

NORTH CAROLINA REGISTER

VOLUME 34 • ISSUE 02 • Pages 111 – 154

July 15, 2019

I. IN ADDITION	
Environmental Management Commission – Public Notice	111
II. PROPOSED RULES	
Insurance, Department of	
Department.....	112
Justice, Department of	
Sheriffs' Education and Training Standards Commission	112 – 115
Public Safety, Department of	
Alcoholic Beverage Control Commission	115 – 120
Environmental Quality, Department of	
Sedimentation Control Commission	120 – 135
III. RULES REVIEW COMMISSION	136 – 152
IV. CONTESTED CASE DECISIONS	
Index to ALJ Decisions	153 – 154

PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone (919) 431-3000
Fax (919) 431-3104*

*Julian Mann III, Director
Molly Masich, Codifier of Rules
Dana McGhee, Publications Coordinator
Lindsay Woy, Editorial Assistant
Cathy Matthews-Thayer, Editorial Assistant*

Contact List for Rulemaking Questions or Concerns

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address, but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

(919) 431-3000

Raleigh, North Carolina 27609

(919) 431-3104 FAX

contact: Molly Masich, Codifier of Rules

molly.masich@oah.nc.gov

(919) 431-3071

Dana McGhee, Publications Coordinator

dana.mcgee@oah.nc.gov

(919) 431-3075

Lindsay Woy, Editorial Assistant

lindsay.woy@oah.nc.gov

(919) 431-3078

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

(919) 431-3006

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

(919) 431-3000

Raleigh, North Carolina 27609

(919) 431-3104 FAX

contact: Amber Cronk May, Commission Counsel

amber.may@oah.nc.gov

(919) 431-3074

Amanda Reeder, Commission Counsel

amanda.reeder@oah.nc.gov

(919) 431-3079

Ashley Snyder, Commission Counsel

ashley.snyder@oah.nc.gov

(919) 431-3081

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

(919) 431-3080

Julie Brincefield, Administrative Assistant

julie.brincefield@oah.nc.gov

(919) 431-3073

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

(919) 807-4700

Raleigh, North Carolina 27603-8005

(919) 733-0640 FAX

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov

(919) 807-4757

NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

(919) 715-4000

150 Fayetteville Street, Suite 300

Raleigh, North Carolina 27601

contact: Sarah Collins

scollins@nclm.org

Legislative Process Concerning Rule-making

545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2019 – December 2019

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
33:13	01/02/19	12/06/18	01/17/19	03/04/19	03/20/19	04/18/19	05/01/19	09/29/19
33:14	01/15/19	12/19/18	01/30/19	03/18/19	03/20/19	04/18/19	05/01/19	10/12/19
33:15	02/01/19	01/10/19	02/16/19	04/02/19	04/22/19	05/16/19	06/01/19	10/29/19
33:16	02/15/19	01/25/19	03/02/19	04/16/19	04/22/19	05/16/19	06/01/19	11/12/19
33:17	03/01/19	02/08/19	03/16/19	04/30/19	05/20/19	06/20/19	07/01/19	11/26/19
33:18	03/15/19	02/22/19	03/30/19	05/14/19	05/20/19	06/20/19	07/01/19	12/10/19
33:19	04/01/19	03/11/19	04/16/19	05/31/19	06/20/19	07/18/19	08/01/19	12/27/19
33:20	04/15/19	03/25/19	04/30/19	06/14/19	06/20/19	07/18/19	08/01/19	01/10/20
33:21	05/01/19	04/09/19	05/16/19	07/01/19	07/22/19	08/15/19	09/01/19	01/26/20
33:22	05/15/19	04/24/19	05/30/19	07/15/19	07/22/19	08/15/19	09/01/19	02/09/20
33:23	06/03/19	05/10/19	06/18/19	08/02/19	08/20/19	09/19/19	10/01/19	02/28/20
33:24	06/17/19	05/24/19	07/02/19	08/16/19	08/20/19	09/19/19	10/01/19	03/13/20
34:01	07/01/19	06/10/19	07/16/19	08/30/19	09/20/19	10/17/19	11/01/19	03/27/20
34:02	07/15/19	06/21/19	07/30/19	09/13/19	09/20/19	10/17/19	11/01/19	04/10/20
34:03	08/01/19	07/11/19	08/16/19	09/30/19	10/21/19	11/21/19	12/01/19	04/27/20
34:04	08/15/19	07/25/19	08/30/19	10/14/19	10/21/19	11/21/19	12/01/19	05/11/20
34:05	09/03/19	08/12/19	09/18/19	11/04/19	11/20/19	12/19/19	01/01/20	05/30/20
34:06	09/16/19	08/23/19	10/01/19	11/15/19	11/20/19	12/19/19	01/01/20	06/12/20
34:07	10/01/19	09/10/19	10/16/19	12/02/19	12/20/19	01/16/20	02/01/20	06/27/20
34:08	10/15/19	09/24/19	10/30/19	12/16/19	12/20/19	01/16/20	02/01/20	07/11/20
34:09	11/01/19	10/11/19	11/16/19	12/31/19	01/21/20	02/20/20	03/01/20	07/28/20
34:10	11/15/19	10/24/19	11/30/19	01/14/20	01/21/20	02/20/20	03/01/20	08/11/20
34:11	12/02/19	11/06/19	12/17/19	01/31/20	02/20/20	03/19/20	04/01/20	08/28/20
34:12	12/16/19	11/21/19	12/31/19	02/14/20	02/20/20	03/19/20	04/01/20	09/11/20

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

Public Notice
North Carolina Environmental Management Commission
Division of Water Resources/Water Quality Permitting Section
1617 Mail Service Center
Raleigh, NC 27699-1617
Notice of Intent to Reissue a NPDES General Wastewater Permit

The North Carolina Environmental Management Commission proposes to reissue the following NPDES wastewater general permit:

NPDES General Permit No. NCG570000 for the discharge of discharge of domestic wastewater from single family residences and other 100% domestic discharges with similar characteristics located within the Falls Lake Watershed.

Written comments regarding the proposed general permit will be accepted until 30 days after the publish date of this notice. The Director of the NC Division of Water Resources (DWR) may hold a public hearing should there be a significant degree of public interest. Please mail comments and/or information requests to DWR at the above address. Interested persons may visit the DWR at 512 N. Salisbury Street, Raleigh, NC to review information on file. Additional information on this notice may be found on our website:

<http://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/npdes-wastewater/public-notices>

For questions or comments about NPDES General Permit No. NCG570000 for the discharge of discharge of domestic wastewater from single family residences and other 100% domestic discharges with similar characteristics located within the Falls Lake Watershed, please contact Derek Denard at phone # (919) 707-3618 or via e-mail: derek.denard@ncdenr.gov

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 11 – DEPARTMENT OF INSURANCE

Notice is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Department of Insurance intends to readopt with substantive changes the rule cited as 11 NCAC 08 .0203.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdoi.com/LS/Rules.aspx>

Proposed Effective Date: November 1, 2019

Public Hearing:

Date: August 27, 2019

Time: 10:00 a.m.

Location: First Floor Hearing Room, Room 131, (Albemarle Building) located at 325 N. Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: This rule is being readopted in accordance with G.S. 150B-21.3A(c)(2)g pursuant to the periodic review and expiration of existing rules.

Comments may be submitted to: Loretta Peace-Bunch, 325 N. Salisbury Street, Raleigh, NC 27603; phone (919) 807-6004; email Loretta.Peace-Bunch@ncdoi.gov

Comment period ends: September 13, 2019

Procedure for Subjecting a Proposed Rule to Legislative

Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

**CHAPTER 08 - ENGINEERING AND BUILDING CODES
DIVISION**

**SECTION .0200 - NORTH CAROLINA STATE BUILDING
CODE**

**11 NCAC 08 .0203 BUILDING CODE
PUBLICATIONS: GENERAL INFORMATION**

(a) All volumes of the North Carolina State Building Code are published under the direction of the North Carolina Department of Insurance. All volumes of the code are updated annually and supplements containing amendments ~~and other pertinent information~~ are also published ~~and filed with the State Attorney General~~ at

[https://ncdoi.com/OSFM/Engineering and Codes/Default.aspx?field1=Codes - Code Book Sales&user=State Building Codes.](https://ncdoi.com/OSFM/Engineering%20and%20Codes/Default.aspx?field1=Codes%20Code%20Book%20Sales&user=State%20Building%20Codes)

(b) Copies of the various volumes of the building code may be obtained from: North Carolina Department of Insurance, Engineering & Codes, ~~1202 Mail Service Center, Raleigh, NC 27699~~ 1202, 325 North Salisbury Street, Raleigh, North Carolina 27603. Information regarding cost of the publications may be obtained at the same address. Costs are based upon the cost to the Department of publication, distribution and annual revisions.

Authority G.S. 143-138; 143A-78.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sheriffs' Education and Training Standards Commission intends to amend the rules cited as 12 NCAC 10B .0510 and .2005.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Sheriffs-Education-and-Training-Standards/All-Commission-Forms-and-Publications.aspx>

Proposed Effective Date: January 1, 2020

Public Hearing:

Date: August 1, 2019

Time: 8:30 a.m.

Location: 1700 Tryon Park Drive, Raleigh, NC 27610

Reason for Proposed Action:

12 NCAC 10B .2005 - sets out annual in-service training topics for 2020.

12 NCAC 10B .0510 - defines and further clarifies certification and training requirements for School Resource Officers.

Comments may be submitted to: *Diane Konopka, Post Office Box 629, Raleigh, NC 27602*

Comment period ends: *September 13, 2019*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ State funds affected
- ☒ Local funds affected
- ☒ Substantial economic impact ($\geq \$1,000,000$)
- ☒ Approved by OSBM
- ☐ No fiscal note required

CHAPTER 10 - SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SUBCHAPTER 10B - N.C. SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

SECTION .0500 - MINIMUM STANDARDS OF TRAINING FOR DEPUTY SHERIFFS

12 NCAC 10B .0510 CERTIFICATION AND TRAINING FOR SCHOOL RESOURCE OFFICERS

(a) ~~The School Resource Officer training course for law enforcement officers shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The course shall be for a period of 40 hours. School Resource Officer (SRO) is defined as any law enforcement officer assigned to one or more public schools within a public school unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year to assist with all of the following:~~

- (1) School safety;
- (2) School security;
- (3) Emergency preparedness;
- (4) Emergency response; and,
- (5) Any additional responsibilities related to school safety or security assigned by the officer's employer while the officer is acting as a School Resource Officer.

These requirements shall be consistent with any written memorandum of understanding between the public school unit

and the law enforcement agency governing the School Resource Officer.

~~(b) The "School Resource Officer Training" course published by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the office of the agency:~~

~~Sheriffs' Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602~~

~~and may be obtained at the cost of printing and postage from the North Carolina Justice Academy at the following address:~~

~~North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385~~

(b) Deputy Sheriffs assigned by their agency to perform duties as a School Resource Officer shall:

- (1) have been issued general certification by the North Carolina Sheriffs' Education and Training Standards Commission as a deputy sheriff; and
- (2) have until December 31, 2020 to complete the Basic School Resource Officer training course if they are acting in the capacity of a School Resource Officer between January 1, 2019 and December 31, 2019. Any officer assigned as a School Resource Officer effective 1/01/2020 or later shall complete the "Basic School Resource Officer Training" course pursuant to Paragraph (f) of this Rule, within one year after being assigned as a School Resource Officer. Deputy Sheriffs who previously completed the training pursuant to Paragraph (f) of this Rule and who have been continually assigned as an SRO pursuant to Paragraph (a) of this Rule shall be credited with completion of the "Basic School Resource Officer Training" course.

(c) Deputy Sheriffs assigned by their agency to perform the duties of a School Resource Officer shall:

- (1) Have been issued general certification by the North Carolina Sheriffs' Education and Training Standards Commission as a law enforcement officer; and
- (2) Have completed or will complete within one year after being assigned by their agency as a School Resource Officer the "School Resource Officer Training" course pursuant to Paragraph (b) of this Rule.

(c) A deputy sheriff assigned to one or more public schools within a public school unit, who works in a school at least 20 hours per week for more than 12 weeks per calendar year and who has not completed the initial training as established by Paragraph (f) of this Rule shall not work in a school as a School Resource Officer until the officer has completed the initial training as established by Paragraph (f) of this Rule.

(d) The agency head shall submit to the Sheriffs' Standards Division a Form F-20 Commission School Resource Officer Assignment Form for the person(s) selected to act as a School

Resource Officer for the agency. The Form F-20 is located on the agency's website: <https://ncdoj.gov> and must be completed in its entirety.

(e) The term of certification as a School Resource Officer is indefinite, provided the School Resource Officer completes during each calendar year a minimum of one hour of School Resource Officer refresher training authored by North Carolina Justice Academy. For School Resource Officers who complete the basic SRO training requirement in 2020 or earlier, this requirement becomes effective January 1, 2021. Otherwise, this requirement becomes effective the year following the officer's successful completion of the Basic School Resource Officer Training course. A certified School Resource Officer who has not completed the refresher training during a calendar year as established by this section shall not work in a school as a School Resource Officer until the officer has completed the required refresher training as established by this Section.

(f) The School Resource Officer training course for deputy sheriffs shall provide the trainee with the skills and knowledge to perform in the capacity of a School Resource Officer. The "Basic School Resource Officer Training" course authored by the North Carolina Justice Academy shall be used as the curriculum for this training course. Copies of this publication may be inspected at the:

Sheriffs' Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 629
Raleigh, North Carolina 27602

and may be obtained at the cost of printing and postage from the North Carolina Justice Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

Authority G.S. 17E-4; 17E-7.

SECTION .2000 - IN-SERVICE TRAINING FOR JUSTICE OFFICERS

Note: The text in italics is pending approval by the Rules Review Commission

12 NCAC 10B .2005 MINIMUM TRAINING REQUIREMENTS

(a) A Sheriff or Department Head may use a lesson plan developed by the North Carolina Justice Academy or a lesson plan for any of the topic areas developed by another entity. The Sheriff or Department Head may also use a lesson plan developed by a certified instructor, provided that the instructor develops the lesson plan in accordance with the Instructional Systems Development model as taught in Criminal Justice Instructor Training and as described in 12 NCAC 09B .0209. Lesson plans shall be designed to be delivered in hourly increments. A student who completes the training shall receive the number of credits that correspond to the number of hours assigned to the course, regardless of the amount of time the student spends completing the course, where each hour of instruction shall be worth one credit (e.g., "Legal Update" is designed to be delivered in four hours and will yield four credits). With the exception of Firearms

Training and Requalification, successful completion of training shall be demonstrated by passing tests as developed by the delivering agency or as written by the North Carolina Justice Academy. A written test comprised of at least five questions per hour of training shall be developed by the delivering agency, or the agency may use the written test developed by the North Carolina Justice Academy, for each in-service training topic. A student shall pass each test by achieving 70 percent correct answers. Firearms Training and Requalification shall be demonstrated qualification with a firearm as set out in Section .2100 of this Subchapter.

(b) Training described in Paragraph (a) of this Rule shall satisfy the in-service training requirement for topic areas of the Sheriffs' or Department Head's choosing; or the Sheriff or Department Head may chose training delivered pursuant to National Certification Programs administered by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) completed during the mandated in-service year to satisfy these topics in part or in whole. It is not required that this IADLEST training be written in the Instructional Systems Design (ISD) format or delivered by a Commission certified instructor.

~~(b) The 2018 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:~~

- ~~(1) Legal Update;~~
- ~~(2) Strategies to Improve Law Enforcement Interactions and Relationships with Minority Youth;~~
- ~~(3) Equality in Policing;~~
- ~~(4) Communications Skills With Persons In Crisis – De-escalation Techniques;~~
- ~~(5) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and~~
- ~~(6) Any topic areas of the Sheriff's choosing.~~

~~(c) The 2018 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) Recognizing Warning Signs and Strategies Associated with Mental Illness;~~
- ~~(2) Equality in Detention Practices;~~
- ~~(3) Communications Skills With Persons In Crisis – De-escalation Techniques;~~
- ~~(4) Career Survival; and~~
- ~~(5) Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(d) The 2018 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:~~

- ~~(1) Communications Center Trainer;~~
- ~~(2) Equality in Policing;~~
- ~~(3) Communications Skills With Persons In Crisis – De-escalation Techniques; and~~
- ~~(4) Any topic areas of the Sheriff's or Department Head's choosing.~~

~~(c)(e) The 2019 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:~~

- (1) Legal Update;
- (2) Juvenile Law Update;
- (3) Individual Wellness: Coping with Stress and PTSD;
- (4) Best Practices for Officers During Community Dissent;
- (5) Law Enforcement Intelligence Update: Gangs and Divisive Groups;
- (6) Domestic Violence: Law and Procedure Update;
- (7) Opioid Awareness and Response;
- (8) Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (9) Any topic areas of the Sheriff's choosing.

~~(d)(f)~~ The 2019 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Detention Officer Legal Update;
- (2) Detention Intelligence Update: Gangs and Divisive Groups;
- (3) Individual Wellness: Coping with Stress and PTSD;
- (4) Inmate Suicide Prevention;
- (5) Opioid Awareness and Response; and
- (6) Any topic areas of the Sheriff's or Department Head's choosing.

~~(e)(g)~~ The 2019 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) Individual Wellness: Coping with Stress and PTSD;
- (2) Civil Liability for Telecommunicators;
- (3) Human Fatigue in Shift Work; Strategies for Improving Performance;
- (4) Handling Difficult Callers; and
- (5) Any topic areas of the Sheriff's or Department Head's choosing.

(f) The 2020 Law Enforcement In-Service Training Program requires 24 credits of training and successful completion in the following topic areas:

- (1) 2020 Legal Update;
- (2) 2020 Long-Term Effects of Childhood Adversity;
- (3) 2020 The Signs Within: Suicide Prevention Education and Awareness;
- (4) 2020 Career Survival: Training and Standards Issues;
- (5) 2020 Communication Strategies When Encountering Persons Who are Deaf or Hard of Hearing;
- (6) 2020 Armed/Unarmed Security/Company Police: Understanding Their Roles and Authority;
- (7) 2020 Firearms Training and Requalification for deputy sheriffs as set out in Section .2100 of this Subchapter; and
- (8) Any topic areas of the Sheriff's choosing.

(g) The 2020 Detention Officer In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) 2020 Overcoming Negativity in the Detention Center;
- (2) 2020 Documenting the Incident Refresher;
- (3) 2020 The Signs Within: Suicide Prevention Education and Awareness
- (4) 2020 Career Survival: Training and Standards Issues;
- (5) 2020 Recognizing Signs of assaultive Behavior; and
- (6) Any topic areas of the Sheriff's or Department Head's choosing.

(h) The 2020 Telecommunicator In-Service Training Program requires 16 credits of training and successful completion in the following topic areas:

- (1) 2020 Suicide Callers;
- (2) 2020 Overcoming Negativity in the Communications Center;
- (3) 2020 Processing Calls/Quality Assurance;
- (4) 2020 Responding to Domestic Violence Callers;
- (5) 2020 Career Survival: Training and Standards Issues; and
- (6) Any topic areas of the Sheriff's or Department Head's choosing.

Authority G.S. 17E-4; 17E-7.

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Alcoholic Beverage Control Commission intends to amend the rules cited as 14B NCAC 15A .0902, .0903, .0905, .0907, .1003, .1006, .1101-.1103, .1203, .1301, .1302, .1304, and .1404-.1406 and repeal the rule cited as 14B NCAC 15A .1204.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://abc.nc.gov>

Proposed Effective Date: December 1, 2019

Public Hearing:

Date: September 11, 2019

Time: 10:00 a.m.

Location: ABC Commission Hearing Room, 400 East Tryon Road, Raleigh, NC 27610

Reason for Proposed Action: To update, modernize, and conform rules related to the administration of the local Alcoholic Beverage Control boards, including maintenance of working capital, deposits, financial audits, personnel policies, local rules, approval of new stores, commercial storage and transportation of spirituous liquor, and local board purchases.

Comments may be submitted to: Walker Reagan, 400 East Tryon Road, Raleigh, NC 27610; phone (919) 779-8367; fax (919) 661-6165; email walker.reagan@abc.nc.gov

Comment period ends: September 13, 2019

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (≥\$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 15 - ALCOHOLIC BEVERAGE CONTROL COMMISSION

SUBCHAPTER 15A - ORGANIZATIONAL RULES: POLICIES AND PROCEDURES

SECTION .0900 - FISCAL RULES FOR LOCAL BOARDS

14B NCAC 15A .0902 MAINTENANCE OF WORKING CAPITAL

~~(a) As used in this Rule, "working capital" means the total of cash, investments and inventory less all unsecured liabilities.~~

~~(b)(a)~~ A local board shall set its working capital requirements at not less than two weeks' average gross sales of the latest fiscal year nor greater than:

- (1) four months of the latest fiscal year for boards with gross sales less than one million five hundred thousand dollars (\$1,500,000);
- (2) three months of the latest fiscal year for boards with gross sales greater than or equal to one million five hundred thousand dollars (\$1,500,000) and less than fifty million dollars (\$50,000,000); and
- (3) two months of the latest fiscal year for boards with gross sales equal to or greater than fifty million dollars (\$50,000,000).

~~Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2),(3), and (4).~~

~~(e)(b)~~ A local board is considered insolvent if all of the following conditions apply:

- (1) the local board does not adhere to the working capital requirements as stated in Paragraph ~~(b)(a)~~ of this Rule;
- (2) the local board's current assets are less than the local board's current liabilities and the current portion of long term debt;
- (3) the local board is unable to pay its debts as they fall due; and
- (4) the Commission believes that continued operation of the local board will not lead to profits in the next fiscal year.

~~(d)(c)~~ As used in this Rule, "long term debt" means the loans and financial obligations lasting over one year.

Authority G.S. 18B-100; 18B-203(a)(20); 18B-207; 18B-702(u); 18B-805(a),(d).

14B NCAC 15A .0903 DEPOSITS

(a) Each local board shall designate as its official depositories one or more ~~banks, savings and loan associations~~ banks or trust companies in this State.

(b) The amount of funds on deposit in an official depository or deposited at interest shall be secured as provided in the Rules of the Local Government Commission at ~~20 NCAC 7. 20 NCAC 07,~~ which are incorporated herein by reference, including subsequent amendments and editions.

Authority G.S. 18B-100; 18B-207; 18B-702(t),(u).

14B NCAC 15A .0905 DAILY DEPOSITS

(a) Each officer whose duty it is to collect or receive moneys of the local board shall deposit the collections and receipts daily into an official ~~depository the collections and receipts daily,~~ depository. If the local board gives its approval, deposits shall be required only when the moneys on hand are equal to or are greater than two hundred fifty dollars (\$250.00), but in any event a deposit shall be made of any amount of moneys on hand on the last business day of the month. ~~All deposits shall be made in an official depository.~~ Deposits in an official depository shall be reported to the finance officer by means of a duplicate deposit ticket.

(b) A change fund necessary for daily operation of an ABC store shall be established by each local board and maintained in a secure place on the store's premises and shall not be subject to the daily deposit ~~rule.~~ rule set forth in Paragraph (a) of this Section. Each change fund shall be maintained in the amount and place established by the local board.

(c) The finance officer may at any time audit the records maintained by any employee collecting sales revenue and may prescribe the form and detail of these records.

(d) The Commission shall waive or alter the daily deposit requirement set forth in Paragraph (a) of this Section for any local board where adequate security for the funds involved is demonstrated.

Authority G.S. 18B-100; 18B-207; 18B-702(t),(u).

14B NCAC 15A .0907 ANNUAL INDEPENDENT FINANCIAL AUDIT

(a) Each local board shall have its accounts audited after the close of each fiscal year by an independent certified public accountant. The auditor shall be selected by and report to the local board. The audit contract shall be on a form provided by the Commission. The audit report is due to the Commission ~~ninety~~ 90 days after the end of the fiscal year. The financial officer shall file one unbound copy of the audit report and management letter with the Commission.

(b) Each officer and employee of the local board having custody of public money or responsibility for keeping records of financial or fiscal affairs shall produce books and records requested by the auditor or the Commission and shall divulge any information relating to fiscal affairs ~~that they request, as requested.~~ If any member of the local board or any employee conceals, falsifies or refuses to deliver or divulge any books, records, or information with intent to mislead the auditor or impede or interfere with the audit, ~~he~~ that individual is subject to removal for cause pursuant to G.S. 18B-203(a)(8).

(c) Disclosure of the distribution of profits shall include ~~every element that is applicable under~~ all distributions made pursuant to G.S. 18B-805 in a schedule prepared for inclusion with the annual audited financial statements. ~~In addition the~~ The schedule shall be supported by a listing of each person who receives moneys from the local board, the date of payment and, if applicable, the purpose for which the payment was made and restrictions on use of the payment. The listing shall be so designated to provide the same totals as were used in the schedule for each type of distribution.

Authority G.S. 18B-100; 18B-203(a)(8); 18B-207; 18B-702(s),(u).

SECTION .1000 - LOCAL ABC BOARD: PERSONNEL POLICIES

14B NCAC 15A .1003 EMPLOYMENT AGE REQUIREMENT

A person employed by a local board shall be at least 18 years of age unless waived by the ~~commission.~~ Commission. The Commission shall grant a waiver pursuant to this Rule subject to compliance with the conditions and limitations applicable to permittees pursuant to G.S. 97-25.5(j).

Authority G.S. 18B-100; 18B-207; 18B-302(h); 18B-807.

14B NCAC 15A .1006 PERSONNEL MANUAL

(a) Each local board shall establish policies and rules governing each of the following:

- (1) Initial employment of employees, including qualifications and requirements for new employees;
- (2) Compensation and benefits;
- (3) Hours and days of work, holidays, vacation, sick leave and other matters pertaining to the conditions of employment;

- (4) Promotion, transfer, demotion and suspension of employees;
- (5) Separation or termination of employees;
- (6) Granting of salary increases;
- (7) Employee grievance procedures; and
- (8) Any other programs or procedures as may be necessary to promote efficiency and to provide for a fair and reasonable system of personnel administration.

(b) A local board ~~is encouraged to~~ may model its personnel policies and procedures after those adopted by the county or municipality in which it operates.

(c) A local board shall not adopt a rule or policy that conflicts with the provisions of Chapter 18B or these Rules.

Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-700(g1); 18B-701(a); 18B-807.

SECTION .1100 - LOCAL ABC BOARDS: RELATIONSHIP WITH STATE COMMISSION

14B NCAC 15A .1101 COMMON INTEREST

~~It shall be the policy of the~~ The Commission to ~~shall~~ advise and consult with the local boards regarding matters of common interest to the ~~alcoholic beverage~~ spirituous liquor control system.

Authority G.S. 18B-100; 18B-207; 18B-807.

14B NCAC 15A .1102 LOCAL RULES

(a) Submitted to Commission. A copy of all rules or amendments thereto that may be adopted by a local board to govern the operation of ABC stores or the enforcement of the ABC laws shall be submitted to the Commission at least ~~45~~ 30 days prior to the date on which it is proposed that those rules or amendments are to become effective.

(b) Power to Approve. In the absence of notice from the Commission ~~to the contrary,~~ to the local board within 15 days of receipt of the proposed rules by the Commission that the rules are disapproved or the effective date of the rules will be delayed, those rules or amendments thereto shall stand approved. Otherwise, the proposed rules or amendments will become effective when and as approved by the Commission.

Authority G.S. 18B-100; 18B-203(a)(10); 18B-207; 18B-807.

14B NCAC 15A .1103 COST OF AUDIT

The cost of any audit or examination of records ~~conducted under authority of G.S. 18B-203(4) may be assessed to local boards being audited or examined, at the discretion of the Commission.~~ required by the Commission pursuant to G.S. 18B-205 shall be borne by the local board being audited or examined.

Authority G.S. 18B-100; 18B-205; 18B-207; 18B-702(u); 18B-807.

SECTION .1200 - OPENING AND DISCONTINUANCE OF STORES

14B NCAC 15A .1203 APPROVAL OF NEW STORES

(a) Notice to Commission. The opening of any new ABC stores shall not be ~~approved~~ considered by the Commission unless at least a ~~30-day~~ 45-day notice is given to the Chairman as to the intended location of the store and until a public notice of the intention to open such ABC store has been posted for 30 days at such location.

(b) Sign Requirements. In order to meet the public notice requirements of Paragraph (a) of this Rule, the local board shall post at least one sign at the proposed new store site in accordance with all the following requirements:

- (1) Dimensions of the sign shall ~~total be~~ be at least ~~nine square feet; three feet high and three feet wide;~~
- (2) The board shall state on the sign its intention to open an ABC store on the site and shall state the ~~entity and its phone~~ telephone number of the ~~local board to provide public comments; where public comments will be received;~~
- (3) Lettering shall be at least four inches in height and background colors shall be of sufficient contrast so that the notice ~~shall be legible to passersby; may be discerned by the viewer;~~ and
- (4) The sign shall be posted within 10 feet of the property line that is parallel to the public road or sidewalk that will be in front of the proposed store, or if the proposed store will be in an existing shopping center, the sign shall be posted on the front exterior of the existing storefront or building. Lettering on the sign shall face the public road or sidewalk, or if within an existing shopping center, the lettering shall face the exterior of the existing storefront or building.

(c) In considering whether to approve the opening of a new ABC store, in addition to determining whether the health, safety or general welfare of the community would be adversely affected, the Commission shall consider the factors enumerated in G.S. 18B-901(c)(3), (4), (5), (6), and (7).

Authority G.S. 18B-100; 18B-207; 18B-801.

14B NCAC 15A .1204 NEW STORES PROHIBITED IN CERTAIN AREAS

~~New stores should not be opened in any area which is principally residential, in unreasonable proximity to any church, school or similar institution, in any slum district or other similarly undesirable area or at any location where sufficient parking facilities cannot be made available to avoid traffic congestion.~~

Authority G.S. 18B-100; 18B-207; 18B-801.

SECTION .1300 - STORAGE AND DISTRIBUTION OF SPIRITUOUS LIQUORS: COMMERCIAL TRANSPORTATION

14B NCAC 15A .1301 STORAGE: DELIVERIES: SECURITY

(a) Storage. Private warehouse contractors performing the receipt, storage and distribution functions shall:

- (1) Allocate space in the ~~Commission's~~ State ABC warehouse for each item listed on the price list adopted by the Commission. Space allocated shall be based on sales volume;
- (2) Develop and publish a delivery schedule of spirituous liquors to all local ~~boards, boards based on each local board's sales volume, which are subject to approval of the Commission which are based on sales volume. Commission.~~ Orders and shipments over the quantity on the approved schedule may be made as agreed between the local boards and the ~~contractor. Contractor.~~ All orders over the quantity on the schedule shall be accepted when deemed economically feasible by the ~~contractor. Contractor.~~
- (3) Develop and publish standard operating procedures not covered by these Rules for use by the ~~contractor Contractor~~ and local boards. All procedures published shall be submitted to the Commission.

(b) Deliveries and Shipments. The processing of shipments upon receipt by the local boards shall be as follows:

- (1) The ~~Contractor's~~ driver shall provide the local board representative an Off-Loading Check Sheet, an Invoice Bill(s) of Lading and a Transmittal Sheet with the shipment. The Off-Loading Check Sheet shall reflect the items and quantities being delivered in numerical order, and the quantities shall agree with those on the Invoice Bill(s) of Lading and the Transmittal Sheet;
- (2) The system used for off-loading shall be such that an accurate count of the merchandise is made and all overages or shortages can be verified by the driver before any exceptions entries are made on the Transmittal Sheet;
- (3) If there are no overages, shortages or breakage, remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (4) If there is an overage which is accepted by the local board representative, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity over, the stock code number and an explanation in the "comments" block on the Transmittal Sheet. Upon return of the Transmittal Sheet to the ~~Commission's~~ State ABC warehouse, the ~~contractor Contractor~~ shall issue a debit adjustment. The debit adjustment shall have the original invoice number in the purchase order reference box as a cross reference. Remittance shall be made as

- referenced in Subparagraph (10) of this Paragraph;
- (5) If there is an overage that is not accepted by a local board representative, the local board representative shall enter the quantity, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. The driver shall return the merchandise to the ~~Commission's~~ State ABC warehouse;
- (6) If there is a shortage, the local board representative shall line through the number of cases invoiced and shall write the correct number of cases on the Transmittal Sheet. The local board representative shall enter the quantity under, the stock code number and an explanation in the "comments" box on the Transmittal Sheet. Upon return of the Transmittal Sheet to the ~~Commission's~~ State ABC warehouse, the ~~contractor~~ Contractor shall issue a credit adjustment. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (7) The local board representative shall handle breakage discovered during the unloading process as a shortage in shipment ~~see in accordance with the procedure set forth in Subparagraph (6) of this Paragraph~~ Paragraph with the note in the "comments" block of the Transmittal Sheet indicating that the case was returned due to breakage. If the breakage involves a case that is an overage not accepted by the local board representative, the procedures in Subparagraph (5) of this Paragraph shall be followed. Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (8) If a local board's shipment includes a shrink-wrapped pallet(s), the local board shall break down the pallet(s) and any overage, shortage, or breakage shall be reported to the State ABC warehouse as follows:
- (A) The procedures for marking the Transmittal Sheet in Subparagraphs (4), (5), (6) and (7) of this Paragraph shall be followed; and
- (B) The updated Transmittal Sheet shall be emailed, faxed or postmarked to the ~~Commission's~~ State ABC warehouse within three days of delivery of the pallet(s);
- Remittance shall be made as referenced in Subparagraph (10) of this Paragraph;
- (9) The local board representative and the driver shall sign the Transmittal Sheet(s) and the driver shall return the Transmittal Sheet(s) to the ~~Commission's~~ State ABC warehouse. The local board representative shall receipt date stamp or sign the distiller's Invoice Bills of Lading copies and the driver shall return them to the ~~Commission's~~ State ABC warehouse; and
- (10) The local board shall remit payment to the party listed in the "Remit to" information listed on the Invoice Bill(s) of Lading which includes any Bailment Invoices or Surcharge Invoices. The local board shall enter the Invoice Bill of Lading number on each check or each check stub.
- (c) Security Measures. Security of the merchandise during the delivery process shall be as follows:
- (1) The conveyances (trucks and trailers) shall be secured with a lock and serially numbered metal or plastic seal by the ~~contractor~~ Contractor. Each local board shall be issued a key that will unlock all the locks used by the ~~contractor~~ Contractor;
- (2) The seal numbers will be entered on the "Seal Nos." line of the invoice transmittal sheet. Extra seals shall be included in sealed envelopes for resealing the unit when shipments are destined for more than one local board and for the return trip after final delivery;
- (3) The local board general manager or his designated representative shall check the seal number on the unit with the number on the invoice transmittal sheet upon arrival of a shipment. If the numbers correspond the unit shall be unlocked by the local board's representative. If the numbers do not correspond the ~~contractor~~ Contractor shall be contacted for further instructions; and
- (4) The local boards' general manager shall limit the accessibility of the key to three personnel and shall not allow the ~~contractor's~~ Contractor's driver or his assistant to remove the seal or have the key in his possession at any time.
- (d) Local boards shall not pick up merchandise from the ~~Commission's~~ State ABC warehouse without prior approval from the ~~Commission's~~ Administrator or ~~his~~ the Administrator's designee.
- (e) Local boards may purchase, exchange, or otherwise obtain spirituous liquor from another local board and transport such beverages as necessary for the operation of its ABC stores. Payment for such transactions shall be satisfied as provided by ~~04 NCAC 15A .1406~~ 14B NCAC 15A .1406.

Authority G.S. 18B-100; 18B-204; 18B-207; 18B-701(a)(1).

14B NCAC 15A .1302 COMMERCIAL TRANSPORTATION: PERMIT AND BOND REQUIRED

- (a) Any person transporting spirituous liquors into and through the State of North Carolina shall first give a bond of ~~one thousand dollars (\$1,000)~~ as required by G.S. 18B-1115(e) and secure a blanket fleet permit for the transportation of spirituous liquors signed by the ~~chairman~~ Chairman or ~~administrator of the Commission~~ Administrator. That permit shall designate the spirituous liquors to be shipped.

(b) Driver to Possess Permit. Any person applying for and receiving this permit shall require the driver or operator of any truck, tractor, or trailer to have in ~~his the driver's~~ possession a copy of ~~the permit together with the bills of lading of the spirituous liquors being transported disclosing the consignor and consignee of the spirituous liquors being transported.~~ all the documents required pursuant to G.S. 18B-1115(d)(3) and (4).

(c) Commission to Provide Forms. Blank forms for the bond will be supplied by the Commission upon request.

(d) A local board owning and operating trucks for the purpose of transporting spirituous liquors from a local warehouse to the various local stores within ~~an a local~~ ABC system shall not be required to give bond and shall be permitted to operate its trucks without a common carrier permit.

Authority G.S. 18B-100; 18B-207; 18B-1115.

14B NCAC 15A .1304 DIRECT SHIPMENTS

(a) A "direct shipment" means a shipment from the distiller or a warehouse of spirituous liquors, or from an antique spirituous liquor ~~seller of antique spirituous liquor, seller,~~ directly to a local board without passing through the State ABC warehouse.

(b) Direct shipments shall be allowed by the Commission in emergency situations when the State ABC warehouse is closed due to natural or other disasters or in a situation where for transportation reasons it is mutually advantageous to local boards, the Commission, or the operator of the State ABC warehouse.

(c) Direct shipment shall have prior written approval from the Commission. Merchandise authorized to be shipped by direct shipment shall be consigned by the State ABC warehouse to the distiller's account in care of the local board. The local board shall acknowledge receipt of the merchandise on the shipping documents and forward them to the Contractor for processing through the accounting system as though the merchandise were shipped from the State ABC warehouse.

(d) Upon compliance with 14B NCAC 15A .1403 and obtaining a transportation permit as required by G.S. 18B-403, an antique spirituous liquor seller may deliver antique spirituous liquor listed in its inventory directly to the local board that placed the special order for that inventory.

Authority G.S. 18B-100; 18B-204; 18B-207; 18B-403; 18B-701(a)(1).

SECTION .1400 - PURCHASE OF ALCOHOLIC BEVERAGES BY LOCAL BOARDS

14B NCAC 15A .1404 COMMEMORATIVE BOTTLES

The Commission shall approve local boards' orders and sales of specially designed bottles commemorating particular events, occasions, or ceremonies, provided advertising borne upon commemorative bottles is limited to commemorating historical events of the local board and non-profit, charitable ~~enterprises (i.e., ordinary profit-oriented businesses enterprises. Other businesses, other than the distiller,~~ are not permitted to advertise themselves or their products via commemorative ~~bottles.) bottles.~~

Authority G.S. 18B-100; 18B-207; 18B-807.

14B NCAC 15A .1405 RECORDS REQUIRED

(a) A record of all orders, receipts, invoices, and payments shall be maintained by local boards and be available for inspection by any representative of the Commission at any reasonable time.

(b) ~~More specifically, local~~ Local boards shall retain the following records as follows: for the length of time specified in this Subparagraph:

- (1) sales report ~~(until until the annual audit completed), is completed,~~
- (2) warehouse report ~~(one year), for one year,~~
- (3) daily store report ~~(until until the annual audit completed), is completed,~~
- (4) stock difference report ~~(three years), for three years,~~
- (5) receiving report ~~(until until the annual audit completed), is completed,~~
- (6) clerk's daily sales and cash report ~~(until until the annual audit completed), is completed, and~~
- (7) paid invoices ~~(three years), for three years.~~

(c) In addition, local boards shall retain the Loss and Damage Claim records and required records related to the sale of mixed beverages for a period of three years.

Authority G.S. 18B-100; 18B-203(a)(4); 18B-205; 18B-207; 18B-702(s), (u).

14B NCAC 15A .1406 PAYMENT

(a) Local boards shall remit full payment of the ~~contractor's~~ Contractor's statement of account pertaining to the bailment fee within 30 days of receipt of the statement.

(b) Local boards shall remit full payment of the ~~contractor's~~ Contractor's statement of account pertaining to the bailment surcharge within ~~45~~ 30 days of receipt of the statement.

(c) Local boards shall remit full payment of the distiller's invoice within 30 days of delivery of the liquor.

(d) Local boards that obtain spirituous liquor from another local board pursuant to 14B NCAC 15A .1301(e) shall remit full payment within 15 days of the transaction.

Authority G.S. 18B-100; G.S. 18B-207; 18B-702(u).

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Sedimentation Control Commission intends to amend the rules cited as 15A NCAC 04A .0101; 04E .0104, .0201, .0501-.0503, repeal the rules cited as 15A NCAC 04C .0110, .0111; 04E .0101, .0102, .0203, .0403, .0405, .0406, .0504, readopt with substantive changes the rules cited as 15A NCAC 04A .0105; 04B .0105-.0110, .0112, .0115, .0118, .0120, .0124-.0127, .0129-.0132; 04C .0103, .0106, .0107, readopt without substantive changes the rules cited as 15A NCAC 04B .0111, .0113, and repeal through readoption the rules cited as 15A NCAC 04C .0108 and 04D .0102.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be

published. The text of the rules are available on the OAH website:
<http://reports.oah.state.nc.us/ncac.asp>.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://deq.nc.gov/permits-regulations/rules-regulations/proposed-rules>

Proposed Effective Date: January 1, 2020

Public Hearing:

Date: August 1, 2019

Time: 3:00 p.m.

Location: Ground floor conference room, Archdale Building,
 512 N. Salisbury Street, Raleigh, NC 27604

Reason for Proposed Action: S.L. 2013-413 requires a periodic review of all rules used by state agencies. The Division of Energy, Mineral and Land Resources and the Sedimentation Control Commission have initiated the review of the rules codified in 15A NCAC 04. Most of the proposed rule changes are administrative in nature and add clarity to the rules.

In addition to the proposed changes, the Sedimentation Control Commission is requesting comments on:

Rule 04A .0105(29), regarding 'bank full flows', for example changing to 'bank flow height' or 'bank flow elevation'.

Rule 04B .0107, regarding permanent ground cover considerations for restraining erosion, for example including 7-14 day temporary ground cover.

Rule 04B .0124, regarding potential for future measurement for meeting design standards for turbidity, for example adding flocculants or settling efficiencies standards and maintaining the existing, 40-micron requirement until changes are made.

Comments may be submitted to: Boyd DeVane, NC Division of Energy, Mineral and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612; phone (919) 707-9212; email boyd.devane@ncdenr.gov

Comment period ends: September 13, 2019

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 04 - SEDIMENTATION CONTROL

**SUBCHAPTER 04A - SEDIMENTATION CONTROL
 COMMISSION ORGANIZATION**

**15A NCAC 04A .0101 OFFICES OF THE
 SEDIMENTATION CONTROL COMMISSION**

Persons may ~~write or visit~~ contact the North Carolina Sedimentation Control Commission offices at the Archdale Building, 512 N. Salisbury Street, P.O. Box 27687, Raleigh, North Carolina 27611. Persons may ~~write or visit~~ contact regional offices of the Commission's staff in the Division of Energy, Mineral, and Land Resources at the following locations:

- (1) ~~Interchange Building~~
~~59 Woodfin Place~~
~~P.O. Box 370~~
~~Asheville, N.C. 28801~~
Asheville Regional Office
2090 U.S. 70 Hwy.
Swannanoa, NC 28778-8211
- (2) ~~585 Woughtown Street~~
Winston-Salem Regional Office
450 W. Hanes Mill Rd., Suite 300
Winston-Salem, N.C. 27107 27105
- (3) ~~919 North Main Street~~
Mooresville Regional Office
610 E. Center Avenue, Suite 301
~~P.O. Box 950~~
Mooresville, N.C. 28115 - 28115-2578
- (4) ~~Raleigh Regional Office~~
3800 Barrett Drive
~~P.O. Box 27687~~
Raleigh, N.C. 27611 27609-7222
- (5) ~~Wachovia Building~~
~~Suite 714~~
Fayetteville Regional Office
225 Green Street, Suite 714
Fayetteville, N.C. 28301 28301-5095
- (6) ~~1424 Carolina Avenue~~
Washington Regional Office
1424 Carolina Ave.
~~P.O. Box 2188~~ Washington, N.C. 27889 27889-3314
- (7) Wilmington Regional Office
127 Cardinal Dr., Ext.
Wilmington, N.C. 28405-3845

Authority G.S. 143B-298; 113A-54.

15A NCAC 04A .0105 DEFINITIONS

In addition to the terms defined in G.S. 113A-52, As used in this Chapter, the following terms definitions shall apply in this Chapter and have these meanings:

- (1) "Accelerated Erosion" means any increase over the rate of natural erosion, as a result of land-disturbing activities.
- (2) "Act" means the Sedimentation Pollution Control Act of 1973 in G.S. 113A-50 et seq.
- (3)(2) "Adequate Erosion Control Measures, Structure, or Device Devices or Structures " means one ~~which that~~ controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.
- (4) "Approving Authority" means the Division or other state or a local government agency that has been delegated erosion and sedimentation plan review responsibilities in accordance with the provisions of the Act.
- (5)(14) "Being Conducted" means a land-disturbing activity has been initiated and ~~permanent stabilzstion of the site has not been completed. not deemed complete.~~
- (6)(3) "Borrow" means fill material ~~which that~~ is required for on-site construction ~~and that~~ is obtained from other locations.
- (7)(4) "Buffer Zone" means the strip of land adjacent to a lake or natural watercourse.
- (8)(27) "Coastal ~~counties~~ Counties " means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, ~~Tyrrell~~ Tyrrell, and Washington.
- (9)(23) "Completion of Construction or Development" means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
- (10)(26) "Director" means the Director of the Division of Energy, Mineral, and Land Resources of the Department of ~~Environment, Health, and Natural Resources. Environmental Quality.~~
- (11)(22) "Discharge ~~Point~~" Point or Point of Discharge " means that point where runoff leaves a tract of ~~land. land where a land-disturbing activity has occurred or enters a lake or natural watercourse.~~
- (12) "Division" or "DEMLR" means the Division of Energy, Mineral, and Land Resources of the Department of Environmental Quality.
- (13)(18) "Energy Dissipator" means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

- (14)(5) "Ground Cover" means any natural vegetative growth or other material ~~which that~~ renders the soil surface stable against accelerated erosion.
- (15)(24) "High Quality Waters" means those ~~classified as such described in 15A NCAC 02B .0101(e)(5) General Procedures, which is incorporated herein by reference to include further amendments. 02B .0224 which is herein incorporated by reference including subsequent amendments and editions, and may be accessed at no cost at <http://reports.oah.state.nc.us/.pdf>.~~
- (16) "High Quality Water (HQW) Zones" means areas in the Coastal Counties that are within 575 feet of High Quality Waters and for the remainder of the ~~state~~ State areas that are within one mile of and drain to HQW's.
- (17) "Lake or Natural Watercourse" means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any ~~reservoir, lake lake, or pond pond. natural or impounded. in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.~~
- (18)(7) "Natural Erosion" means ~~erosion~~ "erosion" as defined in G.S. 113A-52(5) under natural environmental conditions undisturbed by man.
- (19)(9) "Person Conducting the ~~Land-Disturbing Land-disturbing~~ Activity" means any person who may be held responsible for a violation unless expressly provided otherwise by the ~~Sedimentation Pollution Control Act of 1973, G.S. 113A 50 to 66, the North Carolina Administrative Code, Title 15A Chapter 4 the Act, the Rules of this Chapter, or any order or local ordinance adopted pursuant to the these Rules or the Act. Sedimentation Pollution Control Act of 1973, G.S. 113A 50 to 69.~~
- (8) "Person Who Violates" as used in G.S. 113A 64, means:
 - (a) ~~the developer or other person who has or holds himself or herself out as having financial or operational control over the land disturbing activity; or~~
 - (b) ~~the landowner or person in possession or control of the land when he has directly or indirectly allowed the land disturbing activity or has directly benefitted from it or he has failed to comply with any provision of the Sedimentation Pollution Control Act of 1973, G.S. 113A 50 to 66, the North Carolina Administrative Code, Title 15A, Chapter 4, or any order or local ordinance adopted pursuant to the Sedimentation Pollution Control Act of 1973, G.S. 113A 50 to 66, as imposes a duty upon him.~~
- (20) "Person Who Violates", or "Violator", as used in G.S. 113A-64, means: any landowner or

other person who has financial or operational control over the land-disturbing activity; or who has directly or indirectly allowed the activity, and who has failed to comply with any provision of the Act, the Rules of this Chapter, or any order or local ordinance adopted pursuant to the Act, as it imposes a duty upon that person

(10) "Phase of Grading" means one of two types of grading, rough or fine.

(21)(44) "Plan" means an erosion and sedimentation control plan.

(22)(42) "Sedimentation" means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

(23)(19) "Storm Drainage Facilities" means the system of inlets, conduits, channels, ditches and appurtenances that serve to collect and convey stormwater through and from a given drainage area.

(24)(13) "Storm Water" "Stormwater Runoff" means the direct runoff of water resulting from precipitation in any form.

(25)(20) "Ten Year Storm" means the surface runoff resulting from a rainfall of an intensity that, based on historical data, is expected predicted to be equaled or exceeded, on the average, once in 10 years, and of a duration that which will produce the maximum peak rate of runoff for from the watershed of interest under average antecedent wetness conditions.

(26)(28) "Twenty-five Year Storm" Storm or Q25" means the surface runoff resulting from a rainfall of an intensity expected that, based on historical data, is predicted to be equaled or exceeded, on the average, once in 25 years, and of a duration that will produce the maximum peak rate of runoff from the watershed of interest under average antecedent wetness conditions.

(27)(15) "Uncovered" means the removal of having had ground cover removed from, on, or above the soil surface.

(28)(16) "Undertaken" means the initiating of any activity or phase of activity which activity or phase of activity that results or will result in a change in the ground cover or topography of a tract of land.

(29)(21) "Velocity" means the average velocity speed of flow through a the cross-section cross-section perpendicular to the direction of the main channel at the peak flow of the storm of interest. interest but not exceeding bank full flows. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel

banks. Overload flows are not to be included for the purpose of computing velocity of flow.

(30)(17) "Waste" means surplus materials resulting from on-site construction and to be disposed of at other locations offsite.

Authority G.S. 113A-52; 113A-54.

SUBCHAPTER 04B - EROSION AND SEDIMENT CONTROL

15A NCAC 04B .0105 PROTECTION OF PROPERTY

Persons conducting land-disturbing activity shall ~~take all~~ reasonable follow the measures specified in this Chapter and the Act to protect all public and private property from sedimentation and erosion damage caused by ~~such~~ the land-disturbing activities.

Authority G.S. ~~113A-54(b);~~ 113A-54(d)(2).

15A NCAC 04B .0106 BASIC EROSION AND SEDIMENTATION CONTROL PLAN OBJECTIVES

(a) An erosion and sedimentation control plan developed pursuant to this Chapter shall ~~may be disapproved pursuant to 15A NCAC 4B .0118 if the plan fails to be designed~~ to address the following: ~~following control objectives:~~

- (1) Identify Critical Areas: Areas. Identify site areas subject to ~~severe~~ accelerated erosion, and off-site areas especially vulnerable to damage from erosion and sedimentation.
- (2) Limit Exposed Areas. Limit the size of the area exposed at any one time.
- (3) Limit Time of Exposure. Limit exposure to the shortest ~~feasible time~~, time specified in G.S. 113A-57, the rules of this Chapter, or as directed by the approving authority.
- (4) Control Surface Water. Control surface water ~~run-off~~ originating upgrade of exposed areas in order to reduce erosion and sediment loss during exposure.
- (5) Control Sedimentation. All land-disturbing activity ~~is to~~ shall be planned ~~and conducted so as~~ to prevent off-site sedimentation damage.
- (6) Manage ~~Storm Water~~ Stormwater Runoff. ~~When the increased Plans shall be designed so that any increase in~~ velocity of storm-water stormwater runoff resulting from a land-disturbing activity causes will not result in accelerated erosion of the receiving watercourse, stormwater conveyance within the project boundary, or at the point of discharge. plans shall include measures to control the velocity to the point of discharge.

(b) ~~When deemed necessary by the approving authority a preconstruction conference may be required.~~

Authority G.S. 113A-54(d)(4); 113A-54.1.

15A NCAC 04B .0107 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY

(a) No land-disturbing activity subject to these Rules shall be undertaken except in accordance with ~~the~~ G.S. 113A-57, 113A-57 and the standards established in these Rules.

(b) ~~Pursuant to G.S. 113A-57(3), Unless where otherwise specified in the Act or the rules of this Chapter, provisions for a permanent ground cover sufficient to restrain erosion must shall be accomplished within 15 working days or 90 calendar days following completion of construction or development, whichever period is shorter, except as provided in 15A NCAC 4B .0124(e).~~

(c) Pursuant to G.S. 113A-57(4) and 113A-54(d)(4), an erosion and sedimentation control plan ~~must shall~~ be ~~both~~ filed and approved by the ~~agency having jurisdiction.~~ approving authority.

(d) All individuals that obtain a State or locally-approved erosion and sedimentation control plan, that disturb one acre or more of land, are required by the U.S. Environmental Protection Agency to obtain coverage under the N.C. Department of Environmental Quality Construction General Permit No. NCG010000 (NCG01). The requirements in NCG01 for temporary or permanent ground cover may differ from the ground cover, or stabilization, requirements in this Chapter. It is the responsibility of the person conducting the land-disturbing activity to ensure compliance with the NCG01.

Authority G.S. 113A-54(d)(4); 113A-57; 113A-57(3)(4).

15A NCAC 04B .0108 DESIGN AND PERFORMANCE STANDARD

Except where otherwise specified in this Chapter, erosion Erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed to provide protection from the run off of that a 10-year 10-year storm that which produces the maximum peak rate of run off as calculated according to procedures in the United States Department of Agriculture Agriculture, Soil Natural Resources Conservation Service's "National Engineering Field Manual Handbook 630 (Handbook 630)" This document is herein incorporated by reference including subsequent amendments and editions, and may be accessed at no cost at <https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/national/water/manage/hydrology/?cid=stelprdb1043063> or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association. Other methodologies can be used if based on generally accepted engineering standards that are shown to be equivalent to or improved over the procedures in Handbook 630. The approving authority shall determine acceptability of an alternative

methodology based upon a showing that the runoff model used was based on observed data in agreement with the predictive model.

Authority G.S. 113A-54.

15A NCAC 04B .0109 STORM WATER STORMWATER OUTLET DISCHARGE POINT PROTECTION

(a) Persons shall ~~conduct~~ provide a design for the land-disturbing activity so that the post-construction post-construction velocity of the ~~ten-year 10-year storm run-off run-off~~ in the receiving ~~waterecourse~~ stormwater conveyance to to, and including, the discharge ~~point point,~~ does not exceed the greater of:

- (1) the velocity established by the table in Paragraph (d) of this Rule; or
- (2) the projected velocity of the ~~ten-year 10-year~~ storm ~~run-off runoff~~ in the receiving ~~waterecourse~~ stormwater conveyance prior to development.

If projected conditions in Subparagraphs (1) or (2) of this Paragraph cannot be met, then the receiving ~~waterecourse~~ stormwater conveyance to to, and including including, the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "~~prior to development~~" velocity prior to development by ten percent.

(b) ~~Acceptable Management Measures. The commission recognizes that management of storm water run-off to control downstream erosion constitutes a developing technology and consequently invites the use of innovative techniques shown to produce successful results. Alternatives include: The Commission shall allow alternative measures to control downstream erosion, including:~~

- (1) ~~Compensate compensation~~ for increased ~~run-off runoff~~ from areas rendered impervious by designing measures to promote ~~infiltration. Infiltration; or~~
- (2) ~~Avoid avoiding~~ increases in ~~storm-water~~ stormwater discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and paved ~~sections. sections; or~~
- (3) ~~Provide providing~~ energy dissipators at storm drainage outlets to reduce flow velocities to the ~~discharge points. points; or~~
- (4) ~~Protect protecting~~ ~~waterecourses~~ stormwater conveyances subject to accelerated erosion by improving cross sections ~~and/or or~~ or providing erosion-resistant lining.

- (c) ~~Exceptions.~~ This Rule shall not apply when ~~storm-water~~ stormwater discharge velocities will not ~~create an erosion problem result~~ accelerated erosion in the receiving ~~watercourse.~~ stormwater conveyance or discharge point.
- (d) The following table sets maximum permissible velocity for storm water discharges:

Material	Maximum Permissible Velocities For in feet and Meters Per Second*	
	F.P.S.	M.P.S.
Fine Sand (noncolloidal)	2.5	.8
Sandy Loam (noncolloidal)	2.5	.8
Silt Loam (noncolloidal)	3.0	.9
Ordinary Firm Loam	3.5	1.1
Fine Gravel	5.0	1.5
Stiff Clay (very colloidal)	5.0	1.5
Graded, Loam to Cobbles (noncolloidal)	5.0	1.5
Graded, Silt to Cobbles (colloidal)	5.5	1.7
Alluvial Silts (noncolloidal)	3.5	1.1
Alluvial Silts (colloidal)	5.0	1.5
Coarse Gravel (noncolloidal)	6.0	1.8
Cobbles and Shingles	5.5	1.7
Shales and Hard Pans	6.0	1.8

~~Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.~~

* For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels. Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment.

Authority G.S. 113A-54(b)(c).

15A NCAC 04B .0110 BORROW AND WASTE AREAS

If the same person conducts the ~~land-disturbing~~ land-disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the ~~land-disturbing~~ land-disturbing activity, unless the borrow or waste activity is regulated under the Mining Act of 1971, G.S. 74, Article 7, or is a landfill regulated by the Division of ~~Solid~~ Waste Management. If the ~~land-disturbing~~ land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered separate land-disturbing activities.

Authority G.S. 74-67; 113A-54(b); 130A-166.21.

15A NCAC 04B .0111 ACCESS AND HAUL ROADS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 04B .0112 OPERATIONS IN LAKES OR NATURAL WATERCOURSES

~~Land-disturbing~~ Land-disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

Authority G.S. 113A-54.

15A NCAC 04B .0113 RESPONSIBILITY FOR MAINTENANCE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 04B .0115 ADDITIONAL MEASURES

Whenever the ~~commission~~ Commission or a local government determines that ~~significant~~ accelerated erosion and sedimentation continues despite the installation of protective practices, the person conducting the ~~land-disturbing~~ land-disturbing activity ~~will be required to and~~ shall take additional protective ~~action~~ to achieve compliance with the conditions specified in the Act or the rules of this Chapter.

Authority G.S. 113A-54(b); 113A-54.1(b).

15A NCAC 04B .0118 APPROVAL OF PLANS

(a) Persons conducting land-disturbing activity on a tract ~~which~~ that covers one or more acres shall file ~~three copies of~~ the erosion and sedimentation control plan with the local government having jurisdiction or with the Commission if no local government has ~~jurisdiction,~~ jurisdiction. The approving agency shall act on the plan at least 30 days prior to beginning such activity and within receipt of the plan or the plan shall be deemed approved, shall keep another A paper copy of the approved plan shall be kept on file at the job site. After approving a plan, if the Commission or local government determines, either upon review of such plan or ~~on~~ upon inspection of the job site, that a ~~significant risk of~~

~~accelerated erosion or off-site sedimentation exists, the plan is inadequate to meet the requirements of the Act and of this Chapter.~~ the Commission or local government shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

(b) Commission Approval:

- (1) The Commission shall review plans for all land-disturbing activity over which the Commission has exclusive jurisdiction ~~by statute pursuant to G.S. 113A-56,~~ and all other land-disturbing activity ~~if where~~ no local government has jurisdiction.
- (2) The Commission shall complete its review of any completed plan within 30 days of receipt and shall notify the person submitting the plan in writing that it has been:
 - (A) ~~approved, approved;~~
 - (B) approved with ~~modification,~~ modification; or,
 - ~~(C) approved with performance reservations, or~~
 - ~~(C)(D) disapproved.~~
- (3) The Commission's ~~disapproval, approval with modification, or performance reservations~~ disapproval of any proposed ~~plan, plan~~ shall entitle the person submitting the plan to an administrative hearing in accordance with the provisions of G.S. 150B-23. (This Section does not modify any other rights to a contested case hearing which may arise under G.S. 150B-23).
- (4) ~~Subparagraph (b)(3) of this Rule shall not apply to the approval or modification of plans reviewed by the Commission.~~ Appeals of local government decisions shall be conducted pursuant to G.S. 113A-61(c).
- (5) Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act as set forth in Article 1 or G.S. 113 and the rules of this Department as set forth in 15A NCAC 01C shall be deemed incomplete until ~~a complete~~ an environmental document is available for review. The Commission shall ~~promptly~~ notify the person submitting the plan that the ~~30-day~~ 30-day time limit for review of the plan pursuant to Subparagraph ~~(b)(2)(2)~~ of this ~~Rule~~ Paragraph shall not begin until ~~a complete~~ the environmental document is available for review.

(c) ~~Erosion~~ An erosion and sedimentation control plan ~~may plan~~ shall also be disapproved unless ~~they include~~ the application includes an authorized statement of financial responsibility and documentation of property ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his ~~or her~~ attorney in fact. The statement shall include the mailing and street addresses of the

principal place of business of the person financially responsible and of the owner of the land or their registered agents.

(d) Local Government Approval:

- (1) Local Governments administering erosion and sedimentation control programs shall develop and publish procedures for approval of plans. ~~Such~~ The procedures shall ~~respect~~ follow applicable laws, ordinances, and rules, and shall contain procedures for appeal consistent with the local government's organization and operations.
- (2) The ~~secretary~~ Secretary shall appoint ~~such employee(s)~~ employees of the Department as he ~~or she~~ deems necessary to consider appeals from the local government's final disapproval or modification of a plan. Within 30 days following receipt of notification of the appeal, such departmental employee shall complete the review and shall notify the local government and the person appealing the local government's decision that the plan should be approved, approved with modifications, ~~approved with performance reservations,~~ or disapproved.
- (3) If either the local government or the person submitting the plan disagrees with the decision reached by ~~an employee of the Department~~ a Departmental employee, then he ~~or she~~ may appeal the decision to the Commission by filing notice within 15 days with the Director of the Division of Energy, Mineral, and Land Resources. The ~~director~~ Director shall make the proposed erosion control plan and the records relating to the local government's and ~~departmental employees'~~ Departmental employee's review, available to an ~~appeals review~~ erosion and sedimentation control plan review committee consisting of three members of the Commission appointed by the chairman. Within 10 days following receipt of the notification of appeal, the ~~appeals~~ erosion and sedimentation control plan review committee shall notify the local government and the person submitting the plan of a place and time for a hearing for consideration of the ~~appeal,~~ appeal. ~~and shall afford both~~ Both parties shall be given at least 15 days' notice of the hearing and an opportunity to present written or oral arguments. The ~~appeals~~ erosion and sedimentation plan review committee shall notify both parties of its decision concerning the approval, disapproval, or modification of the proposed plan within 30 days following ~~such the~~ hearing.

(e) The applicant's right under G.S. 113A-54.1(d) to appeal the Director's disapproval of an erosion control plan under G.S. 113A-54.1(c) gives rise to a right to ~~a contested case under G.S. 150B, Article 3,~~ an appeal to the Commission. An applicant desiring to appeal the ~~Director's~~ Commission's disapproval of an erosion control plan shall file with the Office of Administrative

Hearings a contested case petition under G.S. 150B, Article 3. ~~The general time limitation for filing a petition, and the commencement of the time limitation, shall be as set out in G.S. 150B 23(f). Contested cases shall be conducted under the procedures of G.S. 150B, Article 3 and applicable rules of the Office of Administrative Hearings. The Commission shall make the final decision on any contested case under G.S. 150B 36.~~

Authority G.S. 113A-2; 113A-54; 113A-54.1; 113A-57; 113A-60(a); 113A-61(b); 113A-61(c); 150B, Article 3. 150B 23;

15A NCAC 04B .0120 INSPECTIONS AND INVESTIGATIONS

(a) The Commission, Department of ~~Environment, Health, and Natural Resources~~ Environmental Quality or local government may require written ~~statements, statements related to items including but not limited to NOV's or Stop-Work orders or the filing of reports under oath, such as self-inspection or engineering/design reports, concerning land-disturbing land-disturbing activity.~~

(b) ~~Inspection of sites shall be carried out by the staff of Department of Environment, Health, and Natural Resources or other qualified persons authorized by the Commission or Department of Environment, Health, and Natural Resources as necessary to carry out its duties under the Act.~~

(c) ~~No person shall refuse entry or access to any representative of the Commission or any representative of a local government who requests entry for purposes of inspection.~~

(b) When a preconstruction conference is proposed pursuant to G.S. 113A-51, it shall be specified on the plans.

Authority G.S. 113A-51; 113A-54(b); 113A-58; 113A-61.1.

15A NCAC 04B .0124 DESIGN STANDARDS IN SENSITIVE WATERSHEDS

(a) Uncovered areas in HQW zones shall be limited ~~at any time to a maximum total area of 20 acres within the boundaries of the tract, tract of 20 acres.~~ Only ~~the portion of~~ the land-disturbing activity within a HQW zone shall be governed by this Rule. Larger areas may be uncovered within the boundaries of the tract with the written approval of the ~~Director.~~ Director upon providing engineering justification with a construction sequence that considers phasing, limiting exposure, weekly submitted self-inspection reports and more-conservative design than the 25-year storm. The Director may also include other conditions as necessary based on specific site conditions.

(b) Erosion and sedimentation control measures, structures, and devices within HQW zones shall be ~~so planned, designed~~ designed, and constructed to provide protection from the runoff of the ~~25-year~~ 25-year storm ~~which that~~ produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of ~~Agricultural~~ Agriculture Soil Conservation Service's "National Engineering Field ~~Manual Handbook 630 for Conservation Practices" Practices.~~ or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association. Other methodologies can be used if based on generally accepted engineering standards that are shown to be equivalent to or improved over the procedures in

Handbook 630. The Division shall determine acceptability of an alternative methodology based upon a showing that the runoff model used was based on observed data in agreement with the predictive model.

(c) ~~Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70 percent for the 40 micron (0.04mm) size soil particle transported into the basin by the runoff of that two year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Services "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.~~

(c) In order to provide for water quality protection in HQW Zones, sediment basins that discharge to those areas shall be designed and constructed to meet the following criteria:

- (1) use a surface withdrawal mechanism, except when the basin drainage area is less than 1.0 acre;
- (2) have a minimum of 1800 cubic feet of storage area per acre of disturbed area;
- (3) have a minimum surface area of 325 square feet per cfs of Q₂₅ peak inflow;
- (4) have a minimum dewatering time of 48 hours; and
- (5) incorporate 3 baffles, unless the basin is less than 20 feet in length, in which case 2 baffles are sufficient.

(d) Upon a written request of the applicant, the Director may allow alternative design or control measures in lieu of meeting the conditions required in Subparagraphs (c)(2) through (c)(5) of this Rule if the applicant demonstrates that meeting all of those conditions will result in design or operational hardships and that the alternative measures will provide an equal or more effective level of erosion and sedimentation control on the site. Alternative measures may include, but are not limited to, quicker application of ground cover, use of sediment flocculants and use of enhanced ground cover practices.

(c)(d) ~~Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization stabilization, unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices devices, or other forms of acceptable ditch liners. liners proven effective and acceptable to the Division. In any event, the The angle for side slopes shall be sufficient to restrain accelerated erosion.~~

(e) ~~Pursuant to G.S. 113A 57(3) provisions for a ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.~~

Authority G.S. 113A-54(b); 113A-54(c)(1).

15A NCAC 04B .0125 BUFFER ZONE

REQUIREMENTS

(a) ~~Unless otherwise provided, the~~ The width of a buffer zone is ~~shall be~~ measured from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

(b) ~~The 25-foot A 25-foot minimum width width, for an undisturbed buffer zone shall be protected adjacent to designated trout waters designated by the Environmental Management Commission. The 25-foot width buffer zone shall be measured horizontally from the top of the bank. To the nearest area of disturbance.~~

(c) Where a temporary and minimal disturbance is permitted as an exception by G.S. 113A-57(1), land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent of the total length of the buffer zone within the tract ~~to be~~ and distributed such that there is not more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. ~~Larger areas may be disturbed with the written approval of the Director.~~

(d) If, upon a written request of the applicant, the Director may allow a larger area of disturbance than provided in Paragraph (c) of this Rule if the applicant demonstrates that additional measures will be utilized that will achieve an equally effective or more effective level of erosion and sedimentation control than would be achieved had the specifications prescribed in Paragraph (c) of this Rule been followed.

~~(d)(e)~~ (e) No land-disturbing activity shall be undertaken within a buffer zone adjacent to ~~designated~~ trout waters that is predicted by the plan approving authority to will cause adverse stream temperature fluctuations, violations in these waters as set forth in 15A NCAC 2B .02B .0211 "Fresh Surface Water Classification and Standards", Standards in these for Class C waters, which is hereby incorporated by reference including subsequent amendments and editions. Copies of 15A NCAC 02B .0211 are available at <https://www.oah.state.nc.us/> at no cost.

Authority G.S. 113A-54(b); 113A-54(c)(1); 113A-57(1).

15A NCAC 04B .0126 PLAN REVIEW APPLICATION FEE

(a) ~~A The nonrefundable plan review processing application fee, in the amount stated in Paragraph (e) of this Rule, provided in G.S. 113A-54.2 shall be paid when an erosion and sedimentation control plan is filed in accordance with 15A NCAC 04B .0118. Rule .0118 of this Section.~~

(b) Each plan shall be deemed incomplete until the ~~plan review processing application~~ fee is paid.

~~(c) The plan review processing fee shall be based on the number of acres, or any part of an acre, of disturbed land shown on the plan.~~

~~(c)(d)~~ (d) No ~~plan review processing application~~ fee shall be charged for review of a revised plan unless the revised plan contains an increase in the number of acres to be disturbed. If the revised plan contains an increase in the number of acres to be disturbed, the plan review processing fee to be charged shall be the amount ~~stated in Paragraph (e) of the Rule specified in G.S. 113A-54.2~~ for each additional acre (or any part thereof) disturbed.

~~(e) The nonrefundable plan review processing fee shall be fifty dollars (\$50.00) for each acre or part of any acre of disturbed land. (f) Payment of the plan review processing fee may be by check or money order made payable to the "N.C. Department of Environment and Natural Resources". The payment shall refer to the erosion and sedimentation control plan.~~

Authority G.S. 113A-54; 113A-54.2.

15A NCAC 04B .0127 PLAN APPROVAL CERTIFICATE

~~(a) Approval of a sedimentation and erosion control plan will be contained in a document called "Certificate of Plan Approval" to be issued by the Commission.~~

~~(b) The Certificate of Plan Approval must be posted at the primary entrance of the job site before construction begins.~~

(a) The Commission shall issue a "Certificate of Approval" or a similar written documentation of approval that is provided to the applicant by hard copy or electronic submittal. Before construction begins, that documentation shall be posted at the primary entrance of the job site or other location that is easily observable to the public and inspectors.

~~(b)(e)~~ (e) No person may initiate a land-disturbing activity until notifying the agency approving authority that issued the Plan Approval of the date that the land-disturbing activity will begin.

Authority G.S. 113A-54(b).

15A NCAC 04B .0129 EROSION CONTROL PLAN EXPIRATION DATE

~~An erosion control plan shall expire three years following the date of approval, if If no land-disturbing activity has been undertaken. undertaken on a site, an erosion control plan shall expire three years following the date of approval.~~

Authority G.S. 113A-54.1(a).

15A NCAC 04B .0130 EMERGENCIES

Any person who conducts an emergency repair essential to protect human ~~life, life~~ life that ~~results in~~ constitutes a land-disturbing activity within the meaning of G.S. 113A-52(6) and these ~~Rules~~ Rules shall take the following actions:

- (1) ~~shall~~ shall notify the Commission of ~~such the~~ such the repair as soon as ~~reasonably~~ reasonably possible, but ~~in no event~~ in no event later than five working days after the emergency ~~ends; has ended, as determined by the Division, and~~
- (2) ~~shall~~ shall take all reasonable measures to protect all public and private property from damage caused by ~~the such~~ the repair as soon as ~~reasonably~~ reasonably possible, but ~~in no event~~ in no event later than 15 working days after the emergency ends.

Authority G.S. 113A-52.01(4); 113A-54(b).

15A NCAC 04B .0131 SELF-INSPECTIONS

~~Where inspections are required by G.S. 113A-54.1(e), the following apply:~~

- (1) The person who performs the inspection shall make a record of the site inspection by documenting the following items:
- (a) ~~all of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in Sub item (1)(e) of this Rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;~~
 - (b) ~~the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;~~
 - (c) ~~the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in Sub item (1)(e) of this Rule) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;~~
 - (d) ~~that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and~~
 - (e) ~~any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.~~
- (2) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.
- (3) The inspection shall be performed during or after each of the following phases of a plan:
- (a) ~~installation of perimeter erosion and sediment control measures;~~
 - (b) ~~clearing and grubbing of existing ground cover;~~
 - (c) ~~completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);~~
 - (d) ~~completion of storm drainage facilities;~~

- (e) ~~completion of construction or development; and~~
- (f) ~~quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.~~

All land-disturbing activities required to have an approved erosion and sedimentation control plan under G.S. 113A-54.1 shall conduct self-inspections for initial installation or modification of any erosion and sedimentation control devices and practices described in an approved plan. In addition, weekly and rain-event self-inspections are required by federal regulations, that are implemented through the NPDES Construction General Permit No. NCG 010000.

- (1) For self-inspections required pursuant to G.S. 113A-54.1, the inspection shall be performed after the implementation of each of the following components of a project:
 - (a) installation of land-disturbance, perimeter erosion, and sediment control measures;
 - (b) clearing and grubbing of existing ground cover;
 - (c) installation of temporary or permanent sediment and erosion control measures to include ground cover pursuant to G.S. 113A-57(2);
 - (d) completion of storm drainage facilities;
 - (e) completion of all land-disturbing activity, construction, or development, including permanent ground cover establishment and removal of all temporary measures; and
 - (f) transfer of ownership or control of the tract of land where the erosion and sedimentation control plan has been approved and work has begun. The new owner or person in control shall conduct and document inspections until the project is permanently stabilized as in Sub-Item (c) of this Item.
- (2) Documentation of self-inspections performed under Item (1) of this Rule shall include:

- (a) Verification of all erosion and sedimentation control measures, practices, and devices, as called for in the approved construction sequence and the erosion and sedimentation control plan;
- (b) The name, address, organization affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection shall be included, whether on a copy of the approved erosion and sedimentation control plan or an inspection report. A template for an example of an inspection and monitoring report is provided on the DEMLR website at: <https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site.
- (c) A record of any "significant deviation" from any erosion or sedimentation control measure made from that on the approved plan. For the purpose of this Rule, a "significant deviation" means an omission, alteration or relocation of an erosion or sedimentation control measure that may change the intended performance of the measure. The record shall include measures required to correct the deviation along with documentation of when those measures were taken. Deviations from the approved plan may also be recommended to enhance the intended performance of the sedimentation and erosion control measures.
- (d) All self-inspection documentation shall be made available on the site for at least 30 calendar days or maintained until permanent ground cover has been established, whichever is longest.

Authority G.S. 113A-54; 113A-54.1(e).

15A NCAC 04B .0132 DESIGN STANDARDS FOR THE UPPER NEUSE RIVER BASIN (FALLS LAKE WATERSHED)

In addition to any other requirements of State, federal, and local law, land-disturbing activity in the watershed of the drinking water supply reservoir that meets the applicability requirements

of Session Law 2009-486, Section 3.(a), shall meet all of the following design standards for sedimentation and erosion control:

- (1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of ~~Agriculture~~ Agriculture, Natural Resources Soil Conservation Service's "National Engineering Field ~~Manual~~ Handbook 630 for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States.
- (2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least 70 percent for the 40-micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of ~~Agriculture~~ Agriculture, Natural Resources Soil Conservation Service's "National Engineering Field ~~Manual~~ Handbook 630 for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States.
- (3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper side slopes or where the side slopes are stabilized by using mechanical devices, structural devices, or other ditch liners sufficient to restrain accelerated erosion. The angle for side slopes shall be sufficient to restrain accelerated ~~erosion~~ erosion, as determined by the Division, based on soil conditions.
- (4) For an area of land-disturbing activity where grading activities have been completed, temporary or permanent ground cover sufficient to restrain erosion shall be provided as soon as practicable, but ~~in no case not~~ later than seven days after completion of grading. For an area of land-disturbing activity where grading activities have not been completed, temporary ground cover shall be provided as follows:
 - (a) For an area with no slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of 14 days.
 - (b) For an area of moderate slope, temporary ground cover shall be provided for the area if it has not been

disturbed for a period of 10 days. For purposes of this Item, "moderate slope" means an inclined area, the inclination of which is less than or equal to three units of horizontal distance to one unit of vertical distance.

- (c) For an area of steep slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of seven days. For purposes of this Item, "steep slope" means an inclined area, the inclination of which is greater than three units of horizontal distance to one unit of vertical distance.

Authority *G.S. 113A-54(b); S.L. 2009-486.*

SUBCHAPTER 04C - SEDIMENTATION CONTROL CIVIL PENALTIES

15A NCAC 04C .0103 WHO MAY ASSESS

The ~~director~~ Secretary may assess civil penalties against any person responsible for a violation.

Authority *G.S. 113A-55; 113A-64; 143B-10.*

15A NCAC 04C .0106 CRITERIA

In determining the amount of the civil penalty assessment, the ~~director~~ Secretary shall consider the following criteria:

- (1) severity of the ~~violation~~ violation;
- (2) degree and extent of the ~~harm~~ harm;
- (3) type of ~~violation~~ violation;
- (4) ~~duration~~ duration;
- (5) ~~cause~~ cause;
- (6) extent of any off-site damage which may have ~~resulted~~ resulted;
- (7) effectiveness of action taken by ~~violation~~ violation;
- (8) adherence to plan submitted by ~~violation~~ violation;
- (9) effectiveness of plan submitted by ~~violation~~ violation;
- (10) cost of rectifying any ~~damage~~ damage;
- (11) the violator's previous record in complying with ~~rules the Act, or any rule or order~~ rules the Act, or any rule or order of the ~~commission~~ Commission;
- (12) estimated cost of ~~installing and/or maintaining~~ taking corrective sediment control ~~measures~~ actions; ~~and~~
- (13) staff investigative ~~costs~~ costs;
- (14) ~~the amount of money the violator saved by noncompliance~~ the amount of money the violator saved by noncompliance; ~~and~~
- (15) whether the violation was committed willfully.

Authority *G.S. 113A-54(b); 113A-55; 113A-64(a).*

15A NCAC 04C .0107 PROCEDURES: NOTICES

(a) The notice of violation shall describe the violation ~~with reasonable particularity~~, request that all illegal activity cease, and inform the violator that a civil penalty may be assessed pursuant to G.S. 113A-64. If particular actions need to be taken to comply with the Sedimentation Pollution Control Act, the notice shall specify the actions to be taken, shall specify a time period for compliance, and shall state that upon failure to comply within the allotted ~~time~~ time, the person shall become subject to the assessment of a civil penalty for each day of the continuing violation beginning with the date of the violation.

(b) The ~~stop-work~~ stop-work order provided in G.S. 113A-65.1 shall serve as the notice of violation for purposes of the assessment of a civil penalty pursuant to G.S. 113A-64(a)(1). Copies of the ~~stop-work~~ stop-work order shall be served upon persons the Department has reason to believe may be responsible for the violation ~~by any means authorized under~~ pursuant to G.S. 1A-1, Rule 4.

Authority G.S. 113A-54; 113A-61.1; 113A-64; 113A-65.1. ~~143B-10.~~

15A NCAC 04C .0108 REQUESTS FOR ADMINISTRATIVE HEARING

~~After receipt of notification of any assessment, the assessed person must select one of the following options within 30 days:~~

- (1) ~~tender payment; or~~
- (2) ~~file a petition for an administrative hearing in accordance with G.S. 150B-23.~~

Authority G.S. 113A-64; 143B-10; 150B-23.

15A NCAC 04C .0110 ADMINISTRATIVE HEARING

~~Administrative hearings shall be conducted in accordance with the procedures outlined in G.S. 150B-22 et seq. and the contested case procedures in 15A NCAC 1B .0200.~~

Authority G.S. 113A-55; 150B-22 et seq.

15A NCAC 04C .0111 FURTHER REMEDIES

~~No provision of this Subchapter shall be construed to restrict or impair the right of the secretary, the director, or the Sedimentation Control Commission to pursue any other remedy provided by law for violations of the Sedimentation Pollution Control Act.~~

Authority G.S. 113A-54; 113A-60; 113A-64 through 113A-66.

SUBCHAPTER 04D - LOCAL ORDINANCES

15A NCAC 04D .0102 MODEL ORDINANCE

~~The commission has adopted a model ordinance. Local governmental units wishing to establish a local erosion and sedimentation control program may obtain a copy of the model ordinance upon writing to:~~

North Carolina Department of Environment, Health, and Natural Resources
Land Quality Section
P.O. Box 27687
Raleigh, North Carolina 27611

Authority G.S. 113A-54(d); 113A-60.

SUBCHAPTER 04E - RULEMAKING PROCEDURES

SECTION .0100 - GENERAL PROVISIONS

15A NCAC 04E .0101 GENERAL PURPOSE

~~Rules at 15A NCAC 1B .0100 are adopted by reference and with the rules of this Subchapter shall govern rule making hearings conducted under the purview of the commission.~~

Authority G.S. 113A-54; 113A-55; 150B.

15A NCAC 04E .0102 DEFINITIONS

~~As used in this Subchapter:~~

- (1) ~~"Commission" means the North Carolina Sedimentation Control Commission.~~
- (2) ~~"Director" means the Director of the Division of Energy, Mineral, and Land Resources of the Department of Environment, Health, and Natural Resources.~~

Authority G.S. 113A-54; 113A-55.

15A NCAC 04E .0104 COPIES OF RULES: INSPECTION RULES

(a) Anyone desiring to obtain a copy of any or all of the rules of the ~~commission~~ Commission may do so by requesting such from the ~~director~~ Director at the address of the ~~commission~~ Commission as set forth in 15A NCAC 04A .0101. ~~at Rule .0001 of Subchapter A of this Chapter.~~ The request ~~must~~ shall specify the rules requested, for example, 15A NCAC ~~4, 04,~~ 4E, Rulemaking Procedures. 04B .0113, Responsibility for Maintenance. The ~~director~~ Director may charge reasonable fees to recover mailing and duplication costs for requests of more than one copy of the same rule(s).

(b) The rules of the ~~commission~~ Commission (15A NCAC ~~4 NCAC 04~~) and other documents specified in G.S. 150B-11 are available for public inspection at the Office of the Director (P.O. Box 27687, 512 N. Salisbury Street, Raleigh, N.C. 27611) during regular office hours. can also be found on the website of the NC Office of Administrative Hearings at: <https://www.oah.state.nc.us/>.

Authority G.S. 113A-54; 113A-55. ~~150B-11.~~

SECTION .0200 - PETITIONS FOR RULEMAKING

15A NCAC 04E .0201 PETITION FOR RULEMAKING HEARINGS FORM AND CONTENT OF PETITION

Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the commission shall forward the petition to the director at the address of the commission in Rule .0001 of Subchapter A of this Chapter. The first page of the petition should clearly bear the notation: RULEMAKING PETITION RE and then the subject area (for example, RE PLAN REQUIREMENTS, RE PENALTIES, RE INSPECTIONS) or an indication of any other area over which the commission may have rulemaking authority.

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Commission shall make the request in a petition to the Commission addressed to the:

Director
Division of Energy, Mineral, and Land Resources
1612 Mail Service Center
Raleigh, North Carolina 27699-1612

(b) The petition shall contain the following information:

- (1) the text of the proposed rule(s) for adoption or amendment;
- (2) a statement of the reasons for adoption or amendment of the proposed rule(s), or the repeal of an existing rule(s);
- (3) a statement of the effect on existing rules or orders;
- (4) the name(s) and address(es) of the petitioner(s); and

(c) In its review of the proposed rule, the Commission shall consider whether it has authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities. The petitioner may include the following information within the request:

- (1) the statutory authority for the agency to promulgate the rule(s);
- (2) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
- (3) a statement explaining the computation of the cost factors;
- (4) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s); and
- (5) documents and data supporting the proposed rule(s).

(d) Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned to the petitioner by the Director on behalf of the Commission.

Authority G.S. 113A-54; ~~150B-16~~; 150B-20.

15A NCAC 04E .0203 DISPOSITION OF PETITIONS

(a) ~~The director will determine whether the petition contains sufficient information for the commission to determine whether the public interest will be served by granting the request. The director may request additional information from the petitioner(s); he may contact interested persons or persons likely to be affected by the proposed rule and request comments, and he may use any other appropriate method for obtaining additional information.~~

(b) ~~The commission will render a decision within 30 days after the petition is submitted. If the decision is to grant the petition, the director, within 30 days of submission, will initiate a rulemaking proceeding. If the decision is to deny the petition, the director will notify the petitioner(s) in writing, stating the reasons therefor.~~

(c) ~~If the commission is not scheduled to meet within 30 days of submission of a petition the director may either:~~

- (1) ~~accept the petition and initiate a rulemaking proceeding; or~~
- (2) ~~Ask the chairman of the commission to call a special meeting of the commission so that a decision can be made by the commission within the 30 day time period required by 150B-16 and in accordance with the procedures set out in (b) of this Rule.~~

Authority G.S. 113A-54; 113A-55; 150B-16.

SECTION .0400 – RULEMAKING HEARINGS

15A NCAC 04E .0403 WRITTEN SUBMISSIONS

(a) ~~Any person may file a written submission containing data, comments, or arguments after distribution or publication of a rulemaking notice until the day of the hearing, unless a longer period has been prescribed in the notice or granted upon request. These written comments should be sent to the director at the address of the commission.~~

(b) ~~The first page of any written submission shall clearly identify the rulemaking proceeding or proposed rule to which the comments are addressed and include a statement of the position of the person making the submission (for example, "In support of adopting proposed Rule .0000," "In opposition to adopting proposed Rule .0000").~~

(c) ~~Upon receipt of written comments, acknowledgment will be made with an assurance that the comments therein will be considered fully by the commission.~~

Authority G.S. 113A-54; 150B-12(e).

15A NCAC 04E .0405 STATEMENT OF REASONS FOR DECISION

(a) ~~Any interested person desiring a concise statement of the principal reasons for and against the adoption of a rule by the commission and the factors that led to overruling the considerations urged for or against its adoption may submit a request to the director of the address of the commission.~~

(b) ~~The request must be made in writing and submitted prior to adoption of the rule or within 30 days thereafter.~~

Authority G.S. 113A-54; 150B-12(e).

15A NCAC 04E .0406 RECORD OF PROCEEDINGS

~~A record of all rulemaking proceedings will be maintained by the director for as long as the rule is in effect, and for five years thereafter, following filing with the Office of Administrative Hearings. Record of rulemaking proceedings will be available for public inspection during the hours of 8:30 AM to 5:30 PM on workdays.~~

Authority G.S. 113A-54; 150B-11(2).

SECTION .0500 - DECLARATORY RULINGS

15A NCAC 04E .0501 ~~SUBJECTS OF DECLARATORY RULINGS~~ RULINGS: GENERALLY

~~Any person aggrieved by a statute administered or rule promulgated by the commission may request a declaratory ruling as to either the manner in which a statute or rule applies to a given factual situation, if at all, or whether a particular agency rule is valid. For purposes of this Section, an aggrieved person means a person substantially affected by a statute administered by the commission or a rule promulgated by the commission. At the request of any person aggrieved, as defined in G.S. 150B-2(6), the Sedimentation Control Commission may issue a declaratory ruling as provided in G.S. 150B-4.~~

Authority G.S. 113A-54; ~~150B-17~~; 150B-4.

15A NCAC 04E .0502 PROCEDURE FOR REQUESTING DECLARATORY RULINGS ~~SUBMISSION OF REQUEST FOR RULING~~

~~All requests for declaratory rulings shall be written and mailed to the director at the address of the commission. The first page of the request should bear the notation: REQUEST FOR DECLARATORY RULING. The request must include the following information:~~

- ~~(1) name and address of petitioner;~~
- ~~(2) statute or rule to which petition relates;~~
- ~~(3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;~~
- ~~(4) a statement of whether an oral hearing is desired and, if so, the reason therefor.~~

~~(a) All requests for a declaratory ruling shall be filed with the Director, Division of Energy, Mineral and Land Resources, Department of Environmental Quality, 1612 Mail Service Center, Raleigh, NC 27699-1612.~~

~~(b) All requests shall include the following:~~

- ~~(1) name and address of petitioner(s);~~
- ~~(2) the rule, statute or order upon which a ruling is desired;~~
- ~~(3) a statement as to whether the request is for a ruling on the validity of a rule or on the applicability of a rule, order or statute to a given factual situation;~~
- ~~(4) arguments or data which demonstrate that the petitioner is aggrieved by the rule, statute or order, or its potential application to petitioner;~~
- ~~(5) a statement of the consequences of a failure to issue a declaratory ruling in favor of the petitioner;~~
- ~~(6) a statement of the facts proposed for adoption by the Commission;~~
- ~~(7) a draft of the proposed ruling; and~~
- ~~(8) a statement of whether an oral argument is desired, and, if so, the reason(s) for requesting such an oral argument.~~

~~(c) A request for a ruling on the applicability of a rule, order or statute shall include a description of the specific factual situation on which the ruling is to be based and documentation supporting those facts. A request for a ruling on the validity of a Commission rule shall state the aggrieved person's reason(s) for questioning~~

the validity of the rule and a brief or legal memorandum supporting the aggrieved person's position. A person may ask for both types of declaratory rulings in a single request.

(d) In the manner provided in G.S. 150B-23(d), any other person may request to intervene in the request for declaratory ruling. The request to intervene shall be determined by the Chairman.

Authority G.S. 113A-54; ~~150B-17~~; 150B-4.

15A NCAC 04E .0503 DISPOSITION OF REQUESTS ~~REQUEST~~

~~(a) Upon receiving a request, the director is authorized to initiate a declaratory ruling proceeding to receive information concerning the request. A declaratory ruling proceeding may consist of written submissions, an oral hearing, or other procedures as may be appropriate in the circumstances of the particular request. If the proceeding takes the form of an oral hearing the director may direct that the proceeding take place before the commission.~~

~~(b) The director will compile the information collected in the proceeding, along with other relevant information, in a recommendation to the commission on whether to issue the ruling and what the ruling should be.~~

~~(c) A decision whether to issue the ruling will be made by the commission at the next regularly scheduled meeting of the commission within the 60 day period required by 150B-17 and after the director's recommendation is presented. If no meeting is scheduled within that time period, the director will ask the chairman of the commission to call a special meeting so that the commission can comply with the requirements of G.S. 150B-17.~~

~~(d) If the decision of the commission is to issue the ruling, the ruling will be issued by the commission with the 60 day period required by G.S. 150B-17. If necessary, the chairman of the commission will call a special meeting so that the commission can comply with this requirement.~~

~~(e) If the decision of the commission is to deny the request, the director will notify the petitioner(s) in writing stating the reasons therefor.~~

~~(f) For purposes of this Rule, the commission will ordinarily refuse to issue a declaratory ruling:~~

- ~~(1) unless the rule is unclear on its face;~~
- ~~(2) unless the petitioner shows that the circumstances are so changed since the adoption of the rule that such a ruling would be warranted;~~
- ~~(3) unless the petitioner shows that the agency did not give to the factors specified in the request for a declaratory ruling a full consideration at the time the rule was issued;~~
- ~~(4) where there has been a similar controlling factual determination in a contested case or where the factual context being raised for a declaratory ruling was specifically considered upon the adoption of the rule or directive being questioned, as evidenced by the rulemaking record; or~~
- ~~(5) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.~~

(a) The Commission Chairman shall make a determination on the completeness of the request for declaratory ruling based on the requirements of this Section, and the Chairman shall make a recommendation to the Commission on whether to grant or deny a request for a declaratory ruling.

(b) Before deciding the merits of the request, the Commission may:

- (1) request additional written submissions from the petitioner(s);
- (2) request a written response from the Department, or any other person; and
- (3) hear oral arguments from the petitioner(s) and the Department or their legal counsel.

(c) Whenever the Commission believes for "good cause" that the issuance of a declaratory ruling is undesirable, the Commission may refuse to issue such ruling. The Commission shall notify in writing the person requesting the ruling, stating the reason(s) for the refusal to issue a ruling on the request.

(d) "Good cause" as set out in Paragraph (c) of this Rule shall include:

- (1) finding that there has been a similar determination in a previous contested case or declaratory ruling;
- (2) finding that the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;
- (3) finding that no genuine controversy exists as to the application of a statute, order or rule to the specific factual situation presented; or
- (4) finding that the factual context put forward as the subject of the declaratory ruling was specifically considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record.

(e) The Commission, through the Department, shall keep a record of each declaratory ruling, which shall include at a minimum the following items:

- (1) the request for a ruling;
- (2) any written submission by a party;
- (3) the given state of facts on which the ruling was based;
- (4) any transcripts of oral proceedings, or, in the absence of a transcript, a summary of all arguments;
- (5) any other matter considered by the Commission in making the decision; and

- (6) the declaratory ruling, or the decision to refuse to issue a declaratory ruling, together with the reasons therefore.

(f) For purposes of this Section, a declaratory ruling shall be deemed to be in effect until:

- (1) the statute or rule interpreted by the declaratory ruling is repealed or the relevant provisions of the statute or rule are amended or altered;
- (2) any court of the Appellate Division of the General Court of Justice shall construe the statute or rule which is the subject of the declaratory ruling in a manner plainly irreconcilable with the declaratory ruling;
- (3) the Commission changes the declaratory ruling prospectively; or
- (4) any court sets aside the declaratory ruling in litigation between the Commission or Department of Environmental Quality and the party requesting the ruling.

(g) The party requesting a declaratory ruling may agree to allow the Commission to issue a ruling on the merits of the request beyond the time allowed by G.S. 150B-4.

(h) A declaratory ruling is subject to judicial review in the same manner as an agency final decision or order in a contested case. Unless the requesting party consents to the delay, failure of the Commission to issue a ruling on the merits within the time allowed by G.S. 150B-4 shall constitute a denial of the request as well as a denial of the merits of the request and shall be subject to judicial review.

Authority G.S. 113A-54; 113A-55; ~~150B-17~~; 150B-4.

15A NCAC 04E .0504 RECORD OF DECISION

~~A record of all declaratory rulemaking proceedings will be maintained in the director's office for as long as the ruling is in effect and for five years thereafter. This record will contain: the petition, the notice, all written submissions filed in the request, whether filed by the petitioner or any other person, and a record or summary of oral presentations, if any. Records of declaratory rulemaking proceedings will be available for public inspection during the regular office hours of the director.~~

Authority G.S. 113A-54; 150B-11.

This Section contains information for the meeting of the Rules Review Commission June 20, 2019 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeffrey A. Poley
Brian P. LiVecchi

Appointed by House

Garth Dunklin (Chair)
Andrew P. Atkins
Anna Baird Choi
Paul Powell
Jeanette Doran (2nd Vice Chair)

COMMISSION COUNSEL

Amber Cronk May (919) 431-3074
Amanda Reeder (919) 431-3079
Ashley Snyder (919) 431-3081

RULES REVIEW COMMISSION MEETING DATES

July 18, 2019 August 15, 2019
September 19, 2019 October 17, 2019

**RULES REVIEW COMMISSION MEETING
MINUTES****June 20, 2019**

The Rules Review Commission met on Thursday, June 20, 2019, in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina. Commissioners present were: Andrew Atkins, Bobby Bryan, Jeanette Doran, Garth Dunklin, Jeff Hyde, Brian LiVecchi, and Jeff Poley.

Staff members present were Commission Counsel Amber Cronk May and Amanda Reeder; and Alex Burgos and Dana McGhee.

The meeting was called to order at 9:04 a.m. with Chairman Dunklin presiding.

Chairman Dunklin read the notice required by G.S. 163A-159 and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearances of conflicts of interest.

APPROVAL OF MINUTES

Chairman Dunklin asked for any discussion, comments, or corrections concerning the minutes of the May 16, 2019 meeting. There were none and the minutes were approved as distributed.

The Chairman notified the Commissioners that the following item on the agenda would be taken up out of order at the end of the agenda: Permanent Rules for the Department of Justice.

FOLLOW UP MATTERS**Board of Elections**

The agency is addressing the objections for 08 NCAC 10B .0101, .0102, .0103, .0104, .0105, .0106, and .0107. No action was required by the Commission.

DHHS/ Division of Health Benefits

10A NCAC 23E .0105, .0202; 23G .0203, .0304; 23H .0109 - The agency is addressing the technical change requests from the May meeting. No action was required by the Commission.

Commission for the Blind

The agency is addressing the objections for 10A NCAC 63C .0203, .0204, .0403, and .0601. No action was required by the Commission.

Environmental Management Commission

15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, and .1206 – The Commission objected based upon ambiguity as reflected in the Requests for Technical Changes issued on April 4, 2019.

Environmental Management Commission

15A NCAC 02H .0901, .0902, .0903, .0904, .0905, .0906, .0907, .0908, .0909, .0910, .0912, .0913, .0914, .0915, .0916, .0917, .0918, .0919, .0920, .0921, and .0922 – All rules were unanimously approved.

Marriage and Family Therapy Licensure Board

21 NCAC 31 .0201, .0202, .0203, .0301, .0401, .0403, .0404, .0501, .0502, .0503, .0504, .0505, .0506, .0609, .0701, .0801, .0802, .1001, and .1002 – All rules were unanimously approved.

LOG OF FILINGS (PERMANENT RULES)**Board of Agriculture**

All rules were unanimously approved.

DHHS - Division of Aging and Adult Services

All rules were unanimously approved.

Social Services Commission 10A NCAC 06R, 06S, 06T

The Commission extended the period of review for the rules in 10A NCAC 06R, 06S, and 06T in accordance with G.S. 150B-21.10. They did so in response to a request from the Social Services Commission to extend the period in order to allow the agency to address technical changes and Staff Opinions and submit the rewritten rules at a later meeting.

Department of Health and Human Services

All rules were unanimously approved.

Social Services Commission 10A NCAC 67A, 68, 69, 72

The Commission extended the period of review for the rules in 10A NCAC 67A, 68, 69, and 72 in accordance with G.S. 150B-21.10. They did so in response to a request from the Social Services Commission to extend the period in order to allow the agency to address technical changes and Staff Opinions and submit the rewritten rules at a later meeting.

Code Officials Qualification Board

All rules were unanimously approved.

Department of Justice

The Commission objected to 12 NCAC 02I .0213 and .0306 in accordance with G.S. 150B-21.10.

The Commission objected to 12 NCAC 02I .0213 for lack of statutory authority and ambiguity. Specifically, the Commission found that the rule is ambiguous as it does not set forth the process by which the Attorney General or the designee will act to revoke or deny the summary suspension. Further, it is unclear whether this will be a summary action or if it will include a hearing. Finally, the Commission found that the agency lacks statutory authority to take this action if it is not taken in compliance with G.S. 150B, Article 3, as required by G.S. 74E-4(5).

The Commission objected to 12 NCAC 02I .0306 for failure to comply with the APA. Specifically, the agency stated that no fiscal note was required in its Notice of Text, published March 1, 2019. However, members of the regulated public stated that the adoption of this Rule would create a substantial economic impact. Pursuant to G.S. 150B-21.4(b1) and 150B-21.9(a)(4), the Commission found that the agency did not comply with the APA. The Commission sent this Rule to OSBM pursuant to G.S. 150B-21.9(a) for further review.

The Commission unanimously waived Rule 26 NCAC 05 .0103 and allowed the speakers to submit written comments opposing the rules at the meeting.

Roy Taylor, speaking in opposition to the rules, addressed the Commission.

Keith Williams, speaking in opposition to the rules, addressed the Commission.

Natasha Williams, speaking in opposition to the rules, addressed the Commission.

Randy Munn, Administrator with the Company/Campus Police Program, addressed the Commission.

Marie Evett, with the Attorney General's Office and representing the agency, addressed the Commission.

Environmental Management Commission 15A NCAC 02C

All rules were unanimously approved with the following exceptions:

The Commission extended the period of review for the rules in 15A NCAC 02C, Sections .0100 and .0200 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address technical changes and submit the rules at a later meeting.

Environmental Management Commission 15A NCAC 02H

All rules were unanimously approved.

Environmental Management Commission 15A NCAC 02T

The Commission extended the period of review for the rules in 15A NCAC 02T in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to submit the rewritten rules at a later meeting.

Coastal Resources Commission

All rules were unanimously approved with the following exception:

The Commission extended the period of review for 15A NCAC 07J .0409 in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address technical changes and submit the rewritten rule at a later meeting.

Commission for Public Health

All rules were unanimously approved.

Department of Transportation

All rules were unanimously approved.

Medical Board

All rules were unanimously approved.

Prior to the review of the rules from the Medical Board, Commissioner Atkins recused himself and did not participate in any discussion or vote concerning the rules because of a conflict.

Prior to the review of the rules from the Medical Board, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the rules because his law firm may have a conflict.

Onsite Wastewater Contractors and Inspectors Certification Board

All rules were unanimously approved.

State Human Resources Commission

All rules were unanimously approved with the following exceptions:

The Commission extended the period of review for 25 NCAC 01E .0210 and all rules submitted in Subchapter 01I in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address technical changes and submit the rules at a later meeting.

Prior to the review of the rules from the State Human Resources Commission, Commissioner Doran recused herself and did not participate in any discussion or vote concerning the rules because she is a State employee.

EXISTING RULES REVIEW

DHHS - Division of Health Service Regulation

10A NCAC 14E - The Commission unanimously approved the report as submitted by the agency.

Prior to the review of the report from DHHS - Division of Health Service Regulation, Commissioner Poley recused himself and did not participate in any discussion or vote concerning the report because his law firm may have a conflict.

Commission for Mental Health/DD/SAS

10A NCAC 28F(Section .0100; Rules .0201-.0209, .0212; Sections .0300, .0400, .0700) - The Commission unanimously approved the report as submitted by the agency.

Commission for Mental Health/DD/SAS & Division of Mental Health/DD/SAS

10A NCAC 28F (Rules .0210, .0211, .0213; Sections .0500, .0600, .0800, .0900) – The Commission unanimously approved the report as submitted by the agency.

Commission for Mental Health/DD/SAS

10A NCAC 28G - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 28H - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 28I (Section .0300) - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 29D (Sections .0600, .0700) - The Commission unanimously approved the report as submitted by the agency.

Commission for Mental Health/DD/SAS & Division of Mental Health/DD/SAS

10A NCAC 28I (Section .0200) - The Commission unanimously approved the report as submitted by the agency.

Division for Mental Health/DD/SAS

10A NCAC 28I (Sections .0100, .0400) - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 29C - The Commission unanimously approved the report as submitted by the agency.

10A NCAC 29D (Sections .0500, .0800) - The Commission unanimously approved the report as submitted by the agency.

Department of Insurance

11 NCAC 04, 05 - As reflected in the attached letter, the Commission voted to schedule readoption of the rules no later than March 31, 2021 pursuant to G.S. 150B-21.3A(d)(2).

COMMISSION BUSINESS

The meeting adjourned at 11:05 a.m.

The next regularly scheduled meeting of the Commission is Thursday, July 18, 2019 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Garth Dunklin, Chair

June 20, 2019

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Denise Marz	OSHR - SHRC
Xhelm Vaud	DOT
Robert Midgette	DEQ, DWR, Public Water Supply
Jay Frick	DEQ - DWR
R. Logan	CJSTC - DOJ
Paris Penny	NC DHHS
RAJ TREMKINIA	DOJ
Charmirque Williams	CJETS
Randy Mann	NC DOJ
Denise Baker	NC DHHS OMA/holders
Michael Rogers	DEQ - DWR
Nanda Nicholson	MFT Board
Tom Felling	Code Officials - DOJ
Heide Wilke	South Eastern
Michael Beckwith	NC DHHS
Debra Wot	NC DWR
John P. Brinkley	DOJ A - CVTb
Glenn Artis	NC DHHS
Marcelo Jimenez	NC MB
Carlo Staples	NCOWCEB

June 20, 2019

Rules Review Commission
Meeting
Please Print Legibly

Name	Agency
Loretta Bunch	NC DOI
Jennifer Everett	DEQ
Nadine Pfeiffer	DHHS-DHSR
Clarence Furson	DHHS-DHSR
Lynne Taylor	nc medical Board
Kellie Wade	NC DOT
Jim Jeff-Williams	NC DAA
Kathy Williams	NC DOI
Chrissy Waggett	NC DAA+CS
Shawn Maier	NC DOS
Ricardo Lerch SR	Richmond County Scheds
Justin Cable	Allied Universal Special Police
Jeff Talbot	NC DEQ
Roy Taylor	Capitol Special Police
Dana Satterwhite	NC DEQ
Thomas Campbell	NC DOJ
Martina Roca	NCSCAP/OSMASSP
HEATHER CARTER	NC DHHS - DAAS
Cindy Moore	NC DEQ
Hannah Gougeon	NC DOT
Christine Ryan	OSHR



**STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS**

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

June 20, 2019

Loretta Peace-Bunch, Rulemaking Coordinator
Department of Insurance
1201 Mail Service Center
Raleigh, North Carolina 27699-1201

Re: Readoption pursuant to G.S. 150B-21.3A(c)(2)g of **11 NCAC 04 and 05**

Dear Ms. Peace-Bunch:

Attached to this letter are the rules subject to readoption pursuant to the periodic review and expiration of existing rules as set forth in G.S. 150B-21.3A(c)(2)g. After consultation with your agency, this set of rules was discussed at the June 20, 2019 Rules Review Commission meeting regarding the scheduling of these rules for readoption. Pursuant to G.S. 150B-21.3A(d)(2), the rules identified on the attached printout shall be readopted by the agency no later than March 31, 2021.

If you have any questions regarding the Commission's action, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber May", is written over a horizontal line.

Amber May
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

An Equal Employment Opportunity Employer

**RRC DETERMINATION
PERIODIC RULE REVIEW
January 17, 2019
APO Review: March 24, 2019
Insurance, Department of
Total: 45**

RRC Determination: Necessary with substantive public interest

Rule	Determination
11 <u>NCAC 04 .0115</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0116</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0117</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0118</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0119</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0120</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0121</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0122</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0123</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0124</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0312</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0313</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0314</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0315</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0316</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0317</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0318</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0319</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0320</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0415</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0416</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0417</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0418</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0419</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0420</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0421</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0422</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0423</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0425</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0426</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0427</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0429</u>	Necessary with substantive public interest
11 <u>NCAC 04 .0430</u>	Necessary with substantive public interest

11	<u>NCAC 04 .0431</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0432</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0433</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0501</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0502</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0503</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0504</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0505</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0506</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0507</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0508</u>	Necessary with substantive public interest
11	<u>NCAC 04 .0509</u>	Necessary with substantive public interest

**RRC DETERMINATION
PERIODIC RULE REVIEW
November 15, 2018
APO Review: January 19, 2019
Insurance, Department of
Total: 4**

RRC Determination: Necessary with substantive public interest

Rule	Determination
11 <u>NCAC 05B .0301</u>	Necessary with substantive public interest
11 <u>NCAC 05D .0113</u>	Necessary with substantive public interest
11 <u>NCAC 05D .0114</u>	Necessary with substantive public interest
11 <u>NCAC 05D .0115</u>	Necessary with substantive public interest

LIST OF APPROVED PERMANENT RULES
June 20, 2019 Meeting

AGRICULTURE, BOARD OF

<u>Adoption by Reference</u>	02 NCAC 38 .0401
<u>Importation Requirements: Cattle</u>	02 NCAC 52B .0204
<u>Importation Requirements: Cattle Fever Tick and Scabies</u>	02 NCAC 52B .0205
<u>Importation Requirements: Swine</u>	02 NCAC 52B .0207
<u>Importation Requirements: Cervids</u>	02 NCAC 52B .0213
<u>Style and Location of Brand</u>	02 NCAC 52E .0402
<u>Protection of Confidential Information</u>	02 NCAC 52G .0303

HHS - AGING AND ADULT SERVICES, DIVISION OF

<u>Adult Day Care Standards</u>	10A NCAC 06Q .0101
<u>Maximum Reimbursement Rates</u>	10A NCAC 06Q .0201

HEALTH AND HUMAN SERVICES, DEPARTMENT OF

<u>Petitions</u>	10A NCAC 14A .0101
<u>Rulemaking Procedures</u>	10A NCAC 14A .0102
<u>Declaratory Rulings</u>	10A NCAC 14A .0103

CODE OFFICIALS QUALIFICATION BOARD

<u>Nature of Probationary Certificate</u>	11 NCAC 08 .0602
<u>Special Circumstances</u>	11 NCAC 08 .0707
<u>Certificate</u>	11 NCAC 08 .0708
<u>Inactive Code Enforcement Officials</u>	11 NCAC 08 .0714

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Scope and Purpose</u>	15A NCAC 02C .0301
<u>Definitions</u>	15A NCAC 02C .0302
<u>Application for Permit</u>	15A NCAC 02C .0303
<u>Permitting</u>	15A NCAC 02C .0304
<u>Grout Inspection and Certification</u>	15A NCAC 02C .0305
<u>Well Completion and Certification</u>	15A NCAC 02C .0306
<u>Well Data and Records</u>	15A NCAC 02C .0307
<u>Appeal Procedure</u>	15A NCAC 02C .0308
<u>Well Abandonment and Certification</u>	15A NCAC 02C .0309
<u>Purpose</u>	15A NCAC 02H .0801
<u>Scope</u>	15A NCAC 02H .0802
<u>Definitions</u>	15A NCAC 02H .0803
<u>Parameters for Which Certification May be Requested</u>	15A NCAC 02H .0804
<u>Certification and Renewal of Certification</u>	15A NCAC 02H .0805
<u>Fees Associated with Certification Program</u>	15A NCAC 02H .0806
<u>Decertification and Civil Penalties</u>	15A NCAC 02H .0807
<u>Recertification</u>	15A NCAC 02H .0808
<u>Reciprocity</u>	15A NCAC 02H .0809
<u>Administration</u>	15A NCAC 02H .0810

<u>Purpose</u>	15A NCAC 02H .0901
<u>Scope</u>	15A NCAC 02H .0902
<u>Definition of Terms</u>	15A NCAC 02H .0903
<u>Required Pretreatment Programs</u>	15A NCAC 02H .0904
<u>POTW Pretreatment Program Implementation Requirements</u>	15A NCAC 02H .0905
<u>Submission for Pretreatment Program Approval</u>	15A NCAC 02H .0906
<u>Procedures for Pretreatment Program Approval, Revision an...</u>	15A NCAC 02H .0907
<u>Reporting/Record Keeping Requirements for POTWS/Industria...</u>	15A NCAC 02H .0908
<u>National Pretreatment Standards: Prohibited Discharges</u>	15A NCAC 02H .0909
<u>National Pretreatment Standards: Categorical Standards</u>	15A NCAC 02H .0910
<u>Adjustments for Fundamentally Different Factors</u>	15A NCAC 02H .0912
<u>Public Access to Information</u>	15A NCAC 02H .0913
<u>Upset Provision</u>	15A NCAC 02H .0914
<u>Net/Gross Calculation</u>	15A NCAC 02H .0915
<u>Pretreatment Permits</u>	15A NCAC 02H .0916
<u>Pretreatment Permit Submission and Review</u>	15A NCAC 02H .0917
<u>Local Law</u>	15A NCAC 02H .0918
<u>Bypass</u>	15A NCAC 02H .0919
<u>Pretreatment Facility Operation and Maintenance</u>	15A NCAC 02H .0920
<u>Revision to Reflect POTW Removal of Pollutant</u>	15A NCAC 02H .0921
<u>Hearings</u>	15A NCAC 02H .0922
<u>Purpose</u>	15A NCAC 02H .1101
<u>Scope</u>	15A NCAC 02H .1102
<u>Definitions</u>	15A NCAC 02H .1103
<u>Fees Associated with Certification Program</u>	15A NCAC 02H .1104
<u>Certification</u>	15A NCAC 02H .1105
<u>Decertification</u>	15A NCAC 02H .1106
<u>Recertification</u>	15A NCAC 02H .1107
<u>Reciprocity</u>	15A NCAC 02H .1108
<u>Administration</u>	15A NCAC 02H .1109
<u>Implementation</u>	15A NCAC 02H .1110
<u>Biological Laboratory Certification and Quality Assurance</u>	15A NCAC 02H .1111

COASTAL RESOURCES COMMISSION

<u>Purpose</u>	15A NCAC 07H .2701
<u>General Conditions</u>	15A NCAC 07H .2704
<u>Specific Conditions</u>	15A NCAC 07H .2705

PUBLIC HEALTH, COMMISSION FOR

<u>Definitions</u>	15A NCAC 18C .0102
<u>Removal of Dissolved Matter and Suspended Matter</u>	15A NCAC 18C .0202
<u>Public Well Water Supplies</u>	15A NCAC 18C .0203
<u>Approvals Necessary Before Contracting or Constructing</u>	15A NCAC 18C .0305
<u>Engineer's Report, Water System Management Plan and Other...</u>	15A NCAC 18C .0307
<u>Water Supply Wells</u>	15A NCAC 18C .0402
<u>Surface Water Facilities</u>	15A NCAC 18C .0403
<u>Water Treatment Facilities</u>	15A NCAC 18C .0404
<u>Storage of Finished Water</u>	15A NCAC 18C .0405

<u>Distribution Systems</u>	15A NCAC 18C .0406
<u>Lead Free Construction</u>	15A NCAC 18C .0408
<u>Service Connections</u>	15A NCAC 18C .0409
<u>Other Design Standards</u>	15A NCAC 18C .0503
<u>Impoundments: Pre-Setting Reservoirs</u>	15A NCAC 18C .0601
<u>Mechanical Flocculation</u>	15A NCAC 18C .0703
<u>Sedimentation Basin</u>	15A NCAC 18C .0706
<u>Solids Contact or Up-Flow Units</u>	15A NCAC 18C .0707
<u>Gravity Filters</u>	15A NCAC 18C .0708
<u>Alternative Filtration Treatment Technologies</u>	15A NCAC 18C .0711
<u>Pressure Filters</u>	15A NCAC 18C .0713
<u>Pilot Plant Studies</u>	15A NCAC 18C .0714
<u>Other Design Standards</u>	15A NCAC 18C .0715
<u>Capacities: Determining Total Volume</u>	15A NCAC 18C .0803
<u>Pipe Laying</u>	15A NCAC 18C .0904
<u>Relation of Water Mains to Sewers</u>	15A NCAC 18C .0906
<u>Disinfection of Wells</u>	15A NCAC 18C .1002
<u>Disinfection of Storage Tanks and Distribution Systems</u>	15A NCAC 18C .1003
<u>Disinfection of Filters</u>	15A NCAC 18C .1004
<u>Control of Treatment Process</u>	15A NCAC 18C .1406
<u>Corrosion Control and Lead and Copper Monitoring</u>	15A NCAC 18C .1507
<u>Inorganic Chemical Sampling and Analysis</u>	15A NCAC 18C .1508
<u>Special Monitoring for Sodium</u>	15A NCAC 18C .1509
<u>Concentration of Iron</u>	15A NCAC 18C .1511
<u>Concentration of Manganese</u>	15A NCAC 18C .1512
<u>Organic Chemicals Other than TTHM, Sampling and Analysis</u>	15A NCAC 18C .1515
<u>Special Monitoring for Inorganic and Organic Chemicals</u>	15A NCAC 18C .1516
<u>Monitoring Frequency for Radioactivity</u>	15A NCAC 18C .1519
<u>Public Notification Requirements</u>	15A NCAC 18C .1523
<u>Reporting for Organic Chemicals</u>	15A NCAC 18C .1524
<u>Reporting Requirements</u>	15A NCAC 18C .1525
<u>Certified Laboratories</u>	15A NCAC 18C .1527
<u>Alternate Analytical Techniques</u>	15A NCAC 18C .1528
<u>Point-of-Entry, Bottled Water, and Other Treatment Devices</u>	15A NCAC 18C .1529
<u>Variances and Exemptions</u>	15A NCAC 18C .1532
<u>Maximum Containment Levels for Coliform Bacteria</u>	15A NCAC 18C .1535
<u>Drinking Water Additives</u>	15A NCAC 18C .1537
<u>Consumer Confidence Report</u>	15A NCAC 18C .1538
<u>Notice</u>	15A NCAC 18C .1804
<u>General Requirements</u>	15A NCAC 18C .2001
<u>Disinfection</u>	15A NCAC 18C .2002
<u>Criteria for Avoiding Filtration</u>	15A NCAC 18C .2005
<u>Disinfectants and Disinfection Byproducts</u>	15A NCAC 18C .2008

TRANSPORTATION, DEPARTMENT OF

<u>Maintenance within Municipalities</u>	19A NCAC 02D .0404
<u>Construction and Maintenance of Sidewalks</u>	19A NCAC 02D .0406
<u>Permits-Authority, Application and Enforcement</u>	19A NCAC 02D .0601

<u>Permits-Issuance and Fees</u>	19A NCAC 02D .0602
<u>Permits-Weight, Dimensions and Limitations</u>	19A NCAC 02D .0607
<u>Permits - House Moves</u>	19A NCAC 02D .0612
<u>Denial: Revocation: Refusal to Review: Appeal: Invalidation</u>	19A NCAC 02D .0633
<u>Escort Vehicle Driver Certification</u>	19A NCAC 02D .0643
<u>Oversize-Overweight Load Escort Vehicle Operator Certific...</u>	19A NCAC 02D .0644
<u>Piling Obstructions on Highway or Within Right of Way</u>	19A NCAC 02E .0402
<u>Depositing Mud on State Highways</u>	19A NCAC 02E .0403
<u>Highway Obstructions Interfering with Traffic/Maintenance</u>	19A NCAC 02E .0404
<u>Damage to State Highway System Surface or Shoulder</u>	19A NCAC 02E .0405
<u>Vehicles Served by Service Station</u>	19A NCAC 02E .0406
<u>Control and Regulation of Roadside Parks and Rest Areas</u>	19A NCAC 02E .0407
<u>Fishing from Bridges</u>	19A NCAC 02E .0408
<u>Operating Nonmotorized Vehicles</u>	19A NCAC 02E .0409
<u>Hitchhiking on Interstate or Controlled Access Highways</u>	19A NCAC 02E .0410
<u>Jumping from Bridges</u>	19A NCAC 02E .0411
<u>Regulation of Airport Construction</u>	19A NCAC 02E .0423
<u>Access Routes for STAA Dimensioned Vehicles</u>	19A NCAC 02E .0426
<u>Bicycle Trails</u>	19A NCAC 02E .0427

MARRIAGE AND FAMILY THERAPY LICENSURE BOARD

<u>Credentials Required</u>	21 NCAC 31 .0201
<u>Review Procedure</u>	21 NCAC 31 .0202
<u>Issuance of License</u>	21 NCAC 31 .0203
<u>Written Examination</u>	21 NCAC 31 .0301
<u>Licensure Renewal Form</u>	21 NCAC 31 .0401
<u>Reinstatement after Expiration</u>	21 NCAC 31 .0403
<u>Return from Inactive Status</u>	21 NCAC 31 .0404
<u>Appropriate Course of Study</u>	21 NCAC 31 .0501
<u>Ongoing Supervision</u>	21 NCAC 31 .0502
<u>Equivalency</u>	21 NCAC 31 .0503
<u>Alternative to Clinical Practicum</u>	21 NCAC 31 .0504
<u>Non-Degree Granting Post Graduate Training Programs</u>	21 NCAC 31 .0505
<u>Direct Client Contact</u>	21 NCAC 31 .0506
<u>Ethical Principles</u>	21 NCAC 31 .0609
<u>Requirements for Continuing Education</u>	21 NCAC 31 .0701
<u>Licensed Marriage and Family Therapy Associate Credential...</u>	21 NCAC 31 .0801
<u>Licensed Marriage and Family Therapy Associate</u>	21 NCAC 31 .0802
<u>Fees</u>	21 NCAC 31 .1001
<u>Fund Suspension</u>	21 NCAC 31 .1002

MEDICAL BOARD

<u>Application for Physician License</u>	21 NCAC 32B .1303
<u>Reinstatement of Physician License</u>	21 NCAC 32B .1350
<u>Application for Medical School Faculty License</u>	21 NCAC 32B .1502
<u>Physician Practice and Limited License for Disasters and ...</u>	21 NCAC 32B .1706
<u>Expedited Application for Physician License</u>	21 NCAC 32B .2001
<u>Initiation of Disciplinary Hearings</u>	21 NCAC 32N .0110

<u>Summary Suspension</u>	21 NCAC 32N .0114
<u>Limited Physician Assistant Practice and Limited License ...</u>	21 NCAC 32S .0219
<u>Anesthesiologist Assistant Practice and Limited License f...</u>	21 NCAC 32W .0116

ONSITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD

<u>Annual Reports</u>	21 NCAC 39 .0103
<u>Cooperation with Board Inquiry</u>	21 NCAC 39 .0802
<u>Delegating to Third-Party Service Providers</u>	21 NCAC 39 .0803
<u>Petition for Rule-Making</u>	21 NCAC 39 .0901
<u>Request for Declaratory Ruling</u>	21 NCAC 39 .0902
<u>Refusal to Issue Declaratory Ruling</u>	21 NCAC 39 .0903
<u>On-Site Wastewater System Components</u>	21 NCAC 39 .1005

STATE HUMAN RESOURCES COMMISSION

<u>Coverage</u>	25 NCAC 01E .0704
<u>Administration</u>	25 NCAC 01E .0705

**RRC Determination
Periodic Rule Review
June 20, 2019
Necessary with substantive public interest**

HHS - Health Service Regulation, Division of

<u>10A NCAC 14E .0105</u>
<u>10A NCAC 14E .0312</u>
<u>10A NCAC 14E .0316</u>

**RRC Determination
Periodic Rule Review
June 20, 2019
Necessary without substantive public interest**

**HHS - Health Service Regulation,
Division of**

<u>10A NCAC 14E .0101</u>	<u>10A NCAC 14E .0301</u>	<u>10A NCAC 28F .0203</u>
<u>10A NCAC 14E .0102</u>	<u>10A NCAC 14E .0302</u>	<u>10A NCAC 28F .0204</u>
<u>10A NCAC 14E .0103</u>	<u>10A NCAC 14E .0303</u>	<u>10A NCAC 28F .0205</u>
<u>10A NCAC 14E .0104</u>	<u>10A NCAC 14E .0304</u>	<u>10A NCAC 28F .0206</u>
<u>10A NCAC 14E .0106</u>	<u>10A NCAC 14E .0305</u>	<u>10A NCAC 28F .0207</u>
<u>10A NCAC 14E .0107</u>	<u>10A NCAC 14E .0306</u>	<u>10A NCAC 28F .0208</u>
<u>10A NCAC 14E .0108</u>	<u>10A NCAC 14E .0307</u>	<u>10A NCAC 28F .0209</u>
<u>10A NCAC 14E .0109</u>	<u>10A NCAC 14E .0309</u>	
<u>10A NCAC 14E .0110</u>	<u>10A NCAC 14E .0310</u>	
<u>10A NCAC 14E .0111</u>	<u>10A NCAC 14E .0311</u>	
<u>10A NCAC 14E .0112</u>	<u>10A NCAC 14E .0313</u>	
<u>10A NCAC 14E .0201</u>	<u>10A NCAC 14E .0314</u>	
<u>10A NCAC 14E .0202</u>	<u>10A NCAC 14E .0315</u>	
<u>10A NCAC 14E .0203</u>	<u>10A NCAC 14E .0401</u>	
<u>10A NCAC 14E .0204</u>	<u>10A NCAC 14E .0402</u>	
<u>10A NCAC 14E .0205</u>		
<u>10A NCAC 14E .0206</u>		
<u>10A NCAC 14E .0207</u>		
<u>10A NCAC 14E .0208</u>		

**Mental Health/DD/SAS,
Commission for**

<u>10A NCAC 28F .0101</u>
<u>10A NCAC 28F .0201</u>
<u>10A NCAC 28F .0202</u>

**Mental Health/DD/SAS,
Commission for/Mental
Health/DD/SAS, Division of**

<u>10A NCAC 28F .0210</u>
<u>10A NCAC 28F .0211</u>

**Mental Health/DD/SAS,
Commission for**

<u>10A NCAC 28F .0212</u>

**Mental Health/DD/SAS,
Commission for/Mental
Health/DD/SAS, Division of**

10A NCAC 28F .0213

**Mental Health/DD/SAS,
Commission for**

10A NCAC 28F .0301
10A NCAC 28F .0302
10A NCAC 28F .0303
10A NCAC 28F .0304
10A NCAC 28F .0305
10A NCAC 28F .0306
10A NCAC 28F .0307
10A NCAC 28F .0308
10A NCAC 28F .0401
10A NCAC 28F .0402
10A NCAC 28F .0403
10A NCAC 28F .0404
10A NCAC 28F .0405
10A NCAC 28F .0406

**Mental Health/DD/SAS,
Commission for/Mental
Health/DD/SAS, Division of**

10A NCAC 28F .0501
10A NCAC 28F .0502
10A NCAC 28F .0503
10A NCAC 28F .0504
10A NCAC 28F .0601
10A NCAC 28F .0602
10A NCAC 28F .0603
10A NCAC 28F .0604
10A NCAC 28F .0605
10A NCAC 28F .0606
10A NCAC 28F .0607

**Mental Health/DD/SAS,
Commission for**

10A NCAC 28F .0701
10A NCAC 28F .0702
10A NCAC 28F .0703
10A NCAC 28F .0704
10A NCAC 28F .0705

**Mental Health/DD/SAS,
Commission for/Mental
Health/DD/SAS, Division of**

10A NCAC 28F .0801
10A NCAC 28F .0802
10A NCAC 28F .0803
10A NCAC 28F .0804
10A NCAC 28F .0805
10A NCAC 28F .0806
10A NCAC 28F .0901
10A NCAC 28F .0902
10A NCAC 28F .0903

**Mental Health/DD/SAS,
Commission for**

10A NCAC 28F .1001

10A NCAC 28F .1002
10A NCAC 28G .0101
10A NCAC 28G .0102
10A NCAC 28G .0103
10A NCAC 28G .0104
10A NCAC 28G .0105
10A NCAC 28G .0106
10A NCAC 28G .0107
10A NCAC 28G .0108
10A NCAC 28G .0109
10A NCAC 28G .0110
10A NCAC 28H .0101
10A NCAC 28H .0102
10A NCAC 28H .0103
10A NCAC 28H .0104
10A NCAC 28H .0105
10A NCAC 28H .0106
10A NCAC 28H .0107
10A NCAC 28H .0108
10A NCAC 28H .0201
10A NCAC 28H .0202

**HHS - Mental Health/DD/SAS,
Division of**

10A NCAC 28I .0101
10A NCAC 28I .0102
10A NCAC 28I .0103
10A NCAC 28I .0104
10A NCAC 28I .0105
10A NCAC 28I .0106
10A NCAC 28I .0107
10A NCAC 28I .0108
10A NCAC 28I .0109
10A NCAC 28I .0110
10A NCAC 28I .0111
10A NCAC 28I .0112

**Mental Health/DD/SAS,
Commission for/Mental
Health/DD/SAS, Division of**

10A NCAC 28I .0201
10A NCAC 28I .0202
10A NCAC 28I .0203
10A NCAC 28I .0204
10A NCAC 28I .0205
10A NCAC 28I .0206
10A NCAC 28I .0207
10A NCAC 28I .0208

**Mental Health/DD/SAS,
Commission for**

10A NCAC 28I .0301
10A NCAC 28I .0302
10A NCAC 28I .0303
10A NCAC 28I .0304
10A NCAC 28I .0305
10A NCAC 28I .0306

HHS - Mental Health/DD/SAS,

Division of

10A NCAC 28I .0402
10A NCAC 29C .0101
10A NCAC 29C .0102
10A NCAC 29C .0103
10A NCAC 29C .0104
10A NCAC 29C .0105
10A NCAC 29C .0106
10A NCAC 29C .0107
10A NCAC 29C .0108
10A NCAC 29C .0109
10A NCAC 29C .0110
10A NCAC 29C .0111
10A NCAC 29C .0112
10A NCAC 29C .0113
10A NCAC 29C .0114
10A NCAC 29C .0201
10A NCAC 29C .0202
10A NCAC 29C .0203
10A NCAC 29C .0204
10A NCAC 29C .0205
10A NCAC 29C .0206
10A NCAC 29C .0207
10A NCAC 29C .0208
10A NCAC 29C .0209
10A NCAC 29C .0210
10A NCAC 29C .0211
10A NCAC 29C .0301
10A NCAC 29C .0302
10A NCAC 29C .0303
10A NCAC 29C .0304
10A NCAC 29C .0305
10A NCAC 29C .0306
10A NCAC 29C .0307
10A NCAC 29C .0401
10A NCAC 29C .0402
10A NCAC 29C .0403
10A NCAC 29C .0404
10A NCAC 29C .0405
10A NCAC 29C .0406
10A NCAC 29C .0501
10A NCAC 29C .0502
10A NCAC 29C .0503
10A NCAC 29C .0504
10A NCAC 29C .0601
10A NCAC 29C .0602
10A NCAC 29C .0603
10A NCAC 29C .0604
10A NCAC 29C .0605
10A NCAC 29C .0606
10A NCAC 29C .0607
10A NCAC 29C .0701
10A NCAC 29C .0702
10A NCAC 29C .0703
10A NCAC 29C .0801
10A NCAC 29C .0802
10A NCAC 29C .0803
10A NCAC 29C .0901
10A NCAC 29C .0902

10A NCAC 29C .0903
10A NCAC 29C .0904
10A NCAC 29C .0905
10A NCAC 29C .0906
10A NCAC 29C .0907
10A NCAC 29C .0908
10A NCAC 29C .0909
10A NCAC 29C .1001
10A NCAC 29C .1002
10A NCAC 29C .1003
10A NCAC 29C .1004
10A NCAC 29C .1005
10A NCAC 29C .1006
10A NCAC 29C .1101
10A NCAC 29C .1102
10A NCAC 29C .1103

10A NCAC 29C .1104
10A NCAC 29C .1105
10A NCAC 29C .1106
10A NCAC 29C .1201
10A NCAC 29C .1202
10A NCAC 29C .1203
10A NCAC 29C .1204
10A NCAC 29C .1205
10A NCAC 29C .1206
10A NCAC 29C .1207
10A NCAC 29C .1208
10A NCAC 29C .1209
10A NCAC 29C .1210
10A NCAC 29C .1211
10A NCAC 29C .1301
10A NCAC 29C .1302

10A NCAC 29C .1303
10A NCAC 29C .1304
10A NCAC 29C .1401
10A NCAC 29C .1402
10A NCAC 29D .0501

**Mental Health/DD/SAS,
Commission for**

10A NCAC 29D .0612
10A NCAC 29D .0701

**HHS - Mental Health/DD/SAS,
Division of**

10A NCAC 29D .0801

CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

OFFICE OF ADMINISTRATIVE HEARINGS**Chief Administrative Law Judge****JULIAN MANN, III****Senior Administrative Law Judge****FRED G. MORRISON JR.****ADMINISTRATIVE LAW JUDGES**

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton
Tenisha Jacobs

A. B. Elkins II
Selina Malherbe
J. Randolph Ward
Stacey Bawtinheimer

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				<u>PUBLISHED</u>			
18	CPS	07200	5/8/2019	Dawit Kiros Gezae	v.	Victims Compensation Services	Malherbe
19	DHR	00402	5/13/2019	Sharon R Vassey	v.	NC Department of Health and Human Services, Division of Health Benefits Division of Medical Assistance (Medicaid)	Overby
18	DOJ	00627	5/29/2019	Nickolas Cody Jacobs	v.	NC Criminal Justice Education and Training Standards Commission	Ward
18	DOJ	05618	5/8/2019	Gilbert Currie	v.	NC Sheriffs Education and Training Standards Commission	Elkins
18	DOJ	07495	5/2/2019	DaQuante Cortez Jones	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
18	DST	07191; 07194; 07337	5/7/2019	Edgecombe County Board of Education; Lenoir County Board of Education; Harnett County Board of Education	v.	Retirement Systems Division Department of State Treasurer; Retirement Systems Divisions Department of State Treasurer; NC Department of State Treasurer, Retirement Systems Division	Lassiter
19	SOS	00923	5/14/2019	Christopher Anthony Wilson	v.	NC Department of the Secretary of State	Overby
19	SOS	01312	5/22/2019	Pablo Queriupa Tulavera	v.	Department of the Secretary of State	Bawtinheimer

CONTESTED CASE DECISIONS

				<u>UNPUBLISHED</u>			
19	ABC	00098	5/22/2019	Olivia Jackson	v.	Alcoholic Beverage Control Commission	Jacobs
19	ABC	01307	5/20/2019	NC Alcoholic Beverage Control Commission	v.	Earnest Lee Norris T/A Flavors Restaurant and Bar	Lassiter
19	CPS	01403	5/2/2019	Ernisha Ballard	v.	Office of Administrative Hearing NC Crime Victims Compensation Co	Malherbe
17	CSE	08094	5/6/2019	Richard Matthew White	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Malherbe
17	CSE	08278	5/7/2019	Kelvin L Jamison	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Ward
18	CSE	06307	5/24/2019	Samuel Hinton Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Elkins
18	CSE	06479	5/10/2019	Byron D Black	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Sutton
18	CSE	06572	5/8/2019	Julio Galindo Hoentsch	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
18	CSE	06626	5/21/2019	Thomas W Hontz Jr.	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Jacobs
18	CSE	06696	5/28/2019	Johnny R Gordon	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May
18	CSE	06762	5/28/2019	William B Lewis	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe