

## **Proposed Rule Summary and Regulatory Impact Analysis**

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

Prepared by

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## Basic Information

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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**

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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 May 1, 2016.

## **Reason for Rule Change**

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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 Environmental Quality 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.

## **Regulatory Impact Summary**

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### 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 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.

### Benefits

The benefit of this proposed rule amendment 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.

### Review for Requirement of Fiscal Note

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 has little to no impact on state or local governments and no substantial economic impact; therefore, a fiscal note was not required.

## Appendix A

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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

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15A NCAC 13B .0105 is proposed for amendment 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 facility~~ 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 facility is permitted to receive.~~ that are allowed by facility permit.

(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.~~

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

## Appendix C

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

<b>Date</b>	<b>Action</b>
05/01/15	Finalize and submit rule text, fiscal note to DEQ, 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, impact analysis, etc. to get on agenda for next EMC meeting.
09/10/15	EMC Meeting: 1 Action item - Approval of text and impact analysis and permission to proceed to public hearing. Hearing officer assigned.
09/24/15	Submit rule text to OAH for publication in NC Register.
10/15/15	Rule published in NC Register; Comment Period Begins.
11/13/15	Public Hearing at 1:30 pm; 217 West Jones Street, Raleigh, NC 27603, Room 1210.
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 EMC meeting.
03/10/16	EMC Meeting: 2 Action items - Summary of Report, Adoption of Rule.
03/21/16	Submit text and forms to RRC.
04/21/16	RRC meeting: 1 Action item - Approval by RRC.
05/01/16	Earliest effective date for rule.

#### ACRONYMS:

DEQ: Department of Environmental Quality  
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