

Proposed Rule Summary and Fiscal Impact Analysis

Amendment to Replace 15A NCAC 13B .0105
Collection and Transport of Solid Waste

Prepared by

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Basic Information

Commission:	Environmental Management Commission (Groundwater and Waste Management Committee)
Agency	DENR, Division of Waste Management (DWM), Solid Waste Section
Title	Collection and Transportation of Solid Waste
Citation	15A NCAC 13B .0105
Description of the Proposed Rule	Rule .0105 establishes provisions for the collection and transportation of all solid waste to a permitted disposal site or facility using vehicles and containers constructed, operated, and maintained in order to prevent the creation of a nuisance or environmental harm. The proposed rule is an amendment which will replace the current rule.
Agency Contact	Jessica Montie Compliance Officer Jessica.Montie@ncdenr.gov (919) 707-8247
Authority	G.S. 130A-294; Session Law 2013-413
Statement of Necessity	The Commission was directed by Session Law 2013-413 to adopt a permanent rule to replace the current rule and include text to change the requirement that vehicles or containers used for the collection and transportation of solid waste be leak proof to a requirement that these vehicles be designed and maintained to be leak-resistant in accordance with industry standards. The proposed rules must be substantively identical to the provisions of Session Law 2013-413, which expires when the permanent rules have become effective.
Fiscal Impact Summary	State government: No Local government: No Substantial impact: No

Rule Summary

It is the responsibility of the Solid Waste Section (Section) to regulate how solid waste is managed within the state under the statutory authority of G.S. Chapter 130A-294. State rules governing solid waste management are found in Title 15A, Subchapter 13B of the North Carolina Administrative Code.

Rule 15A NCAC 13B .0105 establishes provisions for the collection and transportation of all solid waste to a permitted disposal site or facility. Solid waste collectors in North Carolina are responsible for proper collection and transport of waste to a facility or site permitted to receive the waste using vehicles and containers constructed, operated, and maintained in order to prevent the creation of a nuisance or environmental harm. The proposed rule will replace the current rule, and amends the terminology used in the rule to require that trucks be leak resistant to the given industry standards rather than leakproof. The proposed effective date for the rule amendment is July 1, 2016.

Reason for Rule Change

Session Law 2013-413, which states “AMEND THE RULE GOVERNING COLLECTION AND TRANSPORT OF SOLID WASTE TO REQUIRE THAT CONTAINERS BE "LEAK-RESISTANT" RATHER THAN "LEAK-PROOF ...”, establishes law whereby the Department of Environment and Natural Resources shall require that vehicles and containers used for the collection or transportation of solid waste only be leak resistant, which is the current industry standard, and not leakproof. The text of the applicable section of the Session Law is located in Appendix A.

The session law further directed the Commission for Public Health to adopt a permanent rule to replace the current rule. The rule adopted shall be substantively identical to the provisions of the session law, which expires when the permanent rules have become effective. Session Law 2014-122 Senate Bill 729 Part VI transferred solid waste rule-making authority from the Commission for Public Health to the Environmental Management Commission. The proposed rule is substantively identical to the requirements of Session Law 2013-413 Section 59.2(c), and includes current industry standards for leak resistant trucks. The text of the proposed rule amendment is located in Appendix B, and the proposed rule-making schedule is included in Appendix C.

Section 59.2(f) of the Session Law contains a change to the text of G.S. 20-116(g)(1). The Department of Transportation Division of Motor Vehicles has rulemaking authority for G.S. Chapter 20; therefore the Solid Waste Section is not addressing Section 59.2(f) of the Session Law.

Fiscal Impact Summary

Cost/Impact of Complying with Proposed Rule Changes

There is no cost or impact to the state, local governments, or solid waste collectors and transporters to comply with the proposed rule as written in Appendix A because the change in terminology from leakproof to leak resistant and the standards for leak resistant trucks outlined in the proposed rule are consistent with industry standards under which solid waste collectors and transporters are currently operating. Feedback from stakeholders did not indicate any initial objection to the rule as written in Appendix A.

Benefits

The benefit of this proposed rule amendment as written in Appendix A is that the state, local governments, and solid waste collectors and transporters will have clarity on the requirements for operating and maintaining trucks used to collect and transport solid waste.

On July 8, 2015 the Office of State Budget and Management reviewed the Collection and Transportation of Solid Waste rule change (15A NCAC 13B .0105) in accordance with G.S. 150B-21.4 and determined the rule change (as written in Appendix A) has little to no impact on state or local governments and no substantial economic impact; therefore, a fiscal note was not required.

Request by Groundwater and Waste Management Committee to Evaluate Labeling of Solid Waste Containing Trailers

The Solid Waste Section presented the proposed rule for adoption as amended in Appendix A to the Groundwater and Waste Management Committee (Committee) on July 8, 2015. The Committee requested that the Section consider adding draft language to the rule that requires solid waste containing trailers be labeled in some manner which indicates that the trailer contains solid waste and that other vehicles traveling behind the trailers stay back a certain distance. The Committee requested that the Section draft rule language as such, and determine if this added language would require that a full fiscal note be completed.

As solid waste containing trailers are not currently required to be permitted by the Division, the Division does not have any records to assist in determining the number of trailers in the state that are used to transport solid waste, as they may be used by anyone from large private waste companies to local governments, to very small businesses and private citizens. The Section estimates that this requirement would have a fiscal impact on local governments and solid waste transport and disposal companies but would not have a substantial (over \$1 million) total fiscal impact; and therefore will not require that a fiscal note be completed and submitted to OSBM for approval.

The Section has received some feedback from stakeholders regarding the request to label solid waste containing trailers. The stakeholders who have responded as of August 14, 2015 (National Waste and Recycling Association Carolinas Chapter, Coastal Regional Solid Waste Management Authority, and Republic Services, Inc.) did not take immediate issue with the proposed rule as written in Appendix A, but did have issue with a potential requirement to label trailers with placards containing a phone number, stating that they contain solid waste, and that following vehicles should stay back a certain distance. In summary they felt that this requirement would add little value for the public, and in fact may cause undue alarm to the public and emergency responders as there may be confusion with the placards required for hazardous waste containers. In fact there are federal requirements which discourage placing any unnecessary or additional warnings on vehicles which may detract from or cause confusion with hazardous waste labeling (link to an article provided by a stakeholder: <http://www.fmcsa.dot.gov/newsroom/dot-enforcing-prohibited-placard-restrictions-trucks>).

The stakeholders also voiced concern as to the difficulty with adhering to and enforcing this requirement, as containers are often used for purposes other than carrying solid waste. Also, solid waste also includes recycling material, land-clearing or inert debris or other contents of minimal or no hazard or concern.

The Section after discussion with stakeholders believe that the following will afford the public an avenue to make complaints should leachate or debris escape trailers during transportation of solid waste: has drafted the following language regarding labeling of trailers which will be added to the draft language included in Appendix A as .0105(e): All trailers pulled by a tractor and trucks with more than four wheels while transporting solid waste shall display decals or lettering on the back side of the trailer. The decals or lettering shall include the name of the hauling or disposal company and phone number. All decals or lettering on the vehicle shall be no less than three inches in height and shall be plainly visible.

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Appendix A

Session Law 2013-413 (Page 55) included the following language:

“AMEND THE RULE GOVERNING COLLECTION AND TRANSPORT OF SOLID WASTE TO REQUIRE THAT CONTAINERS BE "LEAK-RESISTANT" RATHER THAN "LEAK-PROOF," AND AMEND A STATUTE THAT REQUIRES VEHICLES TO BE CONSTRUCTED AND LOADED TO PREVENT LEAKAGE

SECTION 59.2(a) Definitions. – "Collection and Transport Rule" means 15A NCAC 13B .0105 (Collection and Transportation of Solid Waste) for purposes of this section and its implementation.

SECTION 59.2(b) Collection and Transport Rule. – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to Section 59.2(d) of this act, the Commission and the Department of Environment and Natural Resources shall implement the Collection and Transport Rule, as provided in Section 59.2(c) of this act.

SECTION 59.2(c) Implementation. – Notwithstanding any provision of the Collection and Transport Rule, the Commission shall not require vehicles or containers used for the collection and transportation of solid waste to be leak-proof; however, they may require that these containers be designed and maintained to be leak-resistant in accordance with industry standards.

SECTION 59.2(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to replace the Collection and Transport Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section shall be substantively identical to the provisions of Section 59.2(c) of this act. Rules adopted pursuant to this section are not subject to G.S. 150B-21.9 through G.S. 150B-21.14. The rule adopted pursuant to this section shall become effective, as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received, as provided by G.S. 150B-21.3(b2).”

SECTION 59.2(e) Effective Date. – Section 59.2(c) of this act expires when permanent rules to replace Section 59.2(c) of this act have become effective, as provided by Section 59.2(d) of this act.

SECTION 59.2(f) G.S. 20-116(g)(1) reads as rewritten:

"§ 20-116. Size of vehicles and loads.

- (g) (1) No vehicle shall be driven or moved on any highway unless the vehicle is constructed and loaded to prevent any of its load from falling, blowing, dropping, sifting, leaking, or otherwise escaping therefrom, and the vehicle shall not contain any holes, cracks, or openings through which any of its load may escape. However, sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled, dumped, or spread on a roadway in cleaning or maintaining the roadway. For purposes of this subsection, ~~load~~ the terms "load" and "leaking" does do not include water accumulated from precipitation."

Appendix B

15A NCAC 13B .0105 is proposed for adoption as amended as follows:

15A NCAC 13B .0105 COLLECTION AND TRANSPORTATION OF SOLID WASTE

(a) The solid waste collector shall be responsible for the ~~satisfactory~~ collection and transportation of all solid waste to a ~~permitted disposal site or~~ solid waste management facility as defined in G.S. 130A-290 that is permitted by the Division.

(b) The solid waste collector shall transport to a site or facility only those solid wastes ~~which the site or that are allowed by facility permit~~ is permitted to receive.

(c) Vehicles or containers used for the collection of solid waste, and transportation by whatever means, including ~~but not limited to,~~ highway, rail, and navigable waterway, ~~of garbage, or refuse containing garbage, shall be covered, leakproof, durable, and of easily cleanable construction. These shall be cleaned as often as necessary to prevent a nuisance or insect breeding and shall be maintained in good repair.~~ shall be constructed, operated, and maintained to be leak resistant in order to prevent the creation of a nuisance to public health from the escape of solid, semi-solid, or liquid waste. In order to meet the requirement to be leak resistant, the owner and/or operator of the vehicle or container shall adhere to the following standards:

- (1) All surfaces that come in contact with waste shall be smooth and non-absorbent.
- (2) All drain holes and valves shall be closed, plugged, or sealed.
- (3) The vehicle shall be equipped with seals, gaskets, or other devices pursuant to manufacturer specifications in order to prevent the escape of liquids. Such seals, gaskets, and other devices shall be maintained and replaced pursuant to manufacturer specifications.
- (4) The truck body, waste holding area, and hopper shall be free of holes, cracks, rusting, corrosion, or other evidence of damage or weakness that may allow the escape of solid, semi-solid, or liquid waste.
- (5) The waste holding area, including the hopper and around the packer blade, if so equipped, shall be clean of debris to prevent vectors or the accumulation of litter.
- (6) The vehicle shall be operated and maintained to prevent the escape of waste to the environment.
- (7) The vehicle shall be serviced, repaired, and cleaned to maintain sanitary conditions, to preserve the integrity of the door seal, to prevent the accumulation of mechanical fluids, dirt, and filth on the vehicle's exterior, and to prevent contamination of the environment by fluids.

(d) Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in ~~such~~ a manner that the contents will not fall, leak, or spill and shall be covered ~~when necessary in order to keep contents dry and to prevent blowing of material. If spillage should occur~~ occurs, the material shall be picked up ~~immediately~~ by the solid waste collector and returned to the vehicle or container, ~~and the area shall be properly cleaned.~~

(e) All trailers pulled by a tractor and trucks with more than four wheels while transporting solid waste shall display decals or lettering on the back side of the trailer. The decals or lettering shall include the name of the

hauling or disposal company and phone number. All decals or lettering on the vehicle shall be no less than three inches in height and shall be plainly visible.

*History Note: Authority G.S. 130A-294(b); S.L. 2013-413;
Eff. April 1, 1982;
Amended Eff. July 1, 2016, February 1, 1988.*

Appendix C

15A NCAC 13B .0105 Proposed Rule-Making Schedule

Date	Action
05/01/15	Finalize and submit rule text, fiscal note to DENR, OSBM
06/08/15	Submit rule text, fiscal note, etc. to get on agenda for next GWWMC meeting.
07/08/15	GWWMC Meeting: 2 Action items - Approval of proposed text, Approval to go before EMC.
08/07/15	Submit rule text, fiscal note, etc. to get on agenda for next EMC meeting.
09/10/15	EMC Meeting: 1 Action item - Approval of text and fiscal note and permission to proceed to public hearing. Get Certification by EMC Chair at meeting conclusion.
09/11/15	Hearing Officer Assigned by EMC.
09/24/15	Submit rule text to OAH for publication in NC Register.
10/15/15	Rule published in NC Register; Comment Period Begins.
10/30/15	Earliest date for public hearing.
12/14/15	Comment Period Ends.
12/21/15	Hearing Officer's Report finalized.
02/09/16	Submit hearing officer's report, rule text to get on agenda for next GWWMC meeting.
03/09/16	GWWMC Meeting: 2 Action items - Summary of Report, Approval to go before EMC.
04/11/16	Submit hearing officer's report, rule text to get on agenda for next EMC meeting.
05/12/16	EMC Meeting: 1 Action item - Adoption of rule.
05/16/16	Submit text and forms to RRC.
06/16/16	RRC meeting: 1 Action item - Approval by RRC.
07/01/16	Earliest effective date for rule.

NOTES:

DENR: Department of Environment and Natural Resources
 OSBM: Office of State Budget and Management
 GWWMC: Groundwater and Waste Management Committee
 EMC: Environmental Management Commission
 OAH: Office of Administrative Hearings
 RRC: Rules Review Commission