

**§ 130A-295.01. Additional requirement for commercial hazardous waste facilities.**

(a) As used in this section:

- (1) "Commercial hazardous waste facility" means any hazardous waste facility that accepts hazardous waste from the general public or from another person for a fee, but does not include any facility owned or operated by a generator of hazardous waste solely for his own use, and does not include any facility owned by the State or by any agency or subdivision thereof solely for the management of hazardous waste generated by agencies or subdivisions of the State.
- (2) "New", when used in connection with "facility", refers to a planned or proposed facility, or a facility that has not been placed in operation, but does not include facilities that have commenced operations as of 22 June 1987, including facilities operated under interim status.
- (3) "Modified", when used in connection with "permit", means any change in any permit in force on or after 22 June 1987 that would either expand the scope of permitted operations, or extend the expiration date of the permit, or otherwise constitute a Class 2 or Class 3 modification of the permit as defined in 40 Code of Federal Regulations § 270.41 (1 July 2006).
- (4) "7Q10 conditions", when used in connection with "surface water," refers to the minimum average flow for a period of seven consecutive days that has an average occurrence of once in 10 years as referenced in 15 NCAC 2B.0206(a)(3) as adopted 1 February 1976.

(b) No permit for any new commercial hazardous waste facility shall be issued or become effective, and no permit for a commercial hazardous waste facility shall be modified, until the applicant has satisfied the Department that such facility meets, in addition to all other applicable requirements, the following requirements:

- (1) The facility shall not discharge directly a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater at the point of discharge into the surface water under 7Q10 conditions.
- (2) The facility shall not discharge indirectly through a publicly owned treatment works (POTW) a hazardous or toxic substance into a surface water that is upstream from a public drinking water supply intake in North Carolina, unless there is a dilution factor of 1000 or greater, irrespective of any dilution occurring in a wastewater treatment plant, at the point of discharge into the surface water under 7Q10 conditions.

(c) The Department shall not issue a permit for a commercial hazardous waste facility for a period of more than five years. A permit holder for a commercial hazardous waste facility who intends to apply for renewal of the permit shall submit an application for the renewal of the permit at least one year before the permit expires unless the Department approves a shorter period of time.

(d) The owner or operator of a commercial hazardous waste facility shall maintain a record of information at an off-site location that identifies the generators of the waste and the quantity, type, location, and hazards of the waste at the facility and shall make this information available in a form and manner to be determined by the Department, accessible to the Department, to the county in which the facility is located, to any municipality with planning jurisdiction over the site of the facility, and to emergency response agencies that have a role under the contingency plan for the facility.

- (e) (1) Within 10 days of filing an application for a permit for a commercial hazardous waste facility, the applicant shall notify every person who resides or owns property located within one-fourth mile of any property boundary of the facility that the application has been filed. The notice shall be by mail to residents and by certified mail to property owners, or by any other means approved by the Department, shall be in a form approved by the Department, and shall include all of the following:
  - a. The location of the facility.
  - b. A description of the facility.
  - c. The hazardous and nonhazardous wastes that are to be received and processed at the facility.
  - d. A description of the emergency response plan for the facility.
- (2) The permit holder for a commercial hazardous waste facility shall publish a notice that includes the information set out in subdivision (1) of this subsection annually beginning one year after the permit is issued. The notice shall be published in a form and manner approved by the Department in a newspaper of general circulation in the community where the facility is located.
- (3) The permit holder for a commercial hazardous waste facility shall provide the information set out in subdivision (1) of this subsection by mail to the persons described in subdivision (1) of this subsection at the midpoint of the period for which the permit is issued.
- (4) Each commercial hazardous waste facility applicant and permit holder shall provide documentation to demonstrate to the Department that the requirements set out in subdivisions (1), (2), and (3) of this subsection have been met.

(f) No later than 31 January of each year, the owner or operator of a commercial hazardous waste facility shall report to the Department any increase or decrease in the number of sensitive land uses and any increase or decrease in estimated population density based on information provided by the local government that has planning jurisdiction over the site on which the facility is located that occurred during the previous calendar year in the area located within one-fourth mile of any property boundary of the facility. Changes shall be recorded in the operating record of the facility. As used in this subsection, "sensitive land use" includes residential housing, places of assembly, places of worship, schools, day care providers, and hospitals. Sensitive land use does not include retail businesses.

(g) The owner or operator of a commercial hazardous waste facility shall provide a security and surveillance system at the facility 24 hours a day, seven days a week in order to continuously monitor site conditions and to control entry. The security and surveillance system shall be capable of promptly detecting unauthorized access to the facility; monitoring conditions; identifying operator errors; and detecting any discharge that could directly or indirectly cause a fire, explosion, or release of hazardous waste or hazardous waste constituents into the environment or threaten human health. The requirements of this subsection may be satisfied either by employing trained facility personnel or by providing an electronic security and surveillance system which may include television, motion detectors, heat-sensing equipment, combustible gas monitors, or any combination of these, as approved by the Department.

(h) The operator of a commercial hazardous waste facility shall install an on-site wind monitor approved by the Department. The wind monitor required shall be located so that the real-time wind direction can be determined from a remote location in the event of a release of

hazardous waste or hazardous waste constituents into the environment. (1987, c. 437, s. 1; 2007-107, ss. 1.3(a), 1.4(a), 1.5(a), 1.6(a), 1.7(a), 1.9(a), 2.1(b); 2007-495, s. 15(a)-(e).)