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NORTH CAROLINA REGISTER

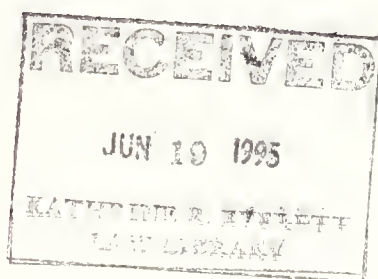
**VOLUME 10 • ISSUE 6 • Pages 336 - 426
June 15, 1995**

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RRC Objections
Contested Case Decisions

PUBLISHED BY

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INFORMATION ABOUT THE NORTH CAROLINA REGISTER AND ADMINISTRATIVE CODE

NORTH CAROLINA REGISTER

The *North Carolina Register* is published twice a month and contains information relating to agency, executive, legislative and judicial actions required by or affecting Chapter 150B of the General Statutes. All proposed administrative rules and notices of public hearings filed under G.S. 150B-21.2 must be published in the *Register*. The *Register* will typically comprise approximately fifty pages per issue of legal text.

State law requires that a copy of each issue be provided free of charge to each county in the state and to various state officials and institutions.

The *North Carolina Register* is available by yearly subscription at a cost of one hundred and twenty dollars (\$120.00) for 24 issues. Individual issues may be purchased for ten dollars (\$10.00).

Requests for subscription to the *North Carolina Register* should be directed to the Office of Administrative Hearings, PO Drawer 27447, Raleigh, NC 27611-7447.

ADOPTION, AMENDMENT, AND REPEAL OF RULES

The following is a generalized statement of the procedures to be followed for an agency to adopt, amend, or repeal a rule. For the specific statutory authority, please consult Article 2A of Chapter 150B of the General Statutes.

Any agency intending to adopt, amend, or repeal a rule must first publish notice of the proposed action in the *North Carolina Register*. The notice must include the time and place of the public hearing (or instructions on how a member of the public may request a hearing); a statement of procedure for public comments; the text of the proposed rule or the statement of subject matter; the reason for the proposed action; a reference to the statutory authority for the action and the proposed effective date.

Unless a specific statute provides otherwise, at least 15 days must elapse following publication of the notice in the *North Carolina Register* before the agency may conduct the public hearing and at least 30 days must elapse before the agency can take action on the proposed rule. An agency may not adopt a rule that differs substantially from the proposed form published as part of the public notice, until the adopted version has been published in the *North Carolina Register* for an additional 30 day comment period.

When final action is taken, the promulgating agency must file the rule with the Rules Review Commission (RRC). After approval by RRC, the adopted rule is filed with the Office of Administrative Hearings (OAH).

A rule or amended rule generally becomes effective 5 business days after the rule is filed with the Office of Administrative Hearings for publication in the North Carolina Administrative Code (NCAC).

Proposed action on rules may be withdrawn by the promulgating

agency at any time before final action is taken by the agency or before filing with OAH for publication in the NCAC.

TEMPORARY RULES

Under certain emergency conditions, agencies may issue temporary rules. Within 24 hours of submission to OAH, the Codifier of Rules must review the agency's written statement of findings of need for the temporary rule pursuant to the provisions in G.S. 150B-21.1. If the Codifier determines that the findings meet the criteria in G.S. 150B-21.1, the rule is entered into the NCAC. If the Codifier determines that the findings do not meet the criteria, the rule is returned to the agency. The agency may supplement its findings and resubmit the temporary rule for an additional review or the agency may respond that it will remain with its initial position. The Codifier, thereafter, will enter the rule into the NCAC. A temporary rule becomes effective either when the Codifier of Rules enters the rule in the Code or on the sixth business day after the agency resubmits the rule without change. The temporary rule is in effect for the period specified in the rule or 180 days, whichever is less. An agency adopting a temporary rule must begin rule-making procedures on the permanent rule at the same time the temporary rule is filed with the Codifier.

NORTH CAROLINA ADMINISTRATIVE CODE

The North Carolina Administrative Code (NCAC) is a compilation and index of the administrative rules of 25 state agencies and 40 occupational licensing boards. Compilation and publication of the NCAC is mandated by G.S. 150B-21.18.

The Code is divided into Titles and Chapters. Each state agency is assigned a separate title which is further broken down by chapters. Title 21 is designated for occupational licensing boards. The NCAC is available in two formats.

- (1) Single pages may be obtained at a minimum cost of two dollars and 50 cents (\$2.50) for 10 pages or less, plus fifteen cents (\$0.15) per each additional page. Requests for pages of rules or volumes of the NCAC should be directed to the Office of Administrative Hearings.
- (2) The full publication and supplement service is printed and distributed by Barclays Law Publishers. It is available in hardcopy, CD-ROM and diskette format. For subscription information, call 1-800-888-3600.

CITATION TO THE NORTH CAROLINA REGISTER

The *North Carolina Register* is cited by volume, issue, page number and date. 10:01 NCR 1-67, April 3, 1995 refers to Volume 10, Issue 1, pages 1 through 67 of the *North Carolina Register* issued on April 3, 1995.

NORTH CAROLINA REGISTER



**Volume 10, Issue 6
Pages 336 - 426**

June 15, 1995

This issue contains documents officially
filed through June 1, 1995.

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NORTH CAROLINA REGISTER
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Volume and Issue Number	Issue Date	Last Day for Filing	Last Day for Electronic Filing	Earliest Date for Public Hearing <i>15 days from notice</i>	* End of Required Comment Period <i>30 days from notice</i>	Last Day to Submit to RRC	** Earliest Effective Date
9:15	11/01/94	10/11/94	10/18/94	11/16/94	12/01/94	12/20/94	02/01/95
9:16	11/15/94	10/24/94	10/31/94	11/30/94	12/15/94	12/20/94	02/01/95
9:17	12/01/94	11/07/94	11/15/94	12/16/94	01/03/95	01/20/95	03/01/95
9:18	12/15/94	11/22/94	12/01/94	12/30/94	01/17/95	01/20/95	03/01/95
9:19	01/03/95	12/08/94	12/15/94	01/18/95	02/02/95	02/20/95	04/01/95
9:20	01/17/95	12/21/94	12/30/94	02/01/95	02/16/95	02/20/95	04/01/95
9:21	02/01/95	01/10/95	01/18/95	02/16/95	03/03/95	03/20/95	05/01/95
9:22	02/15/95	01/25/95	02/01/95	03/02/95	03/17/95	03/20/95	05/01/95
9:23	03/01/95	02/08/95	02/15/95	03/16/95	03/31/95	04/20/95	06/01/95
9:24	03/15/95	02/22/95	03/01/95	03/30/95	04/17/95	04/20/95	06/01/95
10:1	04/03/95	03/13/95	03/20/95	04/18/95	05/03/95	05/22/95	07/01/95
10:2	04/17/95	03/24/95	03/31/95	05/02/95	05/17/95	05/22/95	07/01/95
10:3	05/01/95	04/07/95	04/17/95	05/16/95	05/31/95	06/20/95	08/01/95
10:4	05/15/95	04/24/95	05/01/95	05/30/95	06/14/95	06/20/95	08/01/95
10:5	06/01/95	05/10/95	05/17/95	06/16/95	07/03/95	07/20/95	09/01/95
10:6	06/15/95	05/24/95	06/01/95	06/30/95	07/17/95	07/20/95	09/01/95
10:7	07/03/95	06/12/95	06/19/95	07/18/95	08/02/95	08/21/95	10/01/95
10:8	07/14/95	06/22/95	06/29/95	07/31/95	08/14/95	08/21/95	10/01/95
10:9	08/01/95	07/11/95	07/18/95	08/16/95	08/31/95	09/20/95	11/01/95
10:10	08/15/95	07/25/95	08/01/95	08/30/95	09/14/95	09/20/95	11/01/95
10:11	09/01/95	08/11/95	08/18/95	09/18/95	10/02/95	10/20/95	12/01/95
10:12	09/15/95	08/24/95	08/31/95	10/02/95	10/16/95	10/20/95	12/01/95

This table is published 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 2B .0103 and the Rules of Civil Procedure, Rule 6.

* An agency must accept comments for at least 30 days after the proposed text is published or until the date of any public hearing, whichever is longer. See G.S. 150B-21.2(f) for adoption procedures.

** The "Earliest Effective Date" is computed assuming that the agency follows the publication schedule above, that the Rules Review Commission approves the rule at the next calendar month meeting after submission, and that RRC delivers the rule to the Codifier of Rules five (5) business days before the 1st day of the next calendar month.

**EXECUTIVE ORDER NO. 78
NORTH CAROLINA HUMAN SERVICE
TRANSPORTATION COUNCIL**

WHEREAS, the North Carolina Human Service Transportation Council was established in 1991 to address problems, concerns, and opportunities regarding the provision of human service transportation and to make policy recommendations to the North Carolina Department of Transportation; and

WHEREAS, the North Carolina Human Service Transportation Council has led to increased cooperation among member agencies and increased coordination of local human service transportation; and

WHEREAS, the North Carolina Human Service Transportation Council has undertaken studies to facilitate the further coordination of human service transportation; and

WHEREAS, the North Carolina Department of Transportation (DOT), Department of Human Resources (DHR), Department of Environment, Health, and Natural Resources (DEHNR) and Department of Commerce (DOC) administer State and federal funding programs which may be used by local human service agencies to provide necessary client transportation services; and

WHEREAS, the General Assembly has appropriated funds for the Elderly and Disabled Transportation Assistance Program based on the assurance of cost-effectiveness provided by implementation of the local Transportation Development Plan; and

WHEREAS, all human service transportation funds are to be expended in a manner consistent with the local Transportation Development Plan; and

WHEREAS, there is the need for the continued statement of policy on coordination of transportation resources and these state departments and agencies are in a position to facilitate the more efficient use of these resources.

NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, **IT IS ORDERED:**

Section 1. Establishment.

The North Carolina Human Service Transportation Council ("Council") is hereby established.

Section 2. Policy.

A. Wherever practical, existing transportation resources, public and private, shall be utilized before any new resources shall be made available through public funds.

B. The locally prepared and adopted Transportation

Development Plan shall continue to be the means through which determination of the most cost effective and efficient use of transportation resources is made.

C. To the extent that funds are available and equipment is used consistent with the local Transportation Development Plan, DOT shall provide capital equipment for the provision of local human service transportation while the transportation funds from other departments are used primarily for operating assistance.

D. The State departments should cooperate in the formation of, follow the policies, procedures and decisions of, and support the Human Service Transportation Council as described herein. Council representatives shall assist the Department of Transportation in encouraging local agencies to participate in transportation development planning efforts and in subsequent plan implementation, and to operate vehicles in a manner consistent with the local plan.

Section 3. Membership.

(a) The Council shall be composed of representatives from the Department of Administration, DOT, DHR, DEHNR and DOC. The Secretaries of the respective departments shall determine those divisions to be represented on the Council and shall appoint members in consultation with division directors. Representation shall include all divisions which administer federal and state funds used to provide human service transportation at the local level. Council appointees should be in policy-making positions and have authority over subrecipient budget review and approval.

(b) Departments, agencies or programs which are outside the jurisdiction of the Executive Order are encouraged to join the Council and agree to adopt the policies, procedures and decisions of the Council.

(c) The Deputy Secretary for Transit, Rail and Aviation of the DOT shall chair the Council.

Section 4. Duties of Council.

The Council shall have the following duties:

(a) To implement human service transportation policy and apply criteria as developed by the Council;

(b) To undertake studies to enhance the coordination and delivery of human service transportation services;

(c) To advise and make recommendations to the DOT and other state agencies concerning human service transportation policy.

Section 5. Administration.

The DOT Public Transportation Division shall provide the administrative support for the Council. Members serve

without compensation or expense reimbursement.

tion Council.

Section 6. Effect on Other Executive Orders.

Executive Order No. 150 of the Martin Administration is hereby rescinded. The Council created herein shall be the successor to that North Carolina Human Service Transporta-

This order shall be effective immediately.

Done in the City of Raleigh this the 23rd day of May, 1995.

**TITLE 15A - DEPARTMENT OF
ENVIRONMENT, HEALTH, AND
NATURAL RESOURCES**

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule cited as 15A NCAC 10B .0115.

Proposed Effective Date: October 1, 1995.

A Public Hearing will be conducted at 7:00 p.m. on July 13, 1995 at the Swain Co. Administration Bldg., Mitchell Street, Bryson City, NC.

Reason for Proposed Action: To restrict/prohibit shining lights upon and/or on deer in Swain County during designated hours.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from June 16, 1995 through July 17, 1995. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

Fiscal Note: This Rule does not affect the expenditures or revenues of local government or state funds.

**CHAPTER 10 - WILDLIFE RESOURCES
COMMISSION**

**SUBCHAPTER 10B - HUNTING AND
TRAPPING**

SECTION .0100 - GENERAL REGULATIONS

.0115 SHINING LIGHTS IN DEER AREAS

(a) It having been found upon sufficient evidence that certain areas frequented by deer are subject to substantial unlawful night deer hunting, or that residents in such areas have been greatly inconvenienced by persons shining lights on deer, or both, the shining of lights on deer in such areas is limited by Paragraphs (b) and (c) of this Rule, subject to the exceptions contained in Paragraph (d) of this Rule.

(b) No person shall, between the hours of 11:00 p.m. and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Beaufort -- entire county;
- (2) Bladen -- entire county;
- (3) Brunswick -- entire county;
- (4) Camden -- entire county;
- (5) Chowan -- entire county;
- (6) Currituck -- entire county;
- (7) Duplin -- entire county;

- (8) Franklin -- entire county;
- (9) Gates -- entire county;
- (10) Greene -- entire county;
- (11) Hertford -- entire county;
- (12) Hoke -- entire county;
- (13) Hyde -- entire county;
- (14) Jones -- entire county;
- (15) Lenoir -- entire county;
- (16) Martin -- entire county;
- (17) Nash -- entire county;
- (18) Pamlico -- entire county;
- (19) Pasquotank -- entire county;
- (20) Pender -- entire county;
- (21) Perquimans -- entire county;
- (22) Pitt -- entire county;
- (23) Richmond -- entire county;
- (24) Sampson -- entire county;
- (25) Tyrrell -- entire county;
- (26) Vance -- entire county;
- (27) Wake -- entire county;
- (28) Warren -- entire county;
- (29) Washington -- entire county;
- (30) Wayne -- entire county.

(c) No person shall, between the hours of one-half hour after sunset and one-half hour before sunrise, intentionally shine a light upon a deer or intentionally sweep a light in search of deer in the indicated portions of the following counties:

- (1) Alamance -- entire county;
- (2) Alexander -- entire county;
- (3) Alleghany -- entire county;
- (4) Anson -- entire county;
- (5) Ashe -- entire county;
- (6) Avery -- that portion south and east of Highway 221;
- (7) Buncombe County -- entire county;
- (8) Burke -- entire county;
- (9) Cabarrus -- entire county;
- (10) Caswell -- entire county;
- (11) Catawba -- entire county;
- (12) Chatham -- entire county;
- (13) Clay -- entire county;
- (14) Cleveland -- entire county;
- (15) Cumberland -- entire county;
- (16) Davidson -- entire county;
- (17) Davie -- entire county;
- (18) Durham -- entire county;
- (19) Edgecombe -- entire county;
- (20) Forsyth County -- entire county;
- (21) Gaston -- entire county;
- (22) Granville -- entire county;
- (23) Guilford -- entire county;
- (24) Halifax -- entire county;
- (25) Harnett -- entire county;
- (26) Henderson -- entire county;
- (27) Iredell -- entire county;
- (28) Johnston -- entire county;

- (29) Lee -- entire county;
- (30) Lincoln -- entire county;
- (31) Macon -- entire county;
- (32) McDowell -- entire county;
- (33) Mecklenburg -- entire county;
- (34) Mitchell -- entire county;
- (35) Montgomery -- entire county;
- (36) Northampton -- entire county;
- (37) Orange County -- entire county;
- (38) Person -- entire county;
- (39) Polk -- entire county;
- (40) Randolph -- entire county;
- (41) Robeson County -- entire county;
- (42) Rockingham -- entire county;
- (43) Rowan -- entire county;
- (44) Rutherford -- entire county;
- (45) Stanly -- entire county;
- (46) Stokes -- entire county;
- (47) Surry -- entire county;
- (48) Swain -- entire county;
- (49) ~~(48)~~Transylvania -- entire county;
- (50) ~~(49)~~Union -- entire county;
- (51) ~~(50)~~Watauga -- entire county;
- (52) ~~(51)~~Yancey -- entire county.

(d) Paragraphs (b) and (c) of this Rule shall not be construed to prevent:

- (1) the lawful hunting of raccoon or opossum during open season with artificial lights designed or commonly used in taking raccoon and opossum at night;
- (2) the necessary shining of lights by landholders on their own lands;
- (3) the shining of lights necessary to normal travel by motor vehicles on roads or highways; or
- (4) the use of lights by campers and others who are legitimately in such areas for other reasons and who are not attempting to attract or to immobilize deer by the use of lights.

Statutory Authority G.S. 113-134; 113-291.1; S.L. 1981, Ch. 410; S.L. 1981 (Second Session 1982), Ch. 1180.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rules cited as 15A NCAC 10C .0404 and .0407.

Proposed Effective Date: December 1, 1995.

Public Hearings will be conducted at:

7:00 p.m.
July 10, 1995
Craven County Courthouse
New Bern, NC

7:00 p.m.
July 11, 1995
Bladen County Courthouse
Elizabethtown, NC

Reason for Proposed Action: To reduce mortality to game fish by requiring that all fixed and drift gill nets be attended in designated waters of Hyde County and all counties of Wildlife District 2 and 4.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from June 16, 1995 through July 17, 1995. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

Fiscal Note: These Rules do not affect the expenditures or revenues of local government or state funds.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0400 - NONGAME FISH

.0404 SPECIAL DEVICE FISHING

(a) Bow and Arrow. The use of bow [as defined in 15A NCAC 10B .0116(a)] and arrow as a licensed special device is authorized for taking nongame fishes at any time from all inland fishing waters other than impounded waters located on the Sandhills Game Land and designated public mountain trout waters. Unless specifically prohibited, bow and arrow may be used in joint fishing waters. It is unlawful to take fish with crossbow and arrow in any inland fishing waters.

(b) Nets. Manually operated nets, including seines and bow, cast, dip, gill, drift and fyke nets may be used under the special device fishing license.

- (1) No fixed gill net or other stationary net which may be authorized as a special fishing device may be more than 100 yards in length, nor shall any such net be placed within 50 yards of any other fixed net. Fixed nets must be set so that they run parallel to the nearest shoreline, except in the Neuse, Trent, Northeast Cape Fear, Cape Fear, and Black Rivers and their tributaries. No anchored or fixed gill net or drift net shall be used unless such net is marked for the protection of boat operators. A net shall be deemed so marked when there is attached to it at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in its smallest dimensions. The owner shall always be identified on a buoy on each end either by using engraved buoys or by attaching engraved metal or plastic tags to the buoys. Such identification shall include one of

the following: owner's N.C. motor boat registration number, or owner's U.S. vessel documentation name, or owner's last name and initials.

- (2) It is unlawful to attach gill nets to any wire, rope, or similar device extended across any navigable watercourse.
- (3) All fixed or drift gill nets must be attended when fished in the designated inland waters of Wildlife District 1 (Bertie, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Tyrrell and Washington counties), counties, Wildlife District 2 (Beaufort, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender and Pitt counties) and Wildlife District 4 (Bladen, Brunswick, Columbus, Cumberland, Harnett, Hoke, Robeson, Sampson and Scotland counties). Attended as used in this Rule, requires that fishermen be within 100 yards of all sets of nets at all times.

(c) Traps. Baskets and traps, including automobile tires, may be used under the special device fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed 60 inches in length or 30 inches in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the trap.

(d) Spears. Manually operated gigs or under-water spear or harpoon guns may be used under the special fishing device license in the inland waters having a season for their use specified in Rule .0407 of this Section.

(e) Crab pots. Persons owning property adjacent to the inland fishing waters of coastal rivers and their tributaries are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.

Statutory Authority G.S. 113-134; 113-272.2; 113-276; 113-292.

.0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS

Except in designated public mountain trout waters, and in impounded waters located on the Sandhills Game Land, there is a year-round open season for the licensed taking of nongame fishes by bow and arrow. Seasons and waters in which the use of other special devices is authorized are indicated by counties below:

- (1) Alamance:
 - (a) July 1 to August 31 with seines in Alamance Creek below NC 49 bridge and Haw River;
 - (b) July 1 to June 30 with gigs in all public waters;
- (2) Alexander: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lake

- Hickory and Lookout Shoals Reservoir;
- (3) Alleghany: July 1 to June 30 with gigs in New River, except designated public mountain trout waters;
- (4) Anson:
 - (a) July 1 to June 30 with traps and gigs in all public waters;
 - (b) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the lower end of Goat Island;
 - (c) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
- (5) Ashe: July 1 to June 30 with gigs in New River (both forks), except designated public mountain trout waters;
- (6) Beaufort:
 - (a) July 1 to June 30 with traps in the Pungo River, and in the Tar and Pamlico Rivers above Norfolk and Southern Railroad bridge; and with gigs in all inland public waters;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters; with attended drift gill nets in Tar River upstream from the Norfolk and Southern Railroad bridge at Washington to the Pitt County line; and with attended gill nets in all other inland public waters, except Blounts Creek, Chocowinity Bay, Durham Creek, Mixon Creek and Nevil Creek and their tributaries.
- (7) Bertie:
 - (a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (8) Bladen:
 - (a) December 1 to March 1 with attended gill nets in all inland public waters, except Jones, Salters, White, Singletary and Baytree (Black) Lakes;
 - (b) December 1 to May 1 with attended gill nets in Black River;
 - (c) December 1 to June 5 with dip and bow nets in Black River;
- (9) Brunswick:
 - (a) December 1 to March 1 with attended gill nets in all inland public waters, except Waccamaw River and its tributaries;
 - (b) December 1 to May 1 with dip, bow, and attended gill nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;
- (10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain

- trout waters;
- (11) Burke:
- (a) July 1 to August 31 with seines in all running public waters, except Johns River and designated public mountain trout waters;
- (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (12) Cabarrus:
- (a) July 1 to August 31 with seines in all running public waters,
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (14) Camden:
- (a) July 1 to June 30 with traps in all inland public waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (15) Carteret: December 1 to June 5 with dip, bow, and attended gill nets in all inland public waters except South River and the tributaries of the White Oak River;
- (16) Caswell:
- (a) July 1 to June 30 with gigs in all public waters;
- (b) July 1 to August 31 with seines in all running public waters, except Moons Creek;
- (c) July 1 to June 30 with traps in Hyco Reservoir;
- (17) Catawba:
- (a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;
- (b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;
- (18) Chatham:
- (a) December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);
- (b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;
- (c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;
- (19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (20) Chowan:
- (a) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters, except Bennetts Mill Pond and Dillard Pond;
- (b) July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (22) Cleveland:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (23) Columbus:
- (a) December 1 to March 1 with attended gill nets in all inland public waters, except Lake Waccamaw and its tributaries and Waccamaw River and its tributaries;
- (b) December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries;
- (c) December 1 to June 5 with dip, bow, and attended gill nets in Livingston Creek;
- (24) Craven:
- (a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;
- (b) December 1 to June 5 with dip, bow, and attended gill nets in all inland public waters, except Pitch Kettle, Grindle, Slocum, Spring and Hancock Creeks and their tributaries; with dip and bow nets in Slocum Creek above the US 70 bridge; and with seines in the Neuse River;
- (25) Cumberland: December 1 to March 1 with attended gill nets in all inland public waters;
- (26) Currituck:
- (a) July 1 to June 30 with traps in Tulls Creek and Northwest River;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in Northwest River and Tulls Creek;
- (27) Dare:
- (a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake and South Lake;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in Martin Point Creek;
- (28) Davidson:
- (a) July 1 to August 31 with seines in all running public waters,
- (b) July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge;
- (29) Davie:
- (a) July 1 to June 30 with traps and gigs in all public waters;

- (b) July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River;
- (30) Duplin:
- (a) December 1 to March 1 with attended gill nets in Baysden Pond and in the Northeast Cape Fear River, including old channels from a point one mile above SR 1700 (Serecta) Bridge downstream to the county line;
- (b) December 1 to June 5 with dip, bow, and attended gill nets and seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;
- (31) Durham:
- (a) July 1 to August 31 with seines in Neuse River;
- (b) July 1 to June 30 with gigs in all public waters;
- (32) Edgecombe:
- (a) December 1 to March 15 with gill nets in Noble Mill Pond and Wiggins Lake;
- (b) December 1 to June 5 with dip and bow nets in all public waters; and with drift gill nets in Tar River below the bridge at Old Sparta to the Pitt County line;
- (33) Forsyth: July 1 to June 30 with traps and gigs in all public waters, except traps may not be used in Belews Creek Reservoir;
- (34) Franklin:
- (a) December 1 to March 1 with gill nets in Clifton Pond, Parrish Pond, Jackson Pond and Lake Royale;
- (b) July 1 to August 31 with seines in Tar River;
- (c) July 1 to June 30 with gigs in all public waters, except Parrish, Laurel Mill, Jackson, Clifton, Moore's and Perry's Ponds, and in the Franklinton City ponds;
- (35) Gaston:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (36) Gates: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters, except Williams (Merchants Mill) Pond;
- (37) Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (38) Granville:
- (a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;
- (b) July 1 to August 31 with seines in the Neuse River and the Tar River below US 158 bridge;
- (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
- (d) July 1 to June 30 with cast nets in all public waters;
- (39) Greene: December 1 to June 5 with dip, bow, and attended gill nets and reels in Contentnea Creek;
- (40) Guilford:
- (a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;
- (b) July 1 to June 30 with gigs in all public waters;
- (41) Halifax:
- (a) December 1 to March 1 with gill nets in White's Mill Pond;
- (b) December 1 to June 5 with dip and bow nets in Beech Swamp, Clarks Canal, Conoconnara Swamp, Fishing Creek below the Fishing Creek Mill Dam, Kehukee Swamp, Looking Glass Gut, Quankey Creek, and White's Mill Pond Run;
- (c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (42) Harnett:
- (a) December 1 to March 1 with attended gill nets in all inland public waters;
- (b) January 1 to May 31 with gigs in Cape Fear River and tributaries;
- (c) December 1 to June 5 with dip and bow nets in Cape Fear River;
- (43) Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;
- (44) Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (45) Hertford:
- (a) July 1 to June 30 with traps in Wiccacon Creek;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters, except mill ponds;
- (46) Hoke: December 1 to March 1 with attended gill nets in all inland public waters;
- (47) Hyde:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in Pungo River and tributaries upstream from US 264 bridge, Scranton Creek, and Long Shoal River and tributaries;
- (48) Iredell: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lookout Shoals Reservoir and Lake Norman;
- (49) Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (50) Johnston:

- (a) December 1 to March 1 with gill nets in Cattails Lake, Holts Lake, Holts Pond, and Wendell Lake;
- (b) December 1 to June 5 with dip and bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River, and Swift Creek;
- (51) Jones:
 - (a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;
 - (b) December 1 to June 5 with dip, bow, and attended gill nets in all inland public waters, except the White Oak River and its tributaries;
 - (c) December 1 to June 5 with dip and bow nets in the main run of the White Oak River;
 - (d) March 1 to April 30 with attended gill nets in the main run of the White Oak River;
- (52) Lee:
 - (a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River; and with gill nets in Morris Pond;
 - (b) July 1 to August 31 with seines in Cape Fear River;
 - (c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;
- (53) Lenoir:
 - (a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;
 - (b) December 1 to June 5 with dip, bow, and attended gill nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;
- (54) Lincoln:
 - (a) July 1 to August 31 with seines in all running public waters;
 - (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (55) McDowell:
 - (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
 - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (56) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (57) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (58) Martin: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (59) Mecklenburg:
 - (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps, gigs and spear guns in all public waters except Freedom Park Pond and Hornet's Nest Ponds;
- (60) Montgomery:
 - (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
 - (b) July 1 to June 30 with traps and gigs in all public waters;
- (61) Moore:
 - (a) December 1 to April 15 with gill nets in Deep River and all tributaries;
 - (b) July 1 to August 31 with seines in all running public waters except in Deep River;
 - (c) July 1 to June 30 with gigs in all public waters, except lakes located on the Sandhills Game Land; and with traps in Deep River and its tributaries;
- (62) Nash:
 - (a) December 1 to March 1 with gill nets in Boddies Pond and Camp Charles Lake;
 - (b) July 1 to June 30 with gigs in all public waters, except Tar River;
 - (c) December 1 to June 5 with dip and bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;
- (63) New Hanover: December 1 to June 5 with dip, bow, and attended gill nets in all inland public waters, except Sutton (Catfish) Lake;
- (64) Northampton:
 - (a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;
 - (b) December 1 to June 5 with dip and bow nets in Occaneechee Creek, Old River Landing Gut; and with dip, bow and gill nets in Vaughans Creek below Watsons Mill;
 - (c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (65) Onslow:
 - (a) July 1 to June 30 with traps in White Oak River below US 17 bridge;
 - (b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;
 - (c) December 1 to March 1 with attended gill nets in Catherine Lake and Baysden Pond;
 - (d) December 1 to June 5 with dip, bow, and attended gill nets in the main run of New River; and with dip and bow nets in the main run of the White Oak River;
 - (e) March 1 to April 30 with attended gill nets in the main run of the White Oak River; and with dip, bow and attended gill nets in Grant's Creek;

- (66) Orange:
- (a) July 1 to August 31 with seines in Haw River;
 - (b) July 1 to June 30 with gigs in all public waters;
- (67) Pamlico: December 1 to June 5 with dip, bow and attended gill nets in all inland public waters;
- (68) Pasquotank:
- (a) July 1 to June 30 with traps in all inland waters;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (69) Pender:
- (a) December 1 to June 5 with dip, bow, and attended gill nets in the Northeast Cape Fear River and Long Creek; with dip and bow nets in Black River; and with seines in the main run of Northeast Cape Fear River;
 - (b) December 1 to May 1 with attended gill nets in Black River; and with dip, bow, and attended gill nets in Moore's Creek approximately one mile upstream to New Moon Fishing Camp;
- (70) Perquimans:
- (a) July 1 to June 30 with traps in all inland waters;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; and with attended gill nets in all inland public waters;
- (71) Person:
- (a) July 1 to August 31 with seines in Hyco Creek and Mayo Creek;
 - (b) July 1 to June 30 with gigs in all public waters.
- (72) Pitt:
- (a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;
 - (b) December 1 to June 5 with dip, bow and attended drift gill nets and with seines in Tar River; and with dip, bow and attended gill nets in all other inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River;
- (73) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (74) Randolph:
- (a) December 1 to March 1 with gill nets in Deep River and Uwharrie River;
 - (b) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;
 - (c) July 1 to June 30 with gigs in all public waters;
- (75) Richmond:
- (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
 - (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;
- (c) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the mouth of Cartledge Creek;
- (76) Robeson: December 1 to March 1 with attended gill nets and gigs in all inland public waters;
- (77) Rockingham:
- (a) July 1 to August 31 with seines in Dan River and Haw River;
 - (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;
- (78) Rowan:
- (a) July 1 to August 31 with seines in all running public waters,
 - (b) July 1 to June 30 with traps and gigs in all public waters;
- (79) Rutherford:
- (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
 - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (80) Sampson:
- (a) December 1 to March 1 with attended gill nets in all inland public waters;
 - (b) December 1 to May 1 with attended gill nets in Big Coharie Creek, Black River, and Six Runs Creek;
 - (c) May 2 to June 5 with attended gill nets of no less than five and one-half inch stretch measure in Big Coharie Creek, Black River, and Six Runs Creek;
 - (d) December 1 to June 5 with dip and bow nets in Big Coharie Creek, Black River, and Six Runs Creek;
- (81) Scotland: December 1 to March 1 with attended gill nets in all inland public waters, except lakes located on the Sandhills Game Land;
- (82) Stanly:
- (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
 - (b) July 1 to June 30 with traps and gigs in all public waters;
- (83) Stokes: July 1 to June 30 with traps and gigs in all public waters, except designated public mountain trout waters, and traps may not be used in Belews Creek Reservoir;
- (84) Surry: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; and with traps in the main stem of Yadkin River;
- (85) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout

- waters;
- (86) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (87) Tyrrell:
- (a) July 1 to June 30 with traps in Scuppernong River, Alligator Creek, and the drainage canals of Lake Phelps except Bee Tree Canal within 50 yards of the Lake Phelps fish ladder;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, Bee Tree Canal within 50 yards of the Lake Phelps fish ladder, public lakes, ponds and other impounded waters; and with attended gill nets in Alligator Creek;
- (88) Union:
- (a) July 1 to August 31 with seines in all running public waters,
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (89) Vance:
- (a) December 1 to March 1 with gill nets in Southerlands Pond and Ellis Pond;
- (b) July 1 to August 31 with seines in the Tar River;
- (c) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;
- (d) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
- (e) July 1 to June 30 with cast nets in all public waters;
- (90) Wake:
- (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;
- (b) December 1 to June 5 with dip and bow nets in the Neuse River below Milburnie Dam, and Swift Creek below Lake Benson Dam;
- (91) Warren:
- (a) July 1 to August 31 with seines in Fishing Creek, Shocco Creek, and Walker Creek; excluding Duck and Hammes Mill Ponds;
- (b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill Ponds, Kerr Reservoir, and Gaston Reservoir;
- (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir and Gaston Reservoir;
- (d) July 1 to June 30 with cast nets in all public waters;
- (92) Washington:
- (a) July 1 to June 30 with traps in the drainage canals of Lake Phelps;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impoundments; and with attended gill nets in Conaby Creek;

- (93) Wayne:
- (a) December 1 to March 1 with gill nets in Sasser's Mill Pond and Sleepy Creek Lake;
- (b) December 1 to June 5 with dip and bow nets in Little River, Mill Creek, and Neuse River, except from Quaker Neck Dam downstream to SR 1008 (Tolar) bridge;
- (94) Wilkes: July 1 to June 30 with traps in Yadkin River below W. Kerr Scott Reservoir; and with gigs and spear guns in all public waters, except designated public mountain trout waters;
- (95) Wilson:
- (a) July 1 to June 30 with gigs in Contentnea Creek (except Buckhorn Reservoir), including unnamed tributaries between Flowers Mill and SR 1163 (Deans) bridge;
- (b) December 1 to June 5 with dip and bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam;
- (c) January 1 to March 1 with gill nets in Silver Lake;
- (96) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

Statutory Authority G.S. 113-134; 113-276; 113-292.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule cited as 15A NCAC 10D .0003. (Note: All pending changes (9:24 NCR 2120-2127, March 15, 1995, & 10:4 NCR 250-254, May 15, 1995, - Volume 9, Issue 24, Pages 2120-2127, & Volume 10, Issue 4, Pages 250-254) are shown in italics, new changes are in standard font.)

Proposed Effective Date: September 1, 1995.

A Public Hearing will be conducted at 10:00 a.m. on June 30, 1995 at the Archdale Building, Room 332, 512 N. Salisbury Street, Raleigh, NC 27604.

Reason for Proposed Action: To promote safety on S. Shore Falls Lake Trail by banning the use of all wheeled vehicles except for wheelchairs by handicapped persons.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from June 16, 1995 through July 17, 1995. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

Fiscal Note: *This Rule does not affect the expenditures or revenues of local government or state funds.*

SUBCHAPTER 10D - GAME LANDS REGULATIONS

.0003 HUNTING ON GAME LANDS

(a) **Safety Requirements.** No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with special restrictions regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) **Traffic Requirements.** No person shall park a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) **Tree Stands.** It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) **Time and Manner of Taking.** Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys may not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment.

No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated.

No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods.

No live wild animals or wild birds shall be removed from any game land.

(e) **Hunting Dates:** For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(C).

(1) Doves may be taken on the following game

(2)

lands and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season:

Guilford County--Guilford County Farm Game Land

Lenoir County--Caswell Farm Game Land

Any game may be taken during the open seasons on the following game lands and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. In addition, deer may be taken with bow and arrow on the opening day of the bow and arrow season for deer. Special hunts on other days may also be set up for participants in the Disabled Sportsman Program. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays. Additional restrictions apply as indicated in parentheses following specific designations:

Ashe County--Carson Woods Game Land

Bladen County--Bladen Lakes State Forest Game Lands (Handguns may not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire may not be used or possessed. On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting. Deer of either sex may be taken Mondays, Wednesdays, and Saturdays from the first Wednesday after Thanksgiving through the following Wednesday. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program. Wild turkey hunting is by permit only.)

Caswell County--Caswell Game Land--(Deer of either sex may also be taken the Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.)

Catawba and Iredell Counties--Catawba Game Land (No deer may be taken from the tract known as Island Point and deer may be taken with bow and arrow only from the tract known as Molly's backbone.)

Onslow County--White Oak River Impoundment Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.)

Pender County--Holly Shelter Game Land (In addition to the dates above indicated, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons. Deer of either

sex may be taken on Mondays, Wednesdays, and Saturdays from the first Wednesday after Thanksgiving through the fourth Saturday after Thanksgiving.) Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program.)

Richmond, Scotland and Moore Counties--Sandhills Game Land (The regular gun season for deer consists of the open hunting dates from the second Monday before Thanksgiving to the third Saturday after Thanksgiving except on the field trial grounds where the gun season is from the second Monday before Thanksgiving to the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting dates during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on Monday, Wednesday and Saturday of the second week before Thanksgiving week, and during the regular gun season. Either sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in this Paragraph for participants in the Disabled Sportsman Program. Except for the deer seasons above indicated and the managed either-sex permit hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31. In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons. Wild turkey hunting is by permit only. Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.)

Robeson County--Robeson Game Land
Robeson County--Bullard and Branch Hunting Preserve Game Land

Sampson County--Sampson Game Lands

Stokes County--Sauratown Plantation Game Land

Wayne County--Cherry Farm Game Land, the use of centerfire rifles and handguns is prohibited

Yadkin County--Huntsville Community Farms Game Land

- (3) Any game may be taken on the following game lands during the open season, except that:
 - (A) Bears may not be taken on lands designated and posted as bear sanctuaries;
 - (B) Wild boar may not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow

seasons, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries;

- (C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:
 - (i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.
 - (ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries;
- (D) On Croatan, Jordan, and Shearon Harris Game Lands, and posted waterfowl impoundments on Goose Creek Game Lands, waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons. After November 1, on the Pamlico Point, Campbell Creek, and Spring Creek impoundments, located on the Goose Creek Game Lands, a special permit is required for hunting on opening and closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's day;
- (E) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons;
- (F) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk Counties dogs may not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15; October 11;
- (G) On Anson, Chatham, Jordan, New Lake, Pee Dee River, Pungo River, Shearon Harris and Gull Rock Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the third Saturday after Thanksgiving.
- (H) On Butner-Falls of Neuse and Person Game Lands waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons;
- (I) On Alcoa southeast of NC 49, Angola Bay, Butner-Falls of Neuse, Goose Creek, Hofmann

Forest, Sutton Lake and Uwharrie Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Saturday;

- (J) On Croatan and Neuse River Game Lands deer of either sex may be taken from the first Wednesday after Thanksgiving through the following Tuesday;

(K) On Croatan Game Lands in Jones and Craven Counties bear season extends from the second Monday in November to the following Saturday;

(L) ~~(K)~~ Horseback riding is allowed on the Caswell and Thurmond Chatham game lands only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity;

(M) ~~(L)~~ On the posted waterfowl impoundments on the Jordan and Butner-Falls of Neuse game lands a special permit is required for all waterfowl hunting.

(N) ~~(M)~~ Additional restrictions or modifications apply as indicated in parentheses following specific designations:

Alexander and Caldwell Counties--Brushy Mountains Game Lands

Anson County--Anson Game Land

Anson, Montgomery, Richmond and Stanly Counties--Pee Dee River Game Lands (Use of centerfire rifles prohibited in that portion in Anson and Richmond counties N. of US-74.)

Ashe County--Three Top Mountain Game Lands Elk Ridge Game Lands

Ashe County--Cherokee Game Lands

Ashe and Watauga Counties--Elk Knob Game Land

Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey Counties--Pisgah Game Lands (Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 ~~October 11~~ in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.)

Bertie--Bertie County Game Land

Bertie, Halifax and Martin Counties--Roanoke River Wetlands (Hunting is by Permit only. Vehicles are prohibited on roads or trails except those operated on official Commission

business or by permit holders.)

Bertie and Washington Counties--Bachelor Bay Game Lands

Beaufort and Pamlico Counties--Goose Creek Game Land

Brunswick County--Green Swamp Game Land

Burke and Cleveland Counties--South Mountains Game Lands

Caldwell, Watauga and Wilkes Counties--Yadkin Game Land

Carteret, Craven and Jones Counties--Croatan Game Lands

Chatham County--Chatham Game Land

Chatham, Durham, Orange, and Wake Counties--Jordan Game Lands (On areas posted as "archery zones" hunting is limited to bow and arrow. Horseback riding, including all equine species, is prohibited. Target shooting is prohibited.)

Chatham and Wake Counties--Shearon Harris Game Land

Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania Counties--Nantahala Game Lands. Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to the Monday on or nearest October 15, ~~October 11~~. It is unlawful to train dogs or allow dogs to run unleashed on any game land in Graham County between March 1 and the Monday on or nearest October 15, ~~October 11~~.

Chowan County--Chowan Game Land

Cleveland County--Gardner-Webb Game Land

Craven County--Neuse River Game Land

Currituck County--North River Game Land

Currituck County--Northwest River Marsh Game Land

Dare County--Dare Game Land (No hunting on posted parts of bombing range. The use and training of dogs is prohibited from March 1 through June 30.)

Davidson, Davie, Montgomery, Rowan and Stanly Counties--Alcoa Game Land

Davidson County--Linwood Game Land

Davidson, Montgomery and Randolph Counties--Uwharrie Game Land

Duplin and Pender Counties--Angola Bay Game Land

Durham, Granville and Wake Counties--Butner-Falls of Neuse Game Land ~~(On~~

~~that part marked as the Penny Bend Rabbit Research Area no Hunting is prohibited.~~
Land. [Horseback riding, including all equine species, is prohibited. Target shooting is prohibited. The use of wheeled vehicles (except for wheelchairs by handicapped persons) on the South Shore Falls Lake Trail is prohibited.]

Gates County--Chowan Swamp Game Land
Henderson, Polk and Rutherford Counties--Green River Game Lands
Hyde County--Gull Rock Game Land
Hyde County--Pungo River Game Land
Hyde and Tyrrell Counties--New Lake Game Land
Jones and Onslow Counties--Hofmann Forest Game Land
Lee County--Lee Game Land
McDowell and Rutherford Counties--Dysartsville Game Lands
Moore County--Moore Game Land
New Hanover County--Sutton Lake Game Land
Pender County--Northeast Cape Fear Game Land
Person County--Person Game Land
Transylvania County--Toxaway Game Land (Deer of either sex may be taken with a bow and arrow on the Saturday prior to the first segment of the Western bow and arrow season by participants of the Disabled Sportsman Program.)

Tyrrell and Washington Counties--Lantern Acres Game Land
Vance County--Vance Game Land. (The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract of Vance Game Lands.)
Wilkes County--Thurmond Chatham Game Land (Deer of either sex may be taken with bow and arrow on the Saturday prior to North-western bow and arrow season by participants of the Disabled Sportsman Program.)

- (4) Deer of either sex may be taken on the hunt dates indicated by holders of permits to participate in managed hunts scheduled and conducted in accordance with this Subparagraph on the game lands or portions of game lands included in the following schedule:

Thursday and Friday of the week before Thanksgiving Week:

Sandhills east of US 1

Sandhills west of US 1

Application forms for permits to participate in managed deer hunts on game lands, together with pertinent information and instructions, may be obtained from hunting and fishing license

agents and from the Wildlife Resources Commission. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits are issued by random computer selection, are mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill must tag the deer and report the kill to a wildlife cooperator agent.

- (5) The following game land and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

Bertie, Halifax and Martin Counties--Roanoke River Wetlands

Bertie County--Roanoke River National Wildlife Refuge

Burke County--John's River Waterfowl Refuge

Dare County--Dare Game Lands (Those parts of bombing range posted against hunting)

Davie--Hunting Creek Swamp Waterfowl Refuge

Gaston, Lincoln and Mecklenburg Counties--Cowan's Ford Waterfowl Refuge.

Statutory Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305.

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Wildlife Resources Commission intends to amend rule cited as 15A NCAC 10F .0313.

Proposed Effective Date: October 1, 1995.

A Public Hearing will be conducted at 10:00 a.m. on July 5, 1995 at the Archdale Building, 512 N. Salisbury Street, Room 332, Raleigh, NC 27604.

Reason for Proposed Action: To regulate boat speeds in congested area.

Comment Procedures: Interested persons may present their views either orally or in writing at the hearing. In addition, the record of hearing will be open for receipt of written comments from June 16, 1995 through July 17, 1995. Such written comments must be delivered or mailed to the N.C. Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, NC 27604-1188.

Fiscal Note: This Rule does not affect the expenditures or revenues of local government or state funds.

**SUBCHAPTER 10F - MOTORBOATS AND
WATER SAFETY**

**SECTION .0300 - LOCAL WATER SAFETY
REGULATIONS**

.0313 HYDE COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Hyde County:

- (1) Swan Quarter Canal near the Town of Swan Quarter;
- (2) Carawan Canal;
- (3) The waters within 50 yards of all public boat launching areas providing access to Pamlico Sound;
- (4) Far Creek near the Town of Engelhard;
- (5) Fodrey Canal. That portion of Fodrey Canal beginning at its entrance at the number 3 beacon and extending inland for a distance of 300 ~~yards~~ yards;
- (6) Silver Lake in Okracoke. Harbor-wide.

(b) Speed Limit. No person shall operate a motorboat or vessel at greater than no-wake speed on the regulated areas described in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Hyde County is designated a suitable agency for placement and maintenance of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers.

Statutory Authority G.S. 75A-3; 75A-15.

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNR - Commission for Health Services intends to amend rules cited as 15A NCAC 13B .0101, .0103, .0503, and .1627.

Proposed Effective Date: October 1, 1995.

A Public Hearing will be conducted at 1:30 p.m. on July 11, 1995 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

Reason for Proposed Action: The purpose of the rule amendments is to establish economic incentive for owners and operators of unlined landfills to provide an environmentally sound cap system for unlined landfills at closure. Further, the amendments encourage owner and operator's compliance with closure requirements by providing more than one method by which landfill closure may be accomplished.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written

comments may be presented at the public hearing or submitted to Joan Troy, Solid Waste Section, 401 Oberlin Road, Suite 150, Raleigh, NC 27611-7687. All written comments must be received by July 17, 1995. Persons who wish to speak at the hearing should contact Ms. Troy at (919) 733-0692, extension 342. Persons who call in advance of the hearing will be given priority on the speaker's list. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

Fiscal Note: These Rules do not affect the expenditures or revenues of local government or state funds.

CHAPTER 13 - SOLID WASTE MANAGEMENT

**SUBCHAPTER 13B - SOLID WASTE
MANAGEMENT**

SECTION .0100 - GENERAL PROVISIONS

.0101 DEFINITIONS

The definitions in G.S. 130A-290 and the following definitions shall apply throughout this Subchapter:

- (1) "Airport" means public-use airport open to the public without prior permission and without restrictions within the physical capacities of available facilities.
- (2) "Blood products" means all bulk blood and blood products.
- (3) "Cell" means compacted solid waste completely enveloped by a compacted cover material.
- (4) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water, including groundwaters.
- (5) "Demolition landfill" means a sanitary landfill that

- is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes as approved by the Division.
- (6) "Division" means the Director of the Division of Solid Waste Management or the Director's authorized representative.
- (7) "Explosive gas" means Methane (CH₄).
- (8) "Federal act" means the Resource Conservation and Recovery Act of 1976, P.L. 94-580, as amended.
- (9) "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands, which are inundated by the 100-year flood.
- (10) "Garbage" means all putrescible wastes, including animal offal and carcasses, and recognizable industrial by-products, but excluding sewage and human waste.
- (11) "Hazardous waste" means a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:
 - (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
 - (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (12) "Hazardous waste facility" means a facility for the storage, collection, processing, treatment, recycling, recovery or disposal of hazardous waste.
- (13) "Hazardous waste landfill facility" means any facility or any portion of a facility for disposal of hazardous waste on or in land in accordance with rules promulgated under this article.
- (14) "Incineration" means the process of burning solid, semi-solid or gaseous combustible wastes to an inoffensive gas and a residue containing little or no combustible material.
- (15) "Leachate" means any liquid, including any suspended components in liquid, that has percolated through or drained from solid waste.
- (16) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases which will propagate a flame in air at 25°C and atmospheric pressure.
- (17) "Microbiological wastes" means and includes cultures and stocks of etiologic agents. The term includes cultures of specimens from medical, pathological, pharmaceutical, research, commercial, and industrial laboratories.
- (18) "One-hundred year flood" means a flood that has a 1 percent or less chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.
- (19) "Open burning" means any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed thereto through a stack or chimney, incinerator, or other similar devices.
- (20) "Open dump" means a solid waste disposal site that does not have a permit, or does not comply with the rules set forth in this Subchapter.
- (21) "Pathological wastes" means and includes human tissues, organs, body parts, secretions and excretions, blood and body fluids that are removed during surgery and autopsies; and the carcasses and body parts of all animals that were exposed to pathogens in research, were used in the production of biologicals or in the in vivo testing of pharmaceuticals, or that died of known or suspected infectious disease.
- (22) "Person" means an individual, corporation, company, association, partnership, unit of local government, state agency, federal agency, or other legal entity.
- (23) "Putrescible" means solid waste capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors and gases, such as kitchen wastes, offal and carcasses.
- (24) "Radioactive waste material" means any waste containing radioactive material as defined in G.S. 104E-5(14).
- (25) "Recycling" means the process by which recovered resources are transformed into new products in such a manner that the original products lose their identity.
- (26) "Refuse" means all non-putrescible waste.
- (27) "Regulated Medical Waste" means blood and body fluids in individual containers in volumes greater than 20 ml, microbiological waste, and pathological waste that have not been treated pursuant to Rule .1207 of this Subchapter.
- (28) "Respondent" means the person against whom an administrative penalty has been assessed.
- (29) "Resources recovery" means the process of obtaining material or energy resources from discarded solid waste which no longer has any useful life in its present form and preparing such solid waste for recycling.
- (30) "Runoff" means the portion of precipitation that drains from an area as surface flow.
- (31) "Sanitary landfill" means a facility for disposal of solid waste on land in a sanitary manner in accordance with Article 9 of Chapter 130A and this Subchapter.
- (32) "Sediment" means solid particulate matter both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.
- (33) "Sharps" means and includes needles, syringes, and scalpel blades.

- (34) "Siltation" means sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures and which has been transported from its point of origin within the site land-disturbing activity and which has been deposited, or is in suspension in water.
- (35) "Sludge" means any solid, semisolid or liquid waste generated from a municipal, commercial, institutional, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other such waste having similar characteristics and effect.
- (36) "Solid waste" means any hazardous or nonhazardous garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems, and other material that is either discarded or is being accumulated, stored or treated prior to being discarded, or has served its original intended use and is generally discarded, including solid, liquid, semisolid or contained gaseous material resulting from industrial, institutional, commercial and agricultural operations, and from community activities. The term does not include:
- (a) Fowl and animal fecal waste; or
 - (b) Solid or dissolved material in:
 - (i) domestic sewage and sludges generated by the treatment thereof in sanitary sewage collection, treatment and disposal systems which are designed to discharge effluents to the surface waters;
 - (ii) irrigation return flows; and
 - (iii) wastewater discharges and the sludges incidental thereto and generated by the treatment thereof which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (P.L. 92-500), and permits granted under G.S. 143-215.1 by the Environmental Management Commission; except that any sludges that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580) as amended, shall also be a solid waste for the purposes of this Article; or
 - (c) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes; except that any such oils or other liquid hydrocarbons that meet the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580) as amended, shall also be a solid waste for the purposes of this Article; or
 - (d) Any radioactive material as defined by the North Carolina Radiation Protection Act, G.S. 104E-1 through 104E-23; or
 - (e) Mining refuse covered by the North Carolina Mining Act, G.S. 74-46 through 74-68 and regulated by the North Carolina Mining Commission (as defined under G.S. 143B-290); except that any specific mining waste that meets the criteria for hazardous waste under the Federal Resource Conservation and Recovery Act (P.L. 94-580) as amended, shall also be a solid waste for the purposes of this Article.
- (37) "Solid waste collector" means any person who collects or transports solid waste by whatever means, including but not limited to, highway, rail, and navigable waterway.
- (38) "Solid waste disposal site", or "site" means any place at which solid wastes are disposed of by incineration, sanitary landfill, demolition landfill or any other acceptable method.
- (39) "Solid waste generation" means the act or process of producing solid waste.
- (40) "Solid waste generator" means any person who produces solid waste.
- (41) "Solid waste management" means purposeful, systematic control of the generation, storage, collection, transport, separation, treatment, processing, recycling, recovery and disposal of solid waste.
- (42) "Solid waste management facility" means land, personnel, and equipment used in the management of solid waste.
- (43) "Spoiled food" means any food which has been removed from sale by the United States Department of Agriculture, North Carolina Department of Agriculture, Food and Drug Administration, or any other regulatory agency having jurisdiction in determining that food is unfit for consumption.
- (44) "Steam sterilization" means treatment by steam at high temperatures for sufficient time to render infectious waste non-infectious.
- (45) "Storage" means the containment of solid waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.
- (46) "Transfer facility" means a permanent structure with mechanical equipment used for the collection or compaction of solid waste prior to the transportation of solid waste for final disposal.
- (47) "Treatment and processing facility" means a facility used in the treatment and processing of putrescible solid waste for final disposal or for utilization by reclaiming or recycling.
- (48) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any solid waste so as to neutralize such waste or so as to render such

- waste non-hazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of solid waste so as to render it non-hazardous.
- (49) "Unit of local government" means a county, city, consolidated city-county, sanitary district, or other local political subdivision, authority or agency of local government.
- (50) "Vector" means a carrier, usually an arthropod, that is capable of transmitting a pathogen from one organism to another.
- (51) "Water supply watershed" means an area from which water drains to a point or impoundment, and the water is then used as a source for a public water supply.
- (52) "Water table" means the upper limit of the portion of the ground wholly saturated with water.
- (53) "Working face" means that portion of the land disposal site where solid wastes are discharged, spread, and compacted prior to the placement of cover material.
- (54) "Agricultural Waste" means waste materials produced from the raising of plants and animals, including animal manures, bedding, plant stalks, hulls, and vegetable matter.
- (55) "Backyard Composting" means the on-site composting of yard waste from residential property by the owner or tenant for non-commercial use.
- (56) "Compost" means decomposed, humus-like organic matter, free from pathogens, offensive odors, toxins or materials harmful at the point of end use. Compost is suitable for use as a soil conditioner with varying nutrient values.
- (57) "Composting Pad" means a surface, whether soil or manufactured, where the process of composting takes place, and where raw and finished materials are stored.
- (58) "Compost Facility" means a solid waste facility which utilizes a controlled biological process of degrading non-hazardous solid waste. A facility may include materials processing and hauling equipment; structures to control drainage; and structures to collect and treat leachate; and storage areas for the incoming waste, the final products, and residual materials.
- (59) "Composting" means the controlled decomposition of organic waste by naturally occurring bacteria, yielding a stable, humus-like, pathogen-free final product resulting in volume reduction of 30 - 75 percent.
- (60) "Curing" means the final state of composting, after the majority of the readily metabolized material has been decomposed, in which the compost material stabilizes and dries.
- (61) "Pathogens" means organisms that are capable of producing infection or diseases, often found in waste materials.
- (62) "Silviculture Waste" means waste materials produced from the care and cultivation of forest trees, including bark and woodchips.
- (63) "Soil Group I" means soil group I as defined in 15A NCAC 13B .0807(a)(1)(A) of the Septage Management Rules.
- (64) "Windrow" means an elongated compost pile (typically eight feet wide by ten feet high).
- (65) "Yard Waste" means "Yard Trash" and "Land-clearing Debris" as defined in G.S. 130A-290, including stumps, limbs, leaves, grass, and untreated wood.
- (66) "Residues from Agricultural Products and Processing" means solids, semi-solids or liquid residues from food and beverage processing and handling; silviculture; agriculture; and aquaculture operations that are non-toxic, non-hazardous, and contain no domestic wastewater.
- (67) "Treatment and Processing Waste" means waste that is a residual solid from a wastewater treatment or pretreatment facility.
- (68) "Industrial Process Waste" means any solid, semi-solid, or liquid waste generated by a manufacturing or processing plant which is a result of the manufacturing or processing process. This definition does not include packaging materials associated with such activities.
- (69) "Mulch" means a protective covering of various substances, especially organic, to which no plant food has been added and for which no plant food is claimed. Mulch is generally placed around plants to prevent erosion, compaction, evaporation of moisture, freezing of roots, and weed growth.
- (70) "Soil Scientist" means an individual who is a Certified Professional Soil Scientist or Soil Specialist by American Registry of Certified Professional in Agronomy, Crops, and Soils (ARCPACS) or an individual that demonstrates equivalent experience or education.
- (71) "Foreign Matter" means metals, glass, plastics, rubber, bones, and leather, but does not include sand, grit, rocks or other similar materials.
- (72) "Land clearing waste" means solid waste which is generated solely from land clearing activities such as stumps, trees, limbs, brush, grass, and other naturally occurring vegetative material.
- (73) "Land clearing and inert debris landfill" means a facility for the land disposal of land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.
- (74) "Yard trash" means solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative material.
- (75) "Erosion control measure, structure, or device"

means physical devices constructed, and management practices utilized, to control sedimentation and soil erosion such as silt fences, sediment basins, check dams, channels, swales, energy dissipation pads, seeding, mulching and other similar items.

- (76) "Industrial Solid Waste Landfill" means a facility for the land disposal of "industrial solid waste" as defined in Item (11) of Rule .1602 of this Subchapter, and is not a land application unit, surface impoundment, injection well, or waste pile, as defined under 40 CFR Part 257.

Statutory Authority G.S. 130A-294.

.0103 GENERAL CONDITIONS

(a) All solid waste shall be stored, collected, transported, separated, processed, recycled, recovered, and disposed of in a manner consistent with the requirements of these Rules. The Division of Solid Waste Management is responsible for the enforcement of these Rules.

(b) No radioactive waste material shall be collected and transported, stored, treated, processed, disposed of or reclaimed, except as specifically authorized by a radioactive material license issued by the Division of Radiation Protection, DEHNR.

(c) Solid waste shall be disposed of at a solid waste disposal site in accordance with the Solid Waste Management Act and the Federal Act. Hazardous waste, lead acid batteries, liquid waste, including used oil, regulated medical waste, and any other wastes that may pose a threat to the environment or the public health, as determined by the Division, are prohibited from disposal at a solid waste disposal site.

(d) The Division has developed a "Procedure and Criteria for Waste Determination" which is used to determine whether a waste is:

- (1) hazardous as defined by 15A NCAC 13A, and
- (2) suitable for disposal at a solid waste management facility.

Information required for evaluation includes the identity of the generator, identity of the waste and how it was generated, and laboratory results indicating the chemical constituency of the waste. Copies of "Procedure and Criteria for Waste Determination" may be obtained from and inspected at the Division, P.O. Box 27687, Raleigh, N.C 27611-7687. The waste determination procedure shall be used for:

- (A) Waste which is generated outside the population and geographic area which the solid waste management facility is permitted to serve under .0504(1)(g).
- (B) Waste from a transfer facility other than a facility permitted under these Rules.
- (C) Waste generated by a new generator inside the population and geographic area which the Solid Waste Management Facility is permitted to

serve if the components of the waste cannot be readily determined otherwise.

- (D) Waste generated through a change in industrial process by an existing generator, provided the components of the waste cannot be readily determined otherwise.
- (E) A load of waste which a sanitary landfill operator suspects may contain materials which the facility is not permitted to receive.
- (F) Requests by a generator interested in transporting waste to an identified solid waste management facility for treatment and processing, transfer or disposal.
- (G) All sludges except sludge from water treatment plants.
- (H) Other wastes deemed appropriate by the Division for testing before transporting to a solid waste management facility.

(e) No person shall dispose or cause the disposal of solid waste in or on waters in a manner that results in solid waste's entering waters or being deposited upon lands of the state.

(f) White Goods shall not be disposed of at a solid waste disposal site after January 1, 1991.

(g) By July 1, 1991, all solid waste management facilities owned and operated by or on behalf of a local government, except facilities which will receive no waste after July 1, 1992, shall install scales and weigh all solid waste when it is received at the facility.

(h) By July 1, 1991, each local government operating a permitted solid waste management facility shall initiate a solid waste recycling program which shall be designed to achieve the goal of recycling at least 25 percent of the municipal solid waste stream by January 1, 1993, prior to final disposal or incineration at a solid waste disposal facility.

(i) After January 1, 1998, all active sanitary landfills (except land clearing and inert debris landfills) shall be equipped with liners, leachate collection systems and final cover systems as required in Sections .0500 and .1600 of this Subchapter.

Statutory Authority G.S. 130A-294.

SECTION .0500 - DISPOSAL SITES

.0503 SITING AND DESIGN REQUIREMENTS FOR DISPOSAL SITES

Disposal sites shall comply with the following requirements in order for a permit to be issued:

- (1) A site shall meet the following siting requirements:
 - (a) A site located in a floodplain shall not restrict the flow of the 100-year flood, reduce the temporary water storage capacity of the floodplain or result in washout of solid waste so as to pose a hazard to human life, wildlife or land or

- water resources.
- (b) A site shall be located in consideration of the following:
- (i) a site shall not cause or contribute to the taking of any endangered or threatened species of plants, fish or wildlife;
 - (ii) a site shall not result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 C.F.R. Part 17 which is hereby incorporated by reference including any subsequent amendments and editions. This information is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, 401 Oberlin Road, Raleigh, North Carolina 27605 where copies can be obtained at no cost;
 - (iii) a site shall not damage or destroy an archaeological or historical site; and
 - (iv) a site shall not cause an adverse impact on a state park, recreation or scenic area, or any other lands included in the state nature and historic preserve.
- (c) A new site disposing of putrescible wastes shall not be located within 10,000 feet of an airport runway used by turbojet aircraft or within 5,000 feet of an airport runway used by piston-type aircraft; and
- (d) A site shall have available adequate suitable soils for cover either on-site or from off-site.
- (2) A site shall meet the following design requirements:
- (a) The concentration of explosive gases generated by the site shall not exceed:
 - (i) twenty-five percent of the limit for the gases in site structures (excluding gas control or recovery system components); and
 - (ii) the lower explosive limit for the gases at the property boundary;
 - (b) A site shall not allow uncontrolled public access so as to expose the public to potential health and safety hazards at the disposal site;
 - (c) A site shall meet the following surface water requirements:
 - (i) A site shall not cause a discharge of pollutants into waters of the state that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES), under Section 402 of the Clean Water Act, as ~~amended~~; amended, or that is in violation of standards promulgated under G.S. 143-214.1 and G.S. 143-215;
 - (ii) A site shall not cause a discharge of dredged material or fill material into waters of the state that is in violation of the requirements under Section 404 of the Clean Water Act, as ~~amended; and amended, or that is in violation of any state requirements regulating the discharge of dredged or fill material into waters of the state, including wetlands; and~~
 - (iii) A site shall not cause non-point source pollution of waters of the state that violates assigned water quality ~~standards; standards.~~
- (d) A site shall meet the following ground water requirements:
- ~~(i) New sanitary landfills and lateral expansions of existing landfills, except land clearing and inert debris landfills, must be designed with liners, leachate collection systems, and final cover systems as necessary to comply with ground water standards as established under 15A NCAC 2L. 15A NCAC 2L is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, 401 Oberlin Road, Raleigh, North Carolina 27605, where copies can be obtained at no cost.~~
 - (i) (ii) A site, except for land clearing and inert debris landfills subject to Rule .0564(8)(e) of this Section, shall be designed so that the bottom elevation of solid waste will be a minimum of four feet above the seasonal high water table;
 - (ii) New industrial solid waste landfills, lateral expansions of existing industrial solid waste landfills, and industrial solid waste landfills receiving solid waste on or after January 1, 1998 shall be designed with a composite liner system consisting of two components; the upper component shall consist of a minimum 30-mil flexible membrane liner (FML), and the lower component shall consist of at least a two-foot layer of compacted soil with a hydraulic conductivity of no more than 1×10^{-7} cm/sec. FML components consisting of high density polyethylene (HDPE) shall be at least 60-mil thick. The FML component shall be installed in direct and uniform contact with the compacted soil component.
 - (iii) Applicants may submit an alternative design that will ensure that the ground water standards established under 15A NCAC 2L will not be exceeded in the uppermost aquifer at the compliance boundary established by the Division in accordance with 15A NCAC 2L. An alternative design shall be based upon modeling methods acceptable to the Division, which shall include, at a minimum, the following factors:
 - (A) The hydrogeologic characteristics of the facility and surrounding land;

- (B) The climatic factors of the area; and
- (C) The volume and physical and chemical characteristics of the leachate.
- (iv) Industrial solid waste landfills shall comply with ground water standards established under 15A NCAC 2L at the compliance boundary.
- (e) A site shall not engage in open burning of solid waste;
- (f) A site, except a land clearing and inert debris landfill, shall meet the following buffer requirements:
 - (i) A 50-foot minimum buffer between all property lines and disposal areas;
 - (ii) A 500-foot minimum buffer between private dwellings and wells and disposal areas; and
 - (iii) A 50-foot minimum buffer between streams and rivers and disposal ~~areas; and areas.~~
- (g) Requirements of the Sedimentation Pollution Control Law (15A NCAC 4) shall be met.

Statutory Authority G.S. 130A-294.

SECTION .1600 - REQUIREMENTS FOR MUNICIPAL SOLID WASTE LANDFILL FACILITIES (MSWLFs)

.1627 CLOSURE AND POST-CLOSURE REQUIREMENTS FOR MSWLF FACILITIES

(a) Purpose. This Rule establishes criteria for the closure of all MSWLF units and subsequent requirements for post-closure compliance. The owner or operator is required to develop specific plans for the MSWLF facility under Rule .1629.

(b) Scope.

- (1) Closure. Standards are established for the scheduling and documenting closure of all MSWLF units, and designing the cap system. Construction requirements for the cap system incorporate specific requirements from Rule .1624 of this Section.
- (2) Post-closure. Standards are established for the monitoring and maintenance of the MSWLF unit(s) following closure.

(c) Closure criteria.

- (1) New and existing MSWLF units and lateral expansions shall install a cap system that is designed to minimize infiltration and erosion. The cap system shall be designed and constructed to:
 - (A) Have a permeability less than or equal to the permeability of any base liner system or the in-situ subsoils underlying the landfill, or the permeability specified for the final cover in the effective permit, or a permeability no greater than 1×10^{-5} cm/sec, whichever is less;
 - (B) Minimize infiltration through the closed MSWLF by the use of a low-permeability

barrier that contains a minimum 18 inches of earthen material; and

- (C) Minimize erosion of the cap system and protect the low-permeability barrier from root penetration by use of an erosion layer that contains a minimum of six inches of earthen material that is capable of sustaining native plant growth.
- (2) The Division may approve an alternative cap system if the owner or operator can adequately demonstrate the following:
 - (A) The alternative cap system will achieve an equivalent or greater reduction in infiltration as the low-permeability barrier specified in Subparagraph (1) of this Paragraph; and
 - (B) The erosion layer will provide equivalent or improved protection as the erosion layer specified in Subparagraph (3) of this Paragraph.
- (3) Construction of the cap system for all MSWLF units shall conform to the requirements set forth in Subparagraphs (b)(8), (b)(9) and (b)(15) of Rule .1624 and the following requirements:
 - (A) Post-settlement surface slopes shall be a minimum of five percent and a maximum of 25 percent; and
 - (B) A gas venting or collection system shall be installed below the low-permeability barrier to minimize pressures exerted on the barrier.
- (4) Prior to beginning closure of each MSWLF unit as specified in Subparagraph (5) of this Paragraph, an owner or operator shall notify the Division that a notice of the intent to close the unit has been placed in the operating record.
- (5) The owner or operator shall begin closure activities of each MSWLF unit no later than 30 days after the date on which the MSWLF unit receives the known final receipt of wastes or, if the MSWLF unit has remaining capacity and there is a reasonable likelihood that the MSWLF unit will receive additional wastes, no later than one year after the most recent receipt of wastes. Extensions beyond the one-year deadline for beginning closure may be granted by the Division if the owner or operator demonstrates that the MSWLF unit has the capacity to receive additional wastes and the owner or operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed MSWLF unit.
- (6) The owner or operator of all MSWLF units shall complete closure activities of each MSWLF unit in accordance with the closure plan within 180 days following the beginning of closure as specified in Subparagraph (5) of this Paragraph. Extensions of the closure period may be granted by the Division if the owner or operator demonstrates that closure will, of necessity, take longer

than 180 days and they have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed MSWLF unit.

- (7) Following closure of each MSWLF unit, the owner or operator shall notify the Division that a certification, signed by the project engineer verifying that closure has been completed in accordance with the closure plan, has been placed in the operating record.
- (8) Recordation.
 - (A) Following closure of all MSWLF units, the owner or operator shall record a notation on the deed to the landfill facility property, or some other instrument that is normally examined during title search, and notify the Division that the notation has been recorded and a copy has been placed in the operating record.
 - (B) The notation on the deed shall in perpetuity notify any potential purchaser of the property that:
 - (i) The land has been used as a landfill facility; and
 - (ii) Its use is restricted under the closure plan approved by the Division.
- (9) The owner or operator may request permission from the Division to remove the notation from the deed if all wastes are removed from the facility.
- (10) Existing MSWLF units. The following criteria shall apply to existing MSWLF units not designed and constructed with a base liner system permitted by the Division.
 - (A) The existing MSWLF unit shall cease receiving solid waste on or before January 1, ~~1998~~, 1998, unless the permittee meets all of the requirements in Part (c)(10)(B) of this Rule.
 - (B) The permittee of an existing MSWLF unit who has implemented solid waste reduction and recycling programs which reduced the amount of waste which would have otherwise utilized permitted municipal solid waste disposal capacity may continue to receive solid waste for disposal subject to Division approval of an amended transition plan submitted by January 1, 1996. The permittee shall provide documentation that its waste reduction and recycling programs have resulted in a decrease in the amount of waste disposed in the MSWLF unit. The amended transition plan shall include the following:
 - (i) A program contracted for or provided by the permittee of the municipal solid waste landfill to minimize the amount of household hazardous waste disposed in the landfill. This program shall be implemented within six months of Division

approval and include at a minimum:

- (I) A collection facility to provide for the management of paints and solvents, pesticides, automotive products and household cleaners;
 - (II) A provision for collection to be made available on a monthly basis;
 - (III) An education program to inform the public of the program; and
 - (IV) Information necessary to meet permit requirements for the facility.
- (ii) A cap system design consisting of a compacted clay liner and a geomembrane liner in accordance with Subparagraphs (b)(8) and (b)(9) of Rule .1624 of this Section or a cap of substantially equivalent reduction in infiltration as approved by the Division.
 - (iii) The cap system designed under Subpart (c)(10)(B)(ii) of this Rule shall cover all areas of contiguous waste of the existing MSWLF unit, including areas within the unit where waste was placed prior to October 9, 1991.
 - (iv) The amended transition plan shall propose a design capacity not to exceed the volume of the most recent three years of cumulative solid waste disposal in the landfill. No additional capacity shall be permitted by the Division.
- (C) An amended transition plan submitted under this Section shall be subject to the permitting and public information procedures of Paragraph (c) of Rule .1603.
 - (D) ~~(B)~~ The Division shall schedule closure of the existing MSWLF unit based on its review of the application submitted in accordance with Paragraph (d) of Rule .1617 and reviewed in accordance with Subparagraph Paragraph (d) of Rule .1603.
 - (E) ~~(C)~~ Final contours for the existing MSWLF unit shall be consistent with the capacity requirements necessary to close the unit in accordance with the requirements of this Subparagraph.
- (d) Post-closure criteria.
- (1) Following closure of each MSWLF unit, the owner or operator shall conduct post-closure care. Post-closure care shall be conducted for 30 years, except as provided under Subparagraph (2) of this Paragraph, and consist of at least the following:
 - (A) Maintaining the integrity and effectiveness of any cap system, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the cap

system;

- (B) Maintaining and operating the leachate collection system in accordance with the requirements in Rules .1624 and .1626. The Division may allow the owner or operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment;
 - (C) Monitoring the ground water and surface water in accordance with the requirements of Rules .1631 through .1637 and maintaining the ground-water monitoring system, if applicable; and monitoring the surface water in accordance with the requirements of Rule .0602; and
 - (D) Maintaining and operating the gas monitoring system in accordance with the requirements of Rule .1626 of this Section.
- (2) The length of the post-closure care period may be:
- (A) Decreased by the Division if the owner or operator demonstrates that the reduced period is sufficient to protect human health and the environment and this demonstration is approved by the Division; or
 - (B) Increased by the Division if the Division determines that the lengthened period is necessary to protect human health and the environment.
- (3) Following completion of the post-closure care period for each MSWLF unit, the owner or operator shall notify the Division that a certification, signed by a registered professional engineer, verifying that post-closure care has been completed in accordance with the post-closure plan, has been placed in the operating record.

Statutory Authority G.S. 130A-294.

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNR - Commission for Health Services intends to repeal rules cited as 15A NCAC 13B .0802 - .0814 and adopt rules cited as 15A NCAC 13B .0815 - .0829.

Proposed Effective Date: October 1, 1995.

A Public Hearing will be conducted at 1:30 p.m. on July 11, 1995 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

Reason for Proposed Action: Repeal of existing septage rules and adoption of new rules is necessary to accommodate recent changes in minimum standards for septage disposal specified by U.S. EPA 40 CFR 503. Additionally, the 1992 and 1993 N.C. Legislative Sessions require the

Division to regulate portable toilet waste, certain sludges, grease trap pumpings and commercial and industrial septage.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to Joan Troy, Solid Waste Section, 401 Oberlin Road, Suite 150, Raleigh, NC 27611-7687. All written comments must be received by July 17, 1995. Persons who wish to speak at the hearing should contact Ms. Troy at (919) 733-0692, extension 342. Persons who call in advance of the hearing will be given priority on the speaker's list. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

Fiscal Note: These Rules do not affect the expenditures or revenues of local government or state funds.

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .0800 - SEPTAGE MANAGEMENT

.0802 DEFINITIONS

~~The following definitions shall apply throughout this Section:~~

- ~~(1) "Department" means the Department of Environment, Health, and Natural Resources;~~
- ~~(2) "Place of business" means any store, warehouse, manufacturing establishment, place of amusement or recreation, service station, food handling establishment, or any other place where people work or are served;~~
- ~~(3) "Place of public assembly" means any fairground, auditorium, stadium, church, campground, theater, school, or any other place where people gather or congregate;~~

- ~~(4) "Residence" means any home, hotel, motel, summer camp, labor work camp, mobile home, dwelling unit in a multiple family structure, or any other place where people reside.~~
- ~~(5) "Rock" means the consolidated or partially consolidated mineral matter or aggregate, including bedrock or weathered rock, not exhibiting the properties of soil.~~
- ~~(6) "Septage" means septage as defined in G.S. 130A-290(a)(32).~~
- ~~(7) "Septage management firm" means septage management firm as defined in G.S. 130A-290(a)(33).~~
- ~~(8) "Soil" means the unconsolidated mineral and organic material of the land surface. It consists of sand, silt, and clay minerals and variable amounts of organic materials.~~
- ~~(9) "Soil textural classes" means soil classification based upon size distribution of mineral particles in the fine earth fraction less than two millimeters in diameter. The fine earth fraction includes sand (2.0-0.05 mm in size), silt (0.05 mm-0.002 mm), and clay (less than 0.002 mm in size) particles. The specific textural classes are defined as follows:~~
 - ~~(a) "Sand" means soil material that contains 85 percent or more of sand; the percentage of silt plus 1.5 times the percentage of clay shall not exceed 15;~~
 - ~~(b) "Loamy sand" means soil material that contains at the upper limit 85 to 90 percent sand, and the percentage silt plus 1.5 times the percentage of clay is not less than 15; at the lower limit it contains not less than 70 to 85 percent sand, and the percentage of silt plus twice the percentage of clay does not exceed 30;~~
 - ~~(c) "Sandy loam" means soil material that contains either 20 percent clay or less, and the percentage of silt plus twice the percentage of clay exceeds 30, and contains 52 percent or more sand; or less than 7 percent clay, less than 50 percent silt, and between 43 and 52 percent sand;~~
 - ~~(d) "Loam" means soil material that contains 7 to 27 percent clay, 28 to 50 percent silt, and less than 52 percent sand;~~
 - ~~(e) "Silt loam" means soil material that contains 50 percent or more silt and 12 to 27 percent clay; or contains 50 to 80 percent silt and less than 12 percent clay;~~
 - ~~(f) "Silt" means soil material that contains 80 percent or more silt and less than 12 percent clay;~~
 - ~~(g) "Sandy clay loam" means soil material that contains 20 to 35 percent clay, less than 28 percent silt, and 45 percent or more sand;~~
 - ~~(h) "Clay loam" means soil material that contains 27 to 40 percent clay and 20 to 45 percent sand;~~
 - ~~(i) "Silty clay loam" means soil material that con-~~

tains 27 to 40 percent clay and less than 20 percent sand;

- ~~(j) "Sandy clay" means soil material that contains 35 percent or more clay and 45 percent or more sand;~~
- ~~(k) "Silty clay" means soil material that contains 40 percent or more clay and 40 percent or more silt;~~
- ~~(l) "Clay" means soil material that contains 40 percent or more clay, less than 45 percent sand, and less than 40 percent silt.~~

Statutory Authority G.S. 130A-291.1.

.0803 SEPTAGE MANAGEMENT FIRM PERMITS

- ~~(a) No septage management firm shall commence or continue operation on or after July 1, 1989 unless the firm has a permit issued by the Department.~~
- ~~(b) If a county or health district in which a septage management firm operates has adopted an ordinance that establishes standards for septage management, the septage management firm must meet those standards until January 1, 1991.~~
- ~~(c) To apply for a permit, a septage management firm shall submit the following information to the Department:~~
 - ~~(1) the owner's name, address and phone number;~~
 - ~~(2) the business name, address and phone number;~~
 - ~~(3) the number and capacity of pumper trucks;~~
 - ~~(4) the type of pumping equipment used;~~
 - ~~(5) vehicle license and serial numbers;~~
 - ~~(6) the hazardous waste hauler number, if applicable;~~
 - ~~(7) the counties in which the firm operates;~~
 - ~~(8) the disposal method for septage;~~
 - ~~(9) the location of all septage disposal sites;~~
 - ~~(10) the disposal method for washings from the interior of septage hauling containers; and~~
 - ~~(11) the location of the disposal site for washings from the interior of septage hauling containers.~~

Statutory Authority G.S. 130A-291.1.

.0804 FEES

- ~~Every septage management firm shall pay an annual fee by January 1 of each year in accordance with G.S. 130A-291.1(e). Fees shall be paid to the Division's Septage Management Program.~~

Statutory Authority G.S. 130-291.1.

.0805 SEPTAGE DISPOSAL SITE PERMITS

- ~~(a) No septage disposal site shall be used for the disposal of septage unless the site is permitted by the Department.~~
- ~~(b) All septage disposal sites in operation on January 1, 1989 are deemed permitted until January 1, 1991, under the following conditions:~~
 - ~~(1) if a county has an ordinance that established~~

standards for septage disposal sites, a site shall meet those standards; and

(2) this site is operated in such a manner that a public health hazard is not created.

(3) To continue disposal of septage on a site on or after January 1, 1991, the owner or the person in control of the site shall have applied for and received a permit from the Department.

(c) To commence disposal of septage on a site not in operation on January 1, 1989, operator of the site shall have applied for and received a permit from the Department.

(d) To apply for a permit for a septage disposal site, operator of the site shall submit the following information to the Department:

- (1) the location of the site;
- (2) the name, address, and phone number of the owner or person in control of the site;
- (3) the size of the site;
- (4) the estimated annual application of septage in gallons;
- (5) the uses of the site for other than septage disposal;
- (6) the substances other than septage previously disposed of at this location, and the amounts of other substances;
- (7) the method of storage or disposal of septage during adverse weather conditions;
- (8) the method of incorporation, and any pretreatment methods, used for septage disposal;
- (9) the equipment used at the site;
- (10) a written report that documents compliance with Rules .0907 through .0911 of this Section; and
- (11) other pertinent information.

(e) If a special investigation shows that site management practices can be utilized to overcome the site restrictions in .0907 (a)(2)(B), a permit may be issued under the following conditions:

- (1) The site shall be maintained and operated in a manner which will protect the assigned water quality standards of the surface waters and ground waters;
- (2) Water table monitoring wells shall be installed, maintained and monitored by the site operator at locations approved by the Department. The well identification number, date of measurement and sampling, and depth to the seasonally high water table shall be recorded in a monitoring well log. Minimum depths to the seasonally high water table, the monitoring and sampling frequencies, or any other required data, will be specified on the Permit to Operate a Septage Disposal Site;
- (3) In the event that the water table monitoring program is not conducted according to the permit requirements, the operator shall cease applying septage to the site. The operator will cease the application of septage if there is evidence of groundwater or surface water contami-

nation.

(f) An annual septage loading rate (gallons per acre per year) will be specified by the Department. The nutrient and metal status of the soils, site hydraulic constraints, nutrient demand of the crop to be grown and the potential environmental impact of the operation will be considered when the annual loading rate is determined.

Statutory Authority G.S. 130A-291.1.

.0806 STANDARDS

The standards in Rules .0907-.0911 shall be met at all septage disposal sites after January 1, 1989, except as required in Rule .0905(b).

Statutory Authority G.S. 130A-291.1.

.0807 LOCATION OF SEPTAGE DISPOSAL SITES

(a) Soil Characteristics (Morphology) The soil characteristics which shall be evaluated are as follows:

(1) Texture The relative proportions of the sand, silt, and clay-sized mineral particles in the fine earth fraction of the soil are referred to as soil texture. The texture of the different horizons of soils shall be classified into three general groups and 12 soil textural classes based upon the relative proportions of sand, silt, and clay-sized mineral particles.

(A) SOIL GROUP I SANDY TEXTURE SOILS: The sandy group includes the sand and loamy sand textural classes.

(B) SOIL GROUP II COARSE LOAMY AND FINE LOAMY TEXTURE SOILS: The coarse loamy and fine loamy group includes sandy loam, loam, silt, silt loam, sandy clay loam, clay loam, and silty clay loam textural classes.

(C) SOIL GROUP III CLAYEY TEXTURE SOILS: The clayey group includes sandy clay, silty clay, and clay textural classes.

(D) The soil textural class shall be determined in the field by hand texturing samples of each soil horizon in the soil profile using the following criteria:

(i) Sand: Sand has a gritty feel, does not stain the fingers, and does not form a ribbon or ball when wet or moist;

(ii) Loamy Sand: Loamy sand has a gritty feel, stains the fingers (silt and clay), forms a weak ball, and cannot be handled without breaking;

(iii) Sandy Loam: Sandy loam has a gritty feel and forms a ball that can be picked up with the fingers and handled with care without breaking;

(iv) Loam: Loam may have a slightly gritty feel but does not show a fingerprint and

forms only short ribbons of from 0.25 inch to 0.50 inch in length. Loam will form a ball that can be handled without breaking;

(v) Silt Loam: Silt loam has a floury feel when moist and will show a finger-print but will not ribbon and forms only a weak ball;

(vi) Silt: Silt has a floury feel when moist and sticky when wet but will not ribbon and forms a ball that will tolerate some handling;

(vii) Sandy Clay Loam: Sandy clay loam has a gritty feel but contains enough clay to form a firm ball and may ribbon to form 0.75 inch to one inch long pieces;

(viii) Silty Clay Loam: Silty clay loam is sticky when moist and will ribbon from one to two inches. Rubbing silty clay loam with the thumbnail produces a moderate sheen. Silty clay loam produces a distinct finger-print;

(ix) Clay Loam: Clay loam is sticky when moist. Clay loam forms a thin ribbon of one to two inches in length and produces a slight sheen when rubbed with the thumbnail. Clay loam produces a nondistinct fingerprint;

(x) Sandy Clay: Sandy clay is plastic, gritty and sticky when moist and forms a firm ball and produces a thin ribbon to over two inches in length;

(xi) Silty Clay: Silty clay is both plastic and sticky when moist and lacks any gritty feeling. Silty clay forms a ball and readily ribbons to over two inches in length;

(xii) Clay: Clay is both sticky and plastic when moist, produces a thin ribbon over two inches in length, produces a high sheen when rubbed with the thumbnail, and forms a strong ball resistant to breaking.

(E) The Department may substitute laboratory determination of the soil textural class as defined in these rules by particle size analysis of the fine earth fraction (less than 2.0 mm in size) using the sand, silt and clay particle sizes as defined in these rules for field testing when conducted in accordance with ASTM (American Society for Testing and Materials) D 422 procedures for sieve and hydrometer analyses which are hereby adopted by reference in accordance with G.S. 150B-14(e). For fine loamy and clayey soils (Groups II and III) the dispersion time shall be increased to 12 hours. Copies may be inspected in and copies obtained from the Department of Environment, Health, and Natural Resources, Division of

Solid Waste Management, P. O. Box 27611 7687, Raleigh, NC 27611 7687.

(2) Wetness Condition:

(A) Soil wetness conditions caused by a seasonal high water table, perched water table, tidal water, or seasonally saturated soils shall be determined by observation of colors of chroma 2 or less (Munsell color chart) in mottles or a solid mass. If drainage modifications have been made, the soil wetness conditions may be determined by direct observation of the water surface during periods of typically high water elevations. However, colors of chroma 2 or less which are relic from minerals of the parent material shall not be considered indicative of a soil wetness condition.

(B) The required depth to a soil wetness condition is determined by the Soil Group Textural Classification.

(i) Soil Group I soils shall be considered suitable where soil wetness conditions are greater than 36 inches below the point of septage application or incorporation.

(ii) Soil Group II soils shall be considered suitable where soil wetness conditions are greater than 24 inches below the point of septage application or incorporation.

(iii) Soil Group III soils shall be considered suitable where soil wetness conditions are greater than 12 inches below the point of septage application or incorporation.

(C) Soils which do not meet the required depths to a soil wetness condition shall be considered unsuitable and septage shall not be applied, unless the required separation distances can be maintained. Water table monitoring wells may be utilized to determine the actual depth to a soil wetness condition.

(3) Depth to Rock: Soil depth shall be considered suitable where depth to rock is greater than 24 inches below the point of septage application or incorporation.

(b) Septage disposal sites shall not be located in the watershed of a Class I or Class II reservoir or in the watershed of the portion of any stream extending from a Class I reservoir to a downstream intake at a water purification plant. This prohibition does not apply to those portions of a water supply reservoir watershed which are drained by Class B or Class C streams. This requirement becomes effective whenever funds have been appropriated either for purchase of land or construction of a Class I or Class II reservoir.

(e) All septage disposal sites shall be located at least the minimum distance specified for the following:

(1) Private residence, place of business, or place of public assembly, under separate ownership 500 feet;

- ~~(2) Potable water supply well or potable water supply spring 500 feet;~~
- ~~(3) Surface waters. Stream classification shall be determined in accordance with 15A NCAC 2B .0300 .0311 Assignment of Stream Classifications, which is hereby adopted by reference in accordance with G.S. 150B-14(e);~~
- ~~(A) Fresh waters:~~
 - ~~(i) Class I, II, and III reservoirs as defined in 15A NCAC 18C .0100 Protection of Private Water Supplies, which is hereby adopted by reference in accordance with G.S. 150B-14(e) 500 feet;~~
 - ~~(ii) Class WS I, Class WS II, or Class WS III streams 300 feet;~~
 - ~~(iii) Class B stream 300 feet;~~
 - ~~(iv) Class C stream 200 feet;~~
 - ~~(v) Other streams and bodies of water 200 feet.~~
- ~~(B) Tidal salt waters:~~
 - ~~(i) Class SA or Class SB 300 feet from mean high water mark;~~
 - ~~(ii) Class SC and other coastal waters 200 feet from mean high water mark.~~
- ~~(C) Supplemental Classifications:~~
 - ~~(i) Trout waters and swamp waters 200 feet;~~
 - ~~(ii) Nutrient sensitive waters and outstanding resource waters 300 feet.~~
- ~~(4) Groundwater lowering ditches and devices 100 feet;~~
- ~~(5) Adjoining property under separate ownership or control 50 feet;~~
- ~~(6) Public road right of ways 100 feet.~~
- ~~(d) All septage disposal sites, at the time of initial septage disposal site permit issuance, shall be located at least the minimum distances specified in Rule .0907(e)(1-5). The septage disposal site shall not be expanded to encroach upon the originally established minimum setback distances.~~
- ~~(e) Septage disposal sites shall not be located where the slope of the land is greater than 12 percent.~~

Statutory Authority G.S. 130A-291.1.

.0808 MANAGEMENT OF SEPTAGE DISPOSAL SITES

Untreated septage shall be disposed of at a wastewater treatment plant, disked, plowed or otherwise incorporated in the soil, or treated by a means to reduce pathogens or further reduce pathogens within 24 hours of removal from a ground absorption sewage disposal system, unless placed in a septage detention system which is part of a permitted disposal site or method.

- ~~(1) Each septage disposal site shall be posted with "NO TRESPASSING" signs. Access roads or paths crossing or leading to the disposal area shall be posted "NO TRESPASSING" and a legible sign of at least two feet by two feet stating~~

"SEPTAGE DISPOSAL AREA" shall be maintained at each entrance to the disposal area.

- ~~(2) Septage shall be applied in such a manner as to have no standing surface collection of liquid 24 hours after application.~~
- ~~(3) No hazardous wastes shall be permitted on the site.~~
- ~~(4) No industrial or solid wastes shall be deposited on the site without prior approval by the Department.~~
- ~~(5) The pH of the soil-septage mixture shall be maintained at 6.5 or greater at all times.~~
- ~~(6) The site will be managed in such a manner as to minimize soil erosion and surface water runoff. Appropriate soil and water management practices shall be implemented and maintained. All water control structures shall be designed, installed, and maintained to control the runoff resulting from a 10-year storm. A written management plan shall be prepared and submitted to the Department for review.~~
- ~~(7) Records and reports will be maintained to show compliance with permit requirements and to assist in proper septage disposal. A log which records the date of pumping, gallons of septage pumped, and location of disposal site will be maintained for each pumping event.~~

Statutory Authority G.S. 130A-291.1.

.0809 SEPTAGE DETENTION SYSTEMS

All septage disposal sites shall provide facilities or have an alternate plan for the detention or disposal of septage during periods when the approved disposal method is not available:

- ~~(1) The use of a septage detention system at a permitted septage disposal site, shall be acceptable only as a temporary storage method during periods of adverse weather conditions;~~
- ~~(2) Septage detention systems which are designed to store septage prior to ultimate disposal in a wastewater treatment plant are not a component of a septage disposal site and shall be located the minimum distance specified from the following:~~
 - ~~(a) Private residence, place of business, or place of public assembly 100 feet;~~
 - ~~(b) Potable water supply well or potable water supply spring 100 feet;~~
 - ~~(c) Surface waters 100 feet;~~
 - ~~(d) Property lines 25 feet.~~
- ~~An enclosed storage system (steel, concrete or fiberglass tanks) shall be used. Septage shall be transferred to and from the storage system in a safe, sanitary manner that prevents leaks or spills of septage.~~
- ~~(3) Each septage detention system shall prevent the flow of septage out of the system and into the seasonally high water table, onto the ground surface or into any of the surface waters of the~~

state;

- ~~—(4) Septage management firms utilizing detention systems shall control odors from such systems; and~~
- ~~—(5) Septage shall be removed from a detention system when an approved means of disposal is available.~~

Statutory Authority G.S. 130A-291.1.

.0810 SOIL TESTING

- ~~—(a) The soil in the disposal area shall be tested annually during the operation of the site for compliance with Paragraphs (c) and (d) of this Rule and the results submitted to the Department. The sample for testing shall be taken in the presence of an authorized representative of the Department.~~
- ~~—(b) Tests shall be performed only by laboratories approved by the Department to test soils.~~
- ~~—(c) The annual application of cadmium shall not exceed 0.5 kg/hectare/yr. as measured from the soil test.~~
- ~~—(d) The pH of the soil in the disposal area shall not fall below 6.5 as measured in the soil test.~~

Statutory Authority G.S. 130A-291.1.

.0811 LAND USE AFTER SEPTAGE DISPOSAL

- ~~—After septage has been applied to a site, the following restrictions shall apply:~~
- ~~—(1) The pH of the septage soil mixture shall be maintained at 6.5 or greater during application and immediately following closure;~~
- ~~—(2) food crops for human consumption or silage crops for dairy animals shall not be grown until 18 months after the last application of septage;~~
- ~~—(3) The grazing of animals grown for meat shall be prohibited for 60 days after the last application of septage;~~
- ~~—(4) Public access is to be controlled until 18 months after the last application of septage;~~
- ~~—(5) The grazing of dairy animals shall be prohibited for three years following the last application of septage;~~
- ~~—(6) Prior to final closure of septage disposal site, the owner or operator of the site shall notify the Department in order that a site inspection may be made to determine compliance with the Section;~~
- ~~—(7) The lifetime addition of cadmium to a soil shall not exceed the following:~~

Soil Cation Exchange Capacity

—	<5 (sands)	5-15 (loams)	>15 (clays)
(Cd content			
lbs/acre	5	9	18

Statutory Authority G.S. 130A-291.1.

.0812 TRANSPORTATION OF SEPTAGE

- ~~—(a) All septage shall be transported in a safe, sanitary manner that prevents leaks or spills of septage.~~
- ~~—(b) An approved septage management firm, possessing a valid septage management firm permit, shall display decals or lettering on each side of every pumper vehicle operated by the firm showing the name, address, phone number, and septage permit number of the septage management firm. All decals or lettering on the pumper vehicle shall be no less than three inches in height and plainly visible. Identification shall be of a permanent nature (ie., no removable signs).~~

Statutory Authority G.S. 130A-291.1.

.0813 REVOCATION OF PERMITS

- ~~—The Department may suspend or revoke permits, including those under Rule .0905(b), in accordance with G.S. 130A-23.~~

Statutory Authority G.S. 130-291.1.

.0814 APPEALS

- ~~—Appeals shall be made in accordance with G.S. 150B.~~

Statutory Authority G.S. 130A-291.1.

.0815 INCORPORATION BY REFERENCE

- (a) All sections of the Code of Federal Regulations (CFR) cited in this Section are hereby incorporated by reference, including subsequent amendments or additions.
- (b) Copies of Federal statutes, test methods and procedures, and other published standards referenced in this Section are hereby incorporated by reference, including subsequent amendments or additions, and may be obtained from the Solid Waste Section at no cost.
- (c) Copies of all material incorporated by reference are available for inspection at the Department of Environment, Health, and Natural Resources, Division of Solid Waste Management, Solid Waste Section, 401 Oberlin Road, Raleigh, N.C. 27605.

Statutory Authority G.S. 130A-291.1.

.0816 DEFINITIONS

As used in this Section:

- (1) "Annual septage application rate" means the maximum amount, in gallons, of septage that can be applied to a unit area of land during a 365 day period.
- (2) "Place of business" means any store, warehouse, manufacturing establishment, place of amusement or recreation, service station, food handling establishment, office, or any other place where people work or are served.
- (3) "Place of public assembly" means any fairground, auditorium, stadium, church, campground, theater, school, or any other place where people

- gather or congregate.
- (4) "Residence" means any habitable home, hotel, motel, summer camp, labor work camp, mobile home, dwelling unit in a multiple-family structure, or any other place where people reside.
- (5) "Rock" means the consolidated or partially consolidated mineral matter or aggregate, including bedrock or weathered rock, not exhibiting the properties of soil.
- (6) "Septage" means septage as defined in G.S. 130A-290(a)(32) and also shall include washings from the interior of septage handling containers, including pumper trucks.
- (7) "Septage Management Facility" means land, personnel, and equipment used in the management of septage, including but not limited to, land application sites.
- (8) "Soil" means the unconsolidated mineral and organic material of the land surface. It consists of sand, silt, and clay minerals and variable amounts of organic materials.
- (9) "Soil textural classes" means soil classification based upon size distribution of mineral particles in the fine-earth fraction less than two millimeters in diameter. The fine-earth fraction includes sand (2.0 - 0.05 mm in size), silt (0.05 mm - 0.002 mm), and clay (less than 0.002 mm in size) particles. The specific textural classes are defined as follows:
- (a) "Sand" means soil material that contains 85 percent or more of sand; the percentage of silt plus 1.5 times the percentage of clay shall not exceed 15;
- (b) "Loamy sand" means soil material that contains at the upper limit 85 to 90 percent sand, and the percentage silt plus 1.5 times the percentage of clay is not less than 15; at the lower limit it contains not less than 70 to 85 percent sand, and the percentage of silt plus twice the percentage of clay does not exceed 30;
- (c) "Sandy loam" means soil material that contains either 20 percent clay or less, and the percentage of silt plus twice the percentage of clay exceeds 30, and contains 52 percent or more sand; or less than 7 percent clay, less than 50 percent silt, and between 43 and 52 percent sand;
- (d) "Loam" means soil material that contains 7 to 27 percent clay, 28 to 50 percent silt, and less than 52 percent sand;
- (e) "Silt loam" means soil material that contains 50 percent or more silt and 12 to 27 percent clay; or contains 50 to 80 percent silt and less than 12 percent clay;
- (f) "Silt" means soil material that contains 80 percent or more silt and less than 12 percent clay;
- (g) "Sandy clay loam" means soil material that contains 20 to 35 percent clay, less than 28 percent silt, and 45 percent or more sand;
- (h) "Clay loam" means soil material that contains 27 to 40 percent clay and 20 to 45 percent sand;
- (i) "Silty clay loam" means soil material that contains 27 to 40 percent clay and less than 20 percent sand;
- (j) "Sandy clay" means soil material that contains 35 percent or more clay and 45 percent or more sand;
- (k) "Silty clay" means soil material that contains 40 percent or more clay and 40 percent or more silt; and
- (l) "Clay" means soil material that contains 40 percent or more clay, less than 45 percent sand, and less than 40 percent silt.
- (10) "Treatment of septage" means the preparation of septage for final use or disposal. Treatment includes, but is not limited to, thickening, stabilization, and dewatering of septage. Treatment does not include storage of septage.
- (11) Definitions in 40 CFR 503.9(d), (g), (h), (j), (k), (l), (r), (t), (u), (v), (w), (bb), and in 40 CFR 503.11(a), (b), (c), (d), (f), (g), (h), (i), (k), (l), (m), (n) are incorporated by reference including subsequent amendments and editions.
- Statutory Authority G.S. 130A-291.1.
- .0817 SEPTAGE MANAGEMENT FIRM PERMITS**
- (a) A permit to operate a Septage Management Firm is required under G.S. 130A-291(c).
- (b) The permit requirement of G.S. 130A-291.1(c) applies to persons who manage septage generated from properties which they own, lease or manage as part of a business, including but not limited to mobile homes, mobile home parks, and other residential and commercial property.
- (c) No person shall manage or dispose of waste from portable toilet(s), regardless of ownership of the toilet(s), unless that person is permitted to operate a septage management firm.
- (d) To apply for a permit, a person proposing to operate a septage management firm shall submit the following information to the Division by January 1 of each year:
- (1) Owner's name, address and phone number;
 - (2) Business name, address and phone number;
 - (3) Type(s) of septage handled;
 - (4) Number of pumper trucks;
 - (5) Capacity and type of septage handled by each pumper truck;
 - (6) Vehicle license and serial numbers of each pumper truck;
 - (7) Counties in which the firm operates;
 - (8) Disposal method(s) for septage;
 - (9) Permit number for each septage land application site to be used;
 - (10) Other technical information pertinent to the

operation of a septage management firm that has significant potential to harm the environment in accordance with this Section:

- (11) Written annual authorization on official letter-head or a notarized wastewater treatment plant authorization form shall be submitted from an individual responsible for the operation of each wastewater treatment plant used for disposal indicating:

- (A) Type(s) of septage which can be discharged at the plant;
- (B) Where septage can be discharged at the plant or in the collection system; and
- (C) Geographic area from which septage will be accepted;

- (12) The appropriate annual permit fee in accordance with G.S. 130A-291.1(e).

(e) A septage management firm permit shall not be issued unless the applicant has submitted to the Division written documentation of authorized access to dispose of septage at a wastewater treatment plant, a permitted septage land application site, or other permitted septage treatment facility. Documentation from each plant, site, or other facility shall include the types and amount of septage which may be discharged.

(f) Septage management firm permits shall not be issued until all parts of the application have been properly completed.

(g) A permit application will not be processed if the applicant has any unsettled administrative penalties, overdue penalty payments, or pump trucks that do not meet the requirements of this Section.

(h) Septage management firm permits are issued for one calendar year, beginning January 1. Permits issued after January 1, shall be effective only until December 31 of that calendar year. Permits are non-transferable.

Statutory Authority G.S. 130A-291.1.

.0818 PERMIT FEES

(a) Every septage management firm shall pay an annual permit fee by January 1 of each year in accordance with G.S. 130A-291.1(e), unless the firm notifies the Division prior to January 1 that the firm will not operate during the next year. Fees shall be paid to the Division of Solid Waste Management, Solid Waste Section, P.O. Box 27687, Raleigh, NC 27611-7687. This fee may be paid by check or money order made payable to the Division of Solid Waste Management.

(b) Failure to apply for permit renewal or failure to pay the permit fee by January 1 shall result in assessment of an administrative penalty pursuant to G.S. 130A-22(a) equal to one-half the fee set forth in G.S. 130A-291.1(e). Failure to pay the fee and the administrative penalty within 45 days after January 1 shall result in an additional administrative penalty of ten dollars (\$10.00) per day for each day thereafter that the fee and penalty are not paid.

(c) Annual permit renewal, including fee payment, shall be the responsibility of the operator of the septage management firm. If the operator did not receive annual permit renewal forms, it shall not be a defense to assessment of late fees.

Statutory Authority G.S. 130A-291.1.

.0819 SEPTAGE LAND APPLICATION SITE PERMITS

(a) Pursuant to G.S. 130A-291(d), it is unlawful to dispose of septage or any part of septage other than in a wastewater treatment system permitted to accept septage under the rules of the Health Services Commission or the Environmental Management Commission; or by land application at a site permitted under the rules of this Section. Disposal of septage by trenching or burial is prohibited under the rules of this Section.

(b) Domestic septage, as defined in G.S. 130A-290, treated to meet the standard for Class A sewage sludge in accordance with the federal regulations for pathogen and vector attraction reduction in 40 CFR Part 503, Subpart D, may be permitted by the Division for application to public contact sites, home lawns and gardens, or to be sold or given away in a bag or other container, provided pollutant limits in 40 CFR 503.13 are not exceeded. Persons who prepare the septage, and persons who derive material from the septage, shall comply with the applicable record keeping requirements in 40 CFR 503.17(a)(1), (2), or (6). All treatment methods and facilities shall also require a permit from the Division under this Section.

(c) No person shall establish, or allow to be established on his land, a septage management facility, or otherwise treat, store, or dispose, by land application or otherwise, septage or any component of septage unless a permit for the facility has been obtained from the Division.

(d) To apply for a permit for a septage land application site, the following information shall be submitted to the Division:

- (1) Location of the site;
- (2) Name, address, and phone number of the owner or the owner's legal representative in control of the site;
- (3) Types of septage (as defined in G.S. 130A-290) and the annual volume of each type of septage proposed for land application;
- (4) Substances other than septage previously disposed of at this location, and the amounts of those substances;
- (5) Proposed distribution plan if required in Paragraph (e) Rule .0821 of this Section;
- (6) Alternative plan for the detention or disposal of septage during adverse weather conditions;
- (7) Treatment method for each type of septage to be discharged and the permit number of any treatment facilities;
- (8) Written authorization to operate a septage dis-

posal site signed by the landowner(s) (if other than the permittee) or his authorized legal representative;

- (9) Nutrient management plan developed in accordance with Subparagraph (a)(13) of Rule .0822 of this Section and approved by the Division;
- (10) Erosion and runoff control plan approved by the Division;
- (11) A written report that documents compliance with Rule .0821 of this Section prepared by a Soil Scientist, or an individual with at least three years experience in the comprehensive evaluation of soils for the land application of septage;
- (12) Aerial photography extending for a distance of at least 2500 feet in all directions from the site, with site property boundaries accurately depicted. Photograph scale shall be 1" = 400 feet or greater if available, but in no case less than 1" = 660 feet;
- (13) A background soil analysis of each field indicating soil class, cation exchange capacity, percent base saturation, acidity, pH, and levels of potassium, phosphorus, calcium, zinc, and copper;
- (14) Vicinity map (county road map) showing the site location;
- (15) Demonstration from the appropriate State or Federal Government agency that the land application site complies with Paragraph (g) of Rule .0821 of this Section if any part of the site specified for land application is not agricultural land;
- (16) Other technical information pertinent to the suitability of the proposed site that has significant potential to harm the environment as requested by the Division; and
- (17) An applicant who proposes to land apply septage, as defined in G.S. 130A-290, in excess of 50,000 gallons per acre per year or on a public contact site, shall provide the Division evidence of adequate public notice. Permits shall not be issued prior to the end of the public notice period.

(e) Applications shall be submitted to the Division of Solid Waste Management, Solid Waste Section, P.O. Box 27687, Raleigh, NC 27611-7687. Applications for permits will not be reviewed until all parts of the application have been properly completed and submitted to the Division.

(f) Applications for sites or treatment methods which do not meet the standards in accordance with this Section shall be denied.

(g) Applications for subsequent permits shall be submitted to the Division at least 90 days prior to the expiration date of the permit. The Division will notify permittees of site permit expiration dates 120 days prior to permit expiration.

(h) Applications for permit modifications shall be required for the following changes:

- (1) Permit holder;

- (2) Property ownership;
- (3) Annual application rates; and
- (4) Types of septage discharged.

(i) Applications for subsequent permits submitted in accordance with Paragraph (f) of this Rule and applications for permit modifications may not be required to resubmit the information required in Subparagraphs (c) (11), (12), (14), (15) and (c) (9), (10) of this Rule, unless changes are made in those plans.

(j) Septage land application site permits are transferable if modified in accordance with Paragraph (g) of this Rule.

(k) Issuance of a permit does not relieve the permittee of the responsibility of obtaining applicable zoning approvals prior to operation of the site.

Statutory Authority G.S. 130A-291.1.

.0820 SEPTAGE DETENTION AND TREATMENT FACILITY PERMITS

(a) No person shall establish, or allow to be established on his land, a septage detention facility, or otherwise treat, store, or dispose of septage unless a permit for the facility has been obtained from the Division.

(b) Septage detention and treatment facilities shall be designed, located, constructed, and operated in accordance with the standards specified in Rule .0825 of this Section.

(c) Septage detention and treatment facilities in use prior to the effective date of this Section shall be deemed permitted if they meet the setbacks specified in Item (10)(a) through (e) of Rule .0825 of this Section and if properly completed applications for those permits are submitted to the Division within 60 days of the effective date of this Section.

(d) To apply for a permit for a septage detention or treatment facility the applicant shall submit the following information to the Division:

- (1) Location of the facility;
- (2) Name, address, and phone number of the owner or the owner's legal representative in control of the site;
- (3) Types of septage to be stored or treated;
- (4) A description of the facility including the size, number, and type of structures to be used at the site and construction materials to be used;
- (5) An explanation of the methods for discharge into and removal from the detention or treatment facility, the methods for treating leaks or spills at the site, and methods for odor control;
- (6) Septage disposal site permit number or the name of the wastewater treatment plant where the septage will be disposed;
- (7) An aerial photograph, extending for a distance of at least 1000 feet in all directions from the site property lines, scale 1" = 400 feet or greater if available, but in no case less than 1" = 660 feet, with site property boundaries accurately depicted;
- (8) Written authorization to operate a septage deten-

tion or treatment facility signed by the land-owner (if other than the permittee) or his legal representative; and

- (9) Other technical information pertinent to the suitability of the proposed facility that has significant potential to harm the environment as requested by the Division.

(e) Plans for treatment facilities which are not above ground or are designed for purposes other than lime stabilization, screening, or grease separation prior to discharge to a municipal waste water treatment system shall bear the seal of a Professional Engineer licensed to practice in the State of North Carolina.

(f) Applications shall be submitted in accordance with Paragraph (d) of Rule .0819 of this Section.

(g) Applications for subsequent permits shall be made at least 90 days prior to the expiration date of the permit. The Division will notify permittees of facility permit expiration dates 120 days prior to permit expiration.

(h) Applications for permit modifications shall be required for changes in:

- (1) Permit holder;
- (2) Property ownership;
- (3) Treatment methods;
- (4) Types of septage to be stored or treated; and
- (5) Size and number of treatment or storage structures.

(i) Septage land application site permits are transferable if modified in accordance with Paragraph (h) of this Rule.

(j) Applications for facilities which do not meet the standards set forth in this Section shall be denied.

(k) Septage detention or treatment facility permits are transferable if modified in accordance with Paragraph (g) of this Rule.

(l) Issuance of a permit does not relieve the permittee of the responsibility of obtaining applicable zoning approvals prior to operation of the facility.

Statutory Authority G.S. 130A-291.1.

.0821 LOCATION OF SEPTAGE LAND APPLICATION SITES

(a) Soil characteristics (Morphology) which shall be evaluated are as follows:

- (1) Texture - The relative proportions of the sand, silt, and clay sized mineral particles in the fine-earth fraction of the soil are referred to as soil texture. The texture of the different horizons of soils shall be classified into three general groups and 12 soil textural classes based upon the relative proportions of sand, silt, and clay sized mineral particles.

(A) **SOIL GROUP I - SANDY TEXTURE SOILS:** The sandy group includes the sand and loamy sand textural classes.

(B) **SOIL GROUP II - COARSE LOAMY AND FINE LOAMY TEXTURE SOILS:** The

coarse loamy and fine loamy group includes sandy loam, loam, silt, silt loam, sandy clay loam, clay loam, and silty clay loam textural classes.

(C) **SOIL GROUP III - CLAYEY TEXTURE SOILS:** The clayey group includes sandy clay, silty clay, and clay textural classes.

(D) The soil textural class shall be determined in the field by hand texturing samples of each soil horizon in the soil profile using the following criteria:

(i) **Sand:** Sand has a gritty feel, does not stain the fingers, and does not form a ribbon or ball when wet or moist;

(ii) **Loamy Sand:** Loamy sand has a gritty feel, stains the fingers, forms a weak ball, and cannot be handled without breaking;

(iii) **Sandy Loam:** Sandy loam has a gritty feel and forms a ball that can be picked up with the fingers and handled with care without breaking;

(iv) **Loam:** Loam may have a slightly gritty feel but does not show a fingerprint and forms only short ribbons of from 0.25 inch to 0.50 inch in length. Loam will form a ball that can be handled without breaking;

(v) **Silt Loam:** Silt loam has a floury feel when moist and will show a fingerprint but will not ribbon and forms only a weak ball;

(vi) **Silt:** Silt has a floury feel when moist and sticky when wet but will not ribbon and forms a ball that will tolerate some handling;

(vii) **Sandy Clay Loam:** Sandy clay loam has a gritty feel but contains enough clay to form a firm ball and may ribbon to form 0.75-inch to one-inch long pieces;

(viii) **Silty Clay Loam:** Silty clay loam is sticky when moist and will ribbon from one to two inches. Rubbing silty clay loam with the thumbnail produces a moderate sheen. Silty clay loam produces a distinct fingerprint;

(ix) **Clay Loam:** Clay loam is sticky when moist. Clay loam forms a thin ribbon of one to two inches in length and produces a slight sheen when rubbed with the thumbnail. Clay loam produces a nondistinct fingerprint;

(x) **Sandy Clay:** Sandy clay is plastic, gritty and sticky when moist and forms a firm ball and produces a thin ribbon to over two inches in length;

(xi) **Silty Clay:** Silty clay is both plastic and sticky when moist and lacks any gritty

feeling. Silty clay forms a firm ball and readily ribbons to over two inches in length;

- (xii) Clay: Clay is both sticky and plastic when moist, produces a thin ribbon over two inches in length, produces a high sheen when rubbed with the thumbnail, and forms a strong ball resistant to breaking.

(E) The Division may substitute laboratory determination of the soil textural class as defined in this Section by particle-size analysis of the fine-earth fraction (less than 2.0 mm in size) using the sand, silt and clay particle sizes as defined in this Section for field testing when conducted in accordance with ASTM (American Society for Testing and Materials) D-422 procedures for sieve and hydrometer analysis. For fine loamy and clayey soils (Groups II and III) the dispersion time shall be increased to 12 hours.

(2) Wetness Condition:

(A) Soil wetness conditions caused by a seasonal high-water table, perched water table, tidal water, or seasonally saturated soils shall be determined by observation of common soil mottles of colors of chroma 2 or less, using the Munsell color chart, in mottles or a solid mass. If drainage modifications have been made, the soil wetness conditions may be determined by direct observation of the water surface in monitoring wells during periods of typically high water elevations. However, colors of chroma 2 or less which are relic from minerals of the parent material shall not be considered indicative of a soil wetness condition.

(B) Soils which do not meet the required depths to a soil wetness condition shall be considered unsuitable and septage shall not be applied, unless the required separation distances can be maintained. Water table monitoring wells may be utilized to determine the actual depth to a soil wetness condition. The Division may limit discharges to certain months where soil wetness conditions are marginal for use.

(C) The required depth to a soil wetness condition is determined by the Soil Group Textural Classification.

- (i) Soil Group I soils shall be considered suitable where soil wetness conditions are deeper than 36 inches below the point of septage application or incorporation.
- (ii) Soil Group II soils shall be considered suitable where soil wetness conditions are deeper than 24 inches below the point of septage application or incorporation.
- (iii) Soil Group III soils shall be considered

suitable where soil wetness conditions are deeper than 18 inches below the point of septage application or incorporation.

- (3) Depth to rock: soil depth shall be considered suitable where depth to rock is deeper than 24 inches below the point of septage application or incorporation or deeper than 18 inches if the septage is pretreated to accomplish pathogen reduction and surface applied over vegetation.

- (4) Mine reclamation sites will be considered on a case by case basis.

(b) Septage land application sites shall not be located in the watershed of a Class WS-I stream. New septage land application sites shall not be located in the water quality critical area of Class WS-II, WS-III, or WS-IV streams or reservoirs. This prohibition does not apply to those portions of a water supply watershed which are drained by Class B or Class C streams.

(c) Setbacks. At the time of initial permitting, septage land application sites shall observe the minimum setback distances specified in this Rule. Minimum setbacks shall be maintained throughout the life of the site on land owned, operated or controlled by the permittee or by the landowner(s) at the time of initial permitting. Any sale, lease or other conveyance of land by the permittee, or by the landowner(s) if different from the permittee, subsequent to the initial permitting of the site shall include restrictions to ensure continued maintenance of the setbacks. Failure to maintain required setbacks shall result in immediate permit revocation.

(d) All septage disposal sites shall be located at least the minimum distance specified for the following:

- (1) Residence not occupied by the applicant - 500 feet, residence occupied by the applicant 100 - feet;
- (2) Place of business, other than the septage management firm office, or place of public assembly - 500 feet;
- (3) Well or spring - 500 feet;
- (4) Surface waters. Stream classification shall be determined in accordance with 15A NCAC 2B .0301 through .0311 Assignment of Stream Classifications.

(A) Fresh waters:

- (i) Class WS-I, Class WS-II, or Class WS-III streams - 300 feet;
- (ii) Class B stream - 300 feet;
- (iii) Class C stream - 200 feet;
- (iv) Other streams and bodies of water - 200 feet.

(B) Tidal salt waters:

- (i) Class SA or Class SB - 300 feet from mean high water mark;
- (ii) Class SC and other coastal waters - 200 feet from mean high water mark.

(C) Supplemental classifications:

- (i) Trout waters and swamp waters - 200 feet;

(ii) Nutrient sensitive waters and outstanding resource waters - 300 feet;

- (5) Groundwater lowering ditches and devices - 100 feet;
- (6) Adjoining property under separate ownership or control - 50 feet;
- (7) Public road right of ways - 100 feet;
- (8) Food crops - 50 feet;
- (9) Wetlands - 50 feet;
- (10) Setbacks in Subparagraphs (d)(3), (4), and (5) of this Rule may be reduced 50 percent when septage is pretreated to accomplish pathogen reduction and land within the setback area is in permanent, established grass with at least 95 percent cover or is in forest with a continuous canopy and a 95 percent forest litter cover.

(e) Septage disposal sites less than five acres in size, individual fields of a site less than two acres in size, and sites with complex soil patterns or unusual shapes will be permitted only if the applicant demonstrates to the Division that the site can be properly managed for crop production and that septage can be evenly distributed over the site.

(f) Septage disposal sites shall not be located where the slope of the land is greater than 12 percent unless all of the conditions of this Paragraph are met.

- (1) The site is in permanent, established grass with at least 95 percent cover or is in forest with a continuous canopy and a 95 percent forest litter cover.
- (2) Written plans are submitted to the Division by a person with a demonstrated knowledge of erosion and runoff control practices, indicating:
 - (A) Management practices and discharge methods which will be used to reduce the potential for run-off from the site and assure even septage distribution over the site; and
 - (B) Location of potential surface water monitoring devices upslope and downslope from the area proposed to be permitted and identification of sampling methods. Monitoring may be required.
- (3) Setbacks will be increased and application rates decreased as appropriate to protect any nearby surface waters.
- (4) No site shall be permitted with slopes in excess of 25 percent.
- (5) Permits shall be issued for a maximum of 12 months, unless otherwise approved by the Division.

(g) A new septage disposal site shall not jeopardize the continued existence of threatened or endangered species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973. Agricultural land shall not be considered potential habitat.

.0822 MANAGEMENT OF SEPTAGE LAND APPLICATION SITES

(a) General. Paragraph (g) of this Rule also applies to septage detention and treatment facilities.

- (1) Only domestic septage, as defined in G.S. 130A-290, shall be land applied or otherwise placed on a septage land application site, unless specified in the permit.
- (2) Each site shall be posted with "NO TRESPASSING" signs. Access roads or paths crossing or leading to the disposal area shall be posted "NO TRESPASSING" and a legible sign of at least two feet by two feet stating "SEPTAGE LAND APPLICATION SITE" shall be maintained at each entrance to the land application area.
- (3) Each site shall have an all weather access road.
- (4) No hazardous wastes shall be permitted on the site.
- (5) No site shall be permitted for land application of Industrial or Commercial septage unless the applicant demonstrates to the Division that the strength of the organic and inorganic components of the septage is within the normal range for domestic septage.
- (6) Septage generated from domestic or industrial or commercial wastewater treatment plants shall be land applied only at sites permitted by the Division of Environmental Management for application of domestic or industrial or commercial treatment plant septage, as defined in G.S. 130A-290.
- (7) Septage shall be applied to the surface of the land from a moving vehicle in such a manner as to have no standing liquid or soil disturbance resulting from the waste flow after the discharge is complete.
- (8) Septage shall not be applied to a site if any liquid is ponded on the site or if the site is flooded, frozen, or snow covered.
- (9) Disposal area boundaries shall be clearly marked on the ground while a site or any portion of a site is in use.
- (10) All septage discharges shall be made at a location on the site consistent with the nutrient management plan.
- (11) Grease septage shall be diluted at least 1:1 from its concentration when pumped with domestic septage or water if land applied over perennial vegetation. This dilution shall be increased if crop damage occurs.
- (12) The site shall be managed in such a manner as to minimize soil erosion and surface water runoff. Appropriate soil and water management practices shall be implemented and maintained in accordance with the Division approved erosion and run-off control plan. All water control

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structures shall be designed, installed, and maintained to control the run-off resulting from a 10 year storm.

(13) Each site shall have a nutrient management plan indicating at least the following:

- (A) Crops that will be planted on the site, including cover crops, and where each crop will be planted. Crop planting locations shall be depicted on an aerial photograph or on a plat map (scale 1" = 660 ft. or larger).
- (B) Nitrogen needs of the crops based on the realistic yield expectations for the soils on the site, and crop management practices proposed.
- (C) Approximate crop planting and harvesting times;
- (D) Approximate monthly discharge rate to match the needs and uptake potential of the crop.

(14) Within 90 days of the effective date of this Section, permittees of septage land application sites permitted on the effective date of this Rule shall submit to the Division for approval nutrient management plans meeting the requirements of Subparagraph (a)(13) of this Rule. A nutrient management plan shall be implemented within 30 days of Division approval, or the site shall cease receipt of septage.

(b) Maximum land application rates for septage shall be included in individual permit conditions, based upon the following:

- (1) Domestic Septage shall be land applied in accordance with 40 CFR Part 503.12(c) and Part 503.13;
- (2) Grease septage shall be land applied at a rate that is equal to or less than the agronomic rate, but in no case shall the application of grease septage exceed 25,000 gallons per acre per year.
- (3) Pollutant limits in 40 CFR Part 503.13 shall not be exceeded for any type septage.
- (4) Sites permitted for the land application of grease septage shall meet the requirements of 40 CFR Part 257.3-5.

(c) Septage treatment standards:

- (1) Domestic septage shall be treated in accordance with the requirements in 40 CFR Part 503 Subpart D (including Appendix A and B) except that 503.33(b)(11) is not incorporated.
- (2) Grease septage and commercial/industrial septage shall be treated in accordance with 40 CFR 257.3-6 or treated by an equivalent or more stringent process in 40 CFR 503 Subpart D.
- (3) Untreated grease septage mixed with domestic septage shall be treated as grease septage.

(d) No one other than the permittee shall land apply septage at a permitted site unless approved in writing by the Division. A written request shall be received from the permittee and written authorization from the landowner(s),

if different from the permittee. The request shall include the name of the firm requesting approval and the type and amount of septage proposed to be discharged.

(e) Permittees of septage land application sites shall develop and maintain records and reports to show compliance with this Section and the permit requirements of each site.

- (1) Permittees of sites receiving septage shall maintain a log which meets the requirements of 40 CFR Part 503.17(b).
- (2) Permittees of all septage land application sites shall have all records and certifications required to be kept available for review during any announced site inspections by the Division.
- (3) The permittee of a site where more than one septage management firm has been authorized by the Division to discharge septage shall submit a monthly report to the Division which shall include the following information for each discharge: the date and quantity of each discharge, the type of septage discharged, and the name of the septage management firm discharging.

(f) Inspection and entry. The permittee shall allow an authorized representative of the Division to:

- (1) Enter the permittee's premises where a regulated facility or activity is located or conducted;
- (2) Access and copy any records required in accordance with this Section or conditions of the permit;
- (3) Inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated by the Division;
- (4) Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or the North Carolina Solid Waste Management Act, any substances, parameters or soils at any location; and
- (5) Photograph for the purpose of documenting times of compliance or noncompliance at septage management facilities, or where appropriate to protect legitimate proprietary interests, require the permittee to make such photos for the Division.

(g) A permitted septage disposal site shall not be put into use until a representative of the Division has inspected the site to determine compliance with this Rule.

(h) Methods of land application for which there are no standards in these Rules shall be permitted only if it can be demonstrated that the proposed method manages septage in a manner at least equivalent to these Rules and to protect public health and the environment. Plans shall be submitted to the Division, by a Professional Engineer licensed to practice in North Carolina or a person with a demonstrated knowledge of the proposed waste disposal method.

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.0823 RECORD KEEPING FOR SEPTAGE MANAGEMENT FIRMS

(a) Each individual or company shall maintain a log which includes at least the following information for each septage pumping event:

- (1) The date, type, and quantity of septage pumped at each location;
- (2) Location of the discharge of the septage.

(b) A septage management firm shall make all records required in accordance with this Section or conditions of the permit available for inspection by a representative of the Division at the time and place of an inspection of the firm's septage pumper truck(s) or upon request.

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.0824 SAMPLING AND ANALYSIS

(a) Monitoring or sample analysis required by this Section are the responsibility of the septage management firm, site operator, or the owner of the wastewater system, as appropriate.

(b) The permittee of a septage land application site shall arrange for annual representative soil samples to be taken from each field at the permitted site during the last quarter of each calendar year.

(c) Soil samples shall be analyzed for cation exchange capacity, pH, phosphorus, potassium, calcium, manganese, magnesium, zinc, and copper. Analysis for other metals shall be required when zinc levels reach 30 pounds per acre or copper levels reach 35 pounds per acre. Sites permitted to receive septage, other than domestic septage, shall be sampled annually to determine compliance with 40 CFR 257.3-6.

(d) Industrial or commercial septage, proposed to be land applied at a permitted septage disposal site, shall be sampled prior to being removed from a system. Analytical results shall be submitted to the Division for consideration prior to the issuance of a permit or approval to land apply the septage. Analysis shall be conducted for:

- (1) Metals addressed in 40 CFR 503.13, barium, and silver;
- (2) Total solids, pH, ammonia, nitrates, TKN, BOD, COD, total phosphorus, potassium, sodium and magnesium; and
- (3) A complete Toxicity Characteristic Leaching Procedure or other appropriate sampling for organic chemicals, such as EPA Test numbers 8240 or 8270, unless an examination of the industrial process and the material used indicate less extensive analysis is acceptable.

(e) Septage shall be monitored in accordance with 40 CFR Part 503.16(b).

(f) Sample analysis shall be performed by a laboratory certified for waste analysis. Analysis shall be conducted in accordance with 40 CFR Part 503.8. Organic chemical

analysis shall be conducted according to Subparagraph (d)(3) of this Rule.

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.0825 STANDARDS FOR SEPTAGE TREATMENT AND DETENTION FACILITIES

A septage land application site permittee shall provide a facility or have an alternate plan for the detention or disposal of septage during periods when the approved disposal method is not available. Sites permitted for disposal of grease septage or commercial/industrial septage, shall have a treatment facility available.

- (1) Septage detention facilities shall have a minimum size equal to the average volume of septage pumped per week. This does not limit the maximum capacity of a septage detention facility. Capacity shall be increased if it is demonstrated during site operation that this volume is inadequate or if specific site considerations would warrant such increases.
- (2) Septage treatment and detention facility containers shall be structurally sound and constructed of steel, concrete, or fiberglass unless otherwise approved by the Division.
- (3) Each detention and treatment facility shall be designed, constructed, and maintained in such a manner as to:
 - (a) Prevent leaks or the flow of septage out of the facility into the seasonally high water table, onto the ground surface, or into any surface waters;
 - (b) Minimize the attraction or admittance of vectors; and
 - (c) Prevent unauthorized entry into septage containers or lagoons.
- (4) Septage detention and treatment facilities located below grade shall:
 - (a) Be leak tested prior to backfilling or shall have an approved leak detection and monitoring system;
 - (b) Be protected from vehicular traffic; and
 - (c) Not be constructed of used metal tanks. Used metal tanks may be located beside a wall or embankment for gravity access as long as the entirety of the tank is visible.
- (5) The permittee of a septage treatment or detention facilities shall control odors from such systems.
- (6) Ground water monitoring wells or a leak detection system may be required around treatment or detention systems if necessary to assure protection of public health and the environment.
- (7) Septage shall be transferred to and from a detention system in a safe and sanitary manner that prevents leaks or spills of septage.
- (8) Access roads or paths crossing or leading to the facility shall be posted "NO TRESPASSING".
- (9) Lined lagoons may be permitted at sites where the

construction and use of a lagoon shall not jeopardize the public health or environment. Portions of lined lagoons may be located below grade in accordance with Sub-item (10)(e) of this Rule.

- (a) Lagoons must be designed and construction inspected, by a Professional Engineer licensed to practice in North Carolina or an individual with a demonstrated knowledge of lagoon design and construction, to assure that the quality of the underlying ground water will be protected. The Division shall receive a written certification that the construction was completed in accordance with the approved plans prior to any waste being introduced into the system.
- (b) Liners shall be a minimum of 12 inches of clay compacted to a maximum permeability of 10 -7 cm/sec or equivalent synthetic liner.
- (c) Synthetic liners shall have a minimum thickness of 30 mils. A synthetic liner shall have a demonstrated water vapor transmission rate of not more than 0.03 gm/m²-day. Liner material and any seaming materials shall have chemical and physical resistance not adversely affected by environmental exposure or waste placement.
- (d) Clay liners with a permeability more than 10 -7 cm/sec may be used in conjunction with a synthetic liner to meet the maximum permeability of 10 -7 cm/sec or equivalent.
- (e) The surface of the supporting soil on which the liner will be installed shall be reasonably free of stones, organic matter, protrusions, loose soil, and any abrupt changes in grade that could affect the integrity of the liner.
- (f) Lagoons shall be designed and maintained to have adequate storage to handle the additional water from a 25-year storm.
- (g) Pathogen reduction, as required in Paragraph (c) of Rule .0822 shall be achieved prior to the discharge of any septage or any part of the septage into a storage lagoon.
- (10) Septage detention and treatment facilities not located on a permitted septage land application site shall be located at least the minimum distance from the following:
 - (a) Residence, place of business, or place of public assembly - 100 feet;
 - (b) Well or water supply spring - 100 feet;
 - (c) Surface waters - 100 feet;
 - (d) Property lines - 50 feet;
 - (e) Soil wetness, as determined in Part (a)(2)(A) of Rule .0821 - 12 inches; and
 - (f) Setbacks in Sub-items (a) and (d) of this Item may be in accordance with local zoning ordinances if located in areas zoned for industrial use.
- (11) Septage shall not be stored in a detention system for more than six months.

- (12) Septage shall not be stored or treated at a permitted septage treatment or detention facility until a representative of the Division has inspected the facility to determine compliance with this Rule.

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.0826 LAND USE AND SITE CLOSURE

- (a) The site restrictions in 40 CFR 503 Subpart D; shall be adhered to.
- (b) Nursery and horticultural products, trees and other forest products, including but not limited to pine straw and pine bark, shall not be harvested or gathered for 30 days after septage application.
- (c) Public access is to be controlled in accordance with 40 CFR 503 Subpart D.
- (d) The permittee or operator of the site shall notify the Division at least 30 days prior to final closure of a septage land application site in order to schedule a site inspection for determination of compliance with this Section.
- (e) Prior to final closure, the soil pH of the site shall be raised to 6.5, unless the fertility requirements for crops to be grown in the following year dictate less.

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.0827 TRANSPORTATION OF SEPTAGE

- (a) All septage shall be transported in a safe, sanitary manner that prevents leaks and spills and comply with the following:
 - (1) All tanks shall be constructed of metal and permanently attached to the truck bed, unless otherwise approved by the Division;
 - (2) All valves shall be in proper working order and be completely closed during transportation; and
 - (3) All access ports shall have proper fitting lids in good repair and be completely closed during transportation.
- (b) All permitted septage management firms, shall display decals or lettering on each side of every pumper vehicle operated by the firm. The decals or lettering shall include the name, address (town name), phone number, and septage management firm permit number. All decals or lettering on the pumper vehicle shall be no less than three inches in height and plainly visible. Identification shall be permanently attached (ie., no removable signs).
- (c) Applicants for septage management firm permits which were not permitted in the previous calendar year shall have each pump truck inspected prior to the Division's issuance of a permit.
- (d) Septage to be discharged at a wastewater treatment plant or any part of the collection system for that plant shall be handled in accordance with the plant rules and policies.
- (e) Vehicles used in the transportation of septage may remain loaded or partially loaded on land owned by the septage management firm for up to seven days without obtaining a permit for a detention or treatment facility.

Such vehicles shall comply with all parts of this Rule.

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.0828 REVOCATION OF PERMITS

The Division shall suspend or revoke permits in accordance with G.S. 130A-23.

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.0829 APPEALS

Appeals shall be made in accordance with G.S. 150B.

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Notice is hereby given in accordance with G.S. 150B-21.2 that EHNHR - Commission for Health Services intends to amend rules cited as 15A NCAC 18A .2508 - .2511, .2516 - .2519, .2521 - .2524, .2526, .2528 - .2535, .2537 and adopt rules cited as 15A NCAC 18A .2540 - .2543.

Proposed Effective Date: January 1, 1996.

A Public Hearing will be conducted at 1:30 p.m. on July 11, 1995 at the Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury Street, Raleigh, NC.

Reason for Proposed Action: Action is proposed to respond to requests from local health departments, public swimming pool designers, builders and operators, and the public for amendments to Rules Governing Public Swimming Pools 15A NCAC 18A .2500. All requests received over a three year period were reviewed by a committee of representatives from all interested parties and a consensus was reached on proposed amendments to improve the administrative rules. Changes are proposed to clarify design and construction standards, ease standards in areas where cost savings can be safely realized, strengthen requirements for safe and sanitary operation of public pools, improve the existing inspection program, address some new features of swimming pools not currently allowed in or covered by the rules, and narrow the focus of the rules to exclude some structures not originally intended to be regulated under those rules.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to Grady L. Balentine, Department of Justice, PO Box 629, Raleigh, NC 27602-0629. All written comments must be received by July 17, 1995. Persons who wish to speak at the hearing should contact Mr. Balentine at (919) 733-4618. Persons who call in advance of the hearing will be given priority on the speaker's list. Oral presentation lengths may

be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

Fiscal Note: These Rules do not affect the expenditures or revenues of local or state government funds.

CHAPTER 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A - SANITATION

SECTION .2500 - PUBLIC SWIMMING POOLS

.2508 DEFINITIONS

The following definitions shall apply throughout this Section:

- (1) Equipment replacement means replacement of individual components of the hydraulic and disinfection systems such as pumps, filters, and automatic chemical feeders.
- (2) Public swimming pool means public swimming pool as defined in G.S. 130A-280. Public swimming pools are divided into three types:
 - (a) Swimming pools are all public swimming pools except spas and wading pools.
 - (b) Spas are special facilities designed for recreational and therapeutic use which are not drained, cleaned, or refilled after each individual use. Spas may include, but not be limited to, units designed for hydrojet circulation, hot water, cold water mineral bath, air induction bubbles, or any combination thereof. Common terminology for spas includes "therapeutic pool", "hydrotherapy pool", "whirlpool", "hot spa", and "hot tub".
 - (c) Wading pools are small, shallow swimming pools not more than ~~48~~ 24 inches deep designed for use by children.
- (3) Remodeled means renovations requiring disruption of major portions of the pool shell or deck, changes in the pool profile, or redesign of the pool hydraulic system. Remodeled does not

include equipment replacement or repair or addition of outlets for the purpose of reducing suction hazards.

- (4) Repair means repair of existing equipment, replastering or repainting of the pool interior, replacement of tiles or coping and similar maintenance activities.

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.2509 PLAN REVIEW AND APPROVAL

(a) No person shall commence or assist in the construction or remodeling of a public swimming pool unless plans for the pool have been reviewed and approved by the Department in accordance with the provisions of this Section. For public swimming pools which are constructed or remodeled on or after May 1, 1991, plans and specifications shall be prepared by a registered professional engineer or registered architect, and shall be approved by the Department prior to construction. Public swimming pools constructed after May 1, 1992, or remodeled after October 1, 1995, shall be constructed or remodeled by swimming pool contractors licensed by the North Carolina Licensing Board for General Contractors, Post Office Box 17187, Raleigh, North Carolina 27619. The General Contractor's license shall include the Swimming Pool Classification.

(b) A minimum of two complete sets of plans shall be submitted to the Health Department for review. Plans shall be drawn to scale and accompanied by specifications so as to permit a clear, comprehensive review by the local health department. All prints of drawings shall be a minimum of 18 x 24 inches and a maximum size of 36 x 42 inches. These plans shall include:

- (1) Plan and sectional view dimensions of both the pool and the area enclosed by the barrier fences to include the bathhouse and the equipment room and pool accessories;
- (2) Specifications of all treatment equipment used and their layout in the equipment room;
- (3) A piping schematic showing piping, pipe size, inlets, main drains, skimmers, gutter outlets, vacuum fittings and all other appurtenances connected to the pool-piping system;
- (4) Layout of the chemical storage room;
- (5) Specifications for the water supply and wastewater disposal systems would include aspects such as well location and backwash water disposal where applicable.

Any additional data requested by the local health department after the initial application shall be submitted in order to clarify any related phase of the project.

(c) The Department shall approve, disapprove, or provide written comments on plans and specifications for public swimming pools within 30 days of their receipt. If such action is not taken within 30 days, the plans and specifications shall be deemed approved.

(d) If construction is not initiated within one year from

the date of approval, the approval shall be voided.

(e) Prior to issuance of the operation permit, the owner shall submit to the local health department a statement signed by a registered architect, or a registered professional engineer stating that construction is complete and in accordance with approved plans and specifications and approved modifications. Periodic observations of construction and a final inspection for design compliance by the certifying registered architect, or registered professional engineer or his representative shall be required for this statement.

(f) Upon completion of construction, the contractor shall notify the local health department and the owner. The contractor shall provide the owner with a complete set of drawings, which show as built, the location of all pipes and the connections of all equipment and written operating instructions for all equipment.

Statutory Authority G.S. 130A-282.

.2510 PUBLIC SWIMMING POOL OPERATION PERMITS

(a) No public swimming pool shall commence or continue operation on or after May 1, 1990, unless the owner or operator has an operation permit issued by the Department for each public swimming pool. Unless suspended or revoked, the operation permit shall be valid for the period of operation specified in the application but in no event shall it be valid for more than 12 months. For public swimming pools which are constructed or remodeled on or after May 1, 1991, plans and specifications shall have been approved by the Department in accordance with Rule .2509. Compliance with the design and construction requirements in Rules .2512 - .2534 and approval of plans and specifications shall not be required for public swimming pools constructed or remodeled prior to May 1, ~~1991~~ 1993.

(b) On or after May 1, 1991, equipment replacement shall comply with Rules .2512 - .2534 and shall be approved by the Department prior to installation. However, for swimming pools with existing turnover rates of less than four times in 24 hours, wading pools with existing turnover rates of less than 12 times in 24 hours, and spas with existing turnover rates of less than 48 times in 24 hours, pumps are not required to comply with Rule .2518 of this Section. Repairs do not require prior approval by the Department.

(c) These Rules shall not apply until May 1, 1992 to public swimming pools in counties or districts where a local board of health has adopted rules prior to July 5, 1989 that establish public swimming pool standards. On or after May 1, 1992, all public swimming pools must meet these Rules. Construction, remodeling, or equipment replacement permitted under local rules prior to May 1, 1992 shall not be required to meet the design and construction requirements of these Rules.

(d) A separate application for an operation permit must be submitted for each public swimming pool. The owner or operator shall apply annually to the Department for an operator's permit. A form must be obtained from the

Department to provide the following information:

- (1) the owner's name, address, and phone number;
- (2) the operator's name, address, and phone number;
- (3) street address of the public swimming pool;
- (4) the physical location of the public swimming pool;
- (5) type of public swimming pool;
- (6) construction date;
- (7) proposed operating dates;
- (8) type of disinfection;
- (9) other pertinent information.

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.2511 INSPECTIONS

Each public swimming pool shall be inspected by the Department at least once during the period of operation to determine compliance with the rules of this Section. Seasonal pools which open on or after April 1 and close on or before October 31 shall be inspected at least once during the season. All other pools shall be inspected at least once during each calendar quarter during which the pools operate.

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.2516 POOL PROFILE

(a) The vertical walls shall not exceed 11° from plumb. Corners formed by intersection of walls and floors shall be coved or radiused. Hopper bottomed pools shall be prohibited.

(b) Underwater ledges or protrusions shall be prohibited; except that underwater stairs, seats and benches may be installed in areas of the pool less than 3.5 feet deep.

.2517 DIVING EQUIPMENT

(a) When diving equipment is installed, it shall be located in the diving area of the pool so as to provide the minimum dimensions as shown in Tables 1A and 1B of this Rule and shall conform to the following specifications:

- (1) Diving equipment shall be designed for swimming pool use and shall be installed in accordance with the manufacturer's recommendations.
- (2) Installation instructions and specifications shall be provided with each unit.
- (3) A label shall be permanently affixed to the diving equipment and shall include:
 - (A) manufacturer's name and address;
 - (B) board length;
 - (C) type of diving board;
 - (D) fulcrum setting specifications if applicable.
- (4) Diving equipment shall have slip-resistant tread surfaces.

(b) Supports, platforms, and steps for diving equipment shall be of substantial construction, and of sufficient strength to carry safely the maximum anticipated loads. Steps shall be of corrosion-resistant design. Handrails shall be provided at all steps and ladders leading to diving boards which are one meter or more above the water.

(c) There shall be a completely unobstructed clear vertical distance of ~~thirteen~~ 13 feet above any diving board measured from the center of the front end of the board. This area shall extend horizontally at least eight feet behind, eight feet to each side, and ~~sixteen~~ 16 feet ahead of Point A in Table 1A.

provided underwater seats and benches protrude no more than 18 inches into the pool and they are clearly marked by a contrasting color band on the leading edge and underwater stairs meet the requirements of Rule .2521 of this Section. Underwater seats shall not project into swim lanes.

(c) The slope of the bottom of any portion of any public swimming pool having a water depth of less than five feet (1.52 m) shall not be more than one foot vertical change in 10 feet (10 cm in one meter) of horizontal distance and the slope shall be uniform.

(d) In portions of pools with water depths greater than five feet (1.52 m), the slope of the bottom shall not be more than one foot vertical in three feet (33.3 cm in one meter) of horizontal distance.

(e) Design of diving areas shall be in accordance with Tables 1A and 1B of Rule .2517 of this Section.

(f) Fountains and other water features installed in public swimming pools shall be approved prior to installation and shall comply with the following:

- (1) Shall not be installed in an area with a water depth exceeding 18 inches;
- (2) Shall be recommended by the manufacturer for use in a public swimming pool;
- (3) Shall be installed in accordance with the manufacturer's instructions;
- (4) Shall be separate from the pool water recirculation system; and
- (5) Shall not release water at a velocity greater than 10 feet per second.

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PROPOSED RULES

Table 1A

Maximum Board Length	Maximum Board Height Above Water	Board Overhang (Pt. A)		Minimum Water Depths		
		Max.	Min.	D1	D2	D3
12'	up to 30"	5'	4'0"	8'0"	9'0"	8'3"
16'	1 Mtr.	6'	5'0"	8'6"	9'3"	8'6"
16'	3 Mtrs.	6'	5'0"	11'6"	12'0"	11'6"

KEY TO ABBREVIATIONS:

Pt A is the point on the water line of the pool directly beneath the end of the diving board.

D1 is the depth of the water measured from the water line to the floor at the beginning of the radius connecting the end wall with the floor at the deep end of the pool.

D2 is the depth of the water at the deepest point in the pool.

D3 is the depth of the water at the point where the deep area of the pool meets the transition to the shallow area of the pool.

Table 1B

Maximum Board Length	Horizontal Distances						Minimum Pool Width	Minimum Separation Distances	
								F	G
12'	3'	7'	10'3"	9'9"	30'	4'	20'	10'	10'
16'	5'	5'	11'6"	10'6"	32'	4'	24'	12'	10'
16'	5'	5'	7'6"	19'6"	37'	3'	28'	14'	12'

KEY TO ABBREVIATIONS:

L1 is the radius of the curve connecting the side wall to the floor at the deep end of the pool.

L2 is the distance between the center of the radius connecting the end wall to the floor at the deep end of the pool and the deepest point in the pool.

L3 is the distance between the deepest point in the pool and the beginning of the transition to the shallow area of the pool.

L4 is the length of the transition zone.

L5 is the total of L1 + L2 + L3 + L4.

L6 is the length of the shallow area of the pool.

F is the distance between the side wall of the pool and the centerline of the diving board.

G is the distance between the center lines of two adjacent diving boards.

(d) Public pools with diving facilities in excess of three meters in height, or pools designed for platform diving, shall be approved on a case-by-case basis.

(e) Minimum water depth for diving platforms used for racing starts during competition and practice shall be measured at a distance of 3 feet, 3 1/2 inches (1.0 meter) to 16 feet, 5 inches (5.0 meters) from the end wall. Height of starting blocks shall not exceed the following:

- (1) In pools with water depth less than 3 feet, 6 inches (1.07 meters) at the starting end, raised starting platforms shall be prohibited.
- (2) In pools with water depth 3 feet, 6 inches (1.07 meters) to less than 4 feet (1.22 meters) at the starting end, starting platforms shall be no more than 18 inches (0.46 meter) above the water surface.
- (3) In pools with a water depth of 4 feet (1.22 meters) or greater at the starting end, starting platforms shall be no more than 30 inches (0.762 meter) above the surface of the water. Starting platforms shall be constructed to be easily removed from the deck when the swimming pool is used for other than competitive purposes.

Statutory Authority G.S. 130A-282.

.2518 CIRCULATION SYSTEM

(a) Pools shall be equipped with a circulation system.

(b) The capacity of the circulation system shall be sufficient to clarify and disinfect the entire volume of swimming pool water four times in 24 hours. The system shall be operated 24 hours per day during the operating season.

(c) The piping of the circulation system shall be designed and installed so that the main drains, and the lines from the perimeter overflow system or the automatic surface skimmers shall be connected to the suction line of the circulation pump.

(d) The circulation piping shall be designed and installed with the necessary valves and pipes so that the flow from the swimming pool can be from main drains or the surface overflow system. The circulation piping shall be designed such the flow of water from the swimming pool can be simultaneous from the surface overflow system and the main drains. Skimmer piping shall be sized to handle the maximum flow rate for the required number of skimmers, but in no case less than 50 percent of the design flow rate. Perimeter overflow system piping shall be sized to handle 50 percent of the design flow rate. The main drain piping shall be sized to handle 50 percent of the design flow rate.

(e) Piping shall be designed to reduce friction losses to a minimum and to carry the required quantity of water at a maximum velocity not to exceed six feet (1.83 m) per second for suction piping and not to exceed 10 feet (2.44 m) per second for discharge piping except for copper pipe where the velocity shall not exceed eight feet per second. Piping shall be of non-toxic material, resistant to corrosion, and able to withstand operating pressures. If plastic pipe is used, a minimum of Schedule 40 PVC shall be required except that flexible PVC hoses which meet NSF Standard Number 50 shall be allowed. Exposed pipes and valves shall be identified by a color code or labels.

(f) The circulation system shall include a strainer to prevent hair, lint, and other debris from reaching the pump. A spare basket shall be provided. Strainers shall be corrosion-resistant with openings not more than 1/4 inch (6.4 mm) in size which shall provide a free flow area at least four times the cross-section area of pump suction line and

shall be accessible for daily cleaning.

(g) A vacuum cleaning system shall be provided to remove debris and foreign material which settles to the bottom of the swimming pool. Pools with more than two skimmers shall be provided with a vacuum cleaning system which is an integral part of the circulation system. Connections shall be located at intervals sufficient to reach the entire pool with a 50 foot hose. Skimmer vacuums may be used in pools with two or fewer skimmers provided the skimmer basket remains in place while the vacuum is in operation. The vacuum cleaning system shall be provided with valves and protective caps.

(h) A rate-of-flow indicator, reading in liters or gallons per minute, shall be installed on the filtered water line and located so that the rate of circulation is indicated. The indicator shall be capable of measuring flows which are at least 1 1/2 times the design flow rate, shall be accurate within 10 per cent of true flow, and shall be easy to read. The indicator shall be installed in accordance with manufacturers' specifications.

(i) A pump or pumps shall be provided with adequate capacity to recirculate the swimming pool water four times in 24 hours, and shall be so located as to eliminate the need for priming. If the pump or pumps, or suction piping is located above the overflow level of the pool, the pump or pumps shall be self-priming. The pump or pumps shall be capable of providing a flow adequate for the backwashing of filters. Unless headloss calculations are provided by the designing engineer, pump design shall be based on an assumed total dynamic head of 65 feet of water. Pumps three horsepower or smaller shall be National Sanitation Foundation (NSF) listed or verified by an independent third-party testing laboratory to meet all applicable provisions of NSF Standard Number 50. Verification shall include testing and in-plant quality control inspections. Larger pumps for which NSF listing is not available shall be approved on a case-by-case basis.

(j) Inlets.

- (1) Inlets shall be provided and arranged to produce a uniform circulation of water and maintain a uniform disinfectant residual throughout the pool.

- (2) The number of inlets for any swimming pool with a surface area of 2,000 square feet (186 sq m), or less, will be determined based on return water flow. Flow rates (in gallons per minute) through various sized inlet branches shall not exceed those listed in Table 2 of this Rule. There shall be a minimum of four inlets for any swimming pool. For any pool with a surface area greater than 2,000 square feet (186 sq m), the number of inlets shall be based on one inlet per 15 feet of perimeter or portion thereof.

Table 2

<u>Inside Pipe Diameter</u>	<u>GPM</u>
1 inch	10
1¼ inches	20
1½ inches	30
2 inches	50

- (3) When wall inlets are used, they shall be equally spaced around the perimeter. When floor inlets are used, they shall be spaced throughout the pool to accomplish a uniform recirculation.
- (4) Provision shall be made to permit adjustment of the flow through each inlet, either with an adjustable orifice or provided with replaceable orifices to permit adjustments of the flows.

(k) **Drains.**

- (1) Swimming pools shall be provided with at least two main drain outlets which shall be located at the deepest section of the pool and connected by "T" piping. Connecting piping shall be ~~of the same diameter as the main drain pipe sized and configured such that blocking any one drain will not result in flow through the remaining drains or pipes exceeding the maximum flow velocities specified in this Section.~~ The drains shall be capable of permitting the pool to be emptied completely. Drains shall be spaced not more than 30 feet (9.1 m) apart, and not more than 15 feet (4.6 m) away from the side walls.
- (2) Other systems which require suction outlets shall be provided with two drains with "T" connection pipe. This provision does not apply to capped vacuum outlets.
- (3) Outlet drain gratings shall have a total area of at least four times the area of the discharge pipe and shall be designed so as not to be readily removed by or create any hazard to bathers.
- (4) The outlet grate open area shall be such that when maximum flow of water is being pumped through the floor outlet, the velocity through the open grate shall not be greater than one and one-half feet per second. Outlet grates shall be anchored and openings in grates shall be slotted and the maximum dimension of slots shall not be

more than one-half inch. Where outlet fittings consist of parallel plates, of the anti-vortex type where the water enters the fittings from the sides, rather than through a grating facing upward, entrance velocities may be increased to six feet per second.

(l) **Surface Overflow Systems.**

- (1) Swimming pools shall be provided with a surface overflow system which shall be an integral part of the circulation system and which shall consist of a built-in-place perimeter overflow system, a pre-fabricated perimeter overflow system, or recessed automatic surface skimmers.
- (2) Whenever a built-in-place perimeter overflow system or a pre-fabricated perimeter overflow system is provided, it shall be designed and installed as follows:
- (A) The system shall be capable of handling 50 percent of the circulation flow without the overflow troughs being flooded for any appreciable period of time;
- (B) A surge capacity shall be provided either in the system or by use of a surge tank; and the total surge capacity shall be at least equal to one gallon per square foot (41L per square meter) of swimming pool water surface area;
- (C) The water level of the swimming pool shall be maintained at, or slightly higher than, the level of the overflow rim of the perimeter overflows, except for the time needed to transfer all of the water which may be in the surge capacity back into the swimming pool after a period of use; provided that this transfer time shall not be greater than 20 minutes;
- (D) When installed the tolerance of the overflow rim shall not exceed 1/4 inch (6.4 mm) as measured between the highest point and the lowest point of the overflow rim;
- (E) During quiescence, the overflow system shall be capable of providing continuously and automatically a skimming action to the water at the surface of the swimming pool;
- (F) The overflow troughs shall be installed completely around the perimeter of the swimming pool, except at steps, recessed ladders and stairs;
- (G) The exposed surfaces of the overflow trough shall be capable of providing a firm and safe hand-hold; and
- (H) The overflow trough shall be cleanable and shall be of such configuration as to minimize accidental injury.
- (3) Whenever a recessed automatic surface skimmer or skimmers are installed, they shall be designed and constructed in accordance with Section 8 of the National Sanitation Foundation's Standard #50 for circulation system components for

swimming pools, spas, or hot tubs, which is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Health, 1330 St. Mary's Street, Raleigh, North Carolina. Copies may be obtained from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106 at no cost. Recessed automatic surface skimmers shall be installed as follows:

- (A) The flow-through rate through any one recessed automatic surface skimmer shall be between 20 and 30 gallons per minute. Piping shall be sized to allow a flow of 30 gallons per minute for each skimmer;
- (B) There shall be at least one recessed automatic surface skimmer for each 400 square feet (46 sq. m) of water surface area of the swimming pool or fraction thereof;
- (C) When two or more recessed automatic surface skimmers are required, they shall be so located as to minimize interference with each other and as to insure proper and complete skimming of the entire swimming pools water surface;
- (D) Skimmers shall not protrude into the swimming pool. Automatic surface skimmer or skimmers without a perimeter overflow system, shall be installed so that the operating level of the pool is no more than nine inches below the finished deck level so that the deck can be used as a handhold.

(m) Where flooded suction on the pump is not possible to prevent cavitation and loss of prime, skimmers shall have a device or other protection to prevent air entrainment in the suction line. The inlet to the equalizer line shall be provided with a grate.

(n) Nothing in this Section shall preclude the use of a roll-out or deck-level type of swimming pool. Such designs shall conform to the general provisions relating to surface overflow systems. The design of the curb and handhold shall be approved by the Department based on detailed review of this feature of construction and evaluated in the light of proposed use of the swimming pool.

(o) Nothing in this Section shall preclude the use of a surface overflow system which combines both a perimeter overflow system and a recessed automatic surface skimmer or skimmers.

Statutory Authority G.S. 130A-282.

.2519 FILTERS

(a) All swimming pools shall be equipped with a filtration system for the purpose of clarifying the swimming pool water; said filtration system shall be an integral part of the

circulation system and shall consist of one or more units of sand type filters, of diatomaceous earth type filters, or of cartridge type filters.

(b) All filter units shall be designed and constructed in accordance with Section 5 of the National Sanitation Foundation's Standard number 50 which is hereby adopted by reference in accordance with G.S. 150B-14(c), or equivalent.

(c) When a sand type filter is installed on a swimming pool, it may be either a gravity or a pressure sand type filter, and it may be either a standard-rate sand type filter which shall be designed for filtration rates not in excess of three gallons per minute per square foot (122 L per minute per square meter) of sand bed area, or a high-rate sand type filter which shall be designed for filtration rates not in excess of 15 gallons per minute per square foot (612 L per minute per square meter) of sand bed area or the flow rate indicated for commercial pools in the most recent NSF listing.

(d) When a sand type filter is installed on a swimming pool, it shall be designed and installed such that it may be backwashed at a rate recommended by the manufacturer or, in the absence of manufacturer's recommendations, at a rate not less than 15 gallons per minute per square foot (612 L per minute per square meter) of filter bed area. The backwash water shall be discharged to waste. A sight glass or other means for viewing the clarity of the backwash water shall be provided.

(e) If the sand type filter is designed to be operated in conjunction with a coagulant, a chemical feeder shall be provided for adding the coagulant ahead of the filters.

(f) When a diatomaceous earth type filter is installed on a swimming pool, it may be either a pressure or vacuum type and it may be designed to operate either with or without continuous body feed. Diatomaceous earth filters which operate with continuous body feed shall be designed for filtration rates not in excess of 2.5 gallons per minute per square foot (102 L per minute per square meter) of filter area; and diatomaceous earth filters which operate without continuous body feed shall be designed for filtration rates not in excess of two gallons per minute per square foot (82 L per minute per square meter) of filter area.

(g) When a diatomaceous earth type filter is installed on a swimming pool, it shall be designed and installed with provisions for cleaning by one or more of the following methods:

- (1) backwashing at two gallons per minute per square foot minimum;
- (2) air-bump-assist backwashing;
- (3) spray wash, (either mechanical or manual); or
- (4) agitation.

(h) The water used in cleaning a diatomaceous earth type filter shall be discharged to waste, or in a manner approved by the Department.

(i) When a cartridge type filter is installed on a swimming pool, it shall be designed for filtration rates not in excess of 0.375 gallons per minute per square foot (15 L per minute

per square meter) of effective filtration area.

(j) When a cartridge type filter is installed on a swimming pool, it shall be designed and installed with provisions being provided for cleaning or replacement as recommended by the manufacturer. Two sets of filter cartridges shall be provided to facilitate the cleaning and drying of one set while the filter is operating.

(k) All filters on swimming pools shall be designed and installed so as to provide easy accessibility for cleaning, operating, maintaining, and servicing. All filter tanks shall be so positioned as to provide adequate circulation of air beneath and around all sides, when necessary, to reduce corrosion and to facilitate cleaning. Whenever filter tanks are installed in the ground (i.e. buried), provisions shall be made so that the tanks are protected against corrosion and are installed in accordance with the recommendations of the manufacturer.

(l) Filters on swimming pools shall be equipped with an approved type pressure gauge or gauges.

(m) Filters on swimming pools shall be designed and installed with all the necessary valves and piping which may be needed to drain the filters completely.

(n) All pressure filters on swimming pools shall be designed and installed with an air-relief valve or valves which shall be located at or near the high point of the filters.

Statutory Authority G.S. 130A-282.

.2521 LADDERS, RECESSED STEPS, AND STAIRS

(a) If the vertical distance from the bottom of the swimming pool to the deck is over two feet (0.61 m), recessed steps, stairs, or ladders shall be provided in the shallow area of all swimming pools. Recessed steps or ladders shall be provided at the deep portion of all pools; and, if the swimming pool is over 30 feet (9.14 m) wide, such recessed steps or ladders shall be installed on each side near the deep end. At least one ladder or set of recessed steps shall be provided in the shallow area for each 75 feet of shallow area perimeter, or fraction thereof. Where stairs are provided in the shallow area of the pool, one ladder may be deleted in the shallow area for each stairway provided.

(b) Pool Stairs - The design and construction of pool ladders and stairs shall conform to the following:

- (1) Stair treads shall have a minimum unobstructed horizontal depth of 10 inches, and a minimum unobstructed surface area of 240 square inches.
- (2) Risers at the centerline of the treads shall have a maximum uniform height of 12 inches, with the bottom riser height allowed to vary plus or minus two inches from the uniform riser height.
- (3) Each set of stairs shall be provided with at least one handrail to serve all treads and risers.
 - (A) Handrails, if removable, shall be installed in such a way that they cannot be removed without the use of tools.
 - (B) The leading edge of handrails facilitating stairs

and pool entry/exit shall be no more than 18 inches, plus or minus three inches, horizontally from the vertical plane of the bottom riser (where applicable).

(C) The outside diameter of handrails shall be between one inch and one and nine-tenths inches.

(4) ~~Contrasting color bands or lines at least two inches wide shall be applied to the front edge of stair treads.~~ The leading edge of stair treads shall be marked with a contrasting color band or line at least two inches (5 cm) wide. Use of contrasting color tiles installed in the stair tread shall be accepted provided the tiles are spaced no more than one inch (2.5 cm) from the edge of the tread or from adjacent tiles.

(5) Swimming pool ladders shall be corrosion-resistant and shall be equipped with slip-resistant treads. All ladders shall be so designed as to provide a handhold and shall be installed rigidly. There shall be a clearance of not more than ~~five~~ six inches (~~12.7~~ 15.3 cm), nor less than three inches (7.6 cm), between any ladder and the swimming pool wall. If the steps are inserted in the walls; or if step holes are provided, they shall be of such design that they may be cleaned easily and shall be arranged to drain into the swimming pool to prevent the accumulation of dirt thereon. Step holes shall have a minimum tread of five inches (12.7 cm) and a minimum width of 14 inches (35.6 cm).

(6) When step holes or ladders are provided within the swimming pool, there shall be a handrail at each side extending over the coping or edge of the deck. Ramps and stairs, including recessed steps, shall have at least one handrail.

Statutory Authority G.S. 130A-282.

.2522 DECKS

(a) Outdoor swimming pools shall have a continuous deck extending completely around the swimming pool. The width of the deck or walkway shall provide at least six feet of clear walking space at all points. If the swimming area of the pool is 1600 square feet or larger, at least eight feet of clear walking space is required.

(b) Indoor swimming pools shall have a continuous deck or walkway extending completely around the swimming pool. The width of the deck shall provide at least five feet of clear walking space at all points.

(c) Wading pools shall have a continuous deck extending completely around the wading pool. The width of the deck or walkway shall provide at least four feet of clear walking space at all points.

(d) Spas shall have a continuous deck extending at least one-half way around the spa. The width of the deck or walkway shall provide at least four feet of clear walking

space at all points.

(e) Whenever a diving board or slide is installed on a swimming pool, there shall be at least five feet (1.52 m) of unobstructed deck behind the diving board or slide.

(f) All deck areas and walkways shall be sloped at a grade of ¼ inch to ½ inch per foot to a deck drain or sheet drain to deck edge. Deck drains shall not be connected to the circulation system in any manner.

(g) All decks and walkways shall have a slip-resistant, impervious surface; except that non-porous resilient artificial recreational surfaces may be used if approved by the Department.

(h) Sufficient hose bibs shall be provided to allow all areas of the deck to be reached with a 100 foot hose.

(i) Special purpose pools such as waterslides and wave pools may vary from the minimum deck area requirements to the extent necessary to accommodate the special features of the pool.

(i) Special structures necessary to provide access to a public swimming pool by persons with disabilities shall be allowed to vary from the provisions of this Section to the extent necessary to accommodate such access. Such structures shall be approved on a case-by-case basis and shall be designed so as to minimize obstruction of the deck.

Statutory Authority G.S. 130A-282.

.2523 DEPTH MARKINGS AND SAFETY ROPES

(a) On swimming pools, the depth of the water shall be marked plainly, at or above, the water surface on the vertical wall of the swimming pool where possible, and on the edge of the deck next to the swimming pool. Where depth markers cannot be placed on the vertical walls at or above the water level, other means shall be used; provided said markings shall be plainly visible to persons in the swimming pool. Depth markers shall be placed at the following locations:

- (1) at the points of maximum and minimum depths;
- (2) at the transition point where the slope of the bottom changes from the uniform slope of the shallow area;
- (3) if the pool is designed for diving, at appropriate points as to denote the water depths in the diving area;
- (4) at both ends of the pool.

(b) Depth markers shall be so spaced that the distance between adjacent markers is not greater than 25 feet (7.5 m) when measured peripherally.

(c) Depth markers shall be in Arabic numerals at least four inches (10 cm) high and of a color contrasting with the background. Depth markings installed in pool decks shall provide a slip resistant walking surface.

(d) A minimum of ¾ inch diameter safety rope shall be provided at the breakpoint where the slope of the bottom exceeds changes to exceed a 1 to 10 vertical rise to horizontal distance at a water depth of five feet (1.5 m) or less. The position of the rope shall be marked with colored floats at

not greater than a five-foot spacing and a 2 inch wide contrasting color band across the pool bottom.

(e) Notice shall be provided in the pool area that no diving is allowed in areas of the pool less than 5 feet (1.5m) deep. Posting of this notice shall not preclude shallow diving for racing starts and supervised practice.

Statutory Authority G.S. 130A-282.

.2524 LIGHTING AND VENTILATION

~~(a) Electrical components of public swimming pools shall meet the requirements of the latest National Electrical Code (NEC) R, as published by the National Fire Protection Association, which are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Health, 1330 St. Mary's Street, Raleigh, North Carolina. Copies may be obtained from the North Carolina Department of Insurance, Engineering Division, Post Office Box 26387, Raleigh, North Carolina 27611 at a cost of thirty dollars (\$30.00).~~

(a) ~~(b)~~ Artificial lighting shall be provided at all indoor and outdoor pools which are to be used at night, or when natural lighting is insufficient to provide clear visibility in the pool area.

(b) ~~(c)~~ Lighting fixtures shall be of such number and design as to illuminate all parts of the pool, the water, the depth markers, and the entire deck area.

(c) ~~(d)~~ Fixtures shall be installed so as not to create hazards such as burning, electrical shock, mechanical injury, or temporary blinding by glare to the bathers, and so that lifeguards, when provided, can clearly see every part of the pool area without being blinded by glare. The illumination shall be sufficient so that the floor of the pool can be seen at all times the pool is in use.

(d) ~~(e)~~ If underwater lighting is used, it shall provide at least 0.5 watts or 8.35 lumens per square foot of water surface.

(e) ~~(f)~~ If underwater lighting is used, area lighting shall provide at least 0.6 watts or 10 lumens per square foot of deck area. Where underwater lighting is not used, and night swimming is permitted, area and pool lighting combined shall provide not less than 2.0 watts or 33.5 lumens per square foot of pool area.

(f) ~~(g)~~ Mechanical ventilation shall be required for all indoor pools.

Statutory Authority G.S. 130A-282.

.2526 DRESSING AND SANITARY FACILITIES

(a) Dressing and sanitary facilities shall be provided at all pools, except for pools at hotels, motels, condominiums, and apartments where pool use is restricted to residents or guests. At condominiums and apartments where the farthest unit is more than 300 feet from the pool, as measured along walkways provided for access by residents or guests to the

pool area, toilets shall be provided.

(b) Partitions shall be of durable material, not subject to damage by water and shall be designed so that a waterway is provided between partitions and floor to permit thorough cleaning of the walls and floor areas with hoses and brooms.

(c) Floors of the dressing facility shall be continuous throughout the areas. Floors shall have a slip-resistant surface that shall be relatively smooth, to insure complete cleaning. Floor drains shall be provided, and floors shall be sloped not less than 1/4 inch per foot toward the drains to insure positive drainage.

(d) ~~Three-fourths inch hose bibs~~ Bibs shall be provided such that all parts of the dressing facility interior can be reached with a 50 foot hose.

(e) The minimum criteria for dressing and sanitary facilities shall be based upon the maximum bather load.

(f) One water closet, one lavatory, and one urinal shall be provided for the first 100 male users. One additional water closet, lavatory, and urinal shall be provided for each additional 200 male users or major fraction thereof. Where the maximum bather load includes less than 50 male users, one water closet and one lavatory will be sufficient.

(g) Two water closets and two lavatories shall be provided for the first 100 female users. One additional water closet and lavatory shall be provided for each additional 100 female users or major fraction thereof. Where the maximum bather load includes less than 50 female users, one water closet and one lavatory will be sufficient.

(h) Showers shall be provided in the proportion of one for each ~~50~~ 100 persons at the time of maximum bather load.

(i) The water heater shall be inaccessible to users. The system shall be designed such that water temperature at the shower heads and lavatories cannot exceed 110° Fahrenheit.

(j) Soap dispensers for providing either liquid or powdered soap shall be provided at each lavatory or inside shower. The dispenser shall be of all metal or plastic type, with no glass permitted in these units.

(k) If mirrors are provided, they shall be of shatterproof materials.

(l) Toilet paper holders shall be provided at each water closet combination.

Statutory Authority G.S. 130A-282.

.2528 FENCES

Swimming pools shall be protected by a fence, wall, building, or other enclosure, or any combination thereof, which completely encloses the swimming pool area such that all of the following conditions are met:

- (1) Constructed so as to afford no external handholds or footholds. However, the use of ~~chain-link wire~~ mesh fences with a mesh size of 2 1/4 inches or less is permitted;
- (2) A four foot (1.22 m) minimum height (from the outside approach) is provided entirely around the swimming pool;
- (3) The horizontal space between vertical members of

the enclosure shall not exceed four inches; there shall be at least 30 inches between any horizontal bottom rails or stringers and the next horizontal rails or stringers;

- (4) The height of any opening under the bottom of the enclosure shall not exceed four inches (10 cm);
- (5) Openings under and through a fringe or barrier with the gate(s) closed shall be sized so that a 4 1/2 inch diameter sphere cannot be passed through the openings;
- (6) All gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms ~~which shall be located at a height at least three feet~~, and shall be equipped with locking devices. Gates provided to allow bathers access to the pool shall be located so as to open into the pool at a point where the water is less than five feet ~~deep~~; deep. On pools built after May 1, 1996, access gates shall open away from the pool except when natural topography or other conditions dictate that it open inward. Release of the latch on the self-latching device shall be activated:
 - (a) at a height no less than 54 inches above grade for wire mesh access gates and at a height no less than 54 inches above the horizontal bottom rail of a picket/ornamental access gate; or
 - (b) on the pool side of the gate at a distance of no less than three inches below the top of the gate.
- (7) Gates provided specifically for access to equipment rooms shall be locked at all times when not in use by the pool operator;
- (8) Ground level doors and windows opening inside the pool enclosure must be self-closing or child protected; and
- (9) Self-closing, self-latching gates shall not be required for ~~service~~ gates which are kept locked, or for entrances where access is controlled by a gate attendant and a lifeguard is on duty in the pool area.

Statutory Authority G.S. 130A-282.

.2529 USER LOADING

In determining the maximum number of persons allowed in the pool at any one time, the following criteria shall govern:

- (1) Fifteen square feet (1.39 sq m) of water surface area per person shall be provided in areas of the pool ~~less than~~ five feet (1.52 m) deep or less.
- (2) Twenty-four square feet (2.23 sq m) of water surface area per person shall be provided in areas of the pool greater than five feet (1.52 m) deep ~~or greater~~. Three hundred square feet (27.87 sq m) of pool area around each diving board or platform, where provided, shall not be included in computing this area for the purpose of determining maximum bather load.

- (3) Ten square feet (0.9 sq m) of water surface area per person shall be provided in spas.

Statutory Authority G.S. 130A-282.

.2530 SAFETY PROVISIONS

(a) Swimming pools shall have lifesaving equipment conspicuously and conveniently on hand at all times. A unit of lifesaving equipment shall include the following:

- (1) A light, strong pole not less than 12 feet long, including a body hook.
- (2) A minimum ¼ inch diameter throwing rope as long as one and one-half times the maximum width of the pool or 50 feet, whichever is less, to which has been firmly attached a U.S. Coast Guard approved ring buoy.

(b) Two units of lifesaving equipment must be provided for any pool which exceeds 3,000 square feet (186 sq m) of total surface area.

(c) When a ~~public~~ swimming pool does not have at least one lifeguard on duty, a sign shall be posted which has clearly legible letters of at least four inches (10 cm) in height stating: "WARNING-NO LIFEGUARD ON DUTY." In addition there shall be signs stating: "CHILDREN SHOULD NOT USE THE SWIMMING POOL WITHOUT ADULT SUPERVISION", and: "ADULTS SHOULD NOT SWIM ALONE". Wading pools which do not have a lifeguard inside the wading pool enclosure shall have a sign posted stating "WARNING NO LIFEGUARD ON DUTY". Such signs shall be mounted permanently.

(d) A sign prohibiting pets and glass containers in the pool area shall be provided.

Statutory Authority G.S. 130A-282.

.2531 WADING POOLS

Wading pools shall be designed by a registered professional engineer or registered architect, and shall meet all design specifications for swimming pools and wading pools included in Rules .2512 - .2530 of this Section with the following exceptions:

- (1) ~~No wading pool shall be directly or physically attached to any swimming pool.~~ Wading pools shall be physically separate from other public swimming pools except that a fill pipe and valve from a swimming pool recirculation system can be used to introduce water to a wading pool.
- (2) Every wading pool shall be equipped with a circulation system which is separate from, and independent of, the circulation system of the swimming pool. Such circulation system shall at least consist of a circulating pump, piping, a filter, a rate-of-flow meter, a disinfectant feeder, two inlets, two main drains with "T" connecting piping, and one automatic surface skimmer. Individual components of a wading pool system must meet the criteria of Rule .2518 of this

Section.

- (3) The capacity of the circulation system shall be capable of filtering and disinfecting the entire volume of water in the wading pool 12 times in every 24 hours.
- (4) Wading pools shall be equipped with main drains located at the deepest point of the wading pool and covered by gratings which meet the requirements of Rule .2518(k) of this Section.
- (5) Wading pools shall be equipped with a surface overflow system capable of removing floating material.
- (6) Wading pools shall not be deeper than 18 inches (61 cm) at the deepest point.
- (7) Wading pools' floor slope shall not exceed one foot in 12 feet.
- (8) Wading pools shall be located in the vicinity of the shallow end of the swimming pool, and shall be separated from the swimming pool by a fence or structure similar to that described in Rule .2528 of this Section, with an enclosure of at least three feet high which shall be equipped with self-closing and positive self-latching closure mechanisms, and shall be equipped with permanent locking devices.
- (9) Wading pools shall be designed to provide at least 10 square feet per child.
- (10) Depth markers shall not be required at wading pools.

Statutory Authority G.S. 130A-282.

.2532 SPAS AND HOT TUBS

Spas and hot tubs shall be designed by a registered professional engineer or registered architect, and shall meet all design specifications for swimming pools and wading pools included in Rules .2512 - .2530 of this Section with the following exceptions:

- (1) The circulation system equipment shall provide a turnover rate for the entire water capacity at least once every 30 minutes.
- (2) The arrangement of water inlets and outlets shall produce a uniform circulation of water so as to maintain a uniform disinfectant residual throughout the spa.
- (3) A minimum of two inlets shall be provided with inlets added as necessary to maintain required flowrate.
- (4) Water outlets shall be designed so that each pumping system in the spa (filter systems or booster systems if so equipped) provides the following:
 - (a) Two ~~bottom~~ drains connected by "T" piping. Connecting piping shall be of the same diameter as the main drain outlet. Such Filter system drains shall be capable of emptying the spa completely. Drains shall be installed at least six inches apart. ~~Bottom drains shall be equipped~~

- ~~with anti-vortex plates that cannot be removed except with tools.~~
- (b) Filtration systems shall provide at least one surface skimmer per 100 square feet, or fraction thereof of surface area.
- ~~(5) Piping shall be large enough to permit the rated flow for filtering and cleaning without exceeding the total load developed by the pump at the rated flow.~~
- (5) (6) The water velocity in spa or hot tub discharge piping shall not exceed ~~ten~~ 10 feet per second (3.05 m/second); except for copper pipe where water velocity shall not exceed eight feet per second (2.44 m/second). Suction water velocity in any piping shall not exceed six feet per second (1.83 m/second).
- (6) (7) Spa recirculation systems shall be separate from companion swimming pools.
- (a) Where a two-pump system is used, one pump shall provide the required turnover rate, filtration and disinfection for the spa water. The other pump shall provide water or air for hydrotherapy turbulence without interfering with the operation of the recirculation system. The timer switch will activate only the hydrotherapy pump.
- (b) Where a single two-speed pump is used, the pump shall be designed and installed to provide the required turnover rate for filtration and disinfection of the spa water at all times without exceeding the maximum filtration rates specified in Rule .2519 of this Section. The timer switch shall activate only the hydrotherapy portion of the pump.
- (c) Where a single one-speed pump is used, a timer switch shall not be provided.
- (7) (8) A timer switch shall be provided for the hydrotherapy turbulence system with a maximum of 15 minutes on the timer. The switch shall be placed such that bathers must leave the spa to reach the switch.
- (8) (9) The maximum operational water depth shall be four feet (1.22 m) measured from the water line.
- (9) (10) The maximum depth of any seat or sitting bench shall be two feet (61 cm) measured from the waterline.
- (10) (11) A minimum height between the top of the spa/hot tub rim and the ceiling shall be 7½ feet.
- (11) (12) Depth markers shall not be required at spas.
- (12) (13) Steps, step-seats, ladders or recessed treads shall be provided where spa and hot tub depths are greater than 24 inches (61 cm).
- (13) (14) Contrasting color bands or lines shall be used to indicate the leading edge of step treads, seats, and benches.
- (14) (15) A spa or hot tub shall be equipped with at least one handrail (or ladder equivalent) for each 50 feet (15.2 m) of perimeter, or portion thereof,

to designate points of entry and exit.

- (15) (16) Where water temperature exceeds 90° Fahrenheit (32° C), a caution sign shall be mounted adjacent to the entrance to the spa or hot tub. It shall contain the following warnings in letters at least ½ inch in height:
- (a) CAUTION:
- (b) -Pregnant women; elderly persons, and persons suffering from heart disease, diabetes, or high or low blood pressure should not enter the spa/hot tub without prior medical consultation and permission from their doctor;
- (c) -Do not use the spa/hot tub while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or that raise or lower blood pressure;
- (d) -Do not use alone;
- (e) -Unsupervised use by children is prohibited;
- (f) -Enter and exit slowly;
- (g) -Observe reasonable time limits (that is, 10-15 minutes), then leave the water and cool down before returning for another brief stay;
- (h) -Long exposure may result in nausea, dizziness, or fainting;
- (i) -Keep all breakable objects out of the area.
- (16) (17) A sign shall be posted in the immediate vicinity of the spa or hot tub stating the location of the nearest telephone and indicating that emergency telephone numbers are posted at that location. Those emergency telephone numbers shall include the name and telephone number of the nearest available police, fire or rescue unit, physician, ambulance service, ~~and~~ or hospital.
- (17) (18) A sign shall also be posted requiring a shower for each user prior to entering the spa or hot tub and prohibiting oils, body lotion, and minerals in the water.

Statutory Authority G.S. 130A-282.

.2533 EQUIPMENT ROOM

- (a) All pumps, chemical feeding apparatus and other mechanical and electrical equipment shall be enclosed in a weatherproof structure with a minimum ceiling height of seven feet. The equipment room shall be provided with a door with a permanent lock which must be kept locked when not in use by the pool operator. Filters located outside the equipment room shall be completely enclosed by a fence.
- (b) Lighting to allow the operator to read all gauges and control devices shall be provided.
- (c) Valves and control devices shall be readily accessible and clearly visible. At least three feet of clear walkway shall be provided to allow access to equipment.
- (d) Drainage in and around the equipment room shall preclude the possibility of water entering or accumulating on any interior surface of the enclosure. Equipment room

floors shall be relatively smooth and shall be sloped not less than $\frac{1}{4}$ inch per foot toward the drains.

(e) Natural cross draft or forced ventilation which directs vented air away from the pool area is required. The switch for the forced ventilation equipment shall be connected to the switch for the equipment room light.

(f) A permanent means of access shall be provided to all equipment rooms.

(g) A ~~$\frac{3}{4}$ -inch~~ hose bib with an approved backflow prevention device shall be provided in the equipment room.

Statutory Authority G.S. 130A-282.

.2534 CHEMICAL STORAGE

A separate chemical storage area which meets the following criteria shall be provided:

- (1) The chemical storage area shall be in a dry, weatherproof structure with a minimum ceiling height of seven feet.
- (2) ~~The chemical storage area shall contain a minimum area of 24 square feet. For public swimming pools built after May 1, 1996, chemical storage space shall be provided based on a minimum of five square feet for the first 10,000 gallons of pool water plus one additional square foot for each additional 3,000 gallons or portion thereof up to a total area of 100 square feet.~~
- (3) Natural cross draft or forced ventilation which directs vented air away from the pool and other occupied areas is required. The switch for the forced ventilation equipment shall be wired into the switch for the lights.
- (4) Provision shall be made for dry storage of all pool chemicals in waterproof containers or above the floor on shelves, pallets or dollies. Chemical storage area shelving shall be at least six inches above the floor.
- (5) The chemical storage area shall be arranged so that chemicals which can react with other pool chemicals are stored separately and shall be constructed and arranged to permit easy cleanup of chemical spills.

Statutory Authority G.S. 130A-282.

.2535 WATER QUALITY STANDARDS

Swimming pool water quality shall be maintained in accordance with the following:

- (1) The chemical quality of the water shall be maintained in an alkaline condition at all times with the Ph between 7.2 and 7.8.
- (2) The clarity of the water shall be maintained such that the main drain grate is readily visible from the pool deck at all times.
- (3) Disinfection shall be provided in accordance with manufacturers' instructions for all pools by a chemical or other process that meets the criteria

listed as follows:

- (a) registered with the U.S. Environmental Protection Agency for pool water or potable water;
- (b) provides a residual effect in the pool water which can be measured by simple portable field test equipment;
- (c) will not impart any immediate or cumulative adverse physiological effects to pool bathers when used as directed;
- (d) will not produce any undue safety hazard when stored or used as directed;
- (e) will not damage or cause excessive wear of pool components or equipment;
- (f) will demonstrate reduction of total coliform and fecal coliform to a level at least equivalent to free chlorine at a level of one part per million in the same body of water.
- (4) When chlorine is used as the disinfectant, a free chlorine residual of at least one part per million (ppm) shall be maintained throughout the pool whenever it is open or in use. Pools which use chlorine as the disinfectant must be stabilized with cyanuric acid except at indoor pools or where it can be shown that cyanuric acid is not necessary to maintain a stable free chlorine residual.
- (5) When bromine or compounds of bromine are used as the disinfectant, a free bromine residual of at least two parts per million, shall be maintained throughout the pool whenever it is open or in use.
- (6) Automatic chemical feeders that are NSF listed shall be used when chlorine, bromine, or compounds of bromine are used as a disinfectant. Feeders shall be manufactured and installed in accordance with NSF standard number 50 which is incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Health, 1330 St. Mary's Street, Raleigh, North Carolina. Copies may be obtained from the National Sanitation Foundation, ~~3475 Plymouth Road,~~ P.O. Box 130140, Ann Arbor, Michigan 48113-0140 at ~~no cost,~~ a cost of forty-five dollars (45.00).
- (7) When biguanide is used as the disinfectant, a residual of 30 to 50 parts per million shall be maintained throughout the pool whenever it is open or in use.
- (8) ~~(7)~~ When silver/copper ion systems are used, the copper concentration in the pool water shall not exceed one part per million and a chlorine residual must be maintained in accordance with Paragraph (4) of this Rule.
- (9) ~~(8)~~ The use of chlorine in its elemental (gaseous) form for disinfection of public swimming pools is prohibited.
- (10) ~~(9)~~ Test kits or equipment capable of measuring

disinfectant level and Ph must be maintained at all public swimming pools.

- (10) ~~Written records of disinfectant level and Ph must be recorded at least once during each day of operation and maintained at the pool site for a period of not less than six months.~~
- (11) The pool operator shall maintain written records of the operating conditions of each pool. Records shall be maintained at the pool site for a period of not less than six months. Records shall include the following:
- (a) daily recording of the disinfectant residual in the pool;
 - (b) daily recording of pool water Ph;
 - (c) daily recording of water temperature in heated pools; and
 - (d) recording of activities pertaining to pool water maintenance including chemical additions and filter backwash cycles.
- (12) Water temperature in heated swimming pools shall not exceed 90° Fahrenheit (32°C) and in heated spas shall not exceed 104° Fahrenheit (40°C).

Statutory Authority G.S. 130A-282.

.2537 MAINTENANCE AND OPERATION

(a) All public swimming pools constructed or remodeled on or after May 1, 1991 shall be maintained and operated in accordance with the Rules of this Section.

(b) On or after May 1, 1993 all public swimming pools including those constructed prior to May 1, 1991 shall be maintained and operated in accordance with the following:

- (1) All safety provisions of Rule .2530(a) and (b) of this Section shall be met.
- (2) Decks shall be structurally sound and shall be maintained free of trip hazards or offsets greater than one-half inch resulting from deterioration or changes from the original deck profile.
- (3) There shall be no loose coping.
- (4) Artificial lighting shall be provided for all pools used when natural lighting is not sufficient to make all parts of the pool and pool area clearly visible.
- (5) Swimming pools shall be protected by a fence, wall, building, or other enclosure, or any combination thereof, which completely encloses the swimming pool area. All gates and doors shall be equipped with self-closing and positive self-latching closure mechanisms. Existing waterslide flumes and other appurtenances are not required to be located inside the fence.
- (6) Depth markings shall be provided.
- (7) Drain covers shall be in good condition and securely attached.
- (8) Damaged face plates or fittings shall be repaired or replaced.
- (9) Underwater light niches shall be maintained or

covered so as not to present a potential hazard to bathers.

- (10) Diving equipment and pool slides including stairs and railing shall be maintained in good working order.
 - (11) A timer switch which allows no more than 15 minutes of operation without manual resetting shall be used to control air blowers and hydro-therapy pumps on heated spas.
 - (12) All breaks in grade of the pool bottom including the leading edges of stair treads and seats and the tops of breakpoints where the slope of the bottom changes at a depth of five feet (15m) or less shall be marked with a contrasting color band by May 1, 2000. Contrasting color bands shall not be required where a registered engineer, registered architect or licensed swimming pool contractor certifies in writing that structural weakness or materials of construction prevent the installation of permanent markings.
 - (13) On or after May 1, 1996 all heated spas shall post a caution sign as specified in Rule .2532 of this Section.
 - (14) Pool maintenance shall include removal of debris from the water surface and bottom of the pool.
 - (15) All pool chemicals shall be stored in a clean, dry, well ventilated area and shall be organized so as to prevent chemicals from reacting.
 - (16) No submersible pumps or mechanical pool cleaning equipment shall be placed or used in the pool while bathers are in the pool.
- (c) The owner of a public swimming pool shall provide for the operation of the pool by a competent person or persons who shall be responsible to the owner for operation, maintenance, pool safety and recordkeeping. The operator of a public swimming pool shall meet the following qualifications:
- (1) Shall have successfully completed a certified pool/spa operator course sanctioned by the National Swimming Pool Foundation, 10803 Gulfdale, Suite 300, San Antonio, Texas 78216, or a course of instruction approved by the department or;
 - (2) Shall have through education or experience gained the knowledge, skills and ability necessary to maintain and operate a public swimming pool in compliance with the requirements of this Section.

Statutory Authority G.S. 130A-282.

.2540 REPORTING OF INJURY OR ILLNESS

The pool operator shall report any death, serious injury or complaint of illness attributed by a bather to use of a public swimming pool to the local health department within two working days of the incident or complaint. The report to the health department shall include the following:

- (1) Name and telephone number or address of the person injured or making a complaint.
- (2) Date of the incident or onset of illness.
- (3) Description of the type of injury or complaint.
- (4) Name and phone number of the person rendering assistance or first aid.
- (5) The name of any known hospital, rescue squad or physician providing medical assistance.
- (6) Names and phone numbers of available witnesses to the incident.

Statutory Authority G.S. 130A-282.

.2541 FLOW THROUGH POOLS

Tanks or structures built prior to May 1, 1995 which hold a flowing natural water source for public swimming, diving, wading or recreational use without physical or chemical treatment shall not be required to comply with the rules of this Section.

Statutory Authority G.S. 130A-282.

.2542 IN POOL EXERCISE EQUIPMENT

(a) Exercise equipment such as steps, weights, or floats used in a public swimming pool shall be designed and constructed so as not to pose a threat to water quality or bather safety and shall be removed from the pool after each use.

(b) Where in-pool exercise equipment such as underwater treadmills remain in a swimming pool when not in use, the following conditions shall be met:

- (1) The swimming pool shall be restricted to use only by adults or a lifeguard shall be on duty at all times when children are allowed in the pool.
- (2) Exercise equipment shall meet Underwriters' Laboratories Standard Number 1647 for exercise equipment as verified in writing by an independent third party testing laboratory.
- (3) The position of underwater equipment shall be marked with colored floats attached by a 3/4 inch diameter rope or other movable barrier which surrounds the equipment with a visible perimeter designed so as not to entangle or otherwise threaten bather safety.
- (4) Equipment shall be verified by the manufacturer to be designed for use in a public swimming pool and to be free of grease or oil which might negatively impact pool water quality.
- (5) Any cords or hoses attached to underwater exercise equipment shall not pose a threat of bather entanglement. Cords or hoses which cross a pool deck shall be covered or shielded to prevent tripping. Covers which protrude more than one-half inch from the deck surface shall be sloped at an angle of no more than 30° from the horizontal deck surface.

Statutory Authority G.S. 130A-282.

.2543 WATER AMUSEMENT DEVICES

Artificial bodies of water used by the public for recreational purposes which do not involve immersion or extensive bodily contact with water shall not be required to meet the Rules of this Section.

Statutory Authority G.S. 130A-282.

Notice is hereby given in accordance with G.S. 150B-21.2 that the DEHNR - Commission for Health Services intends to amend rules cited as 15A NCAC 19A .0401, .0406, and .0502.

Proposed Effective Date: October 1, 1995.

A Public Hearing will be conducted at 1:30 p.m. on July 11, 1995 at the Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, NC.

Reason for Proposed Action: These proposed rule changes will bring several immunization requirements into accordance with the recommendations of the national Advisory Committee for Immunization Practices (ACIP). Specifically, these changes affect Hib, hepatitis B, tetanus/diphtheria(Td), measles and mumps vaccines. Several of these proposed changes will bring the rules into compliance with changes to the federally required Vaccine Information Materials. In addition, a correction to the date of Hepatitis B vaccine is proposed to include the first day of the month as was originally intended. Finally, an update is proposed to reflect the reclassification of the Immunization Branch to the Immunization Section.

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to Grady L. Balentine, Department of Justice, PO Box 629, Raleigh, NC 27602-0629. All written comments must be received by July 17, 1995. Persons who wish to speak at the hearing should contact Mr. Balentine at (919) 733-4618. Persons who call in advance of the hearing will be given priority on the speaker's list. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS,

BUSINESSES, ASSOCIATIONS, INSTITUTIONS OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

Fiscal Note: *These Rules do not affect the expenditures or revenues of local government or state funds.*

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19A - COMMUNICABLE DISEASE CONTROL

SECTION .0400 - IMMUNIZATION

.0401 DOSAGE AND AGE REQUIREMENTS FOR IMMUNIZATION

(a) Every individual in North Carolina required to be immunized pursuant to G.S. 130A-152 through 130A-157 shall be immunized against the following diseases by receiving the specified minimum doses of vaccines by the specified ages:

- (1) diphtheria, tetanus, and whooping cough vaccine -- five doses: three doses by age seven months and two booster doses, one by age 19 months and the second on or after the fourth birthday and before enrolling in school (K-1) for the first time;
- (2) oral poliomyelitis vaccine--four doses: two doses of trivalent type by age five months; a third dose trivalent type by age 19 months and a booster dose of trivalent type on or after the fourth birthday and before enrolling in school (K-1) for the first time; two doses of enhanced-potency inactivated poliomyelitis vaccine may be substituted for two doses of oral poliomyelitis vaccine;
- (3) measles (rubeola) vaccine -- two doses of live, attenuated vaccine administered at least 30 days apart: one dose on or after age 12 months and before age 16 months and a second dose before enrolling in school (K-1) for the first time,
- (4) rubella vaccine -- one dose of live, attenuated vaccine on or after age 12 months and before age 16 months;
- (5) mumps vaccine -- one dose of live, attenuated vaccine administered on or after age 12 months and before age 16 months;
- (6) Haemophilus influenzae, b. conjugate vaccine -- three doses of HbOC or two doses of PRP-OMP by age seven months and a booster dose of any type on or after age 12 months and by age 16

months; and

- (7) hepatitis B vaccine -- ~~three doses by age one year~~ doses: one dose by age three months, a second dose by age five months and a third dose by age 19 months.

(b) Notwithstanding the requirements of Paragraph (a) of this Rule:

- (1) An individual who has attained his or her seventh birthday without having been immunized against whooping cough shall not be required to be immunized with a vaccine preparation containing whooping cough antigen.
- (2) An individual who has been documented by serologic testing to have a protective antibody titer against rubella shall not be required to receive rubella vaccine.
- (3) An individual who has been documented by serological testing to have a protective antibody titer against measles shall not be required to receive measles vaccine. An individual who has been diagnosed prior to January 1, 1994, by a physician licensed to practice medicine as having measles (rubeola) disease shall not be required to receive measles vaccine.
- (4) An individual attending school who has attained his or her 18th birthday shall not be required to receive oral polio vaccine.
- (5) An individual born prior to 1957 shall not be required to receive measles or mumps vaccine. An individual who has attained his or her fiftieth birthday shall not be required to receive rubella vaccine. An individual who entered a college or university after his or her thirtieth birthday and before February 1, 1989 shall not be required to meet the requirement for rubella vaccine.
- (6) The requirements for mumps vaccine shall not apply to individuals who enrolled for the first time in the first grade before July 1, 1987 or in college or university before July 1, 1994. An individual who has been documented by serological testing to have a protective antibody titer against mumps shall not be required to receive mumps vaccine.
- (7) Individuals who receive the first booster dose of diphtheria, tetanus, and whooping cough vaccine on or after the fourth birthday shall not be required to have a second booster dose. Individuals who receive the third dose of oral poliomyelitis vaccine on or after the fourth birthday shall not be required to receive a fourth dose.
- (8) The requirements for booster doses of diphtheria, tetanus, and whooping cough vaccine and oral poliomyelitis vaccine shall not apply to individuals who enrolled for the first time in the first grade before July 1, 1987. However, individuals attending a college or university or who began their tetanus/diphtheria toxoid series

on or after the age of seven years shall be required to have three doses of ~~diphtheria/tetanus~~ tetanus/diphtheria toxoid of which one must have been within the last 10 years.

- (9) Individuals born before October 1, 1988 shall not be required to be vaccinated against Haemophilus influenzae, b. Individuals who receive the first dose of Haemophilus influenzae, b, vaccine on or after 12 months of age and before 15 months of age shall be required to have only two doses of HbOC or PRP-OMP. Individuals who receive the first dose of Haemophilus influenzae, b, vaccine on or after 15 months of age shall be required to have only one dose of any of the Haemophilus influenzae conjugate vaccines, including PRP-D. However, no individual who has passed their fifth birthday shall be required to be vaccinated against Haemophilus influenzae, b.
- (10) Individuals born ~~on or~~ before July 1, 1994 shall not be required to be vaccinated against hepatitis B.
- (11) The requirement for a second dose of measles vaccine shall not apply to individuals who enroll in school (K-1) or in college or university for the first time before July 1, 1994.

Statutory Authority G.S. 130A-152(c); 130A-155.1.

.0406 ACCESS TO IMMUNIZATION INFORMATION

(a) Physicians, local health departments and the Department shall, upon request and without consent release the immunization information specified in Paragraph (b) of this Rule to the following organizations:

- (1) schools K-12, whether public, private or religious;
- (2) licensed and registered daycare facilities as defined in G.S. 110-86(3) and G.S. 110-101;
- (3) Head Start; and
- (4) colleges and universities, whether public, private or religious.

(b) The following is the immunization information to be released to the organizations specified in Paragraph (a) of this Rule:

- (1) name and address;
- (2) name of the parent, guardian, or person standing in loco parentis;
- (3) date of birth;
- (4) gender;
- (5) race and ethnicity;
- (6) vaccine type, date and dose administered;
- (7) the name and address of the physician or health department that administered each dose, and
- (8) the existence of a medical or religious exemption determined by the Immunization Section Branch to meet the requirements of G.S. 130A-156 and

15A NCAC 19A .0404 or G.S. 130A-157. If such a determination has not been made by the Immunization Section Branch, the person shall have access to the certification of medical and religious exemptions required by G.S. 130A-156 or G.S. 130A-157 and 15A NCAC 19A .0404.

Statutory Authority G.S. 130A-153.

SECTION .0500 - PURCHASE AND DISTRIBUTION OF VACCINE

.0502 VACCINE FOR PROVIDERS OTHER THAN LOCAL HEALTH DEPARTMENTS

(a) The Department of Environment, Health, and Natural Resources shall provide vaccines required by law free of charge to the following providers for administration to individuals who need vaccines to meet the requirement of G.S. 130A-152, 130-155.1 and 15A NCAC 19A .0401:

- (1) Community, migrant, and rural health centers;
- (2) Colleges and universities for students; and
- (3) Physicians and other health care providers.

(b) Upon request of the Department, required vaccines may be distributed by local health departments operating as agents of the State to providers listed in Subparagraphs (a)(1), (2) and (3) of this Rule.

(c) Providers authorized in Paragraph (a) of this Rule shall be eligible to receive free vaccines from the Department only if they sign an agreement with the Department. This agreement will be prepared by the Immunization Section Branch and will require the provider to:

- (1) Charge no more for a single dose of vaccine than the rate established by the Health Care Financing Administration (HCFA); Charge no more than double the HCFA rate as a reasonable fee for the administration of two or more vaccines given at a single visit. The rate established by HCFA is published in the Federal Register (59FR50235), and is incorporated herein by reference along with any subsequent amendments and editions. The HCFA rate may be inspected at the Immunization Section of the Department of Environment, Health, and Natural Resources. Copies may also be obtained from the Immunization Section at no charge;
- (2) Provide all vaccines needed during a visit unless a specific contraindication exists to one or more of the vaccines;
- (3) Charge no office fee in addition to an administration fee for an immunization-only visit;
- (4) Agree not to charge an administration fee to an individual who states that they are unable to pay;
- (5) Impose no condition as a prerequisite to receiving vaccine;
- (6) Report in writing or electronically the name and social security number of the person to whom vaccine was administered, the date of adminis-

tration, the type and dose of vaccine(s) administered and the provider number of the physician or clinic administering the vaccine to the Immunization Section Branch, at least monthly by the fifth day of each month;

(7) Report adverse vaccine reactions through the Vaccine Adverse Event Reporting System (VAERS);

(8) Provide the latest edition of the applicable Obtain a signed Important Information Statement (IIS), or Vaccine Information Statement (VIS) Pamphlet (VIP), or a separate signature card or log sheet that contains a declarative statement specified by the Branch to the parent, guardian, or person standing in loco parentis for each dose of vaccine administered; document this action within the patient's permanent medical record; retain the documentation the signed portion for a period of 10 years following the end of the calendar year in which the form was signed vaccine dose was administered, or for 10 years following the recipient's age of majority, whichever is longer; upon request, furnish copies of the documentation of the signed portion to the local health department or the Department; Department. Keep keep a record of the vaccine manufacturer, lot number, and date of administration for each dose of vaccine administered;

(9) Allow periodic inspection of their vaccine supplies and records by the Immunization Section Branch; and

(10) Comply with the rules of this Section.

(d) A provider who fails to submit timely and accurate reports, as required in Paragraph (c) of this Rule, twice in any 12 month period shall have their eligibility to receive state vaccine suspended for a period of one year. A provider who fails to comply with any of the other requirements of this Rule may have their eligibility suspended by the Department for a period determined by the Department and may be subject to an action brought pursuant to G.S. 130A-27. All suspensions of eligibility shall be in accordance with G.S. 130A-23.

Statutory Authority G.S. 130A-154, 130A-155.1; 130A-433, S.L. 1986, c. 1008, s. 2; S.L. 1987, c. 215, s. 7.

Notice is hereby given in accordance with G.S. 150B-21.2 that the EHNHR - Commission for Health Services intends to amend rule cited as 15A NCAC 24A .0404.

Proposed Effective Date: October 1, 1995.

A Public Hearing will be conducted at 1:30 p.m. on July 11, 1995 at the Ground Floor Hearing Room, Archdale

Building, 512 N. Salisbury Street, Raleigh, NC.

Reason for Proposed Action: This amendment specifies reimbursement formulas that heretofore had been defined as a "schedule of payments."

Comment Procedures: All persons interested in these matters are invited to attend the public hearing. Written comments may be presented at the public hearing or submitted to Grady L. Balentine, Department of Justice, PO Box 629, Raleigh, NC 27602-0629. All written comments must be received by July 17, 1995. Persons who wish to speak at the hearing should contact Mr. Balentine at (919) 733-4618. Persons who call in advance of the hearing will be given priority on the speaker's list. Oral presentation lengths may be limited depending on the number of people that wish to speak at the public hearing. Only persons who have made comments at a public hearing or who have submitted written comments will be allowed to speak at the Commission meeting. Comments made at the Commission meeting must either clarify previous comments or proposed changes from staff pursuant to comments made during the public hearing process.

IT IS VERY IMPORTANT THAT ALL INTERESTED AND POTENTIALLY AFFECTED PERSONS, GROUPS, BUSINESSES, ASSOCIATIONS, INSTITUTIONS OR AGENCIES MAKE THEIR VIEWS AND OPINIONS KNOWN TO THE COMMISSION FOR HEALTH SERVICES THROUGH THE PUBLIC HEARING AND COMMENT PROCESS, WHETHER THEY SUPPORT OR OPPOSE ANY OR ALL PROVISIONS OF THE PROPOSED RULES. THE COMMISSION MAY MAKE CHANGES TO THE RULES AT THE COMMISSION MEETING IF THE CHANGES COMPLY WITH G.S. 150B-21.2(f).

Fiscal Note: This Rule affects the expenditure or distribution of State funds subject to the Executive Budget Act, Article 1 of Chapter 143.

CHAPTER 24 - GENERAL PROCEDURES FOR PUBLIC HEALTH PROGRAMS

SUBCHAPTER 24A - PAYMENT PROGRAMS

SECTION .0400 - REIMBURSEMENT

.0404 REIMBURSEMENT FOR SERVICES NOT COVERED BY MEDICAID

(a) ~~The Department shall reimburse providers of authorized services for which there are no Medicaid reimbursement rates according to a schedule of payments developed by the Department except as provided in Paragraph (b) of this Rule. Copies of this schedule may be inspected at or obtained from the Purchase of Medical Care Services~~

Section-

(b)(a) The Department shall reimburse providers of ~~all~~ authorized mobility systems (including components and accessories), environmental control units, and custom seating systems for which there are no Medicaid reimbursement rates at the manufacturer's catalog price less five percent.

(b) The Department shall reimburse providers of authorized prosthetics and orthotics at the Medicare rate of reimbursement when there is no Medicaid rate of reimbursement for the item. When there is neither a Medicaid rate nor a Medicare rate for the item, the Department shall reimburse at the provider's usual charge to the general public.

(c) The Department shall reimburse providers of authorized equipment repair services for which there are no Medicaid reimbursement rates at forty five dollars (\$45.00) per hour.

(d) The Department shall reimburse physicians and dentists for authorized services for which there are no Medicaid rates at the Medicaid rate for a comparable procedure as determined by the program's medical director or at 80 percent of the amount billed, whichever is less.

(e) The Department shall reimburse providers of authorized assistive listening devices and those types of hearing aids for which there are no Medicaid rates at invoice cost plus the Medicaid dispensing fee for a new hearing aid(s).

(f) The Department shall reimburse providers of authorized amplification-related services for which there are no Medicaid rates at the rates paid for audiology services under Medicaid's Independent Practitioner Program.

(g) The Department shall reimburse providers of authorized services not otherwise specified in this Section, for which there are no Medicaid reimbursement rates, at the provider's usual charge to the general public.

Statutory Authority G.S. 130A-5(3); 130A-124; 130A-127; 130A-129; 130A-205.

The List of Rules Codified is a listing of rules that were filed with OAH in the month indicated.

Key:

Citation = Title, Chapter, Subchapter and Rule(s)
 AD = Adopt
 AM = Amend
 RP = Repeal
 With Chgs = Final text differs from proposed text
 Corr = Typographical errors or changes that requires no rulemaking
 Eff. Date = Date rule becomes effective
 Temp. Expires = Rule was filed as a temporary rule and expires on this date or 180 days

NORTH CAROLINA ADMINISTRATIVE CODE

MAY 95

TITLE	DEPARTMENT	TITLE	DEPARTMENT
2	Agriculture	16	Public Instruction
4	Commerce	17	Revenue
10	Human Resources	19A	Transportation
12	Justice	21	Occupational Licensing Boards
13	Labor		2 - Architecture
15A	Environment, Health, and Natural Resources		14 - Cosmetic Art Examiners

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
2	NCAC	9B	.0016		✓		✓		06/01/95	
		43L	.0202		✓		✓		06/01/95	
			.0304		✓		✓		06/01/95	
			.0701	✓					06/01/95	
			.0702	✓			✓		06/01/95	
	45		.0001 - .0002			✓			06/01/95	
4	NCAC	3C	.0112	✓			✓		06/01/95	
			.0201 - .0204		✓		✓		06/01/95	
			.0301		✓		✓		06/01/95	
			.0807		✓				06/01/95	
			.0901		✓				06/01/95	
			.1001		✓		✓		06/01/95	
			.1101		✓		✓		06/01/95	
			.1301		✓				06/01/95	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
4	NCAC	3C	.1302		✓		✓		06/01/95	
			.1601		✓		✓		06/01/95	
			.1701 - .1704	✓			✓		06/01/95	
			.1801	✓					06/01/95	
			.1802	✓			✓		06/01/95	
	3E		.0102		✓				06/01/95	
	3F		.0201		✓		✓		06/01/95	
			.0304		✓				06/01/95	
			.0503		✓		✓		06/01/95	
			.0504		✓				06/01/95	
			.0506		✓				06/01/95	
	3I		.0201					✓		
			.0501					✓		
			.0503					✓		
	10A		.0103		✓				03/15/95	
			.0104	✓					02/15/95	
			.0201		✓				03/15/95	
			.0404		✓				03/15/95	
			.0404A	✓					02/15/95	
			.0407		✓				03/15/95	
			.0408	✓					03/15/95	
			.0501 - .0502		✓				03/15/95	
			.0604		✓				03/15/95	
			.0607		✓				03/15/95	
			.0609 - .0610		✓				03/15/95	
			.0614		✓				03/15/95	
			.0703		✓				03/15/95	
10	NCAC	1B	.0420	✓			✓		06/01/95	
		3E	.0304		✓				07/01/95	
		3O	.0104		✓		✓		06/01/95	
			.0105			✓			06/01/95	
			.0205					✓		
			.0305		✓		✓		06/01/95	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
10	NCAC	3O	.0306		✓				06/01/95	
			.0307			✓			06/01/95	
			.0308		✓		✓		06/01/95	
			.0309 - .0310			✓			06/01/95	
			.0403 - .0404			✓			06/01/95	
			.0405		✓				06/01/95	
			.0503		✓				06/01/95	
			.0504 - .0506		✓		✓		06/01/95	
			.0507			✓			06/01/95	
			.0605 - .0606			✓			06/01/95	
			.0607		✓				06/01/95	
			.0608		✓		✓		06/01/95	
			.0609 - .0610			✓			06/01/95	
			.0705		✓		✓		06/01/95	
	3R		.0320			✓			07/01/95	
			.2002		✓		✓		07/01/95	
	26H		.0102					✓		
			.0104		✓				06/01/95	
	26M		.0301 - .0305	✓			✓		06/01/95	
12	NCAC	7D	.0105		✓				07/01/95	
	11		.0210		✓				05/18/95	180 DAYS
13	NCAC	7A	.0301		✓				06/01/95	
			.0602 - .0603		✓		✓		06/01/95	
			.0604		✓				06/01/95	
			.0605		✓		✓		06/01/95	
			.0801	✓					06/01/95	
			.0802 - .0803	✓			✓		06/01/95	
			.0804	✓					06/01/95	
15A	NCAC	4B	.0018		✓				06/01/95	
	7H		.0106	✓			✓		06/01/95	
			.0308		✓				05/04/95	
			.1705		✓		✓		06/01/95	
	7M		.0202		✓				05/04/95	

LIST OF RULES CODIFIED

Citation				AD	AM	RP	With Chgs	Corr	Eff. Date	Temp. Expires
15A	NCAC	11	.0356 - .0357					✓		
			.0506					✓		
		18A	.3202					✓		
16	NCAC	6A	.0002		✓		✓		07/01/95	
			.0003			✓			07/01/95	
		6D	.0401 - .0402	✓			✓		07/01/95	
		6E	.0202		✓				07/01/95	
17	NCAC	6B	.0605		✓				06/01/95	
		7B	.3001		✓				06/01/95	
19A	NCAC	3D	.0227		✓				06/01/95	
		4A	.0005		✓				06/01/95	
21	NCAC	2	.0101		✓				06/01/95	
			.0103 - .0105			✓			06/01/95	
			.0108		✓		✓		06/01/95	
			.0201 - .0202		✓				06/01/95	
			.0204 - .0205		✓				06/01/95	
			.0207			✓			06/01/95	
			.0208 - .0209		✓		✓		06/01/95	
			.0210		✓				06/01/95	
			.0212		✓				06/01/95	
			.0215 - .0216		✓				06/01/95	
			.0218 - .0219	✓					06/01/95	
			.0302		✓		✓		06/01/95	
			.0402		✓				06/01/95	
			.0405		✓				06/01/95	
			.0602			✓			06/01/95	
			.0603		✓				06/01/95	
		14F	.0014	✓			✓		06/01/95	
		14I	.0401 - .0402	✓					06/01/95	

The Rules Review Commission (RRC) objected to the following rules in accordance with G.S. 150B-21.9(a). State agencies are required to respond to RRC as provided in G.S. 150B-21.12(a).

DEPARTMENT OF AGRICULTURE

Markets

2 NCAC 43L .0202 - Gate Fees	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
2 NCAC 43L .0304 - Horse Facility	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95

DEPARTMENT OF COMMERCE

Banking Commission

4 NCAC 3C .0201 - Establishment of Branches and Limited Service Facilities	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .0202 - Discontinuance	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .0204 - Conversion of Branch to Limited Service Facility	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .0301 - Change of Location of Main Office, Branch or Ltd Svc Facility	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .0901 - Books and Records	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .1001 - Loan Documentation	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .1101 - Definitions: Issuance of Capital Notes and Debentures	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .1302 - Share Purchase and Option Plans	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3C .1601 - Fees, Copies and Publication Costs	RRC Objection	05/18/95
Agency Revised Rule	Obj. Removed	05/18/95
4 NCAC 3I .0101 - Definitions; Filings	RRC Objection	04/20/95
Agency Revised Rule	Obj. Removed	04/20/95
4 NCAC 3I .0402 - Annual Statement	RRC Objection	04/20/95
Agency Revised Rule	Obj. Removed	04/20/95

DEPARTMENT OF CULTURAL RESOURCES

Division of State Library

7 NCAC 2E .0301 - Qualifications for Grants	RRC Objection	04/20/95
Agency Revised Rule	Obj. Removed	04/20/95

ENVIRONMENT, HEALTH, AND NATURAL RESOURCES

Coastal Management

15A NCAC 7H .0306 - General Use Standards for Ocean Hazard Areas	Obj. Cont'd	05/18/95
15A NCAC 7H .0308 - Specific Use Standards for Ocean Hazard Areas	RRC Objection	03/16/95
Agency Revised Rule	Obj. Cont'd	04/20/95
Rule Returned to Agency		04/20/95
Agency Filed Rule for Codification Over RRC Objection	Eff.	05/04/95

<i>15A NCAC 7M .0202 - Policy Statements</i>		<i>RRC Objection</i>	<i>03/16/95</i>
<i>Rule Returned to Agency</i>		<i>Obj. Cont'd</i>	<i>04/20/95</i>
<i>Agency Filed Rule for Codification Over RRC Objection</i>		<i>Eff.</i>	<i>05/04/95</i>
Environmental Management			
<i>15A NCAC 2D .0902 - Applicability</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>04/20/95</i>
Radiation Protection			
<i>15A NCAC 11 .0104 - Definitions</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>04/20/95</i>
<i>15A NCAC 11 .0503 - Equipment Radiation Level Limits</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>04/20/95</i>
Wildlife Resources and Water Safety			
<i>15A NCAC 10C .0205 - Public Mountain Trout Waters</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>04/20/95</i>
<i>15A NCAC 10F .0330 - Carteret County</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>04/20/95</i>
<i>15A NCAC 10K .0001 - Course Requirements</i>			
<i>Rule Withdrawn by Agency</i>			<i>04/20/95</i>
HUMAN RESOURCES			
Aging			
<i>10 NCAC 22R .0202 - County Funding Plans</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>04/20/95</i>
Facility Services			
<i>10 NCAC 30 .0305 - Persons Subject to Licensure</i>		<i>RRC Objection</i>	<i>05/18/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>05/18/95</i>
<i>10 NCAC 30 .0506 - Simplified Reporting for Certain Organizations</i>		<i>RRC Objection</i>	<i>05/18/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>05/18/95</i>
<i>10 NCAC 30 .0607 - License Year</i>		<i>RRC Objection</i>	<i>05/18/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>05/18/95</i>
Medical Assistance			
<i>10 NCAC 26H .0104 - Cost Reporting: Auditing and Settlements</i>			
<i>Rule Withdrawn by Agency</i>			<i>04/20/95</i>
<i>Agency Resubmitted Rule</i>		<i>RRC Objection</i>	<i>05/18/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>05/18/95</i>
<i>10 NCAC 26M .0301 - Program Definition</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>05/18/95</i>
<i>10 NCAC 26M .0302 - Access to Care</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>05/18/95</i>
<i>10 NCAC 26M .0303 - Patient Informing</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>Obj. Removed</i>	<i>05/18/95</i>
<i>10 NCAC 26M .0304 - Relationship with Carolina Access</i>		<i>RRC Objection</i>	<i>04/20/95</i>
<i>Agency Revised Rule</i>		<i>RRC Objection</i>	<i>04/20/95</i>

RRC OBJECTIONS

<i>Rule Withdrawn by Agency</i>		05/18/95
10 NCAC 26M .0305 - Relationship with EPSDT program	RRC Objection	04/20/95
<i>Agency Revised Rule</i>	RRC Objection	04/20/95
<i>Rule Withdrawn by Agency</i>		05/18/95
10 NCAC 26M .0306 - Relationship with Sub-Contractors (Renumbered to .0304)	RRC Objection	04/20/95
<i>Agency Revised Rule</i>	RRC Objection	04/20/95
<i>Agency Revised Rule</i>	Obj. Removed	05/18/95
10 NCAC 26M .0307 - Utilization Review Requirements	RRC Objection	04/20/95
<i>Agency Revised Rule</i>	RRC Objection	04/20/95
<i>Rule Withdrawn by Agency</i>		05/18/95
10 NCAC 26M .0308 - Enrollee and Sub-Contractor Appeals and Grievances	RRC Objection	04/20/95
<i>Agency Revised Rule (Renumbered to .0305)</i>	Obj. Removed	05/18/95

LABOR

OSHA

13 NCAC 7A .0602 - Definitions	RRC Objection	05/18/95
<i>Agency Revised Rule</i>	Obj. Removed	05/18/95
13 NCAC 7A .0603 - Safety and Health Programs	RRC Objection	05/18/95
<i>Agency Revised Rule</i>	Obj. Removed	05/18/95

LICENSING BOARDS AND COMMISSIONS

Board of Cosmetic Art Examiners

21 NCAC 14F .0014 - Salon Renewal	RRC Objection	03/16/95
<i>No Response from Agency</i>	Obj. Cont'd	04/20/95
<i>Agency Revised Rule</i>	Obj. Removed	05/18/95
21 NCAC 14I .0401 - App. for Lic. by Individuals Who Have Been Convicted of a Felony	RRC Objection	03/16/95
<i>No Response from Agency</i>	Obj. Cont'd	04/20/95
<i>Agency Revised Rule</i>	Obj. Removed	05/18/95
21 NCAC 14I .0402 - Requests for Preapplication Review of Felony Convictions	RRC Objection	03/16/95
<i>No Response from Agency</i>	Obj. Cont'd	04/20/95
<i>Agency Revised Rule</i>	Obj. Removed	05/18/95

Licensing Board for General Contractors

21 NCAC 12 .0701 - Improper Practice		
<i>Rule Withdrawn by Agency</i>		04/20/95

Board of Practicing Psychologists

21 NCAC 54 .2704 - HSP-P Requirements On and After June 30, 1994	RRC Objection	05/18/95
21 NCAC 54 .2705 - HSP-PP Requirements	RRC Objection	05/18/95
21 NCAC 54 .2706 - HSP-PA Requirements On and After June 30, 1994	RRC Objection	05/18/95

PUBLIC EDUCATION

Elementary and Secondary Education

16 NCAC 6C .0207 - Prospective Teacher Scholarship Loans	RRC Objection	02/16/95
<i>Agency Responded</i>	Obj. Cont'd	03/16/95
<i>Agency Revised Rule</i>	Obj. Removed	04/20/95

REVENUE**Sales and Use Tax**

<i>17 NCAC 7B .1123 - Certain Sales to Commercial Livestock and Poultry Farmers</i>	<i>RRC Objection</i>	<i>03/16/95</i>
	<i>Obj. Removed</i>	<i>04/20/95</i>
<i>17 NCAC 7B .5445 - Commercial Swine, Livestock/Poultry Farmers' Cert. Form: E-599S</i>	<i>RRC Objection</i>	<i>03/16/95</i>
<i>Agency Repealed Rule</i>	<i>Obj. Removed</i>	<i>04/20/95</i>

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698.

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
ADMINISTRATION				
<i>Division of Purchase and Contract</i>				
Senter-Sanders Tractor Corp. v. Admin., Div of Purchase & Contract	94 DOA 0803	Nesnow	03/06/95	
<i>State Construction Office</i>				
W. M. Piatt & Company v. State Construction Office, DOA	94 DOA 0738	Nesnow	04/11/95	10:3 NCR 221
ALCOHOLIC BEVERAGE CONTROL COMMISSION				
Ali Alsaras v. Alcoholic Beverage Control Commission	94 ABC 0526	Chess	05/16/95	
Norman D. Forbes v. Alcoholic Beverage Control Commission	94 ABC 0787	Gray	03/17/95	
Albert Stanley Tomanec v. Alcoholic Beverage Control Commission	94 ABC 1168	Becton	03/07/95	
Robert Johnson v. Alcoholic Beverage Control Commission	94 ABC 1661	West	05/01/95	
Stinking Mercury, Inc. v. Alcoholic Beverage Control Commission	94 ABC 1682	Chess	05/03/95	
Alcoholic Beverage Control Comm. v. Depot Stop N Go, Inc.	94 ABC 1694	Mann	03/29/95	
John H. Robinson v. Alcoholic Beverage Control Commission	94 ABC 1727	Morrison	05/18/95	
Clara and Carson Young v. Alcoholic Beverage Control Commission	94 ABC 1729	Chess	05/11/95	
Bryan Lynn Whitaker, Susan Ansley Whitaker v. ABC Commission	94 ABC 1784	Mann	04/19/95	
Diamond Club, Inc. v. Alcoholic Beverage Control Commission	94 ABC 1803	Mann	04/07/95	
Robert Louis Reese v. Alcoholic Beverage Control Commission	95 ABC 0074	Chess	05/25/95	
Ray E. Bailey v. Alcoholic Beverage Control Commission	95 ABC 0210	Gray	05/01/95	
Legwin Z. Williams v. Alcoholic Beverage Control Commission	95 ABC 0224	Nesnow	05/31/95	10:6 NCR 417
CRIME CONTROL AND PUBLIC SAFETY				
<i>Crime Victims Compensation Commission</i>				
John Pavlikianidis v. Victims Compensation Commission	94 CPS 0237	Morrison	03/21/95	10:2 NCR 176
Fay, Cynthia, S. Dalton v. Crime Victims Compensation Commission	94 CPS 0445*	West	05/30/95	
Phyllis H. Steinmetz v. Crime Victims Compensation Commission	94 CPS 0542	West	05/16/95	
Wayne L. Utley v. Crime Victims Compensation Commission	94 CPS 1180	Becton	03/07/95	
Kristine S. Ray v. Crime Victims Compensation Commission	94 CPS 1673	Chess	04/20/95	
Shirley Moody Myers v. Crime Victims Compensation Commission	94 CPS 1674	Chess	04/20/95	
Thomasine Inman v. Crime Victims Compensation Commission	94 CPS 1731	Nesnow	03/09/95	
Irmgard Gordos v. Crime Victims Compensation Commission	94 CPS 1782	Gray	03/09/95	
Fay, Cynthia, S. Dalton v. Crime Victims Compensation Commission	95 CPS 0010*	West	05/30/95	
Ellen Sherwin v. Crime Vic Comp James Byrum Emp/ Baptist Hosp	95 CPS 0012	West	03/22/95	
Lynn H. Henderson v. CPS, Victims Compensation Commission	95 CPS 0212	Morrison	05/08/95	
ENVIRONMENT, HEALTH, AND NATURAL RESOURCES				
Concrete Supply Company v. Environment, Health, & Natural Resources	94 EHR 0950	Gray	05/23/95	10:6 NCR 414
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* Consolidated cases.

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James A. Bryant v. Department of Human Resources	94 CSE 1582	Morrison	04/06/95	
Conrade Dunklin v. Department of Human Resources	94 CSE 1583	Morrison	04/06/95	
Kenneth J. Balfour v. Department of Human Resources	94 CSE 1584	Morrison	03/07/95	
Willie A. Harris v. Department of Human Resources	94 CSE 1586	Morrison	04/06/95	
Walter T. Townsend Jr. v. Department of Human Resources	94 CSE 1587	Gray	04/28/95	
Dennis W. Nolan v. Department of Human Resources	94 CSE 1590	Gray	03/31/95	
Roderick Odell Adams v. Department of Human Resources	94 CSE 1591	Gray	04/07/95	
Jonathan L. Payne II v. Department of Human Resources	94 CSE 1592	Morrison	04/06/95	
Charles Scott Wilhoit v. Department of Human Resources	94 CSE 1594	Reilly	04/21/95	
Mickey Bridgett v. Department of Human Resources	94 CSE 1595	West	05/08/95	
John Kimmons v. Department of Human Resources	94 CSE 1596	Nesnow	04/17/95	
Randolph J. Nunn v. Department of Human Resources	94 CSE 1608	Mann	03/21/95	
David Lester Gordon v. Department of Human Resources	94 CSE 1609	Mann	03/13/95	
Anthony Harrison v. Department of Human Resources	94 CSE 1615	Becton	04/07/95	
Michael D. Tyree v. Department of Human Resources	94 CSE 1619	Becton	04/07/95	
Edward Fisher v. Department of Human Resources	94 CSE 1621	Becton	04/07/95	
Bernard Cooper v. Department of Human Resources	94 CSE 1623	Nesnow	04/17/95	
William Gray v. Department of Human Resources	94 CSE 1645	Becton	04/25/95	
Jimmy R. Jackson v. Department of Human Resources	94 CSE 1648	Gray	03/09/95	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
Mark A. Jones v. Department of Human Resources	94 CSE 1649	Morrison	03/07/95	
Ondino Damota Freitas v. Department of Human Resources	94 CSE 1650	Reilly	03/07/95	
Tony Monzell Perry v. Department of Human Resources	94 CSE 1651	West	04/07/95	
Frank M. Swett v. Department of Human Resources	94 CSE 1652*3	Reilly	05/16/95	
James B. Stokes Jr. v. Department of Human Resources	94 CSE 1653	Becton	04/07/95	
Andrew P. Jergens v. Department of Human Resources	94 CSE 1655	Mann	05/22/95	
Nelson Bennett v. Department of Human Resources	94 CSE 1656	Gray	03/02/95	
Eric L. McDonald v. Department of Human Resources	94 CSE 1657	Morrison	04/06/95	
Kenny R. Bradshaw v. Department of Human Resources	94 CSE 1700	Reilly	04/10/95	
Eddie Harris Jr. v. Department of Human Resources	94 CSE 1702	Becton	04/07/95	
Anthony B. Gardner v. Department of Human Resources	94 CSE 1704	Mann	05/02/95	
Lewis M. Scarborough v. Department of Human Resources	94 CSE 1725	West	05/25/95	
Robert Larry Martin v. Department of Human Resources	94 CSE 1750	Chess	03/21/95	
Joseph O. Evans v. Department of Human Resources	94 CSE 1766	Chess	03/21/95	
Donald E. Kirby v. Department of Human Resources	94 CSE 1767	Reilly	03/03/95	
Paul R. Ross v. Department of Human Resources	94 CSE 1778	West	03/06/95	
Bobby Dain Massey v. Department of Human Resources	94 CSE 1798	Gray	04/27/95	
Mandel Curry Edwards v. Department of Human Resources	94 CSE 1799*6	Gray	05/31/95	
Carol Jeanne Deese v. Department of Human Resources	94 CSE 1814	Morrison	04/27/95	
Joyce Ann Wilkinson v. Department of Human Resources	95 CSE 0071	Becton	04/04/95	
Michael A. Bradford v. Department of Human Resources	95 CSE 0116	Mann	05/25/95	
Rasoul Behboudi v. Department of Human Resources	95 CSE 0147	West	05/18/95	
Sanders Gilliard Hunter v. Department of Human Resources	95 CSE 0284	Phipps	05/22/95	
Clarence O. Hilliard v. Department of Human Resources	95 CSE 0371	Reilly	05/25/95	
<i>Distribution Child Support</i>				
Lisa J. Hill v. DHR, Div. of Social Svcs., Child Support Enf. Section	95 DCS 0239	Phipps	05/02/95	
<i>Rockingham County Department of Social Services</i>				
Crystean Fields v. Rockingham County DSS	95 DHR 0316	Reilly	06/01/95	
<i>Wake County Social Services</i>				
Grace A. Wright v. Wake County Social Services., Suzanne Woodell and Craig Glenn	94 DHR 1618	Chess	05/03/95	
INSURANCE				
Grace F. Watkins v. Teachers' & St. Emp. Comp. Major Med. Plan	94 INS 1639	Chess	05/24/95	
Billy Gene Campbell v. Department of Insurance	95 INS 0143	Reilly	04/20/95	
JUSTICE				
<i>Alarm Systems Licensing Board</i>				
Patrick P. Sassman v. Alarm Systems Licensing Board	94 DOJ 1825	Reilly	03/09/95	
<i>Private Protective Services Board</i>				
Lewis Austin Saintsing v. Private Protective Services Board	94 DOJ 1000	Chess	03/03/95	
Marcus T. Williams v. Private Protective Services Board	94 DOJ 1064	Chess	02/24/95	
Melvin Ray Cooper v. Private Protective Services Board	94 DOJ 1635	Reilly	03/09/95	
Donnell E. Morrow, Jr. v. Private Protective Services Board	94 DOJ 1823	Reilly	03/09/95	
Private Protective Services Board v. James C. Purvis	95 DOJ 0018	Chess	05/15/95	
Private Protective Services Board v. Samuel O. Smith	95 DOJ 0133	Chess	05/09/95	
Jann Mitchell Stanley v. Private Protective Services Board	95 DOJ 0420	Morrison	05/24/95	
<i>Education and Training Standards Division</i>				
Ricky Dale McDevitt v. Sheriff's Ed. & Training Stds. Comm.	94 DOJ 1710	Nesnow	05/04/95	10:5 NCR 324
Nervin Joseph DeDeaux v. Criminal Justice Ed. & Training Stds. Comm.	95 DOJ 0029	Reilly	05/16/95	
Constance F. Lawrence v. Sheriff's Ed. & Training Stds. Comm.	95 DOJ 0076	Morrison	04/06/95	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
LABOR				
<i>Occupational Safety & Health Division</i>				
Lenoir County Public Schools v. Department of Labor, OSHA	95 DOL 0218	Nesnow	05/01/95	
<i>Wage and Hour Division</i>				
R.J. Scott, Pres. Pirate Enterprises, Inc. v. Labor, Wage & Hour Div.	94 DOL 1524	West	03/23/95	
PUBLIC INSTRUCTION				
Glenn II, on behalf of Glenn II, and Glenn II, Individually v. Charlotte-Mecklenburg County Schools	93 EDC 0549	Chess	03/16/95	
S.M. on Behalf of J.A.M., and S.M., Individually, and J.M. v. Davie County Board of Education	93 EDC 0742	Phipps	05/30/95	
William Hewett v. State Board of Education	94 EDC 0533	Gray	03/31/95	10:2 NCR 179
James Midgette v. State Board of Education	94 EDC 1401	Reilly	05/02/95	
Deborah R. Crouse v. State Board of Education	95 EDC 0003	Chess	04/10/95	
Bobby G. Little v. Department of Public Instruction	95 EDC 0168	Phipps	03/20/95	
Tonya Marie Snipes and Robert Leon Snipes v. Orange County Schools	95 EDC 0225	Mann	05/15/95	
Kenneth G.H. Leftwich v. State Board of Education	95 EDC 0405	Nesnow	05/25/95	
STATE PERSONNEL				
<i>Caswell County Health Department</i>				
Julie R. Johnson v. Caswell County Health Department	94 OSP 0865	Reilly	03/15/95	
<i>Department of Commerce</i>				
T. Sherwood Jernigan v. Dept. of Commerce, Savings Institution Div.	94 OSP 0775	West	05/25/95	
<i>Department of Correction</i>				
Nancy Gilchrist v. Department of Correction	94 OSP 0121	West	03/09/95	
Howard Gray Sadler v. Correction, Div. of Adult Probation/Parole	94 OSP 0332	West	05/15/95	
Thomas Wayne Smathers v. Department of Correction	94 OSP 0590	West	03/23/95	
George J. McCleave, Jr. v. Department of Correction	94 OSP 0644	Gray	04/19/95	
Ruth Kearney v. Department of Correction	94 OSP 1807	Becton	03/13/95	
<i>Office of the District Attorney</i>				
Shannon Caudill v. Office of the District Attorney for Judicial District 17-B, and Administrative Office of the Courts	95 OSP 0188	Nesnow	03/20/95	
<i>Fayetteville State University</i>				
George Benstead v. Fayetteville State University	94 OSP 1597	Nesnow	04/04/95	
<i>Forsyth Stokes Mental Health Center</i>				
Michael Howell v. Forsyth Stokes Mental Health Center	94 OSP 0499	Chess	03/24/95	
<i>Department of Human Resources</i>				
Eugene Hightower, Jr. v. Department of Human Resources, EEO	94 OSP 1811	West	05/04/95	
Rebecca Johnson v. Human Resources, Special Care Center	95 OSP 0138	West	03/31/95	
<i>Cherry Hospital</i>				
William H. Cooke v. DHR, Cherry Hospital	93 OSP 1547	Gray	03/16/95	
<i>Gaston County Department of Social Services</i>				
Bobbie J. Gilliam v. Gaston County Department of Social Services	94 OSP 0770	West	05/24/95	

CONTESTED CASE DECISIONS

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<i>Iredell County Department of Social Services</i>				
Vernon E. Grosse v. Iredell County Department of Social Services	94 OSP 0282	Becton	03/09/95	
Bonnie N. Bellamy v. Iredell County Department of Social Services	94 OSP 0739	Chess	03/01/95	10:01 NCR 48
<i>Lee-Harnett Area Mental Health, Developmental Disabilities, and Substance Abuse Authority</i>				
Julie Dyer v. Lee-Harnett Area MH/DD/SA Authority	94 OSP 0750	Gray	03/20/95	
<i>North Carolina State University</i>				
David L. Bauer v. North Carolina State University	95 OSP 0044	Morrison	04/25/95	
Billy Ray Kelly v. NCSU Physical Plant	95 OSP 0130	West	03/22/95	
<i>Orange-Person-Chatham Mental Health</i>				
Patricia A. Harris v. Orange-Person-Chatham Mental Health	95 OSP 0162	West	04/11/95	
<i>Department of Transportation</i>				
Michael E. Kornegay v. Department of Transportation	93 OSP 1700	Gray	03/24/95	
Robert F. Goins v. Department of Transportation	94 OSP 0281	Chess	05/30/95	
<i>University of North Carolina</i>				
Beth Ann Miller v. UNC Student Health	94 OSP 0800	Nesnow	05/25/95	
<i>UNC Hospitals</i>				
David Patrick Malone v. Univ. of NC Hospital at Chapel Hill	94 OSP 0771	Becton	03/14/95	
Lillian C. Daniels v. UNC Hospital	95 OSP 0056	Morrison	05/11/95	
<i>Wake County</i>				
Mark Morgan v. Wake County	94 OSP 0937	Nesnow	04/28/95	10:4 NCR 287
STATE TREASURER				
John W. Parris v. Bd. of Trustees//NC Local Gov. Emp. Retirement Sys.	91 DST 1093	Nesnow	05/04/95	
Channie S. Chapman v. Bd/Trustees//NC Local Gov. Emp. Ret Sys.	94 DST 0443	Morrison	05/15/95	

STATE OF NORTH CAROLINA

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
92 DHR 1697

COUNTY OF BRUNSWICK

CHARLES M. ERWIN,)
Petitioner,)
)
vs.)
)
N.C. DEPARTMENT OF HUMAN RESOURCES)
DIVISION OF FACILITY SERVICES,)
OFFICE OF EMERGENCY MEDICAL SERVICES,)
Respondent.)

RECOMMENDED DECISION

This matter was heard before Administrative Law Judge Sammie Chess, Jr., on November 17 and 18, 1994, in Burgaw, North Carolina. The evidentiary hearing closed on November 18, 1994. The parties' attorneys of record were ordered to file proposed findings of fact, conclusions of law and recommended decision on or before April 7, 1995.

APPEARANCES

For Petitioner: William R. Shell
Attorney at Law
Post Office Box 382
Wilmington, North Carolina 28402-0382

For Respondent: June S. Ferrell
Assistant Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, North Carolina 27602-0629

ISSUE

1. Whether Dr. Harry Johnson prejudiced Petitioner's rights, in that he:
 - (1) exceeded his authority or jurisdiction;
 - (2) acted erroneously;
 - (3) failed to use proper procedure;
 - (4) acted arbitrarily or capriciously; or
 - (5) failed to act as required by law or rule in suspending Petitioner's EMT-I certification in violation of Article 1, Section 19, of the North Carolina Constitution.
2. Whether the Respondent, in revoking Petitioner's certification:
 - (1) exceeded its authority or jurisdiction?
 - (2) acted erroneously?
 - (3) failed to use proper procedure?
 - (4) acted arbitrarily or capriciously? or
 - (5) failed to act as required by law or rule in violation of Article 1, Section 19, of the North Carolina Constitution?

STIPULATIONS

On the 17th day of November, 1992, the parties filed a Prehearing Order which contained, inter alia, the following stipulations:

1. It is stipulated that all parties are properly before the Court and the Court has jurisdiction of the parties.
2. It is stipulated that all parties have been correctly designated, that there is no question as to misjoinder or nonjoinder of the parties.
3. On May 27, 1992, Petitioner's EMT-I privileges in Brunswick County were suspended by Dr. Harry Johnson.
4. On August 24, 1992, Dr. Harry Johnson gave notice to Petitioner that he was recommending to OEMS that it permanently revoke Petitioner's EMT-I certification.
5. On September 29, 1992, OEMS gave Petitioner notice that it was revoking his North Carolina EMT certification based on Petitioner having performed a skill or procedure which is not within the scope and responsibility of his certification, based on 10 NCAC 3D. .1401(b)(5).
6. On November 6, 1992, OEMS issued its final notice of the revocation of Petitioner's North Carolina EMT certification.
7. Petitioner filed his Petition for a Contested Case Hearing on November 30, 1992.

FINDINGS OF FACT

1. The Office of Administrative Hearings has jurisdiction over the parties and subject matter of this contested case pursuant to Chapters 131E and 150B of the North Carolina General Statutes.
2. The Respondent's decision to revoke the basic EMT certification of Petitioner, Charles Marty Erwin, was based primarily on allegations, and Petitioner's admission, that on or about June 8, 1992, he performed an IV "stick" after being ordered to do so by Warren Brown, then the Chief of the Leland Rescue Squad.
3. The other reason given for the revocation of Petitioner's EMT certification was due to an alleged IV "stick" on a patient named Debbie Norris on July 26, 1992.
4. As to the June 8, 1992 IV "stick," Petitioner was commanded in very strong language to do so by the Chief of the Rescue Squad, even after Petitioner informed him that his, Petitioner's, EMT certification had been revoked.
5. Petitioner had vast experience in performing IV sticks.
6. From the evidence, Petitioner was the most qualified member of the Leland Rescue Squad at performing IV "sticks."
7. Petitioner was the envy of many members of the squad because of the number of IV "sticks" he had performed and the experience and expertise he had developed.
8. Petitioner developed the expertise by volunteering to do extra "ride along time," so that he could receive more on the job training, performing "sticks."
9. Dr. Harry Johnson was the Medical Director of the EMS system in Brunswick County.
10. The EMS system in Brunswick County was under scrutiny from the North Carolina Department of Human Resources.
11. The EMS Program in Brunswick County was not meeting its obligations to the county or to the students

in that the students were not given the supervision or training called for by the state rules and regulations.

12. Record keeping for continuing education was grossly deficient.

13. The State of North Carolina conducted an investigation into the EMT-I Program, which led to a voluntary suspension of the EMT-I Program on or about July, 1992, by Dr. Johnson.

14. Respondent would have begun the process to revoke the certification of the Brunswick County EMT-I program, if the voluntary suspension had not been agreed to by Dr. Johnson.

15. There was factionalism among various groups within the Rescue Squad.

16. Petitioner and his parents, who are also members of the Leland Rescue Squad, demanded that the squad be run according to the Constitution and by-laws of the squad.

17. Terri Davis, a captain with the squad, and Warren Brown, also with the Leland Rescue Squad, wanted Petitioner and his parents off the squad. Warren Brown was the brother-in-law of Petitioner.

18. In December 1992, Petitioner received an award as the Rescue Squad Person of the Year.

19. It was Petitioner's volume of work that caused some friction among some other members of the squad.

20. The evidence of his skill and professionalism was overwhelming.

21. Petitioner was certified as an EMT-I in October 1991.

22. It was his aim to use his experience to become a full-time paramedic on an employed basis.

23. Petitioner and his mother lived near the Leland Rescue Squad and ran most of the day time calls.

24. When Petitioner passed his certification exam, he had to undergo an oral examination by a panel on which Dr. Johnson sat, and Petitioner passed.

25. Petitioner's certification was initially revoked by Dr. Johnson because Petitioner allegedly did not meet his continuing education requirements.

26. The Court finds as a fact that the attempt to suspend Petitioner's certification had nothing to do with competence.

27. In the spring of 1992, Dr. Johnson approached Mr. Davis, the coordinator for training for the EMT Program at the Brunswick Community College, and told him that there were persons who were mad at Petitioner because he was getting too many "IV sticks." Dr. Johnson asked Mr. Davis to see if there was some way that they could revoke Petitioner's certification. Mr. Davis replied that there might be some deficiencies in Petitioner's continuing education.

28. From the evidence presented at the hearing, Petitioner had about thirty hours of continuing education credits in the spring of 1991 and was only required to have forty-eight hours within a year. Petitioner was well on the way, even by Respondent's evidence.

29. None of the other members of the rescue squad completed the continuing education requirements, and there is no evidence that any approached or exceeded the hours Petitioner had completed. Nevertheless, Petitioner was the only person whose certification was suspended.

30. It was not Petitioner's fault that a proper record of the continuing education training was not documented by the director, Mr. Davis.

31. Mr. Davis was not keeping any records and was in no position to determine whether Petitioner had deficiencies.

32. When Mr. Davis reported back to Dr. Johnson, he was ordered by Dr. Johnson to write a letter to Petitioner which suspended his EMT-I certification.
33. This was only a local suspension within Brunswick County and was done by the Medical Director.
34. The State of North Carolina had nothing to do with the county suspension ordered by Dr. Johnson.
35. According to Respondent's witness, the only avenue for appeal was the Audit Review Committee.
36. Dr. Johnson was present and had input when the Audit Review Committee considered Dr. Johnson's recommendation to suspend Petitioner's certification. Petitioner was not permitted to be present at the hearing.
37. The first IV stick by Petitioner, after his purported certification suspension by Dr. Johnson, occurred on June 8, 1992.
38. On and before May 27, 1992, Petitioner had established successfully many intravenous (IV) lines in patients.
39. On and before May 27, 1992, the date Petitioner's EMT-I certification was suspended, Petitioner had demonstrated that he was one of the more proficient, if not the most proficient member of the Leland Volunteer Rescue Squad in establishing IV lines in patients, this included his supervisors.
40. The IV stick of June 8, 1992, which Petitioner admits, involved starting an IV on a man who had been involved in a life threatening vehicular accident.
41. The patient was driving a tractor trailer truck that was involved in an accident.
42. The patient was trapped under the cab of the truck.
43. The patient had sustained serious injuries.
44. Responding to the call were Petitioner, Warren Brown, Donald Carter and Denise Pritchard, who only had an AA license.
45. At this time, Petitioner's EMT-I license was purportedly suspended by Dr. Johnson.
46. Warren Brown, the Chief of the Leland Rescue Squad, either could not or would not start an IV on the patient and ordered Petitioner to do it.
47. The patient was delirious and had to be held down by David Carter, one of the other persons on the ambulance.
48. Petitioner told the Chief, his supervisor, that he could not do the IV stick because of the suspension by Dr. Johnson.
49. At that point, Warren Brown ordered Petitioner to do it by saying to him, "Damn it, boy, I said start the IV. I know you can do it, David said he can't do it. We got to have the line. The man needs to live."
50. Warren Brown told Petitioner to start the line and he, Warren Brown, would "sign off as if he did it."
51. The sequence of events was completely corroborated by the other two persons on the ambulance.
52. Under these life threatening conditions, and orders from his Chief, Petitioner started the IV line.
53. Petitioner has never denied starting the IV line under these circumstances.
54. Petitioner denies starting an IV line on July 26, 1992.

55. The overwhelming evidence indicates that Petitioner did not start an IV line on Debbie Norris on July 26, 1992.
56. Respondent has not carried that burden of proof that Petitioner started the IV line on July 26, 1992.
57. Even if he had, the Court finds that his EMT-I certification was still in effect at all times in question.

CONCLUSIONS OF LAW

1. Dr. Johnson exceeded his authority, acted erroneously, failed to use proper procedure, acted arbitrarily and failed to act as required by law or rule, in suspending Petitioner's EMT-I certification, in violation of Article I Section 19 of the North Carolina Constitution.
2. As to the suspension on May 27, 1992, Petitioner had a right to an adequate and fair hearing. Due process requires it. Eason v. Spence 232 N.C. 579, 61 S.E. 2d 717. As to procedure, due process means notice and opportunity to be heard and to defend in an orderly proceeding adapted to the nature of the case before a competent and impartial tribunal having jurisdiction of the cause State v. Smith 265 NC 173, 143 S.E. 2d 293. Petitioner was not accorded these rights. Dr. Johnson was not impartial. He was the principal witness against Petitioner, yet he participated in the hearing while Petitioner was excluded. As to the May 27, 1992 suspension, Petitioner is entitled to equal protection under the law. Article I Section 19 of the North Carolina Constitution. S.S. Kresge v. Davis, 277 NC 654, 178 S.E.2d 384. (There was no rational reason why Petitioner's certification should have been suspended for educational deficiencies, while no one else was suspended. The record shows that Petitioner had at least thirty (30) hours over a short period of time and had lots of time left before the year ended).
3. Respondent acted erroneously, failed to use proper procedure, acted arbitrarily and failed to act as required by law or rule, in revoking Petitioner's EMT certification on September 29, 1992. Since there was no reason for Petitioner's EMT-I certification to be suspended and it was never properly suspended, his certification was valid at the time he performed the IV stick or sticks. Therefore, Respondent's revocation is without foundation.
4. Petitioner was denied procedural and substantive due process. Due process has a dual significance, as it pertains to procedure and substantive law. In re Moore, 289 NC 95, 221 S.E. 2d 307.

RECOMMENDATION

It is hereby recommended that the Director, of the Division of Facility Services, Department of Human Resources, declare null and void the purported suspension and revocation of Petitioner's EMT-I and EMT certification, respectively.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the Department of Human Resources.

This the 16th day of May, 1995.

Sammie Chess, Jr.
Administrative Law Judge

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
94 EHR 0950

CONCRETE SUPPLY COMPANY,)
 Petitioner,)
)
 v.)
)
)
NORTH CAROLINA DEPARTMENT)
OF ENVIRONMENT, HEALTH, AND)
NATURAL RESOURCES,)
 Respondent.)

RECOMMENDED DECISION
ALLOWING PETITIONER'S MOTION
FOR SUMMARY JUDGMENT

THIS MATTER came before the Office of Administrative Hearings on the Motion To Dismiss of Petitioner, Concrete Supply Company. Both parties filed memoranda, and a telephonic hearing was held on February 13, 1995. Based on the memoranda and the arguments made during the hearing, I issue the following Recommended Decision:

UNDISPUTED FACTS⁺

Petitioner operates facilities located in Lincolnton, North Carolina, and Denver, North Carolina, both of which are in Lincoln County. Air permits have been issued for both facilities. On February 20, 1989, Petitioner was issued Air Permit No. 6451 for its plant in Lincolnton. On February 6, 1991, Petitioner was issued Air Permit No. 6951 for its plant in Denver. Both permits set specific limitations for visible emissions based on opacity readings. Both permits also contain general provisions requiring that the "facility shall be properly operated and maintained at all times in a manner that will effect an overall reduction in air pollution." These permits were in effect during all relevant times.

On September 24, 1993, an inspector for Respondent, North Carolina Department of Environment, Health and Natural Resources, conducted an inspection of the Denver facility. According to the civil penalty assessment, the inspector "observed visible emissions . . . in excess of 50 percent opacity for approximately 5 minutes." On October 8, 1993, a Notice of Violation was sent to Petitioner "for operation of the bagfilter in a manner inconsistent with Air Permit No. 6951."

The inspector conducted a follow-up inspection of the Denver facility on December 9, 1993. During that inspection, the inspector "observed significant amounts of dust being emitted from the baghouse." On December 17, 1993, a Notice of Violation was sent to Petitioner "for operation of the bagfilter in a manner inconsistent with the Air Permit No. 6951."

The same inspector conducted an inspection of the Lincolnton facility on November 23, 1993. During that inspection, the inspector "observed visible emissions . . . between 15-25 percent for approximately 15 minutes." On November 30, 1993, a Notice of Violation was sent to Petitioner "for operation of the bagfilter in a manner not in accordance with the Air Permit No. 6451."

On August 3, 1994, Respondent issued a civil penalty assessment citing the above-stated facts. The Director of the Division of Environmental Management concluded that the cited facts amounted to violations of Petitioner's air permits. The Director assessed penalties of \$2,000 for the alleged violation of Air Permit No. 6951 and \$1,000 for the alleged violation of Air Permit No. 6451. The Director also assessed inspection costs of \$620.85.

⁺ The undisputed facts come from Respondent's Civil Penalty Assessment, the Air Quality Action Request form completed by Respondent's inspector, Petitioner's two air permits, and related correspondence from Respondent to Petitioner. All such documents were attached to and made a part of Petitioner's Motion.

LEGAL ANALYSIS

The civil penalty assessment alleges two separate violations of Air Permit No. 6951. The first alleged violation is based on a claim of "visible emissions . . . in excess of 50 percent opacity for approximately 5 minutes." It is alleged that this situation violated Condition B.6. of the permit which requires the facility to be "properly operated and maintained . . . to effect an overall reduction in air pollution." However, Air Permit No. 6951 provides that "6-minute periods averaging not more than 87 percent opacity may occur not more than once in any hour" Thus, Petitioner's emissions were within the specific opacity limits set by the permit. Because the alleged "misconduct" is specifically allowed by the permit, it cannot be the basis for a penalty assessment.

The second alleged violation of Air Permit No. 6951 is based on a claim that "specific amounts of dust [were] being emitted from the baghouse." No time frame was given. Again, it is alleged that this situation violated Condition B.6. of the permit. However, Air Permit No. 6951 allows Petitioner to emit dust unless the opacity exceeds 20 percent over a 6-minute period. In addition, "[s]ix-minute periods averaging not more than 87 percent opacity may occur not more than once in any hour." The civil penalty assessment does not state whether the emissions exceeded 87 percent opacity for two 6-minute periods or whether they even exceeded 20 percent opacity. This alleged violation cannot stand because Respondent's own findings of fact do not support a violation of the specific permit condition which limits emissions of dust.

The civil penalty assessment also alleges a violation of Air Permit No. 6451 on the basis of "visible emissions from the bagfilter . . . between 15-25 percent for approximately 15 minutes." This was alleged to violate Condition B.4. of Air Permit No. 6451, which provides that "[t]he facility shall be properly operated and maintained at all times in such a manner to effect an overall reduction in air pollution." However, Air Permit No. 6451 specifically provides that "air emission sources shall not be more than 20 percent opacity when averaged over a 6-minute period." Respondent's evidence simply does not demonstrate that Petitioner exceeded its allowed 20 percent opacity. Therefore, this alleged violation is not supported by the undisputed facts in the case.

A further reason for recommending the dismissal of this alleged violation is stated in the inspector's Air Quality Action Request. That document indicates that the inspector had problems determining the actual opacity reading and thus had to estimate an opacity. Respondent cannot assess a penalty based upon an estimated number that may or may not exceed the number allowed under the permit.

In assessing its penalties, Respondent relied upon a general provision in the permit which states that the "facility shall be properly operated and maintained at all times in a manner that will effect an overall reduction in air pollution." By doing so, Respondent has circumvented the specific emissions limits provided for in Petitioner's air permits.

The best analogy to the present situation can be taken from Occupational Safety and Health law. Under such law, the Occupational Safety and Health Administration (OSHA) establishes "specific standards" that address specific safety or health issues. There is also a "general duty clause." The general duty clause provides that "[e]ach employer shall furnish to each of his employees employment in a place of employment which are free from recognized hazards" In a long line of cases, the OSHA Review Commission has established the principle that

[c]iting a Respondent under the general duty requirement of the Act is not appropriate where there exists a specific occupational safety and health standard concerning the conduct at issue.

Sun Shipbuilding and Drydock Co., 1973-74 (OSHD § 16725 (Rev. Comm. 1973)). The Review Commission's decision was based upon the logic of the United States Supreme Court's decision in Fourco Glass Co. v. Transmirra Products Corp., 353 U.S. 222 (1957).

In Sherwood Medical Industries, Inc., 1981 OSHDA § 25191 (ALJ 1981), OSHA cited the employer for "exposing employees to excessive levels of ethylene oxide." The citation was issued under the general duty clause rather than under the specific ethylene oxide standard, apparently because the exposure did not exceed that allowed by the specific standard. The citation was dismissed because

[a] general duty charge of exposing employees to excessive levels of ethylene oxide during the unloading of sterilizer units was vacated on grounds that § 1910.1000 contains a specific standard for ETO, and the 8-hour [time-weighted average] limit of 50 PPM was not exceeded.

See also Phelps Dodge Corp., 1981 OSHD § 25,050 (ALJ Dec. 1980) (a general duty charge of exposing maintenance

employees to massive amounts of sulphur dioxide for relatively short periods of time while working in electrostatic precipitators in a copper smelter was vacated because there was a specific standard covering employee exposure to the chemical).

As the cited OSHA cases demonstrate, a regulatory agency cannot be allowed to bypass specific standards—or emissions limitations—and rely upon general provisions. Although OSHA decisions are not binding on this tribunal, the logic of the OSHA cases is persuasive. To allow Respondent to ignore a company's compliance with specific emission limitations and cite that company under a general-duty-type provision would effectively render the specific provision meaningless.

WHEREFORE, IT IS HEREBY RECOMMENDED that for the above-stated reasons, the Petitioner's Motion For Summary Judgment be granted and the Civil Penalty Assessment be dismissed.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy of the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the North Carolina Department of Environment, Health, and Natural Resources.

Dated this the 22nd day of May, 1995.

Beecher R. Gray
Administrative Law Judge

V.

ALCOHOL BEVERAGE CONTROL
COMMISSION
Respondent.

RECOMMENDED DECISION

APPEARANCES

Petitioner: Legwin Williams
Village Mart II
Pro se.

Respondent: Glenn B. Lassiter, Jr.
Deputy General Counsel
ABC Commission
Attorney for Respondent.

1. Did Respondent err in disapproving Petitioner's application for off-premise beer, unfortified and fortified wine, ABC permits based on:

- (a) Local government objection and
- (b) Business would be detrimental to the neighborhood.

STATUTES AND RULES IN ISSUE

N.C. Gen. Stat. 18B-901(c)(1)
N.C. Gen. Stat. 18B-901(c)(8)

Based upon consideration of the evidence presented at this hearing, the documents and pleadings filed in this matter, and all other relevant and admissible evidence, the undersigned makes the following:

FINDINGS OF FACT

1. Petitioner applied for ABC permits for off-premises beer, unfortified wine, and fortified wine in approximately December of 1994.
2. Petitioner operates a Convenience Store in Varnamtown, North Carolina.
3. Petitioner was given a temporary license and has been selling alcoholic beverages under this permit.
4. Alcohol Law Enforcement (ALE) Officer Diane Jenski investigated the application and submitted her report to the ABC Commission on February 6, 1995.

5. Agent Jenski found the Petitioner's background to be suitable for an ABC permit.

6. In accordance with N.C.G.S. 18B-901, Agent Jenski submitted to the local government an opinion form known as the "Double O-One Form" (001).

7. The Varnamtown Board of Alderman (Board) has designated George Swain, the Mayor Pro Tem, to be the local government designee.

8. While the Board had no objection to Petitioner, they filed a local government objection based on the Village Mart II location.

9. Mr. Swain filled out the form on behalf of the Board and noted that the location was residential and has four residences within 45 feet of the location. The location, he said, is also too close to a church. He also stated that the hours of sale, which attract teenage patrons, is not respectful of the church.

10. Varnamtown does not have a police department, nor does it have zoning laws.

11. Agent Jenski also received a letter from Reverend Worley of the Gospel Center Baptist Church which is directly across the street from the store. Reverend Worley expressed his objection to the issuance of the permits.

12. On February 20, 1995, the ABC Commission rejected the applications because of local government objection.

13. The establishment has had temporary permits since December 1, 1994 for the sale of off-premises beer, off-premises fortified wine and unfortified wine. Agent Jenski knows of no police calls or disturbances.

14. Varnamtown is located in Brunswick County, which is not a "dry" county."

15. Both Reverend Worley and Mr. Swain testified that if Varnamtown could vote separately from the county, the town would vote to be dry.

16. Mr. Swain testified that the town objects to the location for alcoholic sales and doesn't feel in-town sale of alcohol would enhance the lives of the residents of Varnamtown.

17. The location is one and a half miles from the nearest other store which sells alcoholic beverages.

18. In Varnamtown there is one restaurant which sells alcoholic beverages.

19. The location has been a convenience store for 25 years or more. It has never before sold alcohol.

20. The population of Varnamtown is 425 to 450 residents.

21. Reverend Worley is the Pastor of the Gospel Center Baptist Church which is 145 feet from the Village Mart location.

22. Reverend Worley testified that there are a lot of young people in Varnamtown and while there are other outlets, "the more you have, the more you sell -- it's an enticement."

23. Reverend Worley also testified that he knows that if young people in Varnamtown want alcohol, they will get it. But with the store so close, "It'll just be more of an enticement."

24. Petitioner testified that he was aware that a couple of gentlemen objected to his alcohol permits. Because of that, he did not put any alcohol advertisement outside the store and not much inside. He also testified that his employees are intelligent and he wouldn't have them if they'd sell to a minor.

25. N.C. Gen. Stat. 18B-901(c) provides the following:

Factors in Issuing Permit.- Before issuing a permit, the Commission shall be satisfied that the applicant is a suitable person to hold an ABC permit and that the location is a suitable place to hold the permit for which he has applied. To be a suitable place, the establishment shall comply with all applicable building and fire codes. Other factors the Commission may consider in determining whether the applicant and the business location are suitable are:

- (1) The reputation, character, and criminal record of the applicant;
- (2) The number of places already holding ABC permits within the neighborhood;
- (3) Parking facilities and traffic conditions in the neighborhood;
- (4) Kinds of businesses already in the neighborhood;
- (5) Whether the establishment is located within 50 feet of a church or public school or church school;
- (6) Zoning laws;
- (7) The recommendations of the local governing body; and
- (8) Any other evidence that would tend to show whether the applicant would comply with the ABC laws and whether operation of his business at that location would be detrimental to the neighborhood.
(emphasis added)

26. The only objections in G.S. 18B-901(c) which are at issue in this case are the last two.

Based on the above Findings of Fact, the undersigned makes the following:

CONCLUSIONS OF LAW

1. G.S. 18B-901(c)(7) provides that the ABC Commission, in determining whether the business location is suitable, may consider the "recommendations of the local governing body."

In the instant case, the local governing body has recommended that the permits not be issued. The reason for their recommendation is that there are a lot of young people in their small rural community and the Village Mart is centrally located directly across from one of the major churches.

The location is not, however, "within 50 feet of a church."

The evidence indicates that an unknown percentage of the population of Varnamtown does not want alcohol to be readily and easily available to its young people.

The use of alcohol has been an issue of great concern to the people of North Carolina historically. It has in fact resulted in a great deal of regulation of the industry in this state. Additionally, the General Assembly has provided that counties may elect to allow the sale of alcohol or to disallow it.

In the instant case, the county has voted to allow the sale of alcohol. The local governing body of Varnamtown, however, alleges that the sale of alcohol in its town is disfavored. No provision, however, has been made for towns or other municipalities to hold elections separate from their county election.

It is the undersigned's considered opinion that the statute providing for the consideration of the "recommendations of the local governing body" was intended to permit the Commission to consider negative factors of which the local people would be aware and which may not have come to the Commission's attention during its own background investigation. Those concerns, in the undersigned's opinion, were not intended to be moral issues or value judgments.

In the instant case it appears that Varnamtown's opposition to the issuance of the permits is based on a lifestyle, moral, or value judgement.

2. It is therefore concluded that the local governing body has not shown the negative factor contemplated by G.S. 18B-901(c)(7).

3. G.S. 18B-901(c)(8) provides that the Commission, in determining whether the applicant and the business

location are suitable, may consider any other evidence that would tend to show whether the operation of the business would be detrimental to the neighborhood.

In the instant case, a convenience market has been located at that site for at least 25 years. The presence, therefore, of a convenience store is not at issue. It is the addition of alcohol permits which, in Varnamtown's opinion, is the added factor which would make the location "detrimental to the neighborhood."

No evidence was presented which would show that the store would attract an unsavory clientele if it were granted alcohol permits. In fact, the store has been operating with temporary permits since December of 1994 and there was no evidence presented to indicate that the neighborhood deteriorated in any way.

In considering whether the location would be detrimental to the neighborhood, Varnamtown has again expressed great concern about having alcohol readily available to its young people in a quiet, rural community.

4. However, it must be and hereby is concluded that the local governing body has not shown the negative factor contemplated by G.S. 18B-901(c)(8).

Based upon the above Conclusions of Law, the undersigned makes the following

RECOMMENDATION

That the ABC Commission issue to the Petitioner the permits for which he applied.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, P.O. Drawer 27447, Raleigh, N.C. 27611-7447, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this recommended decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings.

The agency that will make the final decision in this contested case is the Alcohol Beverage Control Commission.

This the 31st day of May, 1995.

Dolores O. Nesnow
Administrative Law Judge

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE DEPARTMENT LICENSING BOARDS CHAPTER

1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Auctioneers	4
4	Commerce	Barber Examiners	6
5	Correction	Certified Public Accountant Examiners	8
6	Council of State	Chiropractic Examiners	10
7	Cultural Resources	General Contractors	12
8	Elections	Cosmetic Art Examiners	14
9	Governor	Dental Examiners	16
10	Human Resources	Dietetics/Nutrition	17
11	Insurance	Electrical Contractors	18
12	Justice	Electrolysis	19
13	Labor	Foresters	20
14A	Crime Control & Public Safety	Geologists	21
15A	Environment, Health, and Natural Resources	Hearing Aid Dealers and Fitters	22
16	Public Education	Landscape Architects	26
17	Revenue	Landscape Contractors	28
18	Secretary of State	Marital and Family Therapy	31
19A	Transportation	Medical Examiners	32
20	Treasurer	Midwifery Joint Committee	33
*21	Occupational Licensing Boards	Mortuary Science	34
22	Administrative Procedures	Nursing	36
23	Community Colleges	Nursing Home Administrators	37
24	Independent Agencies	Occupational Therapists	38
25	State Personnel	Opticians	40
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Note: Title 21 contains the chapters of the various occupational licensing boards.

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2 NCAC 34 .0904	10:04 NCR 228	08/01/95				
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21 NCAC 32H .0102	10:02 NCR 151	07/01/96				
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.0203	10:02 NCR 151	07/01/96				
.0408	10:02 NCR 151	07/01/96				
.0506	10:02 NCR 151	07/01/96				
.0601	10:02 NCR 151	07/01/95				
.0602	10:02 NCR 151	07/01/96				
.0801	10:02 NCR 151	07/01/96				
.1001	10:02 NCR 151	07/01/96				
321 .0003 - .0004	10:02 NCR 151	07/01/95				
NURSING HOME ADMINISTRATORS						
21 NCAC 37 .0101	10:04 NCR 262	08/01/95				
.0302	10:03 NCR 206	08/01/95				
.0404	10:03 NCR 206	08/01/95				
.0502	10:03 NCR 206	08/01/95				
.0603	10:03 NCR 206	08/01/95				
.0904	10:04 NCR 262	08/01/95				
.0912	10:03 NCR 206	08/01/95				
.0914	10:03 NCR 206	08/01/95				
PLUMBING, HEATING & FIRE SPRINKLER CONTRACTORS						
21 NCAC 50 .0402	10:01 NCR 39	09/01/95				
.0505	10:01 NCR 39	09/01/95				
PROFESSIONAL COUNSELORS						
21 NCAC 53 .0204 - .0211	10:01 NCR 40	07/01/95				
.0301	10:01 NCR 40	07/01/95				
.0305 - .0310	10:01 NCR 40	07/01/95				
.0403 - .0405	10:01 NCR 40	07/01/95				
.0601 - .0604	10:01 NCR 40	07/01/95				
REAL ESTATE COMMISSION						
21 NCAC 58A .0110	10:02 NCR 157	07/01/95				
.0403	10:04 NCR 263	08/01/95				
.0503	10:04 NCR 263	08/01/95				
.0504 - .0506	10:02 NCR 157	07/01/95				
.0505	10:04 NCR 263	08/01/95				
.1703	10:02 NCR 157	07/01/95				
.1707 - .1708	10:02 NCR 157	07/01/95				
.1710 - .1711	10:02 NCR 157	07/01/95				
58E .0103	10:02 NCR 157	07/01/95				
.0203 - .0204	10:02 NCR 157	07/01/95				
.0303 - .0305	10:02 NCR 157	07/01/95				
.0406 - .0407	10:02 NCR 157	07/01/95				
.0506	10:02 NCR 157	07/01/95				
.0515	10:02 NCR 157	07/01/95				
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21 NCAC 60 .0102	10:04 NCR 264	08/01/95				
.0204	10:04 NCR 264	08/01/95				
.0314	10:04 NCR 264	08/01/95				
.1102	10:04 NCR 264	08/01/95				

CUMULATIVE INDEX

Agency/Rule Citation	Proposed in Register	Proposed Effective Date	Fiscal Note		Effective Date	Other Information
			State	Local		

REVENUE

Tax Review Board 10:01 NCR 03

SECRETARY OF STATE

18 NCAC 06 .1205 - .1206	10:05 NCR 306	09/01/95
.1208	10:05 NCR 306	09/01/95
.1302 - .1305	10:05 NCR 306	09/01/95
.1313	10:05 NCR 306	09/01/95

STATE PERSONNEL

25 NCAC 01C .0207	10:04 NCR 264	08/01/95
.0402 - .0408	10:04 NCR 264	08/01/95
01D .0201	10:04 NCR 264	08/01/95
.0205	10:04 NCR 264	08/01/95
.0207	10:04 NCR 264	08/01/95
.0211	10:04 NCR 264	08/01/95
.0808	10:04 NCR 264	08/01/95
.1001	10:04 NCR 264	08/01/95
.1009	10:04 NCR 264	08/01/95
.1201	10:04 NCR 264	08/01/95
.1204	10:04 NCR 264	08/01/95
.1401	10:04 NCR 264	08/01/95
.1801 - .1802	10:04 NCR 264	08/01/95
.2001	10:04 NCR 264	08/01/95
01E .0804	10:04 NCR 264	08/01/95
01K .0312	10:04 NCR 264	08/01/95

TRANSPORTATION

19A NCAC 02D .0801	10:04 NCR 254	09/01/95
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BARCLAYS OFFICIAL NORTH CAROLINA ADMINISTRATIVE CODE - 1995

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Title 1 - Dept. of Administration - Full Title	201 00 00	\$63.00	\$90.00
Division of Purchase & Contract	201 10 05	\$21.00	\$30.00
Federal Block Grant Funds	201 10 33	\$17.50	\$25.00
Title 2 - Dept. of Agriculture - Full Title	202 00 00	\$98.00	\$140.00
Food & Drug Protection Division	202 15 09	\$28.00	\$40.00
Structural Pest Control Committee	202 15 34	\$21.00	\$30.00
Agricultural Markets	202 15 43	\$21.00	\$30.00
Plant Industry	202 15 48	\$21.00	\$30.00
Animal Industry	202 15 52	\$21.00	\$30.00
Title 3 - Dept. of State Auditor - Full Title	203 00 00	\$7.00	\$10.00
Title 4 - Dept. of Commerce - Full Title	204 00 00	\$87.50	\$125.00
Alcoholic Beverage Control Commission	204 15 02	\$12.00	\$40.00
Banking Commission	204 15 03	\$24.50	\$35.00
Credit Union Division	204 15 06	\$14.00	\$20.00
Savings & Loan Division	204 15 09	\$14.00	\$20.00
Industrial Commission/Workers Compensation	204 15 10	\$14.00	\$20.00
Savings Institutions Division	204 15 16	\$24.50	\$35.00
Title 5 - Dept. of Corrections - Full Title	205 00 00	\$56.00	\$80.00
Division of Prisons	205 15 02	\$24.50	\$35.00
Title 6 - Council of State - Full Title	206 00 00	\$21.00	\$30.00
Title 7 - Dept. of Cultural Resources - Full Title	207 00 00	\$21.00	\$30.00
Title 8 - State Board of Elections - Full Title	208 00 00	\$7.00	\$10.00
Title 9 - Offices of the Governor & Lt. Governor - Full Title	209 00 00	\$31.50	\$45.00
Title 10 - Dept. of Human Resources - Full Title	210 00 00	\$346.50	\$495.00
Licensing of Health Facilities	210 20 10	\$45.50	\$65.00
Detention Facilities	210 20 20	\$31.50	\$45.00
Mental Health & Rehabilitation Services	210 20 30	\$77.00	\$110.00
Social Services	210 20 40	\$119.00	\$170.00
Children Services/Day Care	210 20 41	\$31.50	\$45.00
Services for the Aging	210 20 42	\$31.50	\$45.00
Services for the Blind	210 20 43	\$28.00	\$40.00
Services for the Deaf & Hard of Hearing	210 20 44	\$17.50	\$25.00
Employment Opportunities	210 20 45	\$35.00	\$50.00
Title 11 - Dept. of Insurance - Full Title	211 00 00	\$63.00	\$90.00
Insurance	211 10 01	\$56.00	\$80.00
Consumer Services	211 10 04	\$24.50	\$35.00
Fire & Rescue Services	211 10 05	\$17.50	\$25.00
Agent Services	211 10 06	\$28.00	\$40.00
Engineering & Building Codes	211 10 08	\$21.00	\$30.00
Title 12 - Dept. of Justice - Full Title	212 00 00	\$63.00	\$90.00
Private Protective Services	212 10 07	\$21.00	\$30.00
Police & Sheriff's Education & Training Standards	212 10 09	\$31.50	\$45.00
NC Alarm Systems Licensing Board	212 10 11	\$17.50	\$25.00
Title 13 - Dept. of Labor - Full Title	213 00 00	\$77.00	\$110.00
Mine & Quarry Safety	213 15 06	\$14.00	\$20.00
General Safety/OSHA	213 20 00	\$31.50	\$45.00
Wage & Hour Rules	213 15 12	\$14.00	\$20.00
Boiler & Pressure Vessel Safety	213 15 13	\$14.00	\$20.00
Apprenticeship & Training	213 15 14	\$14.00	\$20.00
Elevator & Amusement Device Safety	213 15 15	\$14.00	\$20.00
Title 14A - Dept. of Crime Control & Public Safety - Full Title	214 00 00	\$31.50	\$45.00
Alcohol Law Enforcement	214 00 08	\$17.50	\$25.00
Victims Compensation Fund	214 00 11	\$14.00	\$20.00
Title 15A - Dept. of Environ., Health, & Nat. Resources - Full Title	215 00 00	\$276.50	\$395.00
Environmental Management	215 15 00	\$115.50	\$165.00
Air Quality	215 15 10	\$49.00	\$70.00
Water Quality	215 15 20	\$49.00	\$70.00
Land & Waste Management	215 15 30	\$56.00	\$80.00
Solid Waste Management	215 15 31	\$35.00	\$50.00
Underground Storage Tanks	215 15 32	\$17.50	\$25.00

DESCRIPTION	CODE	ONE-TIME PURCHASE PRICE	ANNUAL SUBSCRIPTION PRICE
Coastal Management	215 15 40	\$31.50	\$45.00
Environmental Health	215 25 00	\$105.00	\$150.00
Radiation/Nuclear Waste	215 25 10	\$42.00	\$60.00
Sanitation	215 25 20	\$35.00	\$50.00
Public Health	215 25 30	\$59.50	\$85.00
Intoxilizer & Breathalyzer	215 25 31	\$17.50	\$25.00
Title 16 - Dept. of Public Instruction - Full Title	216 00 00	\$21.00	\$30.00
Elementary & Secondary Education	216 10 06	\$21.00	\$30.00
Title 17 - Dept. of Revenue - Full Title	217 00 00	\$91.00	\$130.00
Taxes on Individuals	217 15 10	\$31.50	\$45.00
Taxes on Business	217 15 20	\$56.00	\$80.00
Sales & Use Tax Division	217 15 27	\$31.50	\$45.00
Motor Fuels Tax Division	217 15 29	\$21.00	\$30.00
Title 18 - Secretary of State - Full Title	218 00 00	\$21.00	\$30.00
Securities Division	218 10 06	\$21.00	\$30.00
Title 19A - Dept. of Transportation - Full Title	219 00 00	\$63.00	\$90.00
Division of Highways	219 10 02	\$28.00	\$40.00
Division of Motor Vehicles	219 10 03	\$35.00	\$50.00
Title 20 - Dept. of the State Treasurer - Full Title	220 00 00	\$31.50	\$45.00
Title 21 - Occupational Licensing Boards - Full Title	221 00 00	\$143.50	\$205.00
Title 22 - Administrative Procedures Act - Repealed	222 00 00	\$0.00	\$0.00
Title 23 - Dept. of Community Colleges - Full Title	223 00 00	\$7.00	\$10.00
Title 24 - Independent Agencies - Full Title	224 00 00	\$7.00	\$10.00
Title 25 - Office of State Personnel - Full Title	225 00 00	\$42.00	\$60.00
Title 26 - Office of Administrative Hearings - Full Title	226 00 00	\$7.00	\$10.00
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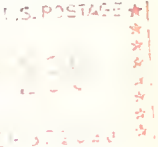
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