upon request any information or records required to be kept
23 under the conditions of the permit or the rules of this Section.

24 (c) In an enforcement action, necessity to halt or reduce the permitted activity to maintain compliance with the
25 conditions of the permit shall not be a defense. Notification of anticipated noncompliance does not stay any existing
26 permit condition.

27 (d) The owner or operator may submit an application for a permit amendment or modification in accordance with
28 G.S. 130A-294(a3). The filing of an application for a permit modification or amendment, or a notification of a
29 significant change in accordance with G.S. 130A-295.2(g), does not stay any existing permit condition.

30 (e) The Division shall deny an application for a permit for the reasons provided in G.S. 130A-294(a)(4)c. The
31 Division may suspend or revoke a permit in accordance with G.S. 130A-23. If the Division denies a permit application
32 or revokes or suspends a permit, the Division shall notify the owner or operator in writing of the reasons for the permit
33 action.

34 (f) If construction is not commenced within 18 months following the issuance date of the permit approval to construct,
35 or an amendment to the permit approval to construct, then the permit shall expire.

36 (g) The owner or operator shall operate and maintain all transfer stations and related appurtenances that are installed
37 or used by the owner or operator to achieve compliance with the conditions of the permit, the plans incorporated in

1 the permit in accordance with Rule .0404(d) of this Section, and any documents referenced in the permit and the rules
2 of this Section.

3 (h) The transfer station shall only conduct the solid waste management activities that the facility is permitted to
4 conduct. Construction and operation of additional solid waste management activities at the transfer station shall not
5 impede transfer station operations.

6 (i) Transfer stations permitted under the rules of this Section shall be subject to the permit fees set forth in G.S.
7 130A-295.8.

8 (j) The owner or operator shall report to the Division verbally or in writing within 24 hours from the time the owner
9 or operator becomes aware of the circumstances of any release or discharge of leachate or contaminants outside the
10 leachate collection system or other containment component at the transfer station.

11

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

13 *Eff. April 1, ~~1982~~, 1982;*

14 *Readopted Eff. November 1, 2020.*

1 15A NCAC 13B .0403 is proposed for adoption as follows:

2
3 **15A NCAC 13B .0403 SITING AND DESIGN REQUIREMENTS**

4 (a) Transfer stations shall meet the following siting requirements:

5 (1) Floodplain Restrictions: The portions of the transfer station containing the buildings, leachate
6 collection systems, and any areas where storage or processing of solid waste occurs shall not be
7 located in the 100-year floodplain.

8 (2) Cultural Resources Restrictions: A transfer station shall not damage or destroy a property of
9 archaeological or historical significance that has been listed on the National Register of Historic
10 Places or included on the Study List for the Register pursuant to 07 NCAC 04R .0206 and .0300.

11 (3) State Nature and Historic Preserve Restrictions: The location, access, size, and operation of the
12 transfer station shall not have an adverse impact on any component included in the State Nature and
13 Historic Preserve pursuant to G.S. 143-260.10.

14 (4) Endangered and Threatened Species Restrictions: A transfer station shall not jeopardize the
15 continued existence of endangered or threatened species or result in the destruction or adverse
16 modification of a critical habitat, protected under the Federal Endangered Species Act of 1973,
17 Public Law 93-205, as amended.

18 (5) Clean Water Act requirements: a transfer station or its operations shall:

19 (A) not cause a discharge of pollutants into waters of the United States, including wetlands,
20 that violates any requirements of the Clean Water Act, including the National Pollutant
21 Discharge Elimination System (NPDES) requirements pursuant to Section 402 of the Clean
22 Water Act.

23 (B) comply with Section 404 of the Clean Water Act.

24 (C) not cause the discharge of a nonpoint source of pollution to waters of the United States,
25 including wetlands, that violates any requirement of an area-wide or Statewide water
26 quality management plan that has been approved under Section 208 or 319 of the Clean
27 Water Act.

28 (6) Buffer Requirements: Unless otherwise stated in the facility permit or local zoning requires larger
29 buffers, the waste loading, unloading, and storage areas shall be:

30 (A) no less than 100 feet from supply wells;

31 (B) no less than 100 feet from property lines;

32 (C) no less than 50 feet from waters of the State as defined in G.S. 143-212, or wetlands as
33 defined in 40 CFR 232.2; and

34 (D) surrounded by an unused and cleared area of no less than 25 feet to allow access for fire or
35 emergency response vehicles.

36 (b) Transfer stations shall meet the following design requirements:

- 1 (1) Transfer stations shall be designed and constructed so that all solid waste receiving, handling,
2 transfer, and storage occurs on an impervious surface, such as concrete or asphalt, unless otherwise
3 stated in the facility permit.
- 4 (2) Tipping areas shall be located within an enclosed building or covered area to prevent precipitation
5 from coming into contact with waste, and all waste shall be contained in the tipping area unless
6 otherwise stated in the facility permit.
- 7 (3) All recovered materials and recyclables stored at the transfer station shall comply with G.S. 130A-
8 309.05(c).
- 9 (4) The transfer station shall be designed to operate within the capacity specified in the permit to
10 accommodate estimated waste volumes, and within schedules prescribed in the permit for removal
11 of all waste streams and materials permitted to be handled at the facility. Other activities occurring
12 at a transfer station shall not prohibit compliance with the operational requirements in Rule .0405
13 of this Section.
- 14 (5) A water supply shall be provided for cleaning facility floors, walls, and equipment.
- 15 (6) Leachate, including wash water and process water, shall be collected and contained within the
16 facility collection and containment system approved by the Division in the facility permit.
- 17 (7) All vehicles and containers that contain solid waste shall be staged within the perimeter of a leachate
18 collection system or shall be covered and in compliance with Rule .0105 of this Subchapter.
- 19 (8) Leachate collection and treatment systems shall be designed to facilitate the removal of leachate and
20 wastewater, and may include pipes, manholes, trenches, berms, collection sumps or basins, pumps,
21 risers, liners, and liner splices.
- 22 (9) The transfer station design shall include barriers such as fencing and gates to prevent unauthorized
23 entry and to minimize the escape of windblown materials offsite.
- 24 (10) In accordance with G.S. 130A-295.5, transfer stations shall be designed and operated so that traffic
25 congestion from loading and unloading of collection and transportation vehicles is minimized
26 beyond the facility entrance onto the public road, and beyond any egress ramp approved by the N.C.
27 Department of Transportation.
- 28 (11) An all-weather road that is accessible by loaded collection vehicles shall be provided from the
29 entrance gate to the unloading, receiving, and tipping areas.
- 30 (12) Storage areas for waste materials shall be designed to prevent potential fires from spreading outside
31 the storage area, to prevent vectors, and to prevent the escape of waste, leachate, odors, dust, and
32 litter from the facility.
- 33 (13) If materials banned from landfill disposal in accordance with G.S. 130A-309.10(f) or recyclable
34 materials will be stored on site, the facility design shall include a storage area for these materials
35 that is separate from the areas used for handling of waste meant for disposal.
- 36 (14) Transfer stations shall be designed and operated to prevent the attraction of vectors.

1 (15) Transfer stations shall be designed and operated to minimize the spread of odors and fugitive dust
2 emissions generated by solid waste over the property line to comply with 15A NCAC 02D .0540
3 and .1806.

4 (16) Transfer stations shall be designed, operated, and maintained to direct surface water run-on and run-
5 off to prevent ponding or collection of surface water in waste handling and storage areas.

6 (17) Transfer stations that intend to accept, process, or recycle construction and demolition wastes shall
7 be designed to comply with 40 CFR Part 61(M), G.S. 130A-444 through 452, and the rules adopted
8 thereunder.

9
10 *History Note: Authority G.S. 130A-294;*

11 *Eff. November 1, 2020.*

1 15A NCAC 13B .0404 is proposed for adoption as follows:

2
3 **15A NCAC 13B .0404 APPLICATION REQUIREMENTS**

4 (a) Applications for transfer station permits submitted in accordance with Paragraph (c) of this Rule shall be submitted
5 to the Division of Waste Management Solid Waste Section for review and approval prior to commencement of
6 construction or operation of a transfer station.

7 (b) Permit applications for transfer stations are subject to the permit application fees required by G.S. 130A-295.8.

8 (c) In accordance with Rule .0201 of this Subchapter, a permit for a transfer station shall have two parts:

9 (1) Permit Approval to Construct. An application for a permit approval to construct a transfer station
10 shall meet the requirements of Paragraphs (g) through (m) of this Rule and shall be submitted to the
11 Division prior to commencing construction of the facility. The application shall include the plans
12 required in Paragraphs (g) through (j) of this Rule.

13 (2) Permit Approval to Operate. The owner or operator shall meet the pre-operative requirements listed
14 in the permit approval to construct to qualify for a permit approval to operate. Construction
15 documentation as outlined in Paragraph (n) of this Rule shall be submitted to the Division prior to
16 receiving waste at the facility. The facility shall not begin receiving waste until a permit approval
17 to operate has been issued by the Division.

18 (d) Permits issued by the Division in accordance with this Section shall incorporate all plans approved by the Division
19 that are required to be submitted by Paragraphs (g) through (j) of this Rule, and a Corrective Action Plan if required
20 in accordance with Rule .0405(a)(2) of this Section.

21 (e) Amendment to the permit. The owner or operator shall submit an application to amend the permit for a change in
22 ownership or corporate structure of a permitted transfer station. The owner or operator shall notify the Division within
23 30 days of a change in ownership or corporate structure in accordance with G.S. 130A-295.2(g).

24 (f) Modifications to the permit. The owner or operator may request to modify plans that were incorporated into the
25 permit by the Division in accordance with the rules of this Section by submitting the request to the Division, including
26 the modified plan and a demonstration showing how the proposed modifications comply with the rules of this Section.

27 The Division shall respond to the request in writing within the timeline provided in G.S. 130A-295.8(e), and the
28 response shall either approve or deny the request as submitted or request that additional information be submitted for

29 the Division to consider the request. The Division's approval shall be based on whether the modification complies
30 with the rules of this Subchapter. If the Division approves the request as submitted or upon receiving the additional
31 information requested, the Division's written approval and the revised pages of the plan shall be added to the facility's
32 operating record. The owner or operator shall not implement the modification until the Division has issued an approval.

33 (g) Site Plan. An application for a permit for a solid waste transfer station (site) shall contain a site plan that includes
34 the following information:

35 (1) an aerial photograph, representative of existing conditions, at a scale of a least one inch equals 400
36 feet, showing the area within one quarter mile of the proposed site's boundaries with the following
37 identified:

- 1 (A) property lines of the entire property where the site will be located;
- 2 (B) existing land use and zoning;
- 3 (C) location of all private residences, commercial and industrial buildings, public or private
4 utilities, roads, and schools;
- 5 (D) on-site easements;
- 6 (E) location of potable wells and public water supplies;
- 7 (F) historic sites described in Rule .0403(a)(2) of this Section;
- 8 (G) state nature and historic preserves described in Rule .0403(a)(3) of this Section;
- 9 (H) the existing topography and features of the disposal site including general surface water
10 drainage patterns and watersheds, 100-year floodplains, perennial and intermittent streams,
11 rivers, and lakes; and
- 12 (I) the classification of the surface water drainage from the facility site in accordance with
13 15A NCAC 02B .0300.

14 (2) a siting report demonstrating compliance with the siting criteria of Rule .0403(a) of this Section,
15 including a letter from the unit of government having zoning jurisdiction over the site that states
16 that the proposed use is allowed within the existing zoning, if any; that any necessary zoning
17 approval or permit has been obtained, and that states the local zoning buffers that apply to the site.

18 (3) letters from both the State Historic Preservation Office and the Natural Heritage Program within the
19 Department of Cultural and Natural Resources stating whether the proposed use of the site as a solid
20 waste transfer station will impact the historic sites described in Rule .0403(a)(2) of this Section;
21 State nature and historic preserves described in Rule .0403(a)(3) of this Section; or the endangered
22 or threatened species described in Rule .0403(a)(4) of this Section located on the transfer station
23 property.

24 (h) Construction Plan. An application for a permit for a solid waste transfer station shall contain a construction plan
25 that includes the following items:

26 (1) Construction drawings showing:

- 27 (A) existing and proposed contours;
- 28 (B) property boundaries;
- 29 (C) the location of barriers, fences, or other structures that control access to the facility,
- 30 (D) buffer areas and distances to wells, residences, wetlands and water bodies and descriptions
31 of any buffer requirements by local government zoning regulations;
- 32 (E) the water diversion, collection, conveyance, erosion and sedimentation control, treatment,
33 storage, and discharge facilities that will be used, such as drainage patterns and surface
34 water drainage control structures both within the area and at the site perimeter, including
35 berms, ditches, sedimentation basins, pumps, sumps, culverts, pipes, inlets, velocity
36 breaks, sodding, erosion matting, or other methods of erosion control;
- 37 (F) the solid waste storage, loading, and unloading areas, including the tipping floor;

1 (G) buildings and facilities that will be used in the operation, including their horizontal and
2 vertical dimensions;

3 (H) concrete foundations or pads and identification of all other ground cover for the site
4 operation;

5 (I) location of scales and weigh stations that will be used in the operation;

6 (J) a survey grid with base lines and monuments that will be used for field control;

7 (K) access roads and traffic flow patterns to and within the transfer station;

8 (L) leachate collection, control, and treatment systems including pipes, manholes, trenches,
9 berms, collection sumps or basins, pumps, risers, liners, and liner splices; and

10 (M) materials management handling areas for facilities that will manage pre-sorted recyclables
11 and any materials diverted from the incoming waste stream; and

12 (2) a description of how the transfer station will comply with the design requirements of Rule .0403(b)
13 of this Section.

14 (i) Operations Plan. An application for a permit for a transfer station shall contain an operations plan that shall include
15 a discussion of each of the following items:

16 (1) the type and quantity of waste that will be accepted, the anticipated sources of the waste accepted,
17 the intended destination of waste removed from the facility, and the intended destination of
18 recovered materials if any are proposed to be removed from the facility;

19 (2) the procedures and anticipated processing and storage times for the activities that the transfer station
20 is proposing to conduct, such as receiving, screening, processing, handling, salvaging, storage, and
21 removal of waste and recovered materials including recyclables, wastes banned from landfill
22 disposal in accordance with G.S. 130A-309.10(f), and special wastes as defined in G.S. 130A-
23 290(a)(40);

24 (3) the hours of operation, staffing, parking for visitors and employees, and traffic routing;

25 (4) methods for vector control, dust and odor control, drainage and erosion control, fire prevention, and
26 daily cleanup;

27 (5) record-keeping procedures;

28 (6) groundwater and surface water monitoring and corrective action, if required by the Division in
29 accordance with Rule .0405(a)(2) of this Section;

30 (7) planned compliance with the operational requirements of Rule .0405 of this Section;

31 (8) for transfer stations that will accept, process, or recycle construction and demolition wastes, a
32 description of how the facility will comply with 40 CFR Part 61(M), G.S. 130A-444 through 452,
33 and the rules adopted thereunder;

34 (9) for transfer stations designed with a leachate collection system, a leachate management plan that
35 includes the following:

36 (A) a description of the performance and design concepts for the leachate collection system
37 and any storm water segregation included in the engineering design;

1 (B) monitoring procedures for leachate storage tanks, if present, to ensure proper functioning;

2 (C) operational control methods to ensure that surface water is diverted from the operational
3 area, and the tipping floor is free of standing water; and

4 (D) a process to abandon or remove the leachate collection system upon closure of the facility.

5 The Division may allow leachate collection systems to remain in place for future use if the
6 owner or operator provides documentation of measures taken to comply with the
7 requirements of this Section and to protect human health and safety and the environment,
8 such as capping or blocking of any discharge points or open-ended piping to prevent
9 unintended collection, storage, or discharge of leachate. The Division may also require
10 recordation and land use restrictions in accordance with Rule .0406(6) of this Section;

11 (10) a contingency plan that shall address planned operations in the event of loss of power, loss of
12 communications, storm surges, scale malfunctions, and scale software malfunctions; in the event
13 that the disposal site, haul route, or transfer equipment is not available; or during conditions
14 exceeding design parameters. The owner or operator of a transfer station shall provide back-up
15 equipment, and contact information to obtain the equipment, and plans to by-pass the solid waste
16 facility in case of equipment breakdown. The contingency plan shall be kept updated on-site and
17 shall include site specific emergency procedures and contact information in case of emergencies;
18 and

19 (11) additional information for activities or features that the owner or operator is proposing that are not
20 otherwise described in this Paragraph, or that the Division may request if it is necessary to determine
21 compliance with the rules of this Subchapter.

22 (j) Closure Plan. An application for a permit for a solid waste transfer station shall contain a closure plan that describes
23 the steps necessary to close the transfer station at any point during the active life of the facility in accordance with the
24 requirements in Rule .0406 of this Section. The closure plan shall include the following information:

25 (1) a description of all activities, including the removal of any remaining solid wastes or materials from
26 the facility, required for the closure of the facility and abandonment of all on-site systems.

27 (2) a schedule for completing all activities necessary to satisfy the closure criteria set forth in Rule .0406
28 of this Section;

29 (3) the cost estimate for closure and post closure activities; and

30 (4) a plan for retention of operating record and receipts including those from closure activities.

31 (k) Transfer stations shall comply with financial responsibility requirements in accordance with G.S. 130A-295.2 and
32 Section .1800 of this Subchapter. If the Division requires the facility to conduct post-closure care in accordance with
33 Rule .0406(b) of this Section, the facility shall maintain financial assurance during the post-closure care period until
34 released from post-closure care by the Division.

35 (l) Owners or operators of transfer stations are subject to the compliance history review requirements in G.S. 130A-
36 295.3.

37 (m) Transfer stations shall comply with the traffic study requirements in G.S. 130A.295.5.

1 (n) Following completion of construction but prior to commencing operations, the owner or operator shall submit to
2 the Division the as-built drawings and a final construction report that the site has been constructed in accordance with
3 the Division-approved drawings and specifications in the permit to construct. If required by G.S. 89C, these items
4 shall be certified by a professional engineer.

5

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

7 *Eff. November 1, 2020.*

1 15A NCAC 13B .0405 is proposed for adoption as follows:

2
3 **15A NCAC 13B .0405 OPERATIONAL REQUIREMENTS**

4 (a) The owner or operator shall maintain and operate the facility in accordance with the approved operations plan
5 submitted in accordance with Rule .0404(i) of this Section and the following conditions:

6 (1) Dust and Odor Control. Fugitive dust emissions generated by the facility operations shall comply
7 with 15A NCAC 02D .0540. The facility shall comply with 15A NCAC 02D .1806 for odors.

8 (2) Groundwater and Surface Water Monitoring and Corrective Action Requirements. The transfer
9 station shall prevent the release of leachate and contaminants to groundwater and surface water and
10 shall comply with 15A NCAC 02L and 02B.

11 (3) Fire Protection and Control.

12 (A) Open burning of solid waste is prohibited at all facilities, unless approval has been obtained
13 from the Division, and from the Division of Air Quality in accordance with 15A NCAC
14 02D .1900, and from the local government prior to any burning activity.

15 (B) Hot ashes, hot loads, or cinders shall not be accepted at a transfer station. The waste
16 screening procedures described in the operations plan in accordance with Subparagraph (8)
17 of this Paragraph shall address identification and rejection of loads containing hot ashes
18 and cinders.

19 (C) The operator of a transfer station shall provide equipment on-site to control fires and make
20 documented arrangements with a local fire protection agency to provide fire-fighting
21 services.

22 (D) The operator shall verbally notify the Division of fires that occur at a transfer station within
23 24 hours of the fire and shall submit a written report to the Division within 15 days of the
24 fire. The report shall include the facility name and permit number; the date and time of the
25 fire; actions taken by the operator in response to the fire; the cause of the fire; the area,
26 type, and amount of waste that caught fire; and a plan of action to prevent fires in the future;
27 the name and title of the person submitting the information, and the date the information is
28 submitted.

29 (4) Vector Control. Owners or operators of a transfer station shall operate and maintain the facility to
30 prevent on-site populations of vectors.

31 (5) Noise Control. Noise levels shall meet local ordinances, if they exist. If local ordinances for noise
32 do not exist, noise levels for facility operations, except fire and safety alarms, shall not exceed 85
33 decibels at the property line.

34 (6) Erosion and Sedimentation Control Requirements. The transfer station shall comply with 15A
35 NCAC 04C, and the owner or operator shall utilize erosion and sedimentation control measures that
36 prevent sediment from leaving the facility and prevent on-site erosion.

- 1 (7) Training. During hours of operation, an operator trained in accordance with G.S. 130A-309.25 shall
2 be on-site. Facilities shall provide all staff with no less than eight hours of training updates annually
3 that includes a review of the operations plan and permit documents. Documentation of the training
4 shall be placed in the operating record and provided to the Division upon request.
- 5 (8) Waste Screening. Transfer stations shall comply with the following waste screening requirements:
- 6 (A) Facility personnel shall screen incoming loads weekly at a rate of no less than five percent
7 of the average daily waste tonnage reported in the facility's annual report for the previous
8 year. Facility personnel shall be trained annually to identify liquid waste, hazardous waste,
9 PCB waste, special wastes as defined in G.S. 130A-290(a)(40), wastes banned from landfill
10 disposal in accordance with G.S. 130A-309.10(f) if the facility receiving the waste for
11 disposal is a landfill, and wastes that the intended final disposal facility is not permitted by
12 the Division to accept. The screening shall be conducted as described in the approved
13 operations plan prepared in accordance with Paragraph (a) of this Rule. Waste screening
14 and rejected wastes shall be recorded in writing, and the records shall be kept on site for
15 no less than five years and shall be made available to the Division during a facility
16 inspection or upon request.
- 17 (B) The owner or operator shall include in the operations plan a plan to manage any identified
18 hazardous and liquid wastes. The plan shall address identification, removal, storage, and
19 final disposal of the waste.
- 20 (9) Waste Acceptance: Facilities shall not accept the following:
- 21 (A) hazardous waste unless the facility is permitted by the Division in accordance with 15A
22 NCAC 13A to receive such waste;
- 23 (B) polychlorinated biphenyls (PCB) wastes as defined in 40 CFR 761.3, which is incorporated
24 by reference, including subsequent amendments and editions, and may be accessed at
25 www.ecfr.gov at no cost;
- 26 (C) asbestos waste unless the waste is received and handled in compliance with the
27 requirements of 40 CFR 61.150, which is incorporated by reference, including subsequent
28 amendments and editions, and may be accessed at www.ecfr.gov at no cost. Bags shall be
29 no less than six mil thick and shall be labeled with the warning required by 40 CFR
30 61.150(a)(1)(iv) that they contain asbestos-containing materials. Transfer stations shall
31 provide notice to the landfill facility receiving the asbestos waste prior to disposal.
- 32 (D) waste banned by G.S. 130A-309.10 at the disposal destination;
- 33 (E) waste banned by local law or ordinance at the disposal destination; and
- 34 (F) waste banned from disposal by a local law or an ordinance at the place of waste origin.
- 35 (10) Windblown waste: Facility staff shall conduct daily inspections for windblown waste on the facility
36 property. Windblown litter from transfer station operations discovered during the daily inspections
37 or observed on adjacent properties shall be picked up and containerized for proper disposal by the

1 end of each operating day, unless the landowner of the adjacent property denies access to transfer
2 station staff. The facility shall prevent waste from being blown outside the waste handling areas by
3 the wind, using methods such as:

4 (A) requiring that vehicles entering and leaving the facility keep waste covered;

5 (B) providing skirts, such as rubber belting or brushes, around the top of chutes to minimize
6 the space between the chute and the hauling trailer at facilities with chutes and hoppers; or

7 (C) preventing waste from leaving the facility using methods such as fencing, netting, or
8 diking.

9 (11) Facility Cleaning and Maintenance: Unless otherwise stated in the facility permit, all waste shall be
10 removed from the tipping floor, the truck loading bays, and from behind push walls by the end of
11 each day of operation and disposed of in accordance with this Subchapter. The tipping floor, push
12 walls, and truck loading bays shall be cleaned with a pressure washer no less than once per month.
13 The remaining areas of the transfer station building including side walls and any material storage
14 areas outside of the building shall be cleaned with a pressure washer no less than twice per year.
15 Wash water generated from cleaning waste handling areas shall be contained and treated as leachate.
16 Cleaning and maintenance records shall be maintained and made available to the Division upon
17 request.

18 (b) Water that comes into contact with solid waste is leachate and shall be collected from the site for disposal to an
19 approved facility or discharged directly from the site into a sanitary sewer line. A National Pollutant Discharge
20 Elimination System (NPDES) permit may be required prior to the discharge of leachate to surface waters, as provided
21 by 40 CFR Parts 258.26 and 258.27, which are incorporated by reference, including subsequent amendments and
22 editions, and may be accessed at www.ecfr.gov at no cost.

23 (c) All vehicles and containers being used for the temporary storage of solid waste shall be maintained in accordance
24 with Rule .0105 of this Subchapter; and shall be stored so that any potential release of leachate from the vehicles or
25 containers will be collected by the leachate collection system.

26 (d) Operating Record and Recordkeeping requirements. The owner or operator of a facility shall retain an operating
27 record in electronic or hard copy format at the facility, or in an alternative location stated in the permit. The records
28 required by Subparagraphs (1) and (2) of this Paragraph shall be maintained for no less than five years. The records
29 required by Subparagraphs (3) through (9) of this Paragraph shall be maintained for the life of the facility. The
30 operating record shall contain the following information:

31 (1) records of waste inspections, monitoring results, certifications of training, and training procedures
32 required by the rules of this Section;

33 (2) amounts by weight of solid waste received at the facility to include, consistent with G.S. 130A-
34 309.09D, county and state of generation;

35 (3) demonstrations, certifications, findings, monitoring, testing, or analytical data required by the rules
36 of this Section;

- 1 (4) closure or post-closure care monitoring, testing, or analytical data required by the rules of this
2 Section;
3 (5) cost estimates and financial assurance documentation required by Section .1800 of this Subchapter;
4 (6) facility audit records, compliance records, maintenance records, and inspection reports;
5 (7) a copy of the current Permit to Construct and Permit to Operate;
6 (8) a copy of the plans that have been incorporated into the permit in accordance with Rule .0404(d) of
7 this Section; and
8 (9) a Corrective Action Plan, if required by Subparagraph (a)(2) of this Rule.

9 (e) Access requirements.

- 10 (1) Facilities shall be secured to prevent unauthorized entry by means such as gates, chains, berms, or
11 fences.
12 (2) An attendant shall always be on duty at the facility while it is open for public use to ensure
13 compliance with operational requirements.
14 (3) The access roads shall be of all-weather construction and maintained to be accessible by loaded
15 collection vehicles and by the Division.
16 (4) Signs shall be posted at the **site entrances** unless otherwise stated in the facility permit. The signs
17 shall be constructed of a durable, weather-resistant material. The signs shall be clear and legible and
18 show the name of the operator of the facility, emergency contact information, the operating hours
19 of the facility, the permit number of the current permit authorizing operations at the facility, the
20 types of waste that can be accepted under the permit, and that hazardous waste and liquid waste
21 cannot be accepted at the facility.

22
23 History Note: Authority G.S. 130A-294;

24 Eff. November 1, 2020.

1 15A NCAC 13B .0406 is proposed for adoption as follows:

2
3 **15A NCAC 13B .0406 CLOSURE REQUIREMENTS**

4 (a) The owner or operator shall schedule and document closure of all transfer stations in accordance with the following
5 criteria:

6 (1) The owner or operator shall submit written notification to the Division no less than 90 days prior to
7 the proposed date of cessation of waste acceptance at a transfer station.

8 (2) The owner or operator shall begin closure activities no later than 30 days after the date of the final
9 receipt of waste at the facility.

10 (3) The owner or operator shall remove all waste from the facility in accordance with the requirements
11 of this Subchapter, and complete closure activities of the facility in accordance with the facility
12 permit and the rules of this Section within 180 days following the beginning of closure as specified
13 in Subparagraph (2) of this Paragraph.

14 (4) When the requirements of Subparagraph (3) of this Paragraph have been met, the owner or operator
15 shall notify the Division in writing that the requirements have been met. The notification shall
16 describe how the requirements were met and shall be placed in the operating record.

17 (5) A final inspection for closure shall be conducted by the Division to verify that the conditions of
18 closure have been met.

19 (6) Leachate collection systems, if present, shall be closed in accordance with the approved leachate
20 management plan submitted in accordance with Rule .0404(i)(10) of this Section.

21 (7) Recordation and Land Use Restrictions.

22 (A) If the facility has been required by the Division to conduct a corrective action program
23 following closure of the facility in accordance with this Rule, or elects to leave a leachate
24 collection system or tank in place for future use, the owner or operator shall record a notice
25 for the facility property at the local county Register of Deeds office that is discoverable
26 during a title search for the facility property, and notify the Division that the notice has
27 been recorded and a copy has been placed in the operating record. The notice shall be in
28 accordance with G.S. 130A-310.71(e) or G.S. 143B-279.10.

29 (B) The notice shall notify any potential purchaser of the property that the land has been used
30 as a solid waste management facility and its use may be restricted by the Division.

31 (C) Upon written request by the owner or operator, the Division shall provide the land owner
32 of record documentation to record with the county Register of Deeds, stating that site use
33 is no longer restricted if all post-closure care activities required by the Rules of this Section
34 are completed, the Division authorizes termination of any corrective action program in
35 accordance with 15A NCAC 02L .0106, and the leachate collection system has been
36 removed.

1 (b) If the Division requires groundwater or surface water monitoring or corrective action at a transfer station in
2 accordance with Rule .0405(a)(2) of this Section, the monitoring and corrective action at the transfer station shall
3 continue in a post-closure care period until the Division authorizes termination of corrective action at the transfer
4 station in accordance with 15A NCAC 02L .0106.

5

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

7 Eff. November 1, 2020.