

NORTH CAROLINA

REGISTER



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IN THIS ISSUE

I. EXECUTIVE ORDERS

Executive Order No. 98 1431 - 1432
Executive Order No. 99 1433

II. IN ADDITION

Brownfields Property – A Great Escape 1434
Tax Review Board Letters 1435 - 1448

III. PROPOSED RULES

Environment and Natural Resources

Coastal Resources Commission 1452 - 1457
Commission for Health Services 1457 - 1488
Environmental Management Commission 1449 - 1452

Occupational Licensing Boards

Cosmetic Art Examiners 1488 - 1491
Medical Board 1491 - 1492
Soil Scientist, Licensing of 1493

IV. APPROVED RULES 1494 - 1529

Administration

Commission for Indian Affairs
Office of Historically Underutilized Businesses

Environment and Natural Resources

Coastal Resources Commission
Wildlife Resources Commission

Insurance

Code Qualifications Board
Manufactured Housing Board

Justice

Criminal Justice Education and Training Standards Commission
Private Protective Services Board
Sheriffs' Education and Training Standards Commission

Occupational Licensing Boards

Certified Public Accountants, Board of
Cosmetic Art Examiners, Board of
Electrical Contractors, Board of
Pharmacy, Board of
Veterinary Medical Board

State Personnel Commission

V. RULES REVIEW COMMISSION 1530 - 1543

VI. CONTESTED CASE DECISIONS

Index to ALJ Decisions 1544 - 1550

For the CUMULATIVE INDEX to the NC Register go to:

<http://reports.oah.state.nc.us/cumulativeIndex.pl>

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NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major classifications of rules. Three of these, titles, chapters, and sections are mandatory. The major classification 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. Subchapters are optional classifications to be used by agencies when appropriate.

NCAC TITLES		TITLE 21 LICENSING BOARDS	TITLE 24 INDEPENDENT AGENCIES
1	ADMINISTRATION	1 Acupuncture	1 Housing Finance
2	AGRICULTURE & CONSUMER SERVICES	2 Architecture	2 Agricultural Finance Authority
3	AUDITOR	3 Athletic Trainer Examiners	3 Safety & Health Review Board
4	COMMERCE	4 Auctioneers	4 Reserved
5	CORRECTION	6 Barber Examiners	5 State Health Plan Purchasing Alliance Board
6	COUNCIL OF STATE	8 Certified Public Accountant Examiners	
7	CULTURAL RESOURCES	10 Chiropractic Examiners	
8	ELECTIONS	11 Employee Assistance Professionals	
9	GOVERNOR	12 General Contractors	
10A	HEALTH AND HUMAN SERVICES	14 Cosmetic Art Examiners	
11	INSURANCE	16 Dental Examiners	
12	JUSTICE	17 Dietetics/Nutrition	
13	LABOR	18 Electrical Contractors	
14A	CRIME CONTROL & PUBLIC SAFETY	19 Electrolysis	
15A	ENVIRONMENT & NATURAL RESOURCES	20 Foresters	
16	PUBLIC EDUCATION	21 Geologists	
17	REVENUE	22 Hearing Aid Dealers and Fitters	
18	SECRETARY OF STATE	25 Interpreter/Transliterator	
19A	TRANSPORTATION	26 Landscape Architects	
20	TREASURER	28 Landscape Contractors	
21*	OCCUPATIONAL LICENSING BOARDS	29 Locksmith Licensing	
22	ADMINISTRATIVE PROCEDURES (REPEALED)	30 Massage & Bodywork Therapy	
23	COMMUNITY COLLEGES	31 Marital and Family Therapy	
24*	INDEPENDENT AGENCIES	32 Medical Examiners	
25	STATE PERSONNEL	33 Midwifery Joint Committee	
26	ADMINISTRATIVE HEARINGS	34 Funeral Service	
27	NC STATE BAR	36 Nursing	
28	JUVENILE JUSTICE AND DELINQUENCY PREVENTION	37 Nursing Home Administrators	
		38 Occupational Therapists	
		40 Opticians	
		42 Optometry	
		44 Osteopathic Examination (Repealed)	
		45 Pastoral Counselors, Fee-Based Practicing	
		46 Pharmacy	
		48 Physical Therapy Examiners	
		50 Plumbing, Heating & Fire Sprinkler Contractors	
		52 Podiatry Examiners	
		53 Professional Counselors	
		54 Psychology	
		56 Professional Engineers & Land Surveyors	
		57 Real Estate Appraisal	
		58 Real Estate Commission	
		60 Refrigeration Examiners	
		61 Respiratory Care	
		62 Sanitarian Examiners	
		63 Social Work Certification	
		64 Speech & Language Pathologists & Audiologists	
		65 Therapeutic Recreation Certification	
		66 Veterinary Medical	
		68 Substance Abuse Professionals	
		69 Soil Scientists	

Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.

NORTH CAROLINA REGISTER
 Publication Schedule for January 2006 – December 2006

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

EXPLANATION OF THE PUBLICATION SCHEDULE

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

GENERAL

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

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

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

FILING DEADLINES

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

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

NOTICE OF TEXT

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

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

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

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

**EXECUTIVE ORDER NO. 98
NORTH CAROLINA STATE HEALTH COORDINATING COUNCIL**

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

Section 1. Establishment.

The North Carolina State Health Coordinating Council is hereby established.

Section 2. Duties.

The Council shall have the following duties and functions:

- a. serve as a forum for hearing regional concerns and recommendations relating to health planning;
- b. compile a list of state health needs and advise the Department of Human Resources;
- c. advise the Department of Human Resources on issues related to state health needs, giving attention to local, regional, and statewide needs.
- d. review and comment on contents of documents related to health planning and make recommendations concerning them to the Secretary of Human Resources and the Governor;
- e. advise the Department of Human Resources on cost-effective mechanisms for achieving health needs;
- f. prepare the Annual State Medical Facilities Plan and present the plan to the Governor.

Section 3. Membership.

The Council shall consist of 27 members who shall be appointed by the Governor as follows:

- a. one member from the academic medical centers;
- b. one member from the area health education centers;
- c. two members from business and industry (at least one individual representing small business and one representing large business);
- d. one member from the health insurance industry;
- e. one member from the North Carolina Association of County Commissioners;
- f. one member from the North Carolina Health Care Facilities Association;
- g. one member from the North Carolina Hospital Association;
- h. one member from the North Carolina Association for Home Care;
- i. one member from the North Carolina Association of Long-Term Care Facilities;
- j. one member from the North Carolina Association of Local Health Directors;
- k. one member from the North Carolina Medical Society;
- l. one member from the North Carolina House of Representatives;
- m. one member from the North Carolina Senate;
- n. one member from the United States Department of Veterans Affairs (non-voting);
- o. twelve at-large members to represent other health professional associations and to ensure regional representation.

Section 4. Terms of Membership.

The terms of membership of the Council shall be staggered so that the terms of approximately one-third of the members shall expire in a single calendar year. Eight members shall be designated to serve initial terms of one year, eight to serve initial terms of two years, and nine to serve initial terms of three years. After the first three years, all members shall be appointed for a term of three years. Terms shall expire on December 31 and new terms shall begin on January 1.

Section 5. Vacancies.

A vacancy occurring during a term of appointment is filled in the same manner as the original appointment and for the balance of the unexpired term.

Section 6. Travel Expenses.

Members of the Council shall receive necessary travel and subsistence expenses in accordance with the provisions of G.S. §138-5.

Section 7. Chairman.

The Chairman and Vice Chairman of the Council shall be appointed by the Governor. The term of office for the Chairman and Vice Chairman shall be two calendar years. The Council may elect other such officers as it deems necessary.

Section 8. Meetings.

EXECUTIVE ORDERS

The Council shall meet quarterly and at other times at the call of the Chairman or upon written request of at least ten (10) of its members. All business meetings of the Council, its committees and subcommittees, or special task forces shall be open to the public.

Section 9. Staff Assistance.

The Department of Human Resources shall provide clerical support and other services required by the Council.

Section 10.

Executive Order Number 43, as amended by Executive Order 166 of the Hunt Administration and as amended by Executive Orders 16 and 55 of the Easley Administration are hereby rescinded.

This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in Raleigh, this the 18th day of January 2006.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

**EXECUTIVE ORDER NO. 99
EXTENDING EXECUTIVE ORDER NO. 56, NORTH CAROLINA INTERAGENCY
COUNCIL FOR COORDINATING HOMELESS PROGRAMS**

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

THAT:

Executive Order No. 56 regarding the North Carolina Interagency Council for Coordinating Homeless Programs is hereby extended for two years.

This order is effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh this 19th day of January 2006.

Michael F. Easley
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

Note from the Codifier: This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
A Great Escape Funtime, LLC**

Pursuant to N.C.G.S. § 130A-310.34, A Great Escape Funtime, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Winston-Salem, Forsyth County, North Carolina. The Property consists of 4.79 acres and is located at 1806 Funtime Boulevard. Environmental contamination exists on the Property in soil and groundwater. A Great Escape Funtime, LLC has committed itself to making exclusively commercial use of the Property. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and A Great Escape Funtime, LLC which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at North Carolina Room of the Forsyth County Central Library, 660 West Fifth Street, Winston-Salem, NC 27101 by contacting Jerry Carroll at (336) 727-2264 ext. 9 or at carroljr@forsythlibrary.org; or at NC Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents.

Written public comments may be submitted to DENR within 60 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 30 days after the period for written public comments begins. Thus, if A Great Escape Funtime, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on March 2, 2006. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessments of Additional)
Income Tax for the Taxable Years 1997,)
2000, 2001, and 2002 by the Secretary)
Revenue of North Carolina)
vs.)
ELTON S. SMITH,)
Taxpayer)

ADMINISTRATIVE DECISION
NUMBER 466
Docket Number 2004-362

THIS MATTER is before the regular Tax Review Board (hereinafter "Board") upon petition for administrative review filed by the Taxpayer (hereinafter "Taxpayer") regarding the Final Decision of Eugene J. Cella, Assistant Secretary for Administrative Hearings of the North Carolina Department of Revenue (Assistant Secretary), sustaining the proposed assessments of additional individual income tax for taxable years 1997, 2000, 2001, and 2002.

Pursuant to N.C. Gen. Stat. § 105-241.1, assessments proposing additional tax, penalty and accrued interest for the years at issue were mailed to the Taxpayer. The Taxpayer protested the assessments and filed a request for an administrative hearing. After conducting a hearing, the Assistant Secretary entered a Final Decision that sustained the proposed assessments against the Taxpayer. Pursuant to N.C. Gen. Stat. § 105-241.2, the Taxpayer filed a notice of intent and petition for administrative review of the Assistant Secretary's final decision with the Tax Review Board.

Pursuant to N.C. Gen. Stat. § 105-241.2(c), the Board has examined the petition, the records and documents transmitted by the North Carolina Secretary of Revenue pertaining to this matter; and it appearing to the Board that the Taxpayer's petition should be dismissed since the grounds and arguments upon which relief is sought have been repeatedly rejected by the Courts and are deemed lacking in legal merit. Thus, the Board concludes that Taxpayer's petition for administrative review is frivolous and is filed for the purpose of delay.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Taxpayer's petition for administrative review be and is hereby **Dismissed**.

Made and entered into the 24th day of August 2005.

TAX REVIEW BOARD

Signature _____
Stacey A. Phipps, Chief Deputy Treasurer, on
behalf of Richard H. Moore, State Treasurer

Signature _____
Jo Anne Sanford, Member
Chair, Utilities Commission

Signature _____
Noel L. Allen, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed Assessment of Sales and)
Use Tax for the period of July 1, 1999)
through April 30, 2002 by the Secretary)
of Revenue)
vs.)
The Loflin Group, Inc.,)
Taxpayer)

ADMINISTRATIVE DECISION
NUMBER: 467
Docket Number 2003-171

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, May 26, 2005 pursuant to the petition of The Loflin Group, Inc. (hereinafter "Taxpayer") for administrative review of the final decision entered by the Assistant Secretary of Revenue regarding the proposed assessment of sales and use tax for the period of July 1, 1999 through April 30, 2002. The Taxpayer protested the assessment and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision that sustained the proposed assessment. From the Assistant Secretary's final decision, the Taxpayer filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

And it appearing to the Board after conducting an administrative hearing in this matter, wherein appellant appeared *pro se*, and reviewing the Assistant Secretary's final decision concluded that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decision of the Assistant Secretary was supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is affirmed.

Made and entered into the 24th day of August 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf of
Richard H. Moore, Chairman State Treasurer

/S/ _____
Jo Anne Sanford, Member
Chair, Utilities Commission

/S/ _____
Noel L. Allen, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessment of Unauthorized)
Substance Tax dated February 20, 2004 by)
the Secretary of Revenue)
)
vs.)
)
Dennis Earl Gholston,)
Taxpayer)

ADMINISTRATIVE DECISION
NUMBER: 468
Docket Number 2004-125

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, May 26, 2005 pursuant to the petition of **Dennis Earl Gholston** (hereinafter "Taxpayer") for administrative review of the final decision entered on October 5, 2004, by the Assistant Secretary of Revenue regarding the proposed assessment of unauthorized substance tax dated February 20, 2004. The Taxpayer protested the assessment and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision that sustained the proposed assessment. From the Assistant Secretary's final decision, the Taxpayer filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

And it appearing to the Board after conducting an administrative hearing in this matter wherein the appellant *pro se*, and reviewing the Assistant Secretary's final decision that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decision of the Assistant Secretary was supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is confirmed in every respect.

Made and entered into the 24th day of August 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf
Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Member
Chair, Utilities Commission

/S/ _____
Noel L. Allen, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessment of Unauthorized)
Substance Tax dated April 11, 2003 by)
the Secretary of Revenue)

vs.)

Wendell Desmond Lloyd,)
Taxpayer)

ADMINISTRATIVE DECISION

NUMBER: 469
Docket Number 2003-238

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, May 26, 2005 pursuant to the petition of (hereinafter "Taxpayer") for administrative review of the final decision entered by the Assistant Secretary of Revenue regarding the proposed assessment of unauthorized substance tax dated April 11, 2003. The Taxpayer protested the assessment and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision that sustained the proposed assessment. From the Assistant Secretary's final decision, the Taxpayer filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

And it appearing to the Board after conducting an administrative hearing in this matter which the *pro se* appellant did not attend, and reviewing the Assistant Secretary's final decision that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decision of the Assistant Secretary was supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is confirmed in every respect.

Made and entered into the 24th day of August 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf
Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Member
Chair, Utilities Commission

/S/ _____
Noel L. Allen, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessment of Unauthorized)
Substance Tax dated August 19, 2003 by)
the Secretary of Revenue of North Carolina)

vs.)

Willie Jermaine Burgess,)
Taxpayer)

ADMINISTRATIVE DECISION

NUMBER: 470

Docket Number 2003-398

This Matter was heard before the regular Tax Review Board (hereinafter 'Board') in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, September 1, 2005 pursuant to the petition of **Willie Jermaine Burgess** (hereinafter 'Taxpayer') for administrative review of the final decision entered by the Assistant Secretary of Revenue regarding the proposed assessment of unauthorized substance tax dated August 19, 2003. The Taxpayer protested the assessment and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision on March 18, 2004 that sustained the proposed assessment. From the Assistant Secretary's final decision, the Taxpayer filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). 'The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary.'

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

And it appearing to the Board after conducting an administrative hearing in this matter which the *pro se* appellant did not attend, and reviewing the Assistant Secretary's final decision, that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decision of the Assistant Secretary was supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is confirmed in every respect.

Made and entered into the 17th day of November 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf
Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Chair
North Carolina Utilities Commission

/S/ _____
Noel L. Allen, Esq.

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:

The Proposed Assessment of Additional)
Income Tax for the Taxable Year 2001)
by the Secretary of Revenue of North)
Carolina)
)
vs.)
)
)
Barnabas Williamson,)
Taxpayer)

ADMINISTRATIVE DECISION
Number: 472
Docket Number 2004-369

THIS MATTER is before the regular Tax Review Board (hereinafter "Board") upon petition for administrative review filed by Barnabas Williamson (hereinafter "Taxpayer") regarding the Final Decision of Eugene J. Cella, Assistant Secretary for Administrative Hearings of the North Carolina Department of Revenue (hereinafter "Assistant Secretary"), sustaining the proposed assessments of additional individual income tax for taxable year 2001 by the Secretary of Revenue.

Pursuant to N.C. Gen. Stat. § 105-241.1, assessment proposing additional tax, penalty and accrued interest for taxable year 2001 was mailed to the Taxpayer. The Taxpayer protested the assessment and filed a request for an administrative hearing. After conducting a hearing, the Assistant Secretary of Revenue entered a Final Decision, on February 28, 2004, that sustained the proposed assessments against the Taxpayer for the taxable year at issue. Pursuant to N.C. Gen. Stat. § 105-241.2, the Taxpayer filed a notice of intent and petition for administrative review of the Assistant Secretary's final decision with the Tax Review Board.

Pursuant to N.C. Gen. Stat. § 105-241.2(c), the Board has examined the petition, the records and documents transmitted by the North Carolina Secretary of Revenue pertaining to this matter; and it appearing to the Board that the Taxpayer's petition should be dismissed since the grounds and arguments upon which relief is sought have been repeatedly rejected by the Courts and are deemed lacking in legal merit. Thus, the Board concludes that Taxpayer's petition for administrative review is frivolous and is filed for the purpose of delay.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Taxpayer's petition for administrative review be and is hereby **Dismissed**.

Made and entered into the 17th day of November 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer,
on behalf of Richard H. Moore, State Treasure

/S/ _____
Jo Anne Sanford, Chair
North Carolina Utilities Commission

/S/ _____
Noel L. Allen, Esq.

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:)
The Proposed Assessment of Additional)
Income Tax for the Taxable Year 1999)
by the Secretary of Revenue of North)
Carolina)
)
vs.)
)
BETH STURDIVANT,)
Taxpayer)

ADMINISTRATIVE DECISION
NUMBER: 473
Docket Number 2004-62 (A)

THIS MATTER is before the regular Tax Review Board (hereinafter "Board") upon petition for administrative review filed by Beth Sturdivant (hereinafter "Taxpayer") regarding the Final Decision of Eugene J. Cella, Assistant Secretary for Administrative Hearings of the North Carolina Department of Revenue (hereinafter "Assistant Secretary"), sustaining the proposed assessment of additional individual income tax for taxable year 1999.

Pursuant to N.C. Gen. Stat. § 105-241.1, an assessment proposing additional tax, penalty and accrued interest for taxable year 1999 was mailed to the Taxpayer. The Taxpayer protested the assessment and filed a request for an administrative hearing. After conducting a hearing, the Assistant Secretary of Revenue entered a Final Decision, on July 12, 2004, that sustained the proposed assessment against the Taxpayer for tax year 1999. Pursuant to N.C. Gen. Stat. § 105-241.2, the Taxpayer filed a notice of intent and petition for administrative review of the Assistant Secretary's final decision with the Tax Review Board.

Pursuant to N.C. Gen. Stat. § 105-241.2(c), the Board has examined the petition, the records and documents transmitted by the North Carolina Secretary of Revenue pertaining to this matter; and it appearing to the Board that the Taxpayer's petition should be dismissed since the grounds and arguments upon which relief is sought have been repeatedly rejected by the Courts and are deemed lacking in legal merit. Thus, the Board concludes that Taxpayer's petition for administrative review is frivolous and is filed for the purpose of delay.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Taxpayer's petition for administrative review be and is hereby **Dismissed**.

Made and entered into the 17th day of November 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer
on behalf of Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Member
Chair, Utilities Commission

/S/ _____
Noel L. Allen, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE

IN THE MATTER OF:)
The Proposed Assessment of Additional)
Income Tax for the Taxable Years 1998)
through 2000 by the Secretary of)
Revenue of North Carolina)
)
vs.)
)
Blair E. and Diane M. Williamson,)
Taxpayers)

ADMINISTRATIVE DECISION

Number: 474
Docket Number 2003-554

THIS MATTER is before the regular Tax Review Board (hereinafter "Board") upon petition for administrative review filed by Blair E. and Diane M. Williamson (hereinafter "Taxpayers") regarding the Final Decision of Eugene J. Cella, Assistant Secretary for Administrative Hearings of the North Carolina Department of Revenue (hereinafter "Assistant Secretary"), sustaining the proposed assessments of additional individual income tax for taxable years 1998 through 2000 by the Secretary of Revenue.

Pursuant to N.C. Gen. Stat. § 105-241.1, assessments proposing additional tax, penalty and accrued interest for taxable years 1998 through 2000 were mailed to the Taxpayers. The Taxpayers protested the assessments and filed a request for an administrative hearing. After conducting a hearing, the Assistant Secretary of Revenue entered a Final Decision, on July 12, 2004, that sustained the proposed assessments against the Taxpayers for taxable years at issue. Pursuant to N.C. Gen. Stat. § 105-241.2, the Taxpayer filed a notice of intent and petition for administrative review of the Assistant Secretary's final decision with the Tax Review Board.

Pursuant to N.C. Gen. Stat. § 105-241.2(c), the Board has examined the petition, the records and documents transmitted by the North Carolina Secretary of Revenue pertaining to this matter; and it appearing to the Board that the Taxpayers' petition should be dismissed since the grounds and arguments upon which relief is sought have been repeatedly rejected by the Courts and are deemed lacking in legal merit. Thus, the Board concludes that Taxpayers' petition for administrative review is frivolous and is filed for the purpose of delay.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Taxpayers' petition for administrative review be and is hereby **Dismissed**.

Made and entered into the 17th day of November 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer,
on behalf of Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Chair
North Carolina Utilities Commission

/S/ _____
Noel L. Allen, Esq.

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessments of Gift Tax)
for the Taxable year 2002 by the Secretary)
of Revenue of North Carolina)
)
)
)
)
vs.)
)
)
Cecil E. & Betty Lawing,)
Appellants)

ADMINISTRATIVE DECISION
Number: 476
Docket Numbers 2003-565

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, October 20, 2005 pursuant to the petition of Cecil E. & Betty Lawing (hereinafter "Appellants") for administrative review of the final decision entered by the Assistant Secretary of Revenue on August 11, 2004 regarding the proposed assessments of gift tax for the taxable year 2002 by the Secretary of Revenue.

Appellants protested the assessments and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision that sustained the proposed assessments. From the Assistant Secretary's final decision, appellants filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

N.C. Gen. Stat. § 105-241.2(b2) governs the scope of administrative review for petitions filed with the Tax Review Board. After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

And it appearing to the Board, after conducting an administrative hearing in this matter, which the appellants did not attend, and reviewing the Assistant Secretary's final decision, that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decision of the Assistant Secretary was supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is AFFIRMED.

Made and entered into the 30th day of December 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf
Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Member
Chair, Utilities Commission

/S/ _____
Noel L. Allen, Esquire
Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessments of Income Tax)
Withheld or required to have been withheld)
for the quarters ended December 31, 2000;)
June 30 and September 30, 2001; March 31,)
2002; and the months of April, May, June,)
and August 2002 through October 2003, by)
the Secretary of Revenue of North Carolina)
vs.)
Paul A. Parsons,)
Appellant)

ADMINISTRATIVE DECISION

Number: 477
Docket Number 2004-45

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, October 20, 2005 pursuant to the petition of Paul A. Parsons (hereinafter "Appellant") for administrative review of the final decision entered by the Assistant Secretary of Revenue on June 25, 2004 regarding the proposed assessments of income tax withheld or required to have been withheld for the quarters ended December 31, 2000; June 30 and September 30, 2001; March 31, 2002; and the months of April, May, June, and August 2002 through October 2003. Appellant, as treasurer of a non-profit corporation, was held personally liable for income tax withheld or required to have been withheld for the periods at issue.

Appellant protested the assessments and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered a final decision that sustained the proposed assessments. From the Assistant Secretary's final decision, appellant filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). "The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary."

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

And it appearing to the Board, after conducting an administrative hearing in this matter, during which appellant appeared *pro se*, and reviewing the Assistant Secretary's final decision, that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decision of the Assistant Secretary was supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is AFFIRMED.

Made and entered into the 30th day of December 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf
Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Chair
North Carolina Utilities Commission

/S/ _____
Noel L. Allen, Esquire

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessments of Sales and Use)
Tax for the period of August 1, 1996 through)
August 31, 2002, by the Secretary of)
Revenue of North Carolina)
)
)
)
vs.)
)
)
)
Gary Williams, d/b/a Dutch Iris Florist,)
Appellant.)

ADMINISTRATIVE DECISION
Number: 478
Docket Number 2004-68

This Matter was heard before the regular Tax Review Board (hereinafter "Board") in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, October 20, 2005 pursuant to the Secretary of Revenue's motion to dismiss the petition of Gary Williams, d/b/a Dutch Iris Florist (hereinafter "Appellant") on the grounds that the appellant waived his rights under N.C. Gen. Stat. § 105- 241.2 to contest any civil assessment before the Tax Review Board.

The Board, after reviewing the Secretary of Revenue's motion to dismiss, hearing argument of counsel, considering the authorities cited and reviewing all matters of record, enters the following Order:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Secretary of Revenue's motion to dismiss appellant's petition for administrative review be and is hereby Granted.

Made and entered into the 30th day of December 2005.

TAX REVIEW BOARD

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf
Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Member
Chair, Utilities Commission

/S/ _____
Noel L. Allen, Appointed Member

STATE OF NORTH CAROLINA

BEFORE THE
TAX REVIEW BOARD

COUNTY OF WAKE
IN THE MATTER OF:

The Proposed Assessments of Sales and Use)
taxes due the State of North Carolina for)
the period of May 1, 2001 through October)
31, 2001 and November 1, 2001 through)
October 31, 2003)
)
)
)
vs.)
)
)
)
Linda W. Foster d/b/a Atlantic Associates)
and Atlantic Design Associates, Inc.,)
Appellants)

ADMINISTRATIVE DECISION

Number: 479
Docket Number 2004-303 and
Docket Number 2004-304

This Matter was heard before the regular Tax Review Board (hereinafter 'Board') in the City of Raleigh, Wake County, North Carolina, in the office of the State Treasurer, on Thursday, October 20, 2005 pursuant to the petition of Linda W. Foster d/b/a Atlantic Associates and Atlantic Design Associates (hereinafter 'Appellants') for administrative review of the final decisions entered by the Assistant Secretary of Revenue on September 13, 2004 regarding the proposed assessments of sales and use taxes due the State of North Carolina for the period of May 1, 2001 through October 31, 2001 and November 1, 2001 through October 31, 2003.

Appellants provide printed material, such as catalogs, displaying a customer's products. During the periods at issue, the appellants produced material primarily for the furniture industry. To provide catalogs, the appellants purchased photographs from studio freelance photographer. The images were originally produced as prints and negatives, and may be produced digitally.

Appellants did not pay North Carolina sales or use tax on the photographs they purchased and furnished to third-party printers to use in the production of the catalogs. Instead, the appellants provided a certificate of resale to the vendors. Appellants did charge customers sales tax on the price of the catalogs or other printed materials.

Appellants protested the assessment and requested a hearing before the Secretary of Revenue. After conducting a hearing, the Assistant Secretary of Revenue entered final decisions that sustained the proposed assessments. From the Assistant Secretary's final decisions, appellants filed a notice of intent and petition for administrative review with the Board pursuant to N.C. Gen. Stat. § 105-241.2.

The scope of administrative review for petitions filed with the Tax Review Board is governed by N.C. Gen. Stat. § 105-241.2(b2). After the Tax Review Board conducts an administrative hearing, this statute provides in pertinent part:

(b2). 'The Board shall confirm, modify, reverse, reduce or increase the assessment or decision of the Secretary.'

Pursuant to N.C. Gen. Stat. § 105-241.1(a), a proposed tax assessment is presumed to be correct and the burden is on the taxpayer to rebut that presumption. In order to rebut the presumption, the taxpayer must offer evidence to show that the assessment is not correct.

It appearing to the Board, after conducting an administrative hearing in this matter, in which counsel appeared for appellants, and reviewing the Assistant Secretary's final decision, that the findings of fact made by the Assistant Secretary were supported by competent evidence in the record, that based upon the findings of fact, the Assistant Secretary's conclusions of law were fully supported by the findings of fact, and that the final decisions of the Assistant Secretary were supported by the conclusions of law;

IT IS THEREFORE ORDERED that the Assistant Secretary's final decision is AFFIRMED.

Made and entered into the 30th day of December 2005.

TAX REVIEW BOARD

IN ADDITION

/S/ _____
Stacey A. Phipps, Chief Deputy Treasurer, on behalf
Richard H. Moore, State Treasurer

/S/ _____
Jo Anne Sanford, Chair
North Carolina Utilities Commission

/S/ _____
Noel L. Allen, Esquire
Appointed Member

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

Statutory reference: G.S. 150B-21.2.

TITLE 15A – DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02B .0309.

Proposed Effective Date: September 1, 2006

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): Any person requesting that the Environmental Management Commission conduct a public hearing on any portion of this proposed rule must submit a written request to Elizabeth Kountis, Division of Water Quality, 1617 Mail Service Center, Raleigh, NC 27699-1617 by March 17, 2006. The request must specify which rule the hearing is being requested on. Mailed written requests must be postmarked no later than March 17, 2006

Reason for Proposed Action: The Town of Elkin requested the reclassification of a segment of the Yadkin River (Yadkin and Surry Counties, Yadkin-Pee Dee River Basin) from Class C to Water Supply-IV (WS-IV) Critical Area (CA). The purpose of this rule change is to allow a new intake structure to be placed in the river in order to supply the town with an emergency source of water. The waters to be reclassified meet water supply water quality standards according to DWR staff. DWR and DEH staff have approved of the proposed intake.

This proposed CA would extend along the river from the proposed intake, which is to be placed directly above the mouth of Elkin Creek, to a point approximately 0.3 miles upstream of the proposed intake. Typically, a new riverine WS-IV CA is the area measured 0.5 miles from the proposed intake, but in this case, another WS-IV CA for a Town of Jonesville intake is located 0.3 miles upstream of the proposed 57-acre CA. In addition, no area in association with the proposed intake is to be reclassified to WS-IV PA due to the topography in this area.

If reclassified, development and discharge restrictions will apply. However, there are no current or planned dischargers and no planned development in the proposed reclassification area. Yadkin County and the Town of Elkin, the only local governments with jurisdiction in the reclassification area, would need to modify their water supply watershed protection ordinances within 270 days after the reclassification effective date. Yadkin County and the nearby Town of Jonesville do not object to this reclassification.

Since a public hearing is not required and no comments against this proposed reclassification have been received, a public hearing is not going to be scheduled for this proposed reclassification. If a hearing is requested, a hearing will be scheduled, and the process for this proposed reclassification will

be delayed. This Notice of Text provides an opportunity for comments on the proposed reclassification of the Yadkin River to be submitted to the Division of Water Quality by May 1, 2006. Please note that the proposed rule text that appears in italics was previously noticed in Volume 20, Issue 4, Pages 184-186 of the North Carolina Register, and the comment period for the text shown in italics ends March 20, 2006.

Procedure by which a person can object to the agency on a proposed rule: You may submit written comments, data or other relevant information by May 1, 2006. The EMC is very interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are strongly encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (see General Statute 150B 21.2(g)). Written comments may be submitted to Elizabeth Kountis of the Water Quality Planning Section at the postal address, e-mail address, or fax number listed in this notice.

Comments may be submitted to: Elizabeth Kountis, DENR/Division of Water Quality, Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919) 733-5083 ext 369, fax (919) 715-5637, email Elizabeth.kountis@ncmail.net

Comment period ends: May 1, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:
 State
 Local
 Substantive (≥\$3,000,000)

None

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0309 YADKIN-PEE DEE RIVER BASIN

(a) The schedule may be inspected at the following places:

- (1) Clerk of Court:
 - Alexander County
 - Anson County
 - Cabarrus County
 - Caldwell County
 - Davidson County
 - Davie County
 - Forsyth County
 - Guilford County
 - Iredell County
 - Mecklenburg County
 - Montgomery County
 - Randolph County
 - Richmond County
 - Rowan County
 - Stanly County
 - Stokes County
 - Surry County
 - Union County
 - Watauga County
 - Wilkes County
 - Yadkin County
- (2) North Carolina Department of Environment and Natural Resources:
 - (A) Mooresville Regional Office
~~919 North Main Street~~ 610 East Center Avenue, Suite 301
Mooresville, North Carolina
 - (B) Winston-Salem Regional Office
~~8025 North Point Boulevard, Suite 400~~ 585 Waughtown Street
Winston-Salem, North Carolina
 - (C) Fayetteville Regional Office
~~Wachovia Building~~ Systel Building
~~Suite 714~~ 225 Green Street
Suite 714
Fayetteville, North Carolina
 - (D) Asheville Regional Office
~~Interchange Building~~ 2090 US Highway 70
~~59 Woodfin Place~~
~~Asheville,~~ Swannanoa, North Carolina.

(b) Unnamed Streams. Such streams entering Virginia are classified "C," and such streams entering South Carolina are classified "C".

(c) The Yadkin-Pee Dee River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) January 1, 1992;
- (10) April 1, 1992;
- (11) August 3, 1992;
- (12) December 1, 1992;
- (13) April 1, 1993;
- (14) September 1, 1994;
- (15) August 1, 1995;
- (16) August 1, 1998;
- (17) April 1, ~~1999~~ 1999;
- (18) July 1, 2006; 2006;
- (19) September 1, 2006.

(d) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin has been amended effective October 1, 1988 as follows:

- (1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.
- (2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.
- (3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

(e) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective March 1, 1989 as follows:

- (1) Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective January 1, 1992 as follows:

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes

WS-III and C to Classes WS-III HQW and C HQW.

- (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
- (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

(h) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

(i) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective December 1, 1992 as follows:

- (1) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;
- (2) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;
- (3) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
- (4) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW; and
- (5) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.

(k) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective September 1, 1994 as follows:

- (1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.
- (2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-

V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.

- (3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
- (4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV&B and WS-IV CA.

(l) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin has been amended effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.

(m) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

(o) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV & B CA, WS-IV & B, and B, respectively.

(p) The Schedule of Classifications and Water Quality Standards for the Yadkin Pee-Dee River Basin was amended effective September 1, 2006 with the reclassification of a segment of the Yadkin River [portion of Index No. 12-(53)] from a point 0.3 mile upstream of the Town of Elkin proposed water supply intake to the Town of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to be placed on the Yadkin River at a point directly above the mouth of Elkin Creek.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rule cited as 15A NCAC 02D .0543.

Proposed Effective Date: July 1, 2006

Public Hearing:

Date: April 6, 2006

Time: 7:00 p.m.

Location: Leslie Building, Room 143, Pitt Community College, 1986 Pitt Tech Rd., Winterville, NC 28590

Date: April 12, 2006

Time: 7:00 pm

Location: Haynes Conference Center, Large Conference Room, Asheville-Buncombe Technical Community College, Enka Campus, 1459 Sand Hill Road, Candler, NC 28715

Reason for Proposed Action: This Rule is proposed to improve visibility in federal Class I areas in response to federal requirements.

Procedure by which a person can object to the agency on a proposed rule: If you have any objections to the proposed rule, please mail a letter including your specific reasons to Mr. Thomas C. Allen, Division of Air Quality, Raleigh, NC 27699-1641.

Comments may be submitted to: Mr. Thomas Allen, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641, phone (919) 733-1489, fax (919) 715-7476, email thom.allen@ncmail.net

Comment period ends: May 1, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

- State
Local
Substantive (>=\$3,000,000)

None

SUBCHAPTER 02D – AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0500 – EMISSION CONTROL STANDARDS

15A NCAC 02D .0543 BEST AVAILABLE RETROFIT TECHNOLOGY

(a) For the purposes of this Rule, the definitions at 40 CFR 51.301 shall apply.

(b) Mandatory Class I Federal areas are identified in 40 CFR Part 81, Subpart D.

(c) This Rule applies to BART-eligible sources as determined using 40 CFR Part 51, Appendix Y that cause or contribute to any visibility impairment in a mandatory Class I Federal area as determined by using 40 CFR Part 51, Subpart P.

(d) Unless exempted under 40 CFR 51.303, the owner or operators of any BART-eligible source subject to this Rule shall install, operate, and maintain best available retrofit technology (BART).

(e) The owner or operators of a BART-eligible source required to install BART under this Rule shall submit permit applications for the installation and operation of BART by September 1, 2006.

(f) BART shall be determined using "Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities" (1980), 40 CFR 51.308(e)(1)(ii), and 40 CFR Part 51, Appendix Y. Electric generating units covered under and complying with 15A NCAC 02D .2400, Clean Air Interstate Rules, are considered to be in compliance with the BART requirements for nitrogen oxides and sulfur dioxide under this Rule.

(g) The owner or operator of a BART-eligible source required to install BART under this Rule shall have installed and begun operation of the BART controls by June 1, 2010.

(h) "Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities" is incorporated by reference, exclusive of appendix E, and shall include any later amendments or editions. This document, which was published in the Federal Register on February 6, 1980 (45 FR 8210), is EPA publication No. 450/3-80-009b and can be obtained from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 for eighty-four dollars (\$84.00). It is also available for inspection at the National Archives and Records Administration (NARA). Information on the availability of this material may be found at: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Authority G.S.143-215/3(a)(1); 143-215.107(a)(5),(10).

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to amend the rule(s) cited as 15A NCAC 07H .1102-.1103, .1203, .1302-.1303, .1403,

.1503, .1603, .1703, .1803, .1903, .2003, .2102-.2103, .2203, .2303, .2403, .2503, .2603, .2703; 07K .0208.

Proposed Effective Date: July 1, 2006

Public Hearing:

Date: March 25, 2006

Time: 5:00 p.m.

Location: Ramada Inn, 1701 South Virginia Trail, Kill Devil Hills, NC

Reason for Proposed Action:

15A NCAC 07H – The General permit structure was created to facilitate the rapid permitting of low impact, commonly proposed projects. While the maximum fee that the agency can charge to process GPs has been legislatively capped at \$400 since 1989, the costs associated with issuing GPs have increased over time. Staff perform site visits with these projects so when travel, record keeping and compliance are factored in, staff estimates that most GP costs over \$200 each to issue. The agency proposed to increase its GP application fees within the legislative cap to offset the higher costs of processing permit applications.

15A NCAC 07K .0208 – Standardize language to be consistent with other current CRC rules and to add a time requirement for project construction.

Procedure by which a person can object to the agency on a proposed rule: Objections may be filed in writing and addressed to the Director of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557

Comments may be submitted to: Charles S. Jones, 400 Commerce Avenue, Morehead City, NC 28557, phone (252) 808-2808, fax (252) 247-3330, email charles.s.jones@ncmail.net

Comment period ends: May 1, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

- State 15A NCAC 07H .2303, .2603
Local
Substantive (>=\$3,000,000)

None 15A NCAC 07H .1102, .1103, .1203, .1302-.1303, .1403 .1503, .1603, .1703, .1803, .1903, .2003, .2102-.2103, .2203, .2403, .2503, .2703; 07K .0208

SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .1100 - GENERAL PERMIT FOR CONSTRUCTION OF BULKHEADS AND THE PLACEMENT OF RIPRAP FOR SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1102 APPROVAL PROCEDURES

(a) The applicant must shall contact the Division of Coastal Management and complete an application form requesting approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant must shall provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
(2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice should shall instruct adjacent property owners to provide any written comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response will shall be interpreted as no objection. DCM staff will shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff determines that the project exceeds the guidelines established by the General Permit Process, finds that the comments are worthy of more in depth review, the applicant will be notified that he must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed bulkhead alignment can be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the bulkhead or riprap structure must shall be begin completed within 90 days of this visit or the general authorization expires and it will be necessary to re-examine the alignment to determine if the general authorization can be reissued.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

15A NCAC 07H .1103 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one two~~ hundred dollars ~~(\$100.00)~~ (\$200.00) for riprap and bulkhead structures sited at or above normal high water or normal water level, or a permit fee of four hundred dollars ~~(\$400.00)~~ for bulkhead and riprap structures sited below normal high water or normal water level. Permit fees shall be paid by check or money order payable to the Department.

Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124.

SECTION .1200 - GENERAL PERMIT FOR CONSTRUCTION OF PIERS: DOCKS: AND BOAT HOUSES IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1203 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one two~~ hundred dollars ~~(\$100.00)~~ (\$200.00) by check or money order payable to the Department.

Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113-119.1; 113A-124.

SECTION .1300 – GENERAL PERMIT TO MAINTAIN: REPAIR AND CONSTRUCT BOAT RAMPS ALONG ESTUARINE AND PUBLIC TRUST SHORELINES AND INTO ESTUARINE AND PUBLIC TRUST WATERS

15A NCAC 07H .1302 APPROVAL PROCEDURES

(a) The applicant ~~must~~ shall contact the Division of Coastal Management and complete an application form requesting approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant ~~must~~ shall provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice ~~should~~ shall instruct adjacent property owners to provide ~~any~~ written comments on the proposed development ~~in writing for consideration by permitting officials~~ to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response ~~will~~ shall be interpreted as no objection. DCM staff will shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff determines that the project exceeds the guidelines established by the General Permit Process, finds that the comments are worthy of

~~more in depth review,~~ the applicant will be notified that he must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed boat ramp alignment can be appropriately marked. Written authorization to proceed with the proposed development will be issued during this visit. Construction of the boat ramp structure ~~must begin~~ shall be completed within 90 days of this visit or the general authorization expires.

Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b); 113A-118.1; 113A-124.

15A NCAC 07H .1303 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one two~~ hundred dollars ~~(\$100.00)~~ (\$200.00) by check or money order payable to the Department.

Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124.

SECTION .1400 - GENERAL PERMIT FOR CONSTRUCTION OF WOODEN GROINS IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .1403 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one two~~ hundred dollars ~~(\$100.00)~~ (\$200.00) by check or money order payable to the Department.

Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124.

SECTION .1500 - GENERAL PERMIT FOR EXCAVATION WITHIN OR CONNECTING TO EXISTING CANALS: CHANNELS: BASINS: OR DITCHES IN ESTUARINE WATERS: PUBLIC TRUST WATERS: AND ESTUARINE SHORELINE AEC'S

15A NCAC 07H .1503 APPLICATION FEE

The applicant ~~must~~ shall pay a permit fee of ~~one two~~ hundred dollars ~~(\$100.00)~~ (\$200.00) for maintenance excavation of 100 cubic yards or less or four hundred dollars ~~(\$400.00)~~ for maintenance excavation of over 100 to 1,000 cubic yards. Permit fees shall be paid by check or money order payable to the Department.

Authority G.S. 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1; 113A-124.

SECTION .1600 - GENERAL PERMIT FOR THE INSTALLATION OF AERIAL AND SUBAQUEOUS UTILITY LINES WITH ATTENDANT STRUCTURES IN COASTAL WETLANDS: ESTUARINE WATERS: PUBLIC TRUST WATERS AND ESTUARINE SHORELINES

Authority G.S. 113A-107; 113A-118.1; 113A-119.1.

15A NCAC 07H .1603 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one~~ four hundred dollars (~~\$100.00~~) (\$400.00) by check or money order payable to the Department.

Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1.

SECTION .1700 - GENERAL PERMIT FOR EMERGENCY WORK REQUIRING A CAMA AND/OR A DREDGE AND FILL PERMIT

15A NCAC 07H .1703 PERMIT FEE

The agency shall not charge a fee for permitting work necessary to respond to emergency situations except in the case when a temporary erosion control structure is used. In those cases, the applicant ~~must~~ shall pay a permit fee of ~~two~~ four hundred and fifty dollars (~~\$250.00~~)- (\$400.00) by check or money order made payable to the Department.

Authority G.S. 113-229(c1); 113A-107(a),(b); 113A-113(b); 113A-118.1; 113A-119.

SECTION .1800 - GENERAL PERMIT TO ALLOW BEACH BULLDOZING LANDWARD OF THE MEAN HIGH WATER MARK IN THE OCEAN HAZARD AEC

15A NCAC 07H .1803 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one~~ four hundred dollars (~~\$100.00~~) (\$400.00) by check or money order payable to the Department.

Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1.

SECTION .1900 – GENERAL PERMIT TO ALLOW FOR TEMPORARY STRUCTURES WITHIN COASTAL SHORELINES AND OCEAN HAZARD AECS

15A NCAC 07H .1903 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one~~ two hundred dollars (~~\$100.00~~) (\$200.00) by check or money order payable to the Department.

Authority G.S. 113-229(c1); 113A-107; 113A-113(b); 113A-118.1; 113A-119; 113A-119.1.

SECTION .2000 - GENERAL PERMIT FOR AUTHORIZING MINOR MODIFICATIONS AND REPAIR TO EXISTING PIER/MOORING FACILITIES IN ESTUARINE AND PUBLIC TRUST WATERS AND OCEAN HAZARD AREAS

15A NCAC 07H .2003 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one~~ two hundred dollars (~~\$100.00~~) (\$200.00) by check or money order payable to the Department.

15A NCAC 07H .2102 APPROVAL PROCEDURES

(a) The applicant ~~must~~ shall contact the Division of Coastal Management and request approval for development. The applicant shall provide information on site location, dimensions of the project area, and his name and address.

(b) The applicant ~~must~~ shall provide:

- (1) confirmation that a written statement has been obtained signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
- (2) confirmation that the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice shall instruct adjacent property owners to provide ~~any~~ written comments on the proposed development ~~in writing for consideration by permitting officials~~ to the Division of Coastal Management within ten days of receipt of the notice, and, indicate that no response ~~will~~ shall be interpreted as no objection. DCM staff will shall review all comments and determine, based on their relevance to the potential impacts of the proposed project, if the proposed project can be approved by a General Permit. If DCM staff determines that the project exceeds the guidelines established by the General Permit Process, finds that the comments are worthy of more in depth review, the applicant will be notified that he must submit an application for a major development permit.

(c) No work shall begin until an on-site meeting is held with the applicant and appropriate Division of Coastal Management representative so that the proposed breakwater alignment can be appropriately marked. Written authorization to proceed with the proposed development may be issued during this visit. Construction of the breakwater ~~must begin~~ shall be completed within 90 days of this visit or the general authorization expires and it will be necessary to re-examine the alignment to determine if the general authorization can be reissued.

Authority G.S. 113A-107; 113A-118.1.

15A NCAC 07H .2103 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one~~ two hundred dollars (~~\$100.00~~) (\$200.00). This fee ~~may~~ shall be paid by check or money order made payable to the Department.

Authority G.S. 113A-107; 113A-118.1; 113A-119.1.

SECTION .2200 - GENERAL PERMIT FOR CONSTRUCTION OF FREESTANDING MOORINGS IN ESTUARINE WATERS AND PUBLIC TRUST AREAS AND OCEAN HAZARD AREAS

15A NCAC 07H .2203 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~one~~ two hundred dollars ~~(\$100.00)~~ (\$200.00). This fee ~~may~~ shall be paid by check or money order made payable to the Department.

Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1.

SECTION .2300 - GENERAL PERMIT FOR REPLACEMENT OF EXISTING BRIDGES AND CULVERTS IN ESTUARINE WATERS, ESTUARINE AND PUBLIC TRUST SHORELINES, PUBLIC TRUST AREAS, AND COASTAL WETLANDS

15A NCAC 07H .2303 PERMIT FEE

The applicant shall pay a permit fee of ~~one~~ four hundred dollars ~~(\$100.00)~~ (\$400.00). This fee ~~may~~ shall be paid by check or money order made payable to the Department.

Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1; 113A-124.

SECTION .2400 – GENERAL PERMIT FOR PLACEMENT OF RIPRAP FOR WETLAND PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS

15A NCAC 07H .2403 PERMIT FEE

The applicant ~~must~~ shall pay a permit fee of ~~fifty two~~ hundred dollars ~~(\$50.00)~~ (\$200.00). This fee ~~may~~ shall be paid by check or money order made payable to the Department.

Authority G.S. 113A-107; 113A-118.1; 113A-119.1.

SECTION .2500 - EMERGENCY GENERAL PERMIT, TO BE INITIATED AT THE DISCRETION OF THE SECRETARY OF THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FOR REPLACEMENT OF STRUCTURES, THE RECONSTRUCTION OF PRIMARY OR FRONTAL DUNE SYSTEMS, AND THE MAINTENANCE EXCAVATION OF EXISTING CANALS, BASINS, CHANNELS, OR DITCHES, DAMAGED, DESTROYED, OR FILLED IN BY HURRICANES OR TROPICAL STORMS, PROVIDED ALL REPLACEMENT, RECONSTRUCTION AND MAINTENANCE EXCAVATION ACTIVITIES CONFORM TO ALL CURRENT STANDARDS

15A NCAC 07H .2503 PERMIT FEE

The standard permit fee of ~~one~~ two hundred dollars ~~(\$100.00)~~ (\$200.00) has been waived for this General Permit.

Authority G.S. 113A-107; 113A-118.1.

SECTION .2600 – GENERAL PERMIT FOR CONSTRUCTION OF WETLAND, STREAM AND BUFFER MITIGATION SITES BY THE NORTH CAROLINA ECOSYSTEM ENHANCEMENT PROGRAM OR THE NORTH CAROLINA WETLANDS RESTORATION PROGRAM

15A NCAC 07H .2603 PERMIT FEE

The applicant shall pay a permit fee of ~~one~~ four hundred dollars ~~(\$100.00)~~ (\$400.00). This fee shall be paid by check or money order made payable to the Department. ~~Department of Environment and Natural Resources (DENR)~~.

Authority G.S. 113A-107; 113A-118.1; 113A-119.1.

SECTION .2700 – GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT IN ESTUARINE AND PUBLIC TRUST WATERS

15A NCAC 07H .2703 PERMIT FEE

The applicant shall pay a permit fee of ~~one~~ two hundred dollars ~~(\$100.00)~~ (\$200.00). This fee shall be paid by check or money order made payable to the Department.

Authority G.S. 113A-107; 113A-118.1; 113A-119.1.

SUBCHAPTER 07K - ACTIVITIES IN AREAS OF ENVIRONMENTAL CONCERN WHICH DO NOT REQUIRE A COASTAL AREA MANAGEMENT ACT PERMIT

SECTION .0200 - CLASSES OF MINOR MAINTENANCE AND IMPROVEMENTS WHICH SHALL BE EXEMPTED FROM THE CAMA MAJOR DEVELOPMENT PERMIT REQUIREMENT

15A NCAC 07K .0208 SINGLE FAMILY RESIDENCES EXEMPTED

(a) All single family residences constructed within the Estuarine Shoreline Area of Environmental Concern which are more than 40 feet landward of ~~the mean~~ normal high water ~~mark~~ or normal water level, and involve no land disturbing activity within the 40 feet buffer area are exempted from the CAMA permit requirement as long as this exemption is consistent with all other applicable CAMA permit standards and local land use plans and/or rules in effect at the time the exemption is granted. This exemption does allow for the construction of an access to the water ~~not exceeding six feet in width~~ in accordance with Rule 07H .0209(d)(10).

(b) Within the AEC for estuarine shorelines contiguous to waters classified as Outstanding Resource Waters (ORW), no CAMA permit will be required if the proposed development is a single-family residence which has a built upon area of 25 percent or less and:

- (1) has no stormwater collection system; and
- (2) is at least 40 feet from waters classified as ORW.

(c) Before beginning any work under this exemption, the Department of ~~Environment, Health, Environment~~ and Natural Resources representative must be notified of the proposed activity to allow on-site review. Notification may be by telephone, in person or in writing. Notification must include:

- (1) the name, address, and telephone number of the landowner and the location of the work,

including the county, nearest community and water body;

- (2) the dimensions of the proposed project, including proposed landscaping and the location of normal high water or normal water level; pier, bulkhead with backfill or the area dimensions to be covered by placement of riprap material;
- (3) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners indicating that they have no objections to the proposed work. ~~(These statements do not have to be presented at the time of notification of intent to perform work, but the permittee must make it available to CRC agents at their request.)~~

(d) In eroding areas, this exemption shall apply only ~~when, when in the opinion of the local permit officer, officer has determined that~~ the house has been located the maximum feasible distance back on the lot but not less than forty feet.

(e) Construction of the structure shall be completed within one year of the issuance date of this permit or the general authorization expires.

Authority G.S. 113A-103(5)c.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to adopt the rules cited as 15A NCAC 13B .0531-.0547.

Proposed Effective Date: January 1, 2007

Public Hearing:

Date: April 3, 2006

Time: 2:00 p.m.

Location: Ground Floor Hearing Room, Archdale Building, 512 N. Salisbury St., Raleigh, NC

Reason for Proposed Action: *These Rules are intended to provide regulatory guidance for the development of new and the continued operation of construction and demolition landfills (CDLF) operating on top of closed municipal solid waste (MSW) landfills.*

Procedure by which a person can object to the agency on a proposed rule: *Persons may submit written objections to the proposed rules by contacting: Ed Mussler, DENR – Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646, fax (919) 733-4810, email ed.mussler@ncmail.net.*

Comments may be submitted to: *Ed Mussler, DENR – Division of Waste Management, Solid Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646, phone (919) 508-8495, fax (919) 733-4810, email ed.mussler@ncmail.net.*

Comment period ends: May 1, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

- State
- Local 15A NCAC 13B .0532-.0547
- Substantive (≥\$3,000,000)
- None 15A NCAC 13B .0531

CHAPTER 13 – SOLID WASTE MANAGEMENT

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .0500 - DISPOSAL SITES

15A NCAC 13B .0531 PURPOSE, SCOPE, AND APPLICABILITY FOR CONSTRUCTION AND DEMOLITION LANDFILLS

(a) Purpose. The purpose of Rules .0531 through .0547 of this Section is to regulate the siting, design, construction, operation, closure and post-closure of all construction and demolition solid waste landfill (C&DLF) facilities and units.

(b) Scope. Rules .0531 through .0547 of this Section describe the performance standards, application requirements, and permitting procedures for all C&DLF facilities and units. Rules .0531 through .0547 of this Section are intended to:

- (1) establish the State standards for C&DLF facilities and units to provide for effective disposal practices and protect the public health and environment; and
- (2) coordinate other State Rules applicable to landfills.

(c) Applicability. Owners and operators of C&DLF facilities and units shall conform to the requirements of Rules .0531 through .0547 of this Section as follows:

- (1) C&DLF units which do not receive solid waste after January 1, 2008, shall comply with the Conditions of the Solid Waste Permit and Rule .0510 of this Section.
- (2) C&DLF units which continue to receive waste after January 1, 2008, shall comply with Rule .0547 of this Section, at the time of closure of the unit(s).

(3) C&DLF units permitted after January 1, 2007 shall comply with the requirements of Rules .0531 through .0546 of this Section.

(d) Owners and operators of a C&DLF facility shall comply with any other applicable Federal, State and Local laws, rules, regulations, or other requirements.

Authority G.S. 130A-294.

15A NCAC 13B .0532 DEFINITIONS FOR C&DLF FACILITIES

This Rule contains definitions for terms that appear throughout the Rules pertaining to Construction and Demolition Landfills, Rules .0531 through .0547 of this Section; additional definitions appear in the specific rules to which they apply.

- (1) "100-year flood" means a flood that has a one-percent or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on average over a significantly long period.
- (2) "Active life" means the period of operation beginning with the initial receipt of C&D solid waste and ending at completion of closure activities in accordance with Rule .0543 of this Section.
- (3) "Active portion" means that part of a facility or unit(s) that has received or is receiving wastes and that has not been closed in accordance with Rule .0543 of this Section.
- (4) "Aquifer" means a geological formation, group of formations, or portion of a formation capable of yielding ground water.
- (5) "Areas susceptible to mass movement" means those areas of influence (i.e., areas characterized as having an active or substantial possibility of mass movement) where the movement of earth material at, beneath, or adjacent to the C&DLF unit(s), because of natural or man-induced events, results in the downslope transport of soil and rock material by means of gravitational influence. Areas of mass movement include, but are not limited to, landslides, avalanches, debris slides and flows, soil fluction, block sliding, and rock fall.
- (6) "Base liner system" means the liner system installed on the C&DLF unit's foundation to control the flow of leachate.
- (7) "Cap system" means a liner system installed over the C&DLF unit(s) to minimize infiltration of precipitation and contain the wastes.
- (8) "C&D solid waste" means solid waste generated solely from the construction, remodeling, repair, or demolition operations on pavement, and buildings or structures. C&D waste does not include municipal and industrial wastes that may be generated by the on-going operations at buildings or structures.

(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) "Ground water" means water below the land surface in a zone of saturation.

(11) "Hazardous Waste" means a solid waste as defined in G.S.130A-290 (a)(8). "Hazardous Waste" does not include those solid wastes excluded from regulation pursuant to 40 CFR 261.4, incorporated by reference in 15A NCAC 13A .0106. "Hazardous Waste" does include hazardous waste generated by conditionally exempt small quantity generators as defined in 40 CFR 261.5, incorporated by reference in 15A NCAC 13A .0106.

(12) "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of RCRA. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(13) "Karst terranes" means areas where karst topography, with its characteristic surface and subterranean features, is developed as the result of dissolution of limestone, dolomite, or other soluble rock. Characteristic physiographic features present in karst terranes include, but are not limited to, sinkholes, sinking streams, caves, large springs, and blind valleys.

(14) "Landfill facility" means all contiguous land and structures, waste management unit(s), other appurtenances, and improvements on the land within the legal description of the site included in or proposed for the Solid Waste Permit. Existing facilities are those facilities which were permitted by the Division prior to July 1, 2007. Facilities permitted on or after January 1, 2007 are new facilities.

(15) "Landfill unit" means a discrete area of land or an excavation, that receives a particular type of waste such as C&D, industrial, or municipal solid waste, and is not a land application unit, surface impoundment, injection well, or waste

- pile, as defined under 40 CFR Part 257. Such a landfill unit may be publicly or privately owned, may be located at a MSWLF, an industrial landfill facility, or other waste management facility.
- (16) "Lateral expansion" means a horizontal expansion of the waste boundaries of an existing C&DLF unit(s).
- (17) "Liner system" means an engineered environmental control system which can incorporate filters, drainage layers, compacted soil liners, geomembrane liners, piping systems, and connected structures.
- (18) "Liquid waste" means any waste material that is determined to contain "free liquids" as defined by Method 9095 (Paint Filter Liquids Test), S.W. 846.
- (19) "Licensed Geologist" means individual who is licensed to practice geology in accordance with N.C.G.S. Chapter 89E.
- (20) "Open burning" means the combustion of any solid waste without:
- (a) control of combustion air to maintain adequate temperature for efficient combustion;
 - (b) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
 - (c) control of the emission of the combustion products.
- (21) "Poor foundation conditions" means those areas where features exist which indicate that a natural or man-induced event may result in inadequate foundation support for the structural components of a C&DLF unit(s).
- (22) "Professional Engineer" means individual who is licensed to practice engineering in accordance with G.S. 89C.
- (23) "Project engineer" means the official representative of the permittee who is licensed to practice engineering in the State of North Carolina, who is responsible for observing, documenting, and certifying that activities related to the quality assurance of the construction of the solid waste management unit conforms to the Division approved plan, the permit to construct and the rules specified in this Section. All certifications must bear the seal and signature of the professional engineer and the date of certification.
- (24) "Registered Land Surveyor" means individual who is licensed to practice surveying in accordance with G.S. 89C.
- (25) "Run-off" means any rainwater that drains over land from any part of a facility or unit.
- (26) "Run-on" means any rainwater that drains over land onto any part of a facility.
- (27) "Structural components" means liners, leachate collection systems, final covers, run-on or run-off systems, and any other component used in the construction and operation of the C&DLF that is necessary for protection of human health and the environment.
- (28) "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and Karst terranes.
- (29) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as, lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.
- (30) "Washout" means the carrying away of solid waste by waters of the base flood.

Authority G.S. 130A-294.

15A NCAC 13B .0533 GENERAL APPLICATION REQUIREMENTS AND PROCESSING FOR C&DLF FACILITIES

(a) Applicability. Owners or operators of a proposed or existing C&DLF unit or facility shall submit an application document as detailed in Rule .0535 of this Section in accordance with the criteria and scheduling requirements set forth in this Paragraph.

- (1) New facility. Owners or operators proposing to establish a C&DLF facility or unit in accordance with the following criteria shall submit a Site Study and subsequently, an application for a permit to construct as set forth in Paragraph (a) of Rule .0535 of this Section. A new facility permit application is required when:
 - (A) The owner or operator proposes to establish a new facility not previously permitted by the Division.
 - (B) The owner or operator proposes to expand the landfill facility in order to expand the C&DLF unit(s) boundary approved in accordance with Subparagraph (a)(1) of Rule .0536 of this Section.
- (2) Amendment to the permit. The owner or operator shall prepare an application to amend the permit to construct for any subsequent phase of landfill development in accordance with Paragraph (b) of Rule .0535 of this Section and submit the application:
 - (A) at least 180 days prior to the date scheduled for commencing construction; or

- (B) five years from the issuance date of the initial permit to operate or as specified in the effective permit.
 - (3) Substantial amendment to the permit. A permit issued in accordance with Paragraph (c) of this Rule approves a facility plan for the life of the C&DLF facility and a set of plans for the initial phase of landfill development. The owner or operator shall prepare an application in accordance with Paragraph (c) of Rule .0535 of this Section and submit the application when there is:
 - (A) a substantial change in accordance to G.S. 130A-294(b1)(1); or
 - (B) a transfer of ownership of the C&DLF facility.
 - (4) Modifications to the permit. An owner or operator proposing changes to the plans approved in the permit shall request prior approval from the Division in accordance with Paragraph (d) of Rule .0535 of this Section.
- (b) Application format guidelines. All applications and plans required by Rules .0531 through .0547 of this Section shall be prepared in accordance with the following guidelines:
- (1) The initial application shall:
 - (A) contain a cover sheet stating the project title and location, the applicant's name, and the engineer's name, address, signature, date of signature and seal; and
 - (B) contain a statement defining the purpose of the submittal signed and dated by the applicant.
 - (2) The text of the application shall:
 - (A) be submitted in a three ring binder;
 - (B) contain a table of contents or index outlining the body of the application and the appendices;
 - (C) be paginated consecutively; and
 - (D) identify revised text by noting the date of revision on the page.
 - (3) Drawings. The engineering drawings for all landfill facilities shall be submitted using the following format.
 - (A) The sheet size with title blocks shall be at least 22 inches by 34 inches.
 - (B) The cover sheet shall include the project title, applicant's name, sheet index, legend of symbols, and the engineer's name, address, signature, date of signature, and seal.
 - (C) Where the requirements do not explicitly specify a minimum scale, maps and drawings shall be prepared at a scale that adequately illustrates the subject requirement(s).
 - (4) Number of copies. An applicant shall submit a minimum of three copies of each original application document and any revisions to the

Division. The Division may request additional copies as necessary. The Division may request submittal of relevant documents in electronic format.

(c) Permitting and Public Information Procedures.

(1) Purpose and Applicability.

(A) Purpose. The permitting process shall provide for public review of and input to permit documents containing the applicable design and operating conditions and shall provide for consideration of comments received and notification to the public of the permit design.

(B) Applicability. Applications for a Permit to Construct for a new facility or a substantial amendment to the permit for an existing facility or a modification to the permit involving corrective remedy selection required by Paragraph (d) through (h) of Rule .0545 of this Section shall be subject to the requirements of Subparagraphs (c)(2) through (c)(9) of this Rule. Applications submitted in accordance with Subparagraphs (a)(2) and (a)(4) of this Rule are not subject to the requirements of this Paragraph.

(2) Draft Permits.

(A) Once an application is complete, the Division shall tentatively decide whether the permit should be issued or denied.

(B) If the Division decides the permit should be denied, a notice to deny shall be sent to the applicant. Reasons for permit denial shall be in accordance with Rule .0203(e) of this Subchapter.

(C) If the Division tentatively decides the permit should be issued, a draft permit shall be prepared.

(D) A draft permit shall contain (either expressly or by reference) all applicable terms and conditions for the permit.

(E) All draft permits shall be subject to the procedures of Subparagraphs (3) through (9) of this Paragraph, unless otherwise specified in those Subparagraphs.

(3) Fact Sheet.

(A) A fact sheet shall be prepared for every draft permit.

(B) The fact sheet shall include a brief description of the type of facility or activity, which is the subject of the draft permit; a description of the area to be served and of the volume and

characteristics of the waste stream, and a projection of the useful life of the landfill; a brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions and appropriate supporting references to the permit application; a description of the procedures for reaching a decision on the draft permit, including the beginning and ending dates of the comment period under Subparagraph (4) of this Paragraph and the address where comments will be received; procedures for requesting a public hearing; and any other procedures by which the public may participate in the decision; and name and telephone number of a person to contact for additional information.

(C) The Division shall send this fact sheet to the applicant and it shall be made available to the public for review or copying at the central office of the Division of Waste Management – Solid Waste Section. The fact sheet may be made available on the Division web site.

(4) Public Notice of Permit Actions and Public Hearings.

(A) The Division shall give public notice when a draft permit has been prepared; or a public hearing has been scheduled under Subparagraph (6) of this Paragraph; or a notice of intent to deny a permit has been prepared under Part (2)(B) of this Paragraph.

(B) No public notice is required when a request for a permit modification is denied.

(C) Written notice of denial shall be given to the applicant.

(D) Public notices may describe more than one permit or permit action.

(E) Public notice of the preparation of a draft permit or a notice of intent to deny a permit shall allow at least 45 days for public comment.

(F) Public notice of a public hearing shall be given at least 15 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.

(G) Public notice of activities described in Part (A) of this Subparagraph shall be given by posting in the post office and public places of the

municipalities nearest the site under consideration; or by publication in a daily or weekly local newspaper of general circulation; or by publication on the Division website; or by any other method deemed necessary or appropriate by the Division to give actual notice of the activities to persons potentially affected.

(H) General Public Notices. All public notices issued under this Part shall at minimum contain name, address and phone number of the office processing the permit action for which notice is being given; name and address of the owner and operator applying for the permit; a brief description of the business conducted at the facility or activity described in the permit application including the size and location of the facility and type of waste accepted; a brief description of the comment procedures required by Subparagraphs (5) and (6) of this Paragraph, including a statement of procedures to request a public hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the permit decision; name, address, and telephone number of a person from whom interested persons may obtain further information; a description of the time frame and procedure for making an approval or disapproval decision of the application; and any additional information considered necessary or proper as required by the Division.

(I) Public Notices for Public Hearing. In addition to the general public notice described in Part (4)(A) of this Paragraph, the public notice of a public hearing shall contain the date, time, and place of the public hearing; a brief description of the nature and purpose of the public hearing, including the applicable rules and procedures; and a concise statement of the issues raised by the persons requesting the hearing.

(5) Public Comments and Requests for Public Hearings. During the public comment period provided, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the

nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the decision and shall be answered as provided in Subparagraph (9) of this Paragraph.

(6) Public Hearings.

(A) A public hearing shall be held whenever on the basis of requests a significant degree of public interest in a draft permit(s) is determined. The Division may also hold a public hearing at its discretion whenever such a hearing might clarify one or more issues involved in the permit decision. Public hearings held pursuant to this Rule shall be at a location convenient to the nearest population center to the subject facility. Public notice of the hearing shall be given as specified in Subparagraph (4) of this Paragraph.

(B) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Subparagraph (4) of this Paragraph shall be automatically extended to the close of any public hearing under this Subparagraph. The hearing officer may also extend the comment period by so stating at the hearing.

(C) A recording or written transcript of the hearing shall be made available to the public for review or copying at the central office of the Division of Waste Management - Solid Waste Section.

(7) Reopening of the Public Comment Period.

(A) If any data, information, or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit action, the Division may prepare a new draft permit, appropriately modified, under Subparagraph (2) of this Paragraph; prepare a fact sheet or revised fact sheet under Subparagraph (3) of this Paragraph and reopen the comment period under Subparagraph (4) of this Paragraph; or reopen or extend the comment period under Subparagraph (4) of this Paragraph to give interested persons an opportunity to comment on the information or arguments submitted.

(B) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under Subparagraph (4) of this Paragraph shall define the scope of the reopening.

(C) Public notice of any of the actions of this Subparagraph shall be issued under Subparagraph (4) of this Paragraph.

(8) Permit Decision.

(A) After the close of the public comment period under Subparagraph (4) of this Paragraph on a draft permit or a notice of intent to deny a permit, the Division shall issue a permit decision. The Division shall notify the applicant and each person who has submitted a written request for notice of the permit decision. For the purposes of this Subparagraph, a permit decision means a decision to issue, deny or modify a permit.

(B) A permit decision shall become effective upon the date of the service of notice of the decision unless a later date is specified in the decision.

(9) Response to Comments.

(A) At the time that a permit decision is issued under Subparagraph (8) of this Paragraph, the Division shall issue a response to comments. This response shall specify which provisions, if any, of the draft permit have been changed in the permit decision, and the reasons for the change; and briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any public hearing.

(B) The response to comments shall be made available to the public for review or copying at the central office of the Division of Waste Management - Solid Waste Section.

(d) Permit approval or denial. The Division shall review all permit applications in accordance with Rule .0203 of Section .0200 - PERMITS FOR SOLID WASTE MANAGEMENT FACILITIES.

Authority G.S. 130A-294.

15A NCAC 13B .0534 GENERAL REQUIREMENTS FOR C&DLF FACILITIES AND UNITS

(a) Applicability. Permits issued by the Division for C&DLF facilities and units shall be subject to the general requirements set forth in this Rule.

(b) Terms of the Permit. The Solid Waste Management Permit shall incorporate requirements necessary to comply with this Subchapter and the North Carolina Solid Waste Management Act including, but not limited to, the provisions of this Paragraph.

- (1) Division Approved Plan. Permits issued subsequent to the effective date of this Rule shall incorporate a Division approved plan.
 - (A) The scope of the Division approved plan shall include the information necessary to comply with the requirements set forth in Rule .0535 of this Section.
 - (B) The Division approved plans shall be subject to and may be limited by the conditions of the permit.
 - (C) The Division approved plans for a new facility shall be described in the permit and shall include, but not be limited to, the Facility Plan, Rule .0537 of this Section, Engineering Plan, Rule .0539 of this Section, Construction Quality Assurance plan, Rule .0541 of this Section, Operation Plan, Rule .0542 of this Section, Closure and Post-Closure plan, Rule .0543 of this Section, and Monitoring Plans, Rule .0544 of this Section.
- (2) Permit provisions. All C&DLF facilities and units shall conform to the specific conditions set forth in the permit and the following general provisions. Nothing in this Subparagraph shall be construed to limit the conditions the Division may impose on a permit.
 - (A) Duty to Comply. The permittee shall comply with all conditions of the permit, unless otherwise authorized by the Division. Any permit noncompliance, except as otherwise authorized by the Division, constitutes a violation of the Act and is grounds for enforcement action or for permit revocation, modification or suspension.
 - (B) Duty to Mitigate. In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent adverse impacts on human health or the environment.
 - (C) Duty to Provide Information. The permittee shall furnish to the Division, any relevant information that the Division may request to determine whether cause exists for modifying, revoking or suspending

the permit, or to determine compliance with the permit. The permittee shall also furnish to the Division, upon request, copies of records as required to be kept under the conditions of the permit.

- (D) Recordation Procedures. The permittee shall comply with the requirements of Rule .0204 of this Subchapter RECORDATION OF LAND DISPOSAL PERMITS in order for a new permit to be effective.
- (E) Need to Halt or Reduce Activity. It shall not be a defense for a permittee in an enforcement action to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of the permit.
- (F) Permit Actions. The permit may be modified, reissued, revoked, suspended or terminated in accordance with G.S. 130A-23. The filing of a request by the permittee for a permit modification, or a notification of planned changes or anticipated noncompliance, does not stay any existing permit condition.
- (G) No Property Rights. The permit does not convey any property rights of any sort, or any exclusive privilege. The permit is not transferable.
- (H) Construction. If construction does not commence within 18 months from the issuance date of the permit to construct, or a substantial amendment to the permit, or an amendment to the permit, then the permittee shall obtain written approval from the Division prior to construction and comply with any conditions of said approval.
- (I) Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only

when necessary to achieve compliance with the conditions of the permit.

(J) Inspection and Entry. The permittee shall allow the Division or an authorized representative to enter the permittee's premises where a regulated unit(s) or activity is located or conducted, or where records are kept under the conditions of the permit; have access in order to copy any records required to be kept under the conditions of the permit; any unit(s), equipment (including monitoring and control equipment), practices or operations regulated by the Division; or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location; and make photographs for the purpose of documenting items of compliance or noncompliance at waste management units, or where appropriate to protect legitimate proprietary interests, require the permittee to make such photos for the Division.

(K) Waste Exclusions. Waste to be excluded from disposal in a C&DLF is listed in Rule .0542 of this Section. Permit conditions may include additional exclusions as they become necessary in order to protect the public health and the environment or to ensure proper landfill operation.

(L) Additional Solid Waste Management Activities. Construction and operation of additional solid waste management activities at the landfill facility shall not impede operation or monitoring of the C&DLF unit(s) and shall be submitted to the Division for review and approval.

Authority G.S. 130A-294.

15A NCAC 13B .0535 APPLICATION REQUIREMENTS FOR C&DLF FACILITIES

(a) Permit for a new facility. The owner and operator of a new facility shall meet the requirements of Rule .0536 of this Section prior to submitting an application for a permit to construct.

(1) Permit to Construct. A complete application for a permit to construct shall meet the General Site Conditions and Design Requirements set forth by the Division in accordance with Rule .0536(a)(1) and shall contain the following:

(A) a facility plan that describes the comprehensive development of the

C&DLF facility prepared in accordance with Rule .0537 of this Section;

(B) an engineering plan that is prepared for the initial phase of landfill development prepared in accordance with Rule .0539 of this Section;

(C) a construction quality assurance plan prepared in accordance with Rule .0541 of this Section;

(D) an operation plan prepared in accordance with Rule .0542 of this Section;

(E) a closure and post-closure plan prepared in accordance with Rule .0543 of this Section; and

(F) monitoring plans prepared in accordance with Paragraph (a) of Rule .0544 of this Section.

(2) Permit to Operate. The owner and operator shall meet the pre-operative requirements of the permit to construct in order to qualify the constructed C&DLF unit for a permit to operate. Construction documentation shall be submitted in a timely and organized manner in order to facilitate the Division's review.

(b) Amendment to the permit. A complete application for an amendment to the permit shall contain:

(1) an updated engineering plan prepared in accordance with Rule .0539 of this Section;

(2) an updated construction quality assurance plan prepared in accordance with Rule .0541 of this Section;

(3) an updated operation plan prepared in accordance with Rule .0542 of this Section;

(4) an updated closure and post-closure plan prepared in accordance with Rule .0543 of this Section; and

(5) an updated monitoring plan prepared in accordance with Rule .0544 of this Section.

(c) Substantial amendment to the permit. A complete application for a substantial amendment to the permit shall contain:

(1) a facility plan that describes the comprehensive development of the C&DLF facility prepared in accordance with Rule .0537 of this Section; and

(2) local government approval in accordance with Subparagraph (c)(11) of Rule .0536 of this Section.

(d) Modifications to the permit. The owner or operator may propose to modify plans that were prepared and approved in accordance with the requirements set forth in this Section. A complete application shall identify the requirement(s) proposed for modification and provide complete information in order to demonstrate compliance with the applicable requirements of this Section.

Authority G.S. 130A-294.

15A NCAC 13B .0536 SITE STUDY FOR C&DLF FACILITIES

(a) Purpose. As required under Rule .0535 of this Section, the owner or operator shall prepare a site study which meets the requirements of this Rule. The Division shall review the site study for a proposed new facility prior to consideration of an application for a permit to construct. Following review of the site study, the Division shall notify the applicant that either:

- (1) the site is deemed suitable and the applicant is authorized to prepare an application for a permit to construct in accordance with Rule .0535 of this Section and the General Site Conditions and Design Requirements prescribed by the Division; or
- (2) the site is deemed unsuitable for establishing a C&DLF unit(s) and shall specify the reasons that would prevent the C&DLF unit(s) from being operated in accordance with G.S. 130A Article 9, or this Subchapter, and any applicable federal laws and regulations.

(b) Scope. The site is the land which is proposed for the landfill facility. The site study presents a characterization of the land, incorporating various investigations and requirements pertinent to suitability of a C&DLF facility. The scope of the site study includes criteria associated with the public health and welfare, and the environment. The economic feasibility of a proposed site is not within the scope of this study. The information in the site study shall accurately represent site characteristics and must be prepared by qualified environmental professionals as set forth in Subparagraph (a)(3) of Rule .0202 of this Subchapter.

(c) The site study prepared for a C&DLF facility shall include the information required by this Paragraph.

- (1) Characterization study. The site characterization study area includes the landfill facility and a 2000-foot perimeter measured from the proposed boundary of the landfill facility. The study shall include an aerial photograph taken within one year of the original submittal date, a report, and a local map. The map and photograph shall be at a scale of at least one inch equals 400 feet. The study must identify the following:
 - (A) the entire property proposed for the disposal site and any on-site easements;
 - (B) existing land use and zoning;
 - (C) the location of residential structures and schools;
 - (D) the location of commercial and industrial buildings, and other potential sources of contamination;
 - (E) the location of potable wells and public water supplies;
 - (F) historic sites;
 - (G) state nature and historic preserves;
 - (H) the existing topography and features of the disposal site including: general surface water drainage patterns and

watersheds, 100-year floodplains, perennial and intermittent streams, rivers, and lakes; and

- (I) the classification of the surface water drainage from landfill site in accordance with 15A NCAC 02B .0300.
- (2) Proposed Facility Plan. A conceptual plan for the development of the facility including drawings and a report must be prepared which includes the drawings and reports described in Subparagraphs (d)(1), (e)(1), (e)(2), and (e)(3) of Rule .0537 of this Section.
- (3) Site Hydrogeologic Report. The study shall be prepared in accordance with the requirements set forth in Paragraph (a) of Rule .0538 of this Section.
- (4) Floodplain Location Restrictions. New C&DLF unit(s) shall comply with the siting criteria set forth in this Rule. In order to demonstrate compliance with specific criteria, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study.
 - (A) C&DLF units and/or structural fill used to construct a C&DLF unit shall be in accordance with N.C.G.S. 143-215.54A.
 - (B) C&DLF units shall not be located in floodplains unless the owners or operators demonstrate that the unit will not restrict the flow of the 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 health and the environment.
- (5) Wetlands Location Restrictions. New C&DLF unit(s) shall comply with the siting criteria set forth in this Rule. In order to demonstrate compliance with specific criteria, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study.
 - (A) New C&DLF units and lateral expansions shall not be located in wetlands, unless the owner or operator can make the following demonstrations to the Division where applicable under Section 404 of the Clean Water Act or State wetlands laws, the presumption that a practicable alternative to the proposed

landfill facility is available which does not involve wetlands is clearly rebutted, construction and operation of the C&DLF unit will not cause or contribute to violations of any applicable State water quality standard; Violate any applicable toxic effluent standard or prohibition under Section 307 of the Clean Water Act; Jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973; and violate any requirement under the Marine Protection, Research, and Sanctuaries Act of 1972 for the protection of a marine sanctuary, the C&DLF unit will not cause or contribute to significant degradation of wetlands.

(B) The owner or operator shall demonstrate the integrity of the C&DLF unit and its ability to protect ecological resources by addressing erosion, stability, and migration potential of native wetland soils, muds and deposits used to support the C&DLF unit; erosion, stability, and migration potential of dredged and materials used to support the C&DLF unit; the volume and chemical nature of the waste managed in the C&DLF unit; impacts on fish, wildlife, and other aquatic resources and their habitat from release of the solid waste; the potential effects of catastrophic release of waste to the wetland and the resulting impacts on the environment; and any additional factors, as necessary, to demonstrate that ecological resources in the wetland are sufficiently protected to the extent required under Section 404 of the Clean Water Act or applicable State wetlands laws.

(C) The owner or operator shall demonstrate that steps have been taken to attempt to achieve no net loss of wetlands (as defined by acreage and function) by first avoiding impacts to wetlands to the maximum extent practicable as required by Part (c)(4)(A) of this Rule, then minimizing unavoidable impacts to the maximum extent practicable, and finally offsetting remaining unavoidable wetland

impacts through all appropriate and practicable compensatory mitigation actions (e.g., restoration of existing degraded wetlands or creation of man-made wetlands); and that sufficient information is available to make a reasonable determination with respect to these demonstrations.

(D) For purposes of this Part, wetlands means those areas that are defined in 40 CFR 232.2(r).

(6) Unstable Area Location Restrictions. New C&DLF unit(s) shall comply with the siting criteria set forth in this Rule. In order to demonstrate compliance with specific criteria, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study. Owners and operators of C&DLF facilities or C&DLF units located in an unstable area shall demonstrate that engineering measures have been incorporated into the C&DLF unit's design to ensure that the integrity of any structural components of the C&DLF unit will not be disrupted. The owner and operator shall consider the following factors, at a minimum, when determining whether an area is unstable on-site or local soil conditions that may result in significant differential settling; on-site or local geologic or geomorphologic features; and on-site or local human-made features or events (both surface and subsurface).

(7) Cultural Resources Location Restrictions. New C&DLF unit(s) shall comply with the siting criteria set forth in this Rule. In order to demonstrate compliance with specific criteria, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study. A new C&DLF unit or lateral expansion shall not damage or destroy an archaeological or historical property of archaeological or historical significance. The Department of Cultural Resources shall determine archeological or historical significance. To aid in making a determination as to whether the property is of archeological or historical significance, the Department of Cultural Resources may request the owner and operator to perform a site-specific survey which shall be included in the Site Study.

(8) State Nature and Historic Preserve Location Restrictions. New C&DLF unit(s) shall comply with the siting criteria set forth in this

Rule. In order to demonstrate compliance with specific criteria, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study. A new C&DLF unit or lateral expansion shall not have an adverse impact on any lands included in the State Nature and Historic Preserve.

(9) Water Supply Watersheds Location Restrictions. New C&DLF unit(s) shall comply with the siting criteria set forth in this Rule. In order to demonstrate compliance with specific criteria, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study.

(A) A new C&DLF unit or lateral expansion shall not be located in the critical area of a water supply watershed, or in the watershed for a stream segment classified as WS-I, or in other water bodies which indicate that no new landfills are allowed in accordance with the rules codified at 15A NCAC 02B .0200 entitled "Classifications and Water Quality Standards Applicable To Surface Waters Of North Carolina."

(B) Any new C&DLF unit or lateral expansion, which proposes to discharge leachate to surface waters and must obtain a National Pollution Discharge Elimination System (NPDES) Permit from the Division of Environmental Management pursuant to Section 402 of the United States Clean Water Act, shall not be located within watersheds classified as WS-II or WS-III or in other water bodies which indicate that no new discharging landfills are allowed, in accordance with the rules codified at 15A NCAC 02B .0200.

(10) Endangered and Threatened Species Location Restrictions. New C&DLF unit(s) shall comply with the siting criteria set forth in this Rule. In order to demonstrate compliance with specific criteria, documentation or approval by agencies other than the Division of Waste Management, Solid Waste Section may be required. The scope of demonstrations including design and construction performance shall be addressed in the site study.. A new C&DLF unit or lateral expansion shall not jeopardize the continued existence of

endangered or threatened species or result in the destruction or adverse modification of a critical habitat, protected under the Federal Endangered Species Act of 1973.

- (11) Local government approvals for C&DLFs.
- (A) If the permit applicant is a unit of local government in which jurisdiction the proposed C&DLF site is located, the approval of the governing board shall be required. Approval may be in the form of either a resolution or a vote on a motion. A copy of the resolution or the minutes of the meeting where the vote was taken shall be submitted to the Division as part of the site study.
- (B) A permit applicant other than the unit of local government with jurisdiction over the proposed landfill site shall obtain a franchise in accordance with G.S. 130A-294(b1)(3) from each unit of local government in whose jurisdiction the site is located. A copy of the franchise shall be submitted to the Division as part of the site study.
- (C) Prior to approval, the jurisdictional local government where the landfill is to be located shall hold at least one public meeting to inform the community of the proposed waste management activities as described in the proposed facility plan prepared in accordance with Subparagraph (2) of this Paragraph. The local government where the landfill is to be located shall provide a public notice of the meeting at least 30 days prior to the meeting. For purposes of this Part, public notice shall include: a legal advertisement placed in a newspaper or newspapers serving the county; and provision of a news release to at least one newspaper serving the county. In addition to news releases aforementioned, public notice may be posted on a local government website. The permit applicant shall notify the property owner of all property that shares a common border with the proposed facility by means of a U S Postal Service registered letter, return receipt requested. The notice shall be provided and timed in accordance with this Part. Mailings must be postmarked a minimum of 30 days prior to the public meeting which is being noticed. Documentation of the notices must be

provided in the site study. Public notice shall include time, place, and purpose of the meetings required by this Part. The application for a franchise and/or other documentation as required by the appropriate local government(s), shall be placed at a location that is accessible by the public. This location shall be noted in the public notice.

(D) Public notice shall be documented in the site study. A tape recording or a written transcript of the meeting, all written material submitted representing community concerns, and all other relevant written material distributed or used at the meeting shall be submitted as part of the site study.

(E) A letter from the unit of local government(s) having zoning jurisdiction over the site which states that the proposal meets all the requirements of the local zoning ordinance, or that the site is not zoned, shall be submitted to the Division as part of the site study.

(d) Site suitability applications for a new C&DLF facility or unit submitted in accordance with Rule .0504(1) of this Section shall be submitted to the Division prior to January 1, 2007.

Authority G.S. 130A-294.

15A NCAC 13B .0537 FACILITY PLAN FOR C&DLFS

(a) Purpose. As required under Rule .0535 of this Section, a permit applicant shall prepare a facility plan which meets the requirements of this Rule.

(b) Scope.

(1) The facility plan defines the comprehensive development of the property proposed for a permit or described in the permit of an existing facility. The plan includes a set of drawings and a report which present the long-term, general design concepts related to construction, operation, and closure of the C&DLF unit(s). The scope of the plan spans the active life of the unit(s). Additional solid waste management activities located at the C&DLF facility shall be identified in the plan and shall meet the requirements of this Subchapter. The facility plan defines the waste stream proposed for management at the C&DLF facility. If different types of landfill units or non-disposal activities are included in the facility design, the plan must describe general waste acceptance procedures.

(2) The areal limits of the C&DLF unit(s), total capacity of the C&DLF unit(s), and the proposed waste stream shall be consistent with

the Division's approval set forth in accordance with of Rule .0536 (a)(1) of this Section for a new facility.

(c) Use of Terms. The terminology used in describing areas of the C&DLF unit(s) shall be defined as follows and shall be used consistently throughout a permit application.

(1) A "phase" is an area constructed that provides no more than approximately five years of operating capacity.

(2) A "cell" is a subdivision of a phase, which describes modular or partial construction.

(3) A "subcell" is a subdivision of a cell, which describes leachate and stormwater management, if required, for active or inactive areas of the constructed C&DLF.

(d) Facility Drawings. The facility plan shall include the following drawings:

(1) Site Development. The drawings which plot site development shall be prepared on topographic maps representative of existing site conditions; the maps shall locate or delineate the following:

(A) Delineate the area limits of all landfill units, and incorporate the buffer requirements set forth in Item (1) of Rule .0540 of this Section;

(B) Locate all solid waste management facilities and facility infrastructure, including landfill units;

(C) Delineate the area limits of grading, including borrow and stockpile areas;

(D) Define phases of development, which do not exceed approximately five years of operating capacity;

(E) Delineate proposed final contours for the C&DLF unit(s) and facility features for closure; and

(F) Delineate physical features including floodplains, wetlands, unstable areas, and cultural resource areas as defined in Rule .0536 of this Section.

(2) Landfill Operation. The following information related to the long-term operation of the C&DLF unit shall be included in facility drawings:

(A) proposed transitional contours for each phase of development including operational grades for existing phase(s) and construction grading for the new phase; and

(B) stormwater segregation features and details for inactive landfill subcells, if included in the design or required.

(3) Survey. A survey locating all property boundaries for the proposed landfill facility certified by an individual licensed to practice land surveying in the State of North Carolina.

(e) Facility Report. The facility plan shall include the following information:

- (1) Waste stream. A discussion of the characteristics of the wastes received at the facility and facility specific management plans shall incorporate:
 - (A) the types of waste specified for disposal;
 - (B) average yearly disposal rates in tons and a representative daily rate that is consistent with the local government approval in accordance with Rule .0536 of this Section;
 - (C) the area served by the facility;
 - (D) procedures for segregated management at different on-site facilities; and
 - (E) equipment requirements for operation of the C&DLF unit(s).
- (2) Landfill Capacity. An analysis of landfill capacity and soil resources shall be performed.
 - (A) The data and assumptions used in the analysis shall be included with the facility drawings and disposal rates specified in the facility plan; and representative of operational requirements and conditions.
 - (B) The conclusions shall provide estimates of gross capacity of the C&DLF unit. Gross capacity is defined as the volume of the landfill calculated from the elevation of the initial waste placement through the top of the final cover, including any periodic cover; gross capacity for each phase of development of the C&DLF unit; the estimated operating life of all C&DLF units in years; and required quantities of soil for landfill construction, operation, and closure and available soil resources from on-site.
- (3) Special engineering features.
 - (A) Leachate management systems, if proposed by the applicant. The performance of and design concepts for the leachate collection system within active areas of the C&DLF unit(s) and any storm water segregation included in the engineering design shall be described. Normal operating conditions shall be defined. A contingency plan shall be prepared for storm surges or other considerations exceeding design parameters for the storage or treatment facilities.
 - (B) Containment and environmental control systems. A general description of the systems designed for proper landfill operation, system

components, and corresponding functions shall be provided.

(C) Base liner systems, if proposed by the applicant shall be described.

(D) Other device, components, and structures, if proposed by the applicant shall be described.

Authority G.S. 130A-294.

15A NCAC 13B .0538 GEOLOGIC AND HYDROGEOLOGIC INVESTIGATIONS FOR C&DLF FACILITIES

(a) Site Hydrogeologic Report. An investigation is required to assess the geologic and hydrogeologic characteristics of the proposed site to determine: the suitability of the site for solid waste management activities, which areas of the site are most suitable for C&DLF units, and the general ground-water flow paths and rates for the uppermost aquifer. The report shall provide an understanding of the relationship of the site ground-water flow regime to local and regional hydrogeologic features with special emphasis on the relationship of C&DLF units to ground-water receptors (especially drinking water wells) and to ground-water discharge features. Additionally, the scope of the investigation shall include the general geologic information necessary to address compliance with the pertinent location restrictions described in Rule .0536 of this Section. The Site Hydrogeologic Report shall provide, at a minimum, the following information:

- (1) A report on local and regional geology and hydrogeology based on research of available literature for the area. This information is to be used in planning the field investigation. For sites located in piedmont or mountain regions, this report shall include an evaluation of structurally controlled features identified on a topographic map of the area;
- (2) A report on field observations of the site that includes information on the following:

(A) topographic setting, springs, streams, drainage features, existing or abandoned wells, rock outcrops, (including trends in strike and dip), and other features that may affect site suitability or the ability to effectively monitor the site; and

(B) ground-water discharge features. A more extensive hydrogeologic investigation may be required for a proposed site where the owner or operator do not control the property from any landfill unit boundary to the controlling, downgradient, ground-water discharge feature(s); and

(C) the hydrogeological properties of the bedrock, if the uppermost ground-water flow is predominantly in the bedrock. Bedrock for the purpose of

- this rule is defined as material below auger refusal;
- (3) Borings for which the numbers, locations, and depths are sufficient to provide an adequate understanding of the subsurface conditions and ground-water flow regime of the uppermost aquifer at the site. The number and depths of borings required will depend on the hydrogeologic characteristics of the site. At a minimum, there shall be an average of one boring for each 10 acres of the proposed landfill facility unless otherwise authorized by the Division. All borings intersecting the water table shall be converted to piezometers or monitoring wells in accordance with 15A NCAC 02C .0108;
- (4) A testing program for the borings which describes the frequency, distribution, and type of samples taken and the methods of analysis (ASTM Standards or test methods approved by the Division) used to obtain, at a minimum, the following information:
- (A) standard penetration - resistance (ASTM D 1586);
- (B) particle size analysis (ASTM D 422);
- (C) soil classification: Unified Soil Classification System (USCS) (ASTM D 2487);
- (D) formation descriptions; and
- (E) saturated hydraulic conductivity, porosity, effective porosity, and dispersive characteristics for each lithologic unit of the uppermost aquifer including the vadose zone;
- (5) In addition to borings, other techniques may be used to investigate the subsurface conditions at the site, including but not limited to: geophysical well logs, surface geophysical surveys, and tracer studies;
- (6) Stratigraphic cross-sections identifying hydrogeologic and lithologic units, and stabilized water table elevations;
- (7) Water table information, including:
- (A) tabulations of water table elevations measured at the time of boring, 24 hours, and stabilized readings for all borings (measured within a period of time short enough to avoid temporal variations in ground-water flow which could preclude accurate determination of ground-water flow direction and rate);
- (B) tabulations of stabilized water table elevations over time in order to develop an understanding of seasonal fluctuations in the water table;
- (C) an estimation of the long-term seasonal high water table based on stabilized water table readings,
- hydrographs of wells in the area, precipitation and other meteorological data, and streamflow measurements from the site frequent enough to demonstrate infiltration and runoff characteristics of the local basin, and any other information available; and
- (D) a discussion of any natural or man-made activities that have the potential for causing water table fluctuations, including but not limited to, tidal variations, river stage changes, flood pool changes of reservoirs, high volume production wells, and injection wells;
- (8) The horizontal and vertical dimensions of ground-water flow including flow directions, rates, and gradients;
- (9) Ground-water contour map(s) to show the occurrence and direction of ground-water flow in the uppermost aquifer and any other aquifers identified in the hydrogeologic investigation. The ground-water contours shall be superimposed on a topographic map. The location of all borings and rock cores, and the water table elevations or potentiometric data at each location used to generate the ground-water contours shall be shown on the ground-water contour map(s);
- (10) A topographic map of the site locating soil borings with accurate horizontal and vertical control, which are tied to a permanent onsite benchmark;
- (11) Information for wells and water intakes within the site characterization study area, in accordance with Rule .0536(c) of this Section including:
- (A) boring logs, construction records, field logs and notes, for all onsite borings, piezometers and wells;
- (B) construction records, number and location served by wells, and production rates, for public water wells;
- (C) available information for all surface water intakes, including use and production rate;
- (12) Identification of other geologic and hydrologic considerations including but not limited to: slopes, streams, springs, gullies, trenches, solution features, karst terranes, sinkholes, dikes, sills, faults, mines, ground-water discharge features, and ground-water recharge/discharge areas; and
- (13) A report summarizing the geological and hydrogeological evaluation of the site that includes the following:
- (A) a description of the relationship between the uppermost aquifer of the

site to local and regional geologic and hydrogeologic features;

- (B) a discussion of the ground-water flow regime of the site focusing on the relationship of C&DLF unit(s) to ground-water receptors and to ground-water discharge features;
- (C) a discussion of the overall suitability of the proposed site for solid waste management activities and which areas of the site are most suitable for C&DLF units; and
- (D) a discussion of the ground-water flow regime of the uppermost aquifer at the site and the ability to effectively monitor the C&DLF units in order to ensure early detection of any release of constituents to the uppermost aquifer.

(b) Design Hydrogeologic Report

- (1) A geological and hydrogeological report shall be submitted in the application for the Permit to Construct. This report shall contain the information required by Subparagraph (2) of this Paragraph. The number and depths of borings required shall be based on the geologic and hydrogeologic characteristics of the landfill facility. At a minimum, there shall be an average of one boring for each acre of the investigative area. The area of investigation shall, at a minimum, be the area within the unit footprint and unit compliance boundary, unless otherwise authorized by the Division. The scope and purpose of the investigation is as follows:

- (A) The investigation shall provide adequate information to demonstrate compliance with the vertical separation and foundation standards set forth in Items (2) and (5) of Rule .0540 of this Section.
- (B) The report shall include an investigation of the hydrogeologic characteristics of the uppermost aquifer for the proposed phase of C&DLF development and any leachate management unit(s). The purpose of this investigation is to provide more detailed and localized data on the hydrogeologic regime for this area in order to design an effective water quality monitoring system.

- (2) The Design Hydrogeologic Report shall provide, at a minimum, the following information:

- (A) the information required in Subparagraphs (a)(4) through (a)(12) of this Rule;

- (B) the technical information necessary to determine the design of the monitoring system as required by Paragraph (b) of Rule .0544 of this Section;

- (C) the technical information necessary to determine the relevant point of compliance as required by Part (b)(1)(B) of Rule .0544 of this Section;

- (D) rock cores (for sites located in the piedmont or mountain regions) for which the numbers, locations, and depths are adequate to provide an understanding of the fractured bedrock conditions and ground-water flow characteristics of at least the upper 10 feet of the bedrock. Testing for the corings shall provide, at a minimum, rock types, recovery values, rock quality designation (RQD) values, saturated hydraulic conductivity and secondary porosity values, and rock descriptions, including fracturing and jointing patterns, etc.;

- (E) a ground-water contour map based on the estimated long-term seasonal high water table that is superimposed on a topographic map and includes the location of all borings and rock cores and the water table elevations or potentiometric data at each location used to generate the ground-water contours;

- (F) a bedrock contour map (for sites located in piedmont or mountain regions) illustrating the contours of the upper surface of the bedrock that is superimposed on a topographic map and includes the location of all borings and rock cores and the top of rock elevations used to generate the upper surface of bedrock contours;

- (G) a three dimensional ground-water flow net or several hydrogeologic cross-sections that characterize the vertical ground-water flow regime for this area;

- (H) a report on the ground-water flow regime for the area including ground-water flow paths for both horizontal and vertical components of ground-water flow, horizontal and vertical gradients, flow rates, ground-water recharge areas and discharge areas, etc.;

- (I) a report on the soils in the four feet immediately underlying the waste

with relationship to properties of the soil. Soil testing cited in Subparagraph (a)(4) of this Rule should be used as a basis for this discussion;

- (J) a certification by a Licensed Geologist that all borings, which intersect the water table, at the site have been constructed and maintained as permanent monitoring wells in accordance with 15A NCAC 02C .0108; or that the borings will be properly abandoned in accordance with the procedures for permanent abandonment of wells as delineated in 15A NCAC 02C .0113. All piezometers within the footprint area will be overdrilled to the full depth of the boring, prior to cement or bentonite grout placement; and the level of the grout within the boring should not exceed in height the elevation of the proposed basegrade.

Authority G.S. 130A-294.

15A NCAC 13B .0539 ENGINEERING PLAN FOR C&DLF FACILITIES

(a) Purpose. The engineering plan incorporates the detailed plans and specifications relative to the design and performance of the C&DLF's containment and environmental control systems. This plan sets forth the design parameters and construction requirements for the components of the C&DLF's systems and establishes the responsibilities of the design engineer. The engineered components are described in Rule .0540 of this Section. As required under Rule .0535 of this Section, the owner or operator shall submit an engineering plan, which meets the requirements of this Rule.

(b) Responsibilities of the design engineer. The engineering plan shall be prepared by a Professional Engineer licensed to practice engineering in accordance with G.S. 89C and the Administrative Rules developed there under and shall meet the requirements of this Rule. The design engineer shall incorporate a statement certifying this fact and bearing his or her seal of registration.

(c) Scope. An engineering plan shall be prepared for a phase of development not to exceed approximately five years of operating capacity consistent with the development phases and design criteria defined in the facility plan. The engineering plan shall contain a report and a set of drawings which consistently represent the engineering design.

(d) An engineering report must contain:

- (1) A summary of the facility design that includes:
 - (A) a discussion of the analytical methods used to evaluate the design;
 - (B) definition of the critical conditions evaluated and assumptions made;
 - (C) a list of technical references used in the evaluation; and

(D) completion of any applicable location restriction demonstrations in accordance with Rule .0536 of this Section.

(2) A description of the materials and construction practices that conforms to the requirements set forth in Rule .0540 of this Section.

(3) A copy of the Design Hydrogeologic Report prepared in accordance with Paragraph (b) of Rule .0538 of this Section.

(e) Engineering drawings must clearly illustrate:

(1) existing conditions: site topography, features, existing disposal areas, roads, and buildings;

(2) grading plans: proposed limits of excavation, subgrade elevations, intermediate grading for partial construction;

(3) stormwater segregation system, if required: location and detail of features;

(4) cap system: base and top elevations, landfill gas devices, infiltration barrier, surface water removal, protective and vegetative cover, and details;

(5) temporary and permanent sedimentation and erosion control plans;

(6) vertical separation requirement estimates including:

(A) Cross-sections, showing borings, which indicate existing ground surface elevations, base grades, seasonal high ground-water level, estimated long term seasonal high ground-water level in accordance with Part (b)(2)(E) of Rule .0538 of this Section, and bedrock level in accordance with Part (b)(2)(F) of Rule .0538 of this Section; and

(B) A map showing the existing ground surface elevation and base grades. The map should include labeled boring locations which indicate seasonal high ground-water level, estimated long term high ground-water level in accordance with Part (b)(2)(E) of Rule .0538 of this Section, and bedrock level in accordance with Part (b)(2)(F) of Rule .0538 of this Section.

(f) Additional engineering features and details including, if proposed by the applicant, the cap system, leachate collection system and base liner system. Cap systems, leachate collection systems and base liner systems shall be designed in accordance with NC Solid Waste Management Rules 15A NCAC 13B .1620 and .1621.

Authority G.S. 130A-294.

15A NCAC 13B .0540 CONSTRUCTION REQUIREMENTS FOR C&DLF FACILITIES

This Rule establishes the performance standards and minimum criteria for designing and constructing a C&DLF unit. Additional standards for the cap system are described in Rule .0543 of this Section.

- (1) Horizontal separation requirements.
 - (a) Property line buffer. New C&DLF unit(s) at a new facility shall establish a minimum 200-foot buffer, between the C&DLF unit and all property lines, for monitoring purposes. Existing, operating units shall maintain existing upgradient buffers of 50 feet or more.
 - (b) Offsite residential structures and wells. All C&DLF units at a new facility shall establish a minimum 500-foot buffer between the C&DLF unit and existing residential structures and wells.
 - (c) Surface waters. All C&DLF units at new facilities shall establish a minimum 50-foot buffer between the C&DLF unit and any stream, river, lake, pond or other waters of the state as defined in G.S. 143-212.
 - (d) Existing landfill units. A monitoring zone shall be established between a new C&DLF unit and any existing landfill units such as MSW, Industrial, C&DLF, or Land Clearing and Inert Debris (LCID), in order to establish a ground-water monitoring system as set forth in Rule .0544 of this Section.
- (2) Vertical separation requirements.
 - (a) C&DLF unit(s) shall be constructed so that the post-settlement bottom elevation of waste is a minimum of four feet above the seasonal high ground-water table and bedrock datum plane contours established in the Design Hydrogeological Report prepared in accordance with Paragraph (b) of Rule .0538 of this Section.
 - (b) Insitu or modified soils making up the upper two feet of separation as required by Sub-Item (2)(a) of this Item, must consist of the following: SC, ML, CL, MH, and/or CH soils per Unified Soil Classification System or as specified in the approved construction plan.
- (3) Survey control.
 - (a) One permanent benchmark of known elevation measured from a U.S. Geological Survey benchmark shall be established and maintained for each 50 acres of developed landfill, or

part thereof, at the landfill facility. This benchmark shall be the reference point for establishing vertical elevation control. Any survey performed pursuant to this Part shall be performed by a Registered Land Surveyor.

- (b) Latitude and Longitude, expressed in decimal degrees, shall be indicated at the approximate center of the facility.
- (4) Location coordinates. The North Carolina State Plane (NCSP) coordinates shall be established and one of its points shall be the benchmark of known NCSP coordinates.
- (5) Landfill subgrade. The landfill subgrade is the in-situ or modified soil layer(s), constructed embankments, and select fill providing the foundation for construction of the unit. The landfill subgrade shall be graded in accordance with the plans and specifications prepared in accordance to Rule .0539 of this Section, which are incorporated into the permit to construct in accordance with Paragraph (b) of Rule .0534 of this Section.
 - (a) The owner or operator of the C&DLF unit is required to have the subgrade inspected by a qualified geologist or engineer, when excavation is completed.
 - (b) The owner or operator of the C&DLF unit is required to notify the Division's hydrogeologist at least 24 hours before subgrade inspection.
 - (c) Compliance with the requirements of Sub-Item (2)(b) of this Rule shall be in accordance with Paragraph (b) of Rule .0538 of this Section or by placement of soil in accordance with this Sub-Item or verified in accordance with Rule .0541 of this Section.
- (6) Special engineering structures. Engineering structures, including cap systems, incorporated in the design and necessary to comply with the requirements of this Section shall be specified in the engineering plan. Material, construction, and certification requirements necessary to ensure that the structure is constructed in accordance with the design and acceptable engineering practices shall be included in the plans prepared in accordance with Rule .0539 of this Section.
- (7) Sedimentation and erosion control. Adequate structures and measures shall be designed and maintained to manage the run-on and run-off generated by the 24-hour, 25-year storm event, and conform to the requirements of the Sedimentation Pollution Control Law (15A NCAC 04) and any required NPDES permits.

- (8) Construction quality assurance (CQA) report. A CQA report shall be submitted in accordance with Rule .0541 of this Section.

Authority G.S. 130A-294.

15A NCAC 13B .0541 CONSTRUCTION QUALITY ASSURANCE FOR C&DLF FACILITIES

(a) Purpose of the construction quality control and quality assurance (CQA) plan. The CQA plan must describe the observations and tests that will be used before, during, and upon completion of construction to ensure that the construction and materials meet the design specifications and the construction and certification requirements set forth in Rule .0540 of this Section. The CQA plan must also describe the procedures to ensure that the integrity of the landfill systems will be maintained prior to waste placement.

(b) For construction of each cell, the CQA plan shall include, but not be limited to:

- (1) responsibilities and authorities. The plan shall establish responsibilities and authorities for the construction management organization. A pre-construction meeting shall be conducted prior to beginning construction of the initial cell, or as required by the permit. The meeting shall include a discussion of the construction management organization, respective duties during construction, and periodic reporting requirements for test results and construction activities;
- (2) inspection activities. A description of all field observations, tests and equipment that will be used to ensure that the construction meets or exceeds all design criteria established in accordance with Rules .0539, .0540 and Paragraph .0543(d) of this Section must be presented in the CQA plan;
- (3) sampling strategies. A description of all sampling protocols, sample size and frequency of sampling must be presented in the CQA plan; and
- (4) documentation. Reporting requirements for CQA activities must be described in detail in the CQA plan. Progress and troubleshooting meetings, daily and monthly, must be addressed in the plan and the contents of the meetings must be documented.

(c) Purpose of the CQA report. The CQA report shall contain the results of all the construction quality assurance and construction quality control testing including documentation of any failed test results, descriptions of procedures used to correct the improperly installed material and results of all retesting performed. The CQA report shall contain as-built drawings noting any deviation from the approved engineering plans and shall also contain a comprehensive narrative including but not limited to daily reports from the project engineer and a series of color photographs of major project features.

(d) For construction of each cell, the CQA report shall be submitted:

- (1) after completing landfill construction in order to qualify the constructed C&DLF unit for a permit to operate;
- (2) after completing construction of the cap system in accordance with the requirements of Rule .0543 of this Section; and
- (3) in accordance with the reporting schedule developed in accordance Paragraph (b) of this Rule.
- (4) the CQA report shall bear the seal of the project engineer and a certification that construction was completed in accordance with:
 - (A) the CQA plan;
 - (B) the conditions of the permit to construct;
 - (C) the requirements of this Rule; and
 - (D) acceptable engineering practices.

(e) The Division shall review the CQA report within 30 days of a complete submittal to ensure that the report meets the requirements of this Rule.

Authority G.S. 130A-294.

15A NCAC 13B .0542 OPERATION PLAN AND REQUIREMENTS FOR C&DLF FACILITIES

(a) The owner or operator of a C&DLF unit shall maintain and operate the facility in accordance with the operation plan prepared in accordance with this Rule. The operation plan shall be submitted in accordance with Rule .0535 of this Section. Each phase of operation shall be defined by an area, contain approximately five years of disposal capacity.

(b) Operation Plan. The owner or operator of a C&DLF unit shall prepare an operation plan for each phase of landfill development. The plan shall include drawings and a report clearly defining the information as identified in this Rule.

- (1) Operation drawings. Drawings shall be prepared for each phase of landfill development. The drawings shall be consistent with the engineering plan and prepared in a format which is useable for the landfill operator. The operation drawings shall illustrate the following:
 - (A) existing conditions including the known limits of existing disposal areas;
 - (B) progression of operation including initial waste placement, daily operations, transition contours, and final contours;
 - (C) stormwater controls for active and inactive subcells, if required;
 - (D) special waste areas, such as asbestos disposal area, within the C&DLF unit;
 - (E) buffer zones, noting restricted use;
 - (F) stockpile and borrow operations; and
 - (G) other solid waste activities, such as tire disposal or storage, yard waste

storage, white goods storage, recycling pads, etc.

- (2) Operation Plan Description. The owner and operator of any C&DLF unit must maintain and operate the unit in accordance with the operation plan as described in Paragraphs (c) through (l) of this Rule.

(c) Waste Acceptance and Disposal Requirements.

- (1) A C&DLF shall only accept those solid wastes it is permitted to receive. The landfill owner or operator shall notify the Division within 24 hours of attempted disposal of any waste the C&DLF is not permitted to receive, including waste from outside the area the landfill is permitted to serve.
- (2) Asbestos waste shall be managed in accordance with 40 CFR 61, which is hereby incorporated by reference including any subsequent amendments and additions. Copies of 40 CFR 61 are available for inspection at the Department of Environment and Natural Resources, Division of Waste Management. The regulated asbestos waste shall be covered immediately with soil in a manner that will not cause airborne conditions and must be disposed of separate and apart from other solid wastes, as shown on Operation drawings:
- (A) in a defined isolated area within the footprint of the landfill; or
- (B) in an area not contiguous with other disposal areas. Separate areas shall be clearly designated so that asbestos is not exposed by future land-disturbing activities.

(d) Wastewater treatment sludge may not be accepted for disposal. Wastewater treatment sludge may be accepted, with the approval of the Division, for utilization as a soil conditioner and incorporated into or applied onto the vegetative growth layer. The wastewater treatment sludge shall neither be applied at greater than agronomic rates nor to a depth greater than six inches.

(e) Waste Exclusions. The following wastes shall not be disposed of in a C&DLF unit:

- (1) Containers such as tubes, drums, barrels, tanks, cans, and bottles unless they are empty and perforated to ensure that no liquid, hazardous or municipal solid waste is contained therein.
- (2) Garbage as defined in G.S. 130A-290(a)(7).
- (3) Hazardous waste as defined in G.S. 130A-290(a)(8), to also include hazardous waste from conditionally exempt small quantity generators.
- (4) Industrial solid waste unless a demonstration has been made and approved by the Division that the landfill meets the requirements of Rule .0503(2)(d)(ii)(A).
- (5) Liquid wastes,

- (6) Medical waste as defined in G.S. 130A-290(a)(18).
- (7) Municipal solid waste as defined in G.S. 130A-290(a)(18a).
- (8) Polychlorinated biphenyls (PCB) wastes as defined in 40 CFR 761.
- (9) Radioactive waste as defined in G.S. 104E-5(14).
- (10) Septage as defined in G.S. 130A-290(a)(32).
- (11) Sludge as defined in G.S. 130A-290(a)(34).
- (12) Special wastes as defined in G.S. 130A-290(a)(40).
- (13) White goods as defined in G.S. 130A-290(a)(44), and
- (14) Yard trash as defined in G.S. 130A-290(a)(45).
- (15) The following wastes cannot be received if separate from C&DLF waste: lamps or bulbs including but not limited to halogen, incandescent, neon or fluorescent; lighting ballast or fixtures; thermostats and light switches; batteries including but not limited to those from exit and emergency lights and smoke detectors; lead pipes; lead roof flashing; transformers; capacitors; and copper chrome arsenate (CCA) and creosote treated woods.
- (16) Waste accepted for disposal in a C&DLF unit shall be readily identifiable as C&D waste and shall not have been shredded, pulverized, or processed to such an extent that the composition of the original waste cannot be readily ascertained except, as specified in Subparagraph (17) of this Rule.
- (17) C&—D waste that has been shredded, pulverized or otherwise processed may be accepted for disposal from a facility that has received a permit from the Division which specifies such activities and includes a detailed waste screening plan, waste acceptance plan, is inspected by the division, and whose primary purpose is recycling and reusing of the C&D material.

(f) Cover material requirements.

- (1) Except as provided in Subparagraph (3) of this Paragraph, the owners and operators of all C&DLF units must cover the solid waste with six inches of earthen material when the waste disposal area exceeds one-half acre and at least once weekly. Cover shall be placed at more frequent intervals if necessary to control disease vectors, fires, odors, blowing litter, and scavenging. A notation of the date and time of the cover placement shall be recorded in the operating record as specified in Paragraph (n) of this Rule.
- (2) Except as provided in Subparagraph (3) of this Paragraph, areas which will not have additional wastes placed on them for three months or more, but where final termination of

disposal operations has not occurred, shall be covered and stabilized with vegetative ground cover or other stabilizing material as approved by the Division.

- (3) Alternative materials and/or an alternative thickness of cover may be approved by the Division if the owner or operator demonstrates that the alternative material and thickness control disease vectors, fires, odors, blowing litter, and scavenging without presenting a threat to human health and the environment. A C&DLF owner or operator may apply for approval of an alternative cover material. If approval is given by the Division, approval would extend to all C&DLF units at one specific facility.

(g) Spreading and Compacting requirements.

- (1) C&DLF units shall restrict solid waste into the smallest area feasible.
- (2) Solid waste shall be compacted as densely as practical into cells.
- (3) Appropriate methods such as fencing and diking shall be provided within the area to confine solid waste which is subject to be blown by the wind. At the conclusion of each operating day, all windblown material resulting from the operation shall be collected and disposed of properly by the owner and operator.

(h) Disease vector control. Owners and operators of all C&DLF units must prevent or control on-site populations of disease vectors using techniques appropriate for the protection of human health and the environment. For purposes of this item, "disease vectors" means any rodents, flies, mosquitoes, or other animals or insects, capable of transmitting disease to humans.

(i) Air Criteria and Fire Control.

- (1) Owners and operators of all C&DLF units must ensure that the units do not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated by the U.S. EPA Administrator pursuant to Section 110 of the Clean Air Act, as amended.
- (2) Open burning of solid waste, except for the approved burning of land clearing debris generated on-site or debris from emergency clean-up operations, is prohibited at all C&DLF facilities. The Division must approve any such infrequent burning.
- (3) Equipment shall be provided to control accidental fires and arrangements shall be made with the local fire protection agency to immediately provide fire-fighting services when needed.
- (4) Fires and explosions that occur at a C&DLF require verbal notice to the Division within 24 hours and written notification within 15 days. Written notification shall include the suspected cause of fire or explosion, the response taken

to manage the incident, and the action(s) to be taken to prevent the future occurrence of fire or explosion.

(j) Access and safety requirements.

- (1) The C&DLF shall be adequately secured by means of gates, chains, berms, fences and other security measures approved by the Division to prevent unauthorized entry.
- (2) In accordance with G.S. 130A-309.25, an individual trained in landfill operations shall be on duty at the site while the facility is open for public use to ensure compliance with operational requirements.
- (3) The access road to the site and access roads to monitoring locations shall be of all-weather construction and maintained in good condition.
- (4) Dust control measures shall be implemented.
- (5) Signs providing information on disposal procedures, the hours during which the site is open for public use, the permit number and other pertinent information specified in the permit conditions shall be posted at the site entrance.
- (6) Signs shall be posted which at a minimum list liquid, hazardous and municipal solid waste as being excluded from the C&DLF unit.
- (7) Traffic signs or markers shall be provided as necessary to promote an orderly traffic pattern to and from the discharge area and to maintain efficient operating conditions.
- (8) The removal of solid waste from a C&DLF is prohibited unless the unit has included in its operational plan a recycling program which has been approved by the Division. The general public is prohibited from removal activities on the working face.

(k) Erosion and sedimentation control requirements.

- (1) Adequate sediment control measures consisting of vegetative cover, materials, structures or devices shall be utilized to prevent sediment from leaving the C&DLF facility.
- (2) Adequate sediment control measures consisting of vegetative cover, materials, structures or devices shall be utilized to prevent excessive on-site erosion of the C&DLF facility or unit.
- (3) Provisions for a vegetative ground cover sufficient to restrain erosion must be accomplished as directed by appropriate state or local agency upon completion of any phase of C&DLF development consistent with Rule .0543(c)(5) of this Section.

(l) Drainage control and water protection requirements.

- (1) Surface water shall be diverted from the operational area.
- (2) Surface water shall not be impounded over or in waste.
- (3) Solid waste shall not be disposed of in water.

(4) Leachate shall be contained on-site or properly treated prior to discharge. An NPDES permit may be required prior to the discharge of leachate to surface waters.

(5) C&DLF units shall not:

(A) Cause a discharge of pollutants into waters of the United States, including wetlands, that violates any requirements of the Clean Water Act, including, but not limited to, the National Pollutant Discharge Elimination System (NPDES) requirements, pursuant to Section 402.

(B) Cause the discharge of a nonpoint source of pollution to waters of the United States, including wetlands, that violates any requirement of an area-wide or State-wide water quality management plan that has been approved under Section 208 or 319 of the Clean Water Act, as amended.

(m) Survey for Compliance. Within 60 days of the permittee's receipt of the Division's written request, the permittee shall cause to be conducted a survey of active or closed portions of unit or units at the facility in order to determine whether operations are being conducted in accordance with the approved design and operational plans. The permittee shall report the results of such survey to the Division within 90 days of receipt of the Division's request.

(1) A survey shall be required by the Division:

(A) If there is reason to believe that operations are being conducted in a manner that deviates from the plan listed in the effective permit, or

(B) As a verification that operations are being conducted in accordance with the plan listed in the effective permit.

(2) Any survey performed pursuant to this Subparagraph shall be performed by a registered land surveyor duly authorized under North Carolina law to conduct such activities.

(n) Operating Record and Recordkeeping requirements.

(1) The owner and operator of a C&DLF unit must record and retain at the facility, or in an alternative location near the facility approved by the Division, in an operating record the following information:

(A) records of random waste inspections, monitoring results, certifications of training, and training procedures required by Rule .0544 of this Section;

(B) amounts by weight of solid waste received at the facility to include, consistent with G.S. 130A-309.09D, county of generation;

(C) any demonstration, certification, finding, monitoring, testing, or

analytical data required by Rules .0544 through .0545 of this Section;

(D) any closure or post-closure monitoring, testing, or analytical data as required by Rule .0543 of this Section;

(E) any cost estimates and financial assurance documentation required by Rule .0546 of this Section;

(F) notation of date and time of placement of cover material; and

(G) all audit records, compliance records and inspection reports.

(2) All information contained in the operating record must be furnished to the Division according to the permit or upon request, or be made available for inspection by the Division.

(3) A copy of the approved operation plan required by this Rule and/or engineering plan required by Rule .0539 of this Section.

(4) A copy of the current Permit to Construct and Permit to Operate.

(5) The Monitoring Plan, in accordance with Rule .0544 of this Section, included as appendices to the Operation Plan.

Authority G.S. 130A-294.

15A NCAC 13B .0543 CLOSURE AND POST-CLOSURE REQUIREMENTS FOR C&DLF FACILITIES

(a) Purpose. This Rule establishes criteria for the closure of all C&DLF units and subsequent requirements for post-closure compliance. The owner and operator shall develop specific plans for the closure and post-closure of the C&DLF facility or units that comply with these Rules, and submit them to the Division for review and approval.

(b) Scope.

(1) Closure. Standards are established for the scheduling and documenting of closure of all C&DLF units and design of the cap system. Construction requirements for the cap system incorporate requirements from Rules .0540 and .0541 of this Section.

(2) Post-closure. Standards are established for the monitoring and maintenance of the C&DLF unit(s) following closure.

(c) Closure criteria.

(1) C&DLF units 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 soils underlying the landfill, or the permeability specified for the final cover in the effective permit, or a permeability no greater than 1.0 x 10⁻⁵ cm/sec, whichever is less;

(B) minimize infiltration through the closed C&DLF unit 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 18 inches of earthen material that is capable of sustaining native plant growth.
- (2) Construction of the cap system for all C&DLF units shall conform to the plans prepared in accordance with Rule .0540 of this Section and the following requirements:
- (A) post-settlement surface slopes shall be a minimum of 5 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.
- (3) 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 (1) of this Paragraph.
- (4) Prior to beginning closure of each C&DLF unit as specified in Subparagraph (5) of this Paragraph, an owner and operator shall notify the Division that a notice of the intent to close the unit has been placed in the operating record, as specified in Paragraph (n) of Rule .0542.
- (5) The owner and operator shall begin closure activities of each C&DLF unit:
- (A) No later than 30 days after the date on which the C&DLF unit receives the known final receipt of wastes; or
- (B) No later than 30 days after the date that waste in a phase or cell is within 10% of final design grades and the unclosed waste area is greater than or equal to 10 acres;
- (C) If the C&DLF unit has remaining capacity, and is not within 10% of final design grades in a phase or cell, and there is a reasonable likelihood that the C&DLF unit will receive additional wastes, than closure activities should begin 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 C&DLF unit has the capacity to receive additional wastes and the owner and operator has taken and will continue to take all steps necessary to prevent threats to human health and the environment from the unclosed C&DLF unit; or
- (6) The owner and operator of all C&DLF units shall complete closure activities of each C&DLF 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 C&DLF unit.
- (7) Following closure of each C&DLF unit, the owner and 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 C&DLF units, the owner and 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 the land has been used as a C&DLF unit or facility; and 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.
- (d) Closure plan contents. The owner and operator shall prepare a written closure plan that describes the steps necessary to close all C&DLF units at any point during their active life in accordance with the cap system requirements in Paragraph (c) of this Rule. The closure plan, at a minimum, must include the following information:
- (1) a description of the cap system and the methods and procedures to be used to install

the cap that conforms to the requirements set forth in Paragraph (c) of this Rule;

- (2) an estimate of the largest area of the C&DLF unit ever requiring the specified cap system at any time during the active life that is consistent with the drawings prepared for:
 - (A) the operation plan for an existing C&DLF unit; or
 - (B) the engineering plan or facility plan for a lateral expansion or new C&DLF unit;
- (3) an estimate of the maximum inventory of wastes ever on-site over the active life of the landfill facility;
- (4) a schedule for completing all activities necessary to satisfy the closure criteria set forth in Paragraph (c) of this Rule; and
- (5) the cost estimate for closure activities as required under Rule .0546 of this Section.

(e) Post-closure criteria.

- (1) Following closure of each C&DLF unit, the owner and 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) monitoring the ground water and surface water in accordance with the requirements of Rules .0544 through .0545 of this Section and maintaining the ground-water monitoring system, if applicable; and
 - (C) maintaining and operating the gas monitoring system in accordance with the requirements of Rule .0544 of this Section; and
 - (D) maintaining, operating and decommissioning the leachate collection system, if present, in accordance with the requirements of Rule .0544 of this Section. The Division may allow the owner and operator to stop managing leachate if the owner or operator demonstrates that leachate no longer poses a threat to human health and the environment.
- (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 C&DLF unit, the owner and 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.
- (f) Post-closure plan contents. The owner and operator of all C&DLF units must submit a written post-closure plan that includes, at a minimum, the following information:
 - (1) a description of the monitoring and maintenance activities required for each C&DLF unit, and the frequency at which these activities shall be performed;
 - (2) name, address, and telephone number of the person or office responsible for the facility during the post-closure period;
 - (3) a description of the planned uses of the property during the post-closure period. Post-closure use of the property shall not disturb the integrity of the cap system, base liner system, or any other components of the containment system, or the function of the monitoring systems unless necessary to comply with the requirements in this Section. The Division may approve disturbance if the owner or operator demonstrates that disturbance of the cap system, base liner system, or other component of the containment system, including any removal of waste, will not increase the potential threat to human health or the environment; and
 - (4) the cost estimate for post-closure activities required under Rule .0546 of this Section.

Authority G.S. 130A-294.

15A NCAC 13B .0544 MONITORING PLANS AND REQUIREMENTS FOR C&DLF FACILITIES

- (a) A Monitoring Plan shall be submitted that contains the following information and shall apply to all C&DLF units. The Monitoring Plan shall be prepared in accordance with this Rule.
- (b) Ground-water monitoring plan. A ground-water monitoring plan including information on the proposed ground-water monitoring system(s), sampling and analysis requirements, and detection monitoring requirements that fulfills the requirements of Part (1)(A) through (1)(E) of this Paragraph.
 - (1) A ground-water monitoring system shall be installed that consists of a sufficient number of wells, installed at appropriate locations and

depths, to yield ground-water samples from the aquifer that:

- (A) Represent the quality of the background ground water that has not been affected by leakage from the unit. Normally, determination of background water quality will be based on sampling of a well or wells that are hydraulically upgradient of the waste management area. However, the determination of background water quality may include sampling of wells that are not hydraulically upgradient of the waste management area where hydrogeologic conditions do not allow the owner and operator to determine which wells are hydraulically upgradient, or hydrogeologic conditions do not allow the owner and operator to place a well in a hydraulically upgradient location, or sampling at other wells will provide an indication of background ground-water quality that is as representative as that provided by the upgradient well(s); and
- (B) Represent the quality of ground water passing the relevant point of compliance as approved by the Division. The downgradient monitoring system shall be installed at the relevant point of compliance so as to ensure detection of ground-water contamination in the uppermost aquifer. The relevant point of compliance shall be established no more than 250 feet from a waste boundary, or shall be at least 50 feet within the facility property boundary, whichever point is closer to the waste boundary. In determining the relevant point of compliance, the Division shall consider recommendations made by the owner and operator based upon consideration of at least the hydrogeologic characteristics of the facility and surrounding land; the quantity, quality, and direction of flow of the ground water; the proximity and withdrawal rate of the ground-water users; the existing quality of the ground water, including other sources of contamination and their cumulative impacts on the ground water, and whether the ground water is currently used or reasonably expected to be used for drinking

water; public health, safety, and welfare effects; and practicable capability of the owner and operator.

- (C) The ground-water monitoring programs shall include consistent sampling and analysis procedures that are designed to ensure monitoring results that provide an accurate representation of ground-water quality at the background and downgradient wells. The plan shall include procedures and techniques for sample collection; sample preservation and shipment; chain-of-custody control; and quality assurance and quality control.
- (D) Detection ground-water monitoring program. The monitoring programs shall include sampling and analytical methods that are appropriate for ground-water sampling and that accurately measure target constituents and other monitoring parameters in ground-water samples. Detection monitoring is required at C&DLF units at all ground-water monitoring wells that are part of the detection monitoring system as established in the approved monitoring plan. At a minimum, the detection monitoring program shall include monitoring for the constituents listed in Appendix I of 40 CFR Part 258, volatiles, specific conductance, pH, temperature, Alkalinity, Total Dissolved Solids, RCRA metals, Chloride, Manganese, Sulfate, Iron, and Tetrahydrofuran. The monitoring frequency for all detection monitoring constituents shall be at least semiannual during the life of the facility, including the closure and post-closure periods. A minimum of one sample from each well, background and downgradient, shall be collected and analyzed for the constituents before waste placement in each cell or phase. At least one sample from each well, background and downgradient, shall be collected and analyzed during subsequent semiannual sampling events. The Classifications and Water Quality Standards Applicable to the Groundwaters of North Carolina (15A NCAC 02L) are incorporated by reference including subsequent amendments and editions. Copies of this material may be inspected or

- obtained at the Department of Environment and Natural Resources or on the Department website.
- (E) The sampling procedures and frequency shall be protective of human health and the environment.
- (F) Ground-water elevations shall be measured in each well immediately prior to purging, each time ground-water is sampled. Ground-water elevations in wells which monitor the same waste management area shall be measured within a 24 hour period of time to avoid temporal variations in ground-water flow which could preclude accurate determination of ground-water flow rate and direction. In order to accurately determine ground-water elevations for each monitoring well, the wells shall have been accurately surveyed by a North Carolina Registered Land Surveyor. The survey of the wells shall conform to at least the following levels of accuracy horizontal location to the nearest 0.1 foot vertical control for the ground surface elevation to the nearest 0.01 foot vertical control for the measuring reference point on the top of the inner well casing to the nearest 0.01 foot. In order to determine the rate of ground-water flow, the owner and operator shall provide data for hydraulic conductivity and porosity for the formation materials at each of the well locations.
- (G) The owner and operator shall establish existing conditions of ground-water quality in hydraulically upgradient or background well(s) for each of the monitoring parameters or constituents required in the particular ground-water monitoring program that applies to the C&DLF unit.
- (H) Within 120 days of completing the ground-water sampling event, the owner and operator shall submit to the Division a report that includes information from the sampling event; including field observations relating to the condition of the monitoring wells, field data, summary of the laboratory data, field sampling quality assurance and quality control data, information on ground-water flow direction, ground-water flow rate, for each well with constituents that exceed ground-water standards
- over background levels, and any other pertinent information related to the sampling event.
- (I) The owner or operator may demonstrate that a source other than the C&DLF unit or a natural variation in ground-water quality has caused contamination, or an error in sampling and/or analysis of data has resulted in false reporting of contamination. A report documenting this demonstration shall be certified by a Licensed Geologist or Professional Engineer and approved by the Division. A copy of the approved report shall also be placed in the operating record.
- (2) Monitoring wells shall be designed and constructed in accordance with the applicable North Carolina Well Construction Standards as codified in 15A NCAC 02C.
- (A) owner and operators shall obtain approval from the Division for the design, installation, development, and decommission of any monitoring well or piezometer. Documentation shall be placed in the operating record and provided to the Division in a timely manner.
- (B) the monitoring wells and piezometers shall be operated, and maintained, and are accessible so that they perform to design specifications throughout the life of the monitoring program.
- (3) The number, spacing, and depths of monitoring points shall be determined based upon site-specific technical information that shall include investigation of:
- (A) aquifer thickness, ground-water flow rate, and ground-water flow direction, including seasonal and temporal fluctuations in ground-water flow; and
- (B) unsaturated and saturated geologic units (including fill materials) overlying and comprising the uppermost aquifer; including but not limited to thickness, stratigraphy, lithology, hydraulic conductivities, porosities and effective porosities.
- (4) The Division may require or allow the use of alternative monitoring systems in addition to ground-water monitoring wells at sites:
- (A) where the owner and operator does not control the property from any landfill unit to the ground-water discharge feature(s); or

(B) sites with hydrogeologic conditions favorable to detection monitoring by alternative methods.

(5) Owners and operators of C&DLF units shall comply with the ground-water monitoring, assessment, and corrective action requirements under Rules .0544 through .0545 of this Section according to the following schedule:

(A) new C&DLF units shall be in compliance with the requirements before waste can be placed in the unit; and

(B) lateral expansions to existing C&DLF units shall be in compliance with the requirements before waste can be placed in the expansion area.

(c) Surface water monitoring plan. The Surface Water Monitoring System shall be as follows:

(1) The Division shall require a solid waste management facility to provide such surface water monitoring capability as the Division determines to be necessary to detect the effects of the facility on surface water in the area. In making such a determination, the Division shall consider the following factors:

(A) the design of the facility, the nature of the process it will use, and the type of waste it will handle;

(B) drainage patterns and other hydrological conditions in the area;

(C) proximity of surface water to the facility;

(D) uses that are being or may be made of any surface water that may be affected by the facility; and

(E) any other factors that reasonably relate to the potential for surface water effects from the facility.

(2) Responsibility for sample collection and analysis will be defined as a part of the monitoring plan.

(d) Gas control plan.

(1) Owners and operators of all C&DLF units must ensure that:

(A) the concentration of methane gas or other explosive gases generated by the facility does not exceed 25 percent of the lower explosive limit in on-site facility structures (excluding gas control or recovery system components);

(B) the concentration of methane gas or other explosive gases does not exceed the lower explosive limit for methane or other explosive gases at the facility property boundary; and

(C) the facility does not release methane gas or other explosive gases in any

concentration that can be detected in offsite structures.

(2) Owners and operators of all C&DLF units must implement a routine methane monitoring program to ensure that the standards this Paragraph are met.

(A) The type of monitoring must be determined based on the soil conditions, the hydrogeologic conditions under and surrounding the facility, the hydraulic conditions on and surrounding the facility, the location of facility structures and property boundaries, and the location of all off-site structures adjacent to property boundaries.

(B) The frequency of monitoring shall be quarterly or as approved by the Division.

(3) If methane or explosive gas levels exceeding the limits specified in Subparagraph (d)(1) of this Rule are detected, the owner and operator must:

(A) immediately take all steps necessary to ensure protection of human health and notify the Division;

(B) within seven days of detection, place in the operating record the methane or explosive gas levels detected and a description of the steps taken to protect human health;

(C) within 60 days of detection, implement a remediation plan for the methane or explosive gas releases, place a copy of the plan in the operating record, and notify the Division that the plan has been implemented. The plan shall describe the nature and extent of the problem and the proposed remedy; and

(D) based on the need for an extension demonstrated by the operator, the Division may establish alternative schedules for demonstrating compliance with Parts (3)(B) and (3)(C) of this Rule.

(4) For purposes of this Item, "lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25 C and atmospheric pressure.

(e) A waste acceptability program. Owners and operators of all C&DLF units must implement a program at the facility for detecting and preventing the disposal of industrial, hazardous, liquid, municipal solid waste and excluded wastes in accordance with the Operating Plan or the effective permit. This program must include, at a minimum:

(1) random inspections of incoming loads or other comparable procedures;

- (2) records of any inspections;
- (3) training of facility personnel to recognize commercial/industrial, hazardous, liquid, municipal and excluded waste; and
- (4) development of a contingency plan to properly manage any identified commercial/industrial, hazardous, liquid, municipal or excluded waste. The plan must address identification, removal, storage and final disposition of the waste.

(f) Any other monitoring plan or program which is necessary according to the Operating Plan or the effective permit.

(g) Monitoring plans shall be prepared under the responsible charge of and bear the seal of a Licensed Geologist or Professional Engineer in accordance with G.S. 89E and G.S. 89C, respectively.

(h) Monitoring plans shall be certified by a Licensed Geologist or Professional Engineer to be effective in providing early detection of any release of hazardous constituents from any point in a disposal cell or leachate surface impoundment to the uppermost aquifer, air, surface waters, or proximal area, so as to be protective of public health and the environment.

(i) Monitoring plans shall be submitted to the Division for review and approval and a copy of the monitoring plan shall be placed in the operating record.

(j) Once established at a C&DLF facility, all monitoring shall be conducted throughout the active life and post-closure care period for all C&DLF units.

Authority G.S. 130A-294.

15A NCAC 13B .0545 ASSESSMENT AND CORRECTIVE ACTION PROGRAM FOR C&DLF FACILITIES AND UNITS

(a) Assessment Program. Assessment is required if one or more constituents, as listed in Rule .0544 (b)(1)(D) of this Section are detected above the current ground-water quality standards in accordance with 15A NCAC 02L .0202, in any sampling event. Within 30 days of this finding the owner and operator shall submit a work plan, to meet the requirements of Subparagraph (4) of this Paragraph, for Division review and approval, place a notice in the operating record, and notify all appropriate local government officials. The owner and operator shall also immediately:

- (1) Install at least one additional groundwater monitoring well and/or methane gas monitoring well at the facility boundary or the compliance boundary, as defined in 15A NCAC 02L .0100, in the direction of contaminant migration. The new sampling point should be installed at the facility boundary or compliance boundary at the location most likely to show impact based on the known geology and hydrogeology;
- (2) Notify all persons who own land or reside on land that directly overlies any part of the plume of contamination if contaminants have migrated off-site or thought to have migrated off site;

(3) Analyze for additional parameters and at additional locations as directed by the Division.

(4) Characterize the nature and extent of the release by installing additional monitoring wells, as necessary;

(b) Assessment of Corrective Actions is required upon completion of Paragraph (a) of this Rule as determined by the Division. The assessment of corrective actions shall include an analysis of the effectiveness of potential corrective actions in meeting all of the requirements and objectives of the remedy as described under this Rule addressing at least the following:

(1) the performance, reliability, ease of implementation, and potential impacts of appropriate potential remedies, including safety impacts, cross-media impacts, and control of exposure to any residual contamination;

(2) the time required to begin and to complete the remedy;

(3) the costs of remedy implementation; and

(4) the institutional requirements such as State and Local permit requirements or other environmental or public health requirements that may substantially affect implementation of the remedy(s).

(c) The owner and operator shall discuss the results of the corrective actions assessment, prior to the selection of the remedy, in a public meeting with interested and affected parties. The owner and operator shall provide a public notice of the meeting at least 30 days prior to the meeting. The notice shall include the time, place, date, and purpose of the meeting required by this Paragraph of this Rule. A copy of the public notice shall be forwarded to the Division at least five days prior to publication. The owner and operator shall mail a copy of the public notice to those persons requesting notification. Public notice shall be in accordance with Rule .0533(c)(4) of this Section.

(d) Selection of Remedy. Based on the results of the corrective actions assessment, the owner and operator shall select a remedy that, at a minimum, meets the standards listed in Subparagraph (2) of this Paragraph.

(1) Within 30 days of selecting a remedy, the permittee shall submit an application to modify the permit describing the selected remedy to the Division for evaluation and approval. The application shall be subject to the processing requirements set forth in Rule .0533(c) of this Section. The application shall include the demonstrations necessary to comply with the financial assurance requirements set forth in accordance with Rule .0546 of this Section.

(2) Remedies shall:

(A) be protective of human health and the environment;

(B) attain the approved ground-water protection standards;

- (C) control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further releases of constituents into the environment that may pose a threat to human health or the environment; and
- (D) comply with standards for management of wastes as specified in Paragraph (h) of this Rule.
- (3) In selecting a remedy that meets the standards of Subparagraph (d)(2) of this Rule, the owner and operator shall consider the following evaluation factors:
 - (A) The long-term and short-term effectiveness and protectiveness of the potential remedy(s), along with the degree of certainty that the remedy will prove successful based on consideration of the magnitude of reduction of existing risks; magnitude of residual risks in terms of likelihood of further releases due to wastes remaining following implementation of a remedy; the type and degree of long-term management required, including monitoring, operation, and maintenance; short-term risks that might be posed to the community, workers, or the environment during implementation of such a remedy, including potential threats to human health and the environment associated with excavation, transportation, and redisposal or containment; time until full protection is achieved; potential for exposure of humans and environmental receptors to remaining wastes, considering the potential threat to human health and the environment associated with excavation, transportation, redisposal, or containment; long-term reliability of the engineering and institutional controls; and potential need for replacement of the remedy.
 - (B) The effectiveness of the remedy in controlling the source to reduce further releases based on consideration of the extent to which containment practices will reduce further releases; and the extent to which treatment technologies may be used.
 - (C) The ease or difficulty of implementing a potential remedy based on consideration of the degree of difficulty associated with constructing the technology; expected operational reliability of the technologies; need to coordinate with and obtain necessary approvals and permits from other agencies; availability of necessary equipment and specialists; and available capacity and location of needed treatment, storage, and disposal services.
- (D) Practicable capability of the owner and operator, including a consideration of the technical and economic capability.
- (4) The owner and operator shall specify as part of the selected remedy a schedule for initiating and completing remedial activities. This schedule shall be submitted to the Division for review and approval. Such a schedule shall require the initiation of remedial activities within a reasonable period of time taking into consideration the factors set forth in this Rule. The owner and operator shall consider the following factors in determining the schedule of remedial activities:
 - (A) extent and nature of contamination;
 - (B) practical capabilities of remedial technologies in achieving compliance with the approved ground-water protection standards and other objectives of the remedy;
 - (C) availability of treatment or disposal capacity for wastes managed during implementation of the remedy;
 - (D) desirability of utilizing technologies that are not currently available, but which may offer advantages over already available technologies in terms of effectiveness, reliability, safety, or ability to achieve remedial objectives;
 - (E) potential risks to human health and the environment from exposure to contamination prior to completion of the remedy;
 - (F) resource value of the aquifer including current and future uses; proximity and withdrawal rate of users; ground-water quantity and quality the potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to contaminants; the hydrogeologic characteristics of the facility and surrounding land; ground-water removal and treatment costs; the costs and availability of alternative water supplies; practical capability of the owner and operator; and
 - (H) other relevant factors.

(e) The Division may determine that active remediation of a release of any detected constituent from a C&DLF unit is not necessary if the owner or operator demonstrates to the satisfaction of the Division that:

- (1) The ground-water is additionally contaminated by substances that have originated from a source other than a C&DLF unit and those substances are present in concentrations such that active cleanup of the release from the C&DLF unit would provide no significant reduction in risk to actual or potential receptor, or
- (2) The constituent or constituents are present in ground-water that is not currently or reasonably expected to be a source of drinking water and is not hydraulically connected with water to which the constituents are migrating or are likely to migrate in concentrations that would exceed the approved ground-water protection standards, or
- (3) Remediation of the release is technically impracticable, or
- (4) Remediation results in unacceptable cross-media impacts.

(f) A determination by the Division pursuant to this Paragraph shall not affect the authority of the State to require the owner and operator to undertake source control measures or other measures that may be necessary to eliminate or minimize further releases to the ground water, to prevent exposure to the ground water, or to remediate ground water to concentrations that are technically practicable and reduce threats to human health or the environment.

(g) Implementation of the Corrective Action Program. Based on the approved schedule for initiation and completion of remedial activities, the owner or operator shall:

- (1) Establish and implement a corrective action ground-water monitoring program that:
 - (A) at a minimum, meets the requirements of an assessment monitoring program under Paragraphs (a) and (b) of this Rule;
 - (B) indicates the effectiveness of the corrective action remedy; and
 - (C) demonstrates compliance with ground-water protection standards pursuant to Paragraph (i) of this Rule.
- (2) Implement the approved corrective action remedy; and
- (3) Take any interim measures necessary to ensure the protection of human health and the environment. Interim measures should, to the greatest extent practicable, be consistent with the objectives of and contribute to the performance of any remedy that may be required. The following factors shall be considered by an owner and operator in determining whether interim measures are necessary:

- (A) time required to develop and implement a final remedy;
- (B) actual or potential exposure of nearby populations or environmental receptors to hazardous constituents;
- (C) actual or potential contamination of drinking water supplies or sensitive ecosystems;
- (D) further degradation of the ground water that may occur if remedial action is not initiated expeditiously;
- (E) weather conditions that may cause hazardous constituents to migrate or be released;
- (F) risks of fire or explosion, or potential for exposure to hazardous constituents as a result of an accident or failure of a container or handling system; and
- (G) other situations that may pose threats to human health or the environment.

(h) The owner or operator or the Division may determine, based on information developed after implementation of the remedy has begun or other information, that compliance with requirements of Subparagraph (d)(2) of this Rule are not being achieved through the remedy selected. In such cases, the owner and operator shall implement other methods or techniques, as approved by the Division that could practicably achieve compliance with the requirements, unless the owner or operator makes the determination under Paragraph (g) of this Rule.

(i) If the owner or operator determines that compliance with requirements Subparagraph (d)(2) of this Rule cannot be practically achieved with any currently available methods, the owner and operator shall:

- (1) obtain certification of a Licensed Geologist or Professional Engineer and approval from the Division that compliance with the requirements under Subparagraph (d)(2) of this Rule cannot be practically achieved with any currently available methods;
- (2) implement alternate measures to control exposure of humans or the environment to residual contamination, as necessary to protect human health and the environment;
- (3) implement alternate measures for control of the sources of contamination, or for removal or decontamination of equipment, units, devices, or structures that are:
 - (A) technically practicable; and
 - (B) consistent with the overall objective of the remedy; and
- (4) submit a report justifying the alternative measures to the Division for approval prior to implementing the alternative measures. Upon approval by the Division, this report shall be placed in the operating record.

(j) All solid wastes that are managed pursuant to a remedy required under Paragraph (c) and (d) of this Rule, or an interim

measure required under Paragraph (e) of this Rule, shall be managed in a manner:

- (1) that is protective of human health and the environment, and
- (2) that complies with applicable RCRA requirements.

(k) Remedies selected pursuant to Paragraph (c) and (d) of this Rule shall be considered complete when:

- (1) the owner and operator complies with the approved ground-water protection standards at all points within the plume of contamination that lie beyond the relevant point of compliance;
- (2) compliance with the approved ground-water protection standards has been achieved by demonstrating that concentrations of constituents have not exceeded these standards for a period of three consecutive years, consistent with performance standards in Subparagraph (c)(2) of this Rule; and
- (3) all actions required to complete the remedy have been satisfied.

(l) Upon completion of the remedy, the owner and operator shall submit a report to the Division documenting that the remedy has been completed in compliance with Paragraph (k) of this Rule. This report shall be signed by the owner and by a Licensed Geologist or Professional Engineer. Upon approval by the Division, this report shall be placed in the operating record.

(m) When, upon completion of the certification, the Division determines that the corrective action remedy has been completed in accordance with Paragraph (k) of this Rule, the owner and operator shall be released from the requirements for financial assurance for corrective action under Rule .0546 of this Section at the end of post-closure.

Authority G.S. 130A-294.

15A NCAC 13B .0546 FINANCIAL ASSURANCE REQUIREMENTS FOR C&DLF FACILITIES AND UNITS

(a) Owners and operators of C&DLF facilities and units shall provide proof of financial assurance in accordance with the financial responsibility for landfills adopted pursuant to G.S. 130A-294(b) and G.S. 130A-309.27.

(b) Owners and operators of C&DLF facilities and units permitted under these Rules shall provide proof of financial assurance to ensure closure of the site in accordance with these Rules and to cover closure, post-closure, and corrective action of the landfill. Financial assurance may be demonstrated through surety bonds, insurance, letters of credit, a funded trust, or local government financial test. Documentation of financial assurance shall be kept current, and updated annually as required by changes in these Rules, changes in operation of the site, and inflation.

(c) Owners and operators of C&DLF facilities and units shall demonstrate the following minimum amounts of financial assurance for Closure and Post-Closure care:

- (1) The owner and operator shall have a detailed written estimate, in current dollars, of the cost

of hiring a third party to close the entire area of all C&DLF units at any time during the active life in accordance with the closure plan required under Rule .0543 of this Section. A copy of the closure cost estimate shall be placed in the C&DLF's closure plan and the operating record.

(A) The cost estimate shall equal the cost of closing the entire area of all C&DLF units at any time during the active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan as set forth in Rule .0543 of this Section.

(B) During the active life of the C&DLF, the owner and operator shall annually adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s). For owners and operators using the local government financial test, the closure cost estimate shall be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.

(C) The owner and operator shall increase the closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes to the closure plan or C&DLF unit conditions increase the maximum cost of closure at any time during the remaining active life.

(D) The owner or operator may reduce the closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum cost of closure at any time during the remaining life of the C&DLF unit. Prior to any reduction of the closure cost estimate by the owner or operator, a written justification for the reduction shall be submitted to the Division. No reduction of the closure cost estimate shall be allowed without Division approval. The reduction justification and the Division approval shall be placed in the C&DLF's operating record.

(2) The owner or operator of each C&DLF unit(s) shall establish financial assurance for closure of the C&DLF unit in compliance with Paragraph (a) of this Rule. The owner and

operator shall provide continuous coverage for closure until released from financial assurance requirements by demonstrating compliance with Rule .0543 of this Section for final closure certification.

- (3) The owner and operator shall have a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the C&DLF unit(s) in compliance with the post-closure plan developed under Rule .0543 of this Section. The post-closure cost estimate used to demonstrate financial assurance in Subparagraph (2) of this Paragraph shall account for the total costs of conducting post-closure care, including annual and periodic costs as described in the post-closure plan over the entire post-closure care period and be placed in the operating record.
- (A) The cost estimate for post-closure care shall be based on the most expensive costs of post-closure care during the post-closure care period.
- (B) During the active life of the C&DLF unit(s) and during the post-closure care period, the owner and operator shall annually adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s). For owners and operators using the local government financial test, the post-closure cost estimate shall be updated for inflation within 30 days after the close of the local government's fiscal year and before submission of updated information to the Division.
- (C) The owner and operator shall increase the post-closure care cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if changes in the post-closure plan or C&DLF unit(s) conditions increase the maximum costs of post-closure care.
- (D) The owner or operator may reduce the post-closure cost estimate and the amount of financial assurance provided under Subparagraph (2) of this Paragraph if the cost estimate exceeds the maximum costs of post-closure care remaining over the post-closure care period. Prior to any reduction of the post-closure cost estimate by the owner or operator, a written justification for the reduction shall be submitted to the Division. No reduction of the post-closure cost estimate shall be allowed without

Division approval. The reduction justification and the Division approval shall be placed in the C&DLF's operating record.

- (4) The owner and operator of each C&DLF unit(s) shall establish, in a manner in accordance with Paragraph (a) of this Rule, financial assurance for the costs of post-closure care as required under Rule .0543 of this Section. The owner and operator shall provide continuous coverage for post-closure care until released from financial assurance requirements for post-closure care by demonstrating compliance with Rule .0543 of this Section. Maintenance of financial assurance in the required amounts in Subparagraphs (c)(1) and (c)(2) of this Rule does not in any way limit the responsibility of owners and operators for the full costs of site closure and clean-up, the expenses of any on-site or off-site environmental restoration necessitated by activities at the site, and liability for all damages to third parties or private or public properties caused by the establishment and operation of the site.

Authority G.S. 130A-294.

15A NCAC 13B .0547 EXISTING C&DLF UNITS AS OF JANUARY 1, 2007

An owner and operator of an existing C&DLF unit(s), those receiving waste prior to January 1, 2007, shall close or submit an application document according to the criteria and scheduling requirements set forth in this Paragraph. All C&DLF unit(s) shall conform to the specific conditions set forth in the permit and the following general provisions. Nothing in this Rule shall be construed to limit the conditions the Division may impose on a permit.

- (1) Closure of existing C&DLF unit(s). C&DLF unit(s), which did not and will not receive solid waste after January 1, 2008, shall comply with the Solid Waste Permit, the Conditions of Permit, and Rule .0510 of this Section.
- (2) Financial Assurance for existing C&DLF facilities and units. Owners and operators of existing C&DLF facilities and units shall submit the following by January 1, 2008:
- (a) a closure and post-closure plan prepared in accordance with Rule .0543 of this Section; and
- (b) financial responsibility in accordance with Rule .0546 of this Section.
- (3) Application for a Permit to Construct a new phase of an existing C&DLF facility or unit shall be subject to the following. An owner and operator of an existing C&DLF shall submit an application 120 days prior to the expiration date of the effective permit to operate or at least 180 days prior to the date

scheduled for constructing a phase of C&DLF development not approved in the effective permit to operate, whichever occurs first. The application shall consist of the following:

- (a) a facility plan that defines the comprehensive development of the property. The plan includes a set of drawings and a report which presents the long-term, general design concepts related to construction, operation, and closure of the C&DLF unit(s). The scope of the plan spans the active life of the unit(s). A facility plan shall be prepared in accordance with Subparagraphs (d)(1), (e)(1), (e)(2), and (e)(3) of Rule .0537 of this Section. Additional solid waste management activities located at the C&DLF facility shall be identified in the plan and shall meet the requirements of this Subchapter. The facility plan defines the waste stream proposed for management at the C&DLF facility. If different types of landfill units or non-disposal activities are included in the facility design, the plan must describe general waste acceptance and segregation procedures. The areal limits of the C&DLF unit(s), total capacity of the C&DLF unit(s), and the proposed waste stream shall be in accordance with the current permit for an existing facility applying for a Permit to Construct a new phase not approved in the current permit;
 - (b) an engineering plan that is prepared for the initial phase of landfill development prepared in accordance with Rule .0539 of this Section;
 - (c) a construction quality assurance plan prepared in accordance with Rule .0541 of this Section;
 - (d) an operation plan prepared in accordance with Rule .0542 of this Section, with an appended monitoring plan in accordance with Rule .0544 of this Section; and
 - (e) a closure and post-closure plan prepared in accordance with Rule .0543 of this Section.
- (4) Owners and operators of existing C&DLF units on top of closed MSWLFs shall submit a permit application by July 1, 2008, for the continued operations of those units. The permit shall be reviewed at the end of each five-year period. If corrective action has not been effective in limiting the migration of contaminated ground water, the Division may

require closure of the C&DLF unit and installation of the approved cap system. The application shall contain:

- (a) local government approval in accordance with Rule .0536(c)(11) of this Section,
- (b) an operations plan in accordance with Rule .0542 of this Section, including a five-year phase of development and a waste acceptance plan in accordance with the existing permit,
- (c) a corrective action plan for the closed MSWLF, as required by Rule .1635 of this Subchapter, prepared in accordance with Rules .1636 and .1637 of this Subchapter,
- (d) a closure and post-closure plan in accordance with Rule .1627 of this Subchapter, and
- (e) financial assurance in accordance with Rule .1628 of this Subchapter.

Authority G.S. 130A-294.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Cosmetic Art Examiners intends to adopt the rules cited as 21 NCAC 14C .0104; 14I .0403 and to amend the rules cited as 21 NCAC 14A .0101; 14G .0103; 14I .0109; 14N .0103; 14R .0103.

Proposed Effective Date: July 1, 2006

Public Hearing:

Date: March 16, 2006

Time: 8:00 a.m.

Location: 1201 Front Street, Suite 110, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 14A .0101; 14G .0103; 14I .0109; 14N .0103 – Clarification of rules and regulations

21 NCAC 14C .0104; 14I .0403 – Clarification of Board decisions

21 NCAC 14R .0103 – To clarify the CE rules

Procedure by which a person can object to the agency on a proposed rule: Write to 1201 Front Street, Suite 110, Raleigh, NC 27609

Comments may be submitted to: Stephanie Shore, 1201 Front Street, Suite 110, Raleigh, NC 27609, phone (919) 715-3171, fax (919) 733-4127, email sshore@nccosmeticarts.com

Comment period ends: May 1, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State
- Local
- Substantive (≥\$3,000,000)
- None

SUBCHAPTER 14A – DEPARTMENTAL RULES

SECTION .0100 – ORGANIZATION RULES

21 NCAC 14A .0101 DEFINITIONS

The following definitions apply in this Chapter:

- (1) "Beauty Establishment" refers to both cosmetic art schools and cosmetic art shops.
- (2) "Cosmetology School" is any cosmetic art school that teaches cosmetic art as defined by, G.S. 88B-2(5), but is not solely a manicurist or an esthetics school.
- (3) "Cosmetology Student" is a student in any cosmetic art school whose study is the full curriculum.
- (4) "Manicurist School" is a cosmetic art school that teaches only the cosmetic arts of manicuring.
- (5) "Manicurist Student" is a student in any cosmetic art school whose study is limited to the manicurist curriculum set forth in 21 NCAC 14K .0102.
- (6) "Successful Completion" is the completion of an approved cosmetic art curriculum with a minimum grade of "C" or 70%, whichever is deemed as passing by the cosmetic art school.
- (7) "Esthetician School" is any cosmetic art school that teaches only the cosmetic arts of skin care.
- (8) "Esthetician Student" is a student in any cosmetic art school whose study is limited to the esthetician curriculum set forth in 21 NCAC 14O. 0102.
- (9) "Esthetics" refers to any of the following practices: giving facials; applying makeup; performing skin care; removing superfluous hair from the body of any person by the use of

depilatories, tweezers or waxing; applying eyelashes to any person (this is to include eyelash extensions, brow and lash color); beautifying the face, neck, arms or upper part of the human body by use of cosmetic preparations, antiseptics, tonic, lotions or creams; surface massaging (skin care only) with cosmetic preparation, antiseptics, tonics, lotion, or cream; or cleaning or stimulating the face, neck, ears, arms, hands, bust, torso, legs, or feet by means of the hands, devices, apparatus, or appliances.

- (10) "Natural hair braiding" is a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device, is not subject to regulation pursuant to G.S. 88B, provided that the service does not include hair cutting or the application of dyes, reactive chemicals, or other preparations to alter the color of the hair or to straighten, curl, or alter the structure of the hair.
- (11) "Natural hair styling" is the provision of natural hair braiding services together with any of the other services or procedures included within the regulated practice of cosmetic art, and is subject to regulation pursuant to G.S. 88B, and those persons practicing natural hair styling shall obtain and maintain a cosmetologist license as applicable to the services offered or performed. Establishments offering natural hair styling services shall be licensed as cosmetic art shops.
- (12) "Licensing cycle" for cosmetologists is the three-year period beginning on the first day of October 2004 and ending on the 30th day of September 2007, and continuing thereafter in three year intervals. For estheticians and manicurists the licensing cycle is one year in length beginning on the first day of October and ending on the 30th day of September. For teachers, the licensing cycle is the two-year period beginning on the first day of October of an even-numbered year and ending on the 30th day of September of an even-numbered year.
- (13) "Provider" is a nonprofit professional cosmetic art association, community college, high school, vocational school, postsecondary proprietary school of cosmetic art licensed by the Board, manufacturer of supplies or equipment used in the practice of cosmetic art, the State Board or an agent of the State Board, or any individual or entity that owns and operates five or more licensed salons or that employs at least 50 licensees.

Authority G.S. 88B-2; 88B-4.

SUBCHAPTER 14C – CONTESTED CASES

SECTION .0100 – GENERAL RULES

21 NCAC 14C .0104 HEARING COSTS

At a hearing individuals found by the Board to be responsible for the whole civil penalty amount assessed at inspection will be require to pay one hundred dollars (\$100.00) in hearing costs in addition to the civil penalty.

Authority G.S. 88B-4(a).

SUBCHAPTER 14G – REQUIREMENTS FOR THE ESTABLISHMENT OF COSMETIC ART SCHOOLS

SECTION .0100 – PERMANENT FILES

21 NCAC 14G .0103 SPACE REQUIREMENTS

(a) The Cosmetic Art Board shall issue letters of approval only to cosmetic art schools that have at least 2,800 square feet of inside floor space for 20 stations or 4,200 square feet of inside floor space for 30 stations located within the same building. An additional 140 square feet of floor space shall be required for each station above 20 stations, up to and including a total of 30 stations. Thereafter, an additional 40 square feet shall be required for each station in excess of 30 stations. For purpose of this Rule, the day and night classes shall be counted as separate enrollments. A school may have a recitation room located in expand to an adjacent building or another building within 500 feet of the main cosmetology building, building upon Board approval.

(b) Each cosmetic art school must have no less than 20 hairdressing stations, arranged to accommodate not less than 20 students and arranged so that the course of study and training cosmetology, as prescribed in 21 NCAC 14J .0306, may be given. All stations must be numbered numerically.

(c) Cosmetic art schools must have a beginner department containing sufficient space to comfortably accommodate at least 10 students and having at least 40 inches between mannequins.

(d) The Board shall issue a letter of approval only to manicurist schools that have at least 1,000 square feet of inside floor space located within the same building.

(e) Manicurist schools with 1,000 square feet of inside floor space shall enroll no more than 20 students at one time, and for each student enrolled in addition to 20 students, 40 square feet of inside floor space must be provided.

(f) Manicurist schools must have 10 manicurist tables and chairs a minimum of two feet apart, side to side, arranged to comfortably accommodate ten students.

(g) The Board shall issue a letter of approval only to esthetician schools that have at least 1,500 square feet of inside floor space located within the same building.

(h) Esthetician schools with 1,500 square feet of inside floor space shall enroll no more than 20 students at one time, and for each student enrolled in addition to 20 students, 50 square feet of inside floor space must be provided.

(i) Schools combining both manicuring and esthetics training programs with 1,500 feet of inside floor space shall enroll no more than a total of 20 students at one time and for each student enrolled in addition to 20 students, 50 square feet of inside floor

space must be provided. Equipment requirements for both manicurist schools and esthetician schools shall be followed.

Authority G.S. 88B-4.

SUBCHAPTER 14I – OPERATIONS OF SCHOOLS OF COSMETIC ART

SECTION .0100 – RECORD KEEPING

21 NCAC 14I .0109 SUMMARY OF COSMETIC ART EDUCATION

(a) The manager of each cosmetic art school must compile, from the school's records, a summary of hours, live model/mannequin performance completions, date of enrollment, and last date of attendance. Upon graduation or within 30 days after the student's graduation date, the cosmetic art school must present to the student his or her examination application registration for licensure.

(b) This examination application registration for licensure must be signed by the owner/director, a teacher, and the student and must have the seal of the school affixed.

(c) The registration for licensure must be prepared on a form furnished by the Board. The cosmetic art school shall mail a copy with the school seal affixed of the examination application to the Board at the Board's address.

Authority G.S. 88B-4; 88B-16.

SECTION .0400 - LICENSURE OF INDIVIDUALS WHO HAVE BEEN CONVICTED OF A FELONY

21 NCAC 14I .0403 SCHOOL CREDIT HOURS APPROVAL

Application for examination, including both written and practical exams, must be filed and approved by the Board before hours are permanently credited to an individual.

Authority G.S. 88-19.

SUBCHAPTER 14N – EXAMINATIONS

SECTION .0100 – GENERAL PROVISIONS

21 NCAC 14N .0103 GENERAL EXAMINATION INSTRUCTIONS

(a) All candidates scheduled for an examination, conducted by Promissor, Inc., must bring:

- (1) two forms of signature identification, one of which must be photo bearing;
(2) your Promissor confirmation number; and
(3) for practical exam only: tools and supplies (as required by Promissor), as outlined in the candidate handbook and a mannequin or live model (esthetics and instructor exam only).

(b) No briefcases, bags, books, papers, or study materials are allowed in the examination room. Test providers are Promissor is not responsible for lost or misplaced items.

- (c) No cell phones, calculators or other electronic devices are permitted during the examination.
- (d) No eating, drinking, smoking or gum-chewing is permitted during the examination.
- (e) No visitors (with the exception of models), children, pets or guests are allowed at the test center.
- (f) No extra time for the examination will be permitted.
- (g) No leaving the test center is permitted during the examination. Candidates may visit the restroom without the proctor's permission, but will not receive any additional time for the examination.
- (h) No giving or receiving assistance during the examination. If a candidate gives or receives assistance during the examination, the test center manager will stop the examination and the candidate will be dismissed from the test center. ~~Promissor will not score the examination will not be scored and the candidate will be reported and will report the candidate~~ to the Board, which will make any decisions regarding discipline.
- (i) Candidates must maintain silence during the examination, and shall not mention the name of the school attended or the names of instructors. Candidates shall not wear or carry any school identification on uniforms or equipment.

Authority G.S. 88B-4; 88B-7; 88B-9; 88B-10; 88B-11; 88B-18.

SUBCHAPTER 14R – CONTINUING EDUCATION

21 NCAC 14R .0103 CRITERIA FOR CONTINUING EDUCATION COURSES

- (a) Programs shall not be approved by the Board in segments of less than one hour.
- (b) Providers must use an attendance sign-in sheet provided by the Board, listing the licensee's name and teacher's license number, to verify attendance. Forms may be copied. Course monitors will be required at the rate of one monitor per 20 students with a maximum of 10 monitors at any course. Instructors may serve as the course monitor for courses with fewer than 20 students.
- (c) No provider shall certify the attendance of a person who was not physically present during at least ninety per cent of the course time.
- (d) A provider shall maintain for four years a record of attendance of each person attending a course including the following information:
 - (1) Board approved continuing education number;
 - (2) Name and license number of attendee;
 - (3) Course title and description
 - (4) Hours of attendance;
 - (5) Date of course;
 - (6) Name and signature of instructor/monitor in employ of provider;
 The provider shall certify the items above and furnish a copy to the attendee within 30 days after completion of the course.
- (e) Courses by individuals or entities whose principal residence or place of business is not located in North Carolina shall be approved if they comply with the requirements in this Rule.
- (f) Course attendance may be restricted to licensees due to valid course prerequisites for admission or by the maximum number

of participants allowable as determined by the provider and fully disclosed during the application criteria and procedures for continuing education approval.

- (g) Passage of an examination by a licensee shall not be a requirement for successful completion of a continuing education course. Correspondence and Internet continuing education courses are not authorized.
- (h) Minimum attendance of a course for credit purposes is four licensed cosmetic art attendees.
- (i) Each provider shall notify the Board; at least one day in advance, of any additional course dates, or any changes including locations, times, and changes of course instructors.
- (j) Each provider shall submit to the Board, within ten days after completion of each course, an attendance list of licensees who completed the course. The list shall include for each licensee:

- (1) Course title;
- (2) Date conducted;
- (3) Address location where the course was conducted;
- (4) Licensee name;
- (5) Licensee's license number;
- (6) Course continuing education number;
- (7) Continuing education hours earned.

(k) The Board may suspend, revoke, or deny the approval of an instructor or provider, who fails to comply with any provision of the rules in this Subchapter. Written justification of the suspension, denial, or revocation shall be given.

(l) Each class may not exceed 200 attendees. Classes exceeding 50 attendees must provide a floor plan with the application.

(m) Each lecture class must be monitored at a ratio of 30:1 and each hands-on class must be monitored at a ratio of 10:1.

Authority G.S. 88B-4; 88B-21(e).

CHAPTER 32 – MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to amend the rule cited as 21 NCAC 32S .0109.

Proposed Effective Date: July 1, 2006

Public Hearing:

Date: March 21, 2006

Time: 10:00 a.m.

Location: North Carolina Medical Board, Hearing Room, 1203 Front St., Raleigh, NC 27609

Reason for Proposed Action: *To update physician assistant rules in order to streamline the administrative process of approving a physician assistant to perform medical acts, tasks and functions and to ensure clinical competency for physician assistants reactivating an inactive license.*

Procedure by which a person can object to the agency on a proposed rule: : *A person may submit objections to the proposed amendment by May 1, 2006 by writing to R. David*

Henderson, Executive Director, North Carolina Medical Board, 1203 Front St., Raleigh, NC 27609

Comments may be submitted to: R. David Henderson, North Carolina Medical Board, 1203 Front St., Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-1131, email david.henderson@ncmedboard.org

Comment period ends: May 1, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact: A copy of the fiscal note can be obtained from the agency.

- State
Local
Substantive (>=\$3,000,000)
None

SUBCHAPTER 32S - PHYSICIAN ASSISTANT REGULATIONS

21 NCAC 32S .0109 PRESCRIPTIVE AUTHORITY

A physician assistant is authorized to prescribe, order, procure, dispense and administer drugs and medical devices subject to the following conditions:

- (1) The physician assistant and the supervising physician(s) shall acknowledge that each is familiar with the laws and rules regarding prescribing and shall agree to comply with these laws and rules by incorporating the laws and rules into the written prescribing instructions required for each approved practice site; and
(2) The physician assistant has received from the supervising physician written instructions for prescribing, ordering, and administering drugs and medical devices and a written policy for periodic review by the physician of these instructions and policy; and
(3) In order to compound and dispense drugs, the physician assistant must obtain approval from the Board of Pharmacy and must carry out the functions of compounding and dispensing by

- (4) In order to prescribe controlled substances, both the physician assistant and the supervising physician must have a valid DEA registration and the physician assistant shall prescribe in accordance with information provided by the Medical Board and the DEA. All prescriptions for substances falling within schedules II, IIN, III, and IIIN, as defined in the federal Controlled Substances Act, shall not exceed a legitimate 30 day supply; and
(5) Each prescription issued by the physician assistant shall contain, in addition to other information required by law, the following:
(a) the physician assistant's name, practice address, telephone number; and
(b) the physician's assistant's license number and, if applicable, the physician assistant's DEA number for controlled substances prescription; and
(c) the responsible supervising physician's (primary or back-up) name and telephone number; and
(6) Documentation of prescriptions must be noted on the patient's record and must include the medication name and dosage, amount prescribed, directions for use, and number of refills.
(7) Physician Assistants who request, receive, and dispense professional medication samples to patients must comply with all applicable state and federal regulations.

Authority G.S. 90-18(c)(13); 90-18.1; 90-171.23(14); 58 Fed. Reg. 31,171(1993) (to be codified at 21 C.F.R. 301).

CHAPTER 69 - BOARD FOR LICENSING OF SOIL SCIENTISTS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board for Licensing of Soil Scientists intends to amend the rule cited as 21 NCAC 69 .0104.

Proposed Effective Date: July 1, 2006

Public Hearing:

Date: March 28, 2006

Time: 1:00 p.m.

Location: 2223 Williams Hall, North Carolina State University, Raleigh, NC

Reason for Proposed Action: To increase the renewal fee from \$50.00 to \$85.00, as authorized by G.S. Sec. 89F-25.

Procedure by which a person can object to the agency on a proposed rule: *Submission of written comments regarding specific objections to the rule to the APA rule-making coordinator by the end of the public comment period.*

Comments may be submitted to: *Karl Shaffer, APA Rulemaking Coordinator, NCSU Soil Science Department, Box 7619, Raleigh, NC 27695-7619, phone (919) 515-7538, fax (919) 515-7494, email karl_shaffer@ncsu.edu*

Comment period ends: *May 1, 2006*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact:

- State**
- Local**
- Substantive** (\geq \$3,000,000)
- None**

SECTION .0100 – STATUTORY AND ADMINISTRATIVE PROVISIONS

21 NCAC 69 .0104 FEES

Each completed application form shall be accompanied by the prescribed fee. Application fees shall not be refunded regardless of Board approval or disapproval of the application.

- (1) application forms for licensing as a Soil Scientist, including a copy of the Licensing Act and rules \$5.00
- (2) application for license 50.00
- (3) examination 125.00
- (4) license 85.00
- (5) renewal of license ~~50.00~~85.00
- (6) restoration of license 110.00
- (7) replacement of license 50.00
- (8) licensed soil scientist seal 30.00

Authority G.S. 55B-10; 55B-11; 89F-25; 150B-19.

APPROVED RULES

*This Section includes the Register Notice citation to rules approved by the Rules Review Commission (RRC) at its meeting January 19, 2006 and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules are published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules have been entered into the North Carolina Administrative Code.

APPROVED RULE CITATION				REGISTER CITATION TO THE NOTICE OF TEXT
01	NCAC	15	.0201-.0202*	20:03 NCR
01	NCAC	15	.0203	20:03 NCR
01	NCAC	15	.0204*	20:03 NCR
01	NCAC	15	.0205	20:03 NCR
01	NCAC	15	.0207	20:03 NCR
01	NCAC	15	.0208-.0209*	20:03 NCR
01	NCAC	15	.0211	20:03 NCR
01	NCAC	15	.0212*	20:03 NCR
01	NCAC	15	.0213-.0214	20:03 NCR
01	NCAC	30I	.0301*	20:08 NCR
01	NCAC	30I	.0302-.0304	20:08 NCR
01	NCAC	30I	.0305*	20:08 NCR
01	NCAC	30I	.0306	20:08 NCR
01	NCAC	30I	.0307*	20:08 NCR
01	NCAC	30I	.0308	20:08 NCR
01	NCAC	30I	.0310*	20:08 NCR
11	NCAC	06A	.0901	20:08 NCR
11	NCAC	06A	.0902*	20:08 NCR
11	NCAC	06A	.0904-.0905	20:08 NCR
11	NCAC	08	.0507	20:08 NCR
11	NCAC	08	.0709	20:08 NCR
11	NCAC	08	.0712	20:08 NCR
11	NCAC	08	.0714-.0715	20:08 NCR
11	NCAC	08	.0716*	20:08 NCR
11	NCAC	08	.0717	20:08 NCR
11	NCAC	08	.0719	20:08 NCR
11	NCAC	08	.0720*	20:08 NCR
11	NCAC	08	.0721	20:08 NCR
11	NCAC	08	.0722-.0723*	20:08 NCR
11	NCAC	08	.0724-.0725	20:08 NCR
11	NCAC	08	.0726*	20:08 NCR
11	NCAC	08	.0727	20:08 NCR
11	NCAC	08	.0728-.0729*	20:08 NCR
11	NCAC	08	.0730	20:08 NCR
11	NCAC	08	.0731*	20:08 NCR
11	NCAC	08	.0732	20:08 NCR
11	NCAC	08	.0733*	20:08 NCR
11	NCAC	08	.0904*	20:08 NCR
11	NCAC	08	.0911*	20:08 NCR
12	NCAC	07D	.0807	19:13 NCR
12	NCAC	09A	.0204-.0205	20:06 NCR
12	NCAC	09B	.0227	20:06 NCR
12	NCAC	09B	.0404	20:06 NCR
12	NCAC	09C	.0308*	20:06 NCR
12	NCAC	09E	.0108*	20:06 NCR

12	NCAC	09G	.0412	20:06 NCR
12	NCAC	09G	.0415	20:06 NCR
12	NCAC	10B	.0905*	20:04 NCR
12	NCAC	10B	.0915*	20:04 NCR
15A	NCAC	07B	.0801*	20:04 NCR
15A	NCAC	07B	.0901*	20:04 NCR
15A	NCAC	07H	.0207	20:04 NCR
15A	NCAC	07H	.0304	19:23 NCR
15A	NCAC	07H	.0308*	20:04 NCR
15A	NCAC	07H	.0309*	19:23 NCR
15A	NCAC	07O	.0105	19:23 NCR
15A	NCAC	10D	.0103*	20:04 NCR
15A	NCAC	10F	.0371	20:04 NCR
21	NCAC	08N	.0210-.0211*	n/a G.S. 150B-21(a)6
21	NCAC	08N	.0403-.0406*	n/a G.S. 150B-21(a)6
21	NCAC	14H	.0108	20:05 NCR
21	NCAC	14P	.0112*	19:17 NCR
21	NCAC	18B	.0104*	20:04 NCR
21	NCAC	18B	.1104*	20:04 NCR
21	NCAC	46	.1417*	20:06 NCR
21	NCAC	46	.1602*	20:06 NCR
21	NCAC	46	.1605*	20:06 NCR
21	NCAC	46	.1611*	20:06 NCR
21	NCAC	46	.2807*	20:06 NCR
21	NCAC	46	.3301*	20:06 NCR
21	NCAC	66	.0303*	n/a G.S. 150B-21.5(a)(2)
25	NCAC	01N	.0104-.0107*	20:07 NCR
25	NCAC	01N	.0203*	20:07 NCR
25	NCAC	01N	.0206*	20:07 NCR

TITLE 01 – DEPARTMENT OF ADMINISTRATION

01 NCAC 15 .0201 AUTHORIZATION

The rules in this Section, establish procedures to provide for the legal recognition by the State of presently unrecognized American Indian groups.

*History Note: Authority G.S. 143B-406;
Eff. November 1, 1976;
Amended Eff. February 1, 2006.*

01 NCAC 15 .0202 DEFINITIONS

When used in this Section the following definitions apply:

- (1) "AMERICAN INDIAN TRIBE" means a population of Indian people all related to one another by blood or kinship, tracing their heritage to indigenous Indian tribes, and recognized by the State or federal government.
- (2) "COMMISSION" means the North Carolina Commission of Indian Affairs.
- (3) "GROUP" means the members of a community, inter-related by blood, and listed on submitted membership rolls as defined in Item (5) of this Rule, and petitioning the state for official recognition as an American Indian tribe.

- (4) "INDIGENOUS" means native to North Carolina.
- (5) "MEMBERSHIP ROLL" means a list of those individuals who have been determined by a group to meet the group's membership requirements. The membership roll shall list the names, addresses, date of birth, names of both parents (including mothers' maiden names), and telephone numbers of the people and relate each one to their kinship ties. These kinship ties shall be consistent with information documented in genealogy charts submitted in accordance with Rule .0212(2) of this Section.
- (6) "NOTICE OF INTENT TO PETITION" means a letter without supporting petition-related documents from a group requesting official recognition by the State of North Carolina.
- (7) "PETITION" means the presented documents and arguments made by a group to substantiate its claims that it satisfies the criteria identified in Rules .0203 and .0212 of this Section.
- (8) "PETITIONER" means any group that has submitted a Notice of Intent to Petition to the Commission requesting State recognition as an American Indian tribe.

- (9) "SPLINTER GROUP" means a political faction, community, or group of any character that separates or has separated from the main body of a state or federally recognized American Indian tribe, and has not functioned throughout history as an autonomous American Indian tribe.
- (10) "STATE" means the State of North Carolina.

History Note: Authority G.S. 143B-406; Eff. November 1, 1976; Amended Eff. February 1, 2006; April 1, 1999.

01 NCAC 15 .0204 GROUPS INELIGIBLE FOR RECOGNITION

The following groups and entities are ineligible to petition for official State recognition as American Indian tribes:

- (1) Splinter Groups – as defined in Rule .0202 of this Section.
- (2) Previously denied petition groups or entities - Groups, or successors in interest of groups, that have petitioned for and been denied or refused recognition as an American Indian tribe under the State's administrative rules for State recognition as an American Indian tribe, unless the group has new evidence to justify the petition.
- (3) Parties to certain actions – Any group that:
 - (a) in any action in State or federal court of competent jurisdiction to which the group was a party attempted to establish its status as an American Indian tribe or successor in interest to an American Indian tribe; and
 - (b) was determined by that court:
 - (i) not to be an American Indian tribe; or
 - (ii) not to be a successor in interest to an American Indian tribe; or
 - (iii) to be incapable of establishing one or more of the criteria set forth in Rules .0203 or .0212 of this Section.

History Note: Authority G.S. 143B-406; Eff. November 1, 1976; Amended Eff. February 1, 2006; April 1, 1999.

01 NCAC 15 .0208 RECOGNITION COMMITTEE

- (a) The Recognition Committee shall be appointed by the chairperson of the Commission of Indian Affairs from the Commission members who are representing the recognized American Indian tribes and organizations in North Carolina.
- (b) Once a Petitioner has completed the recognition process, the Recognition Committee shall make a recommendation to the Commission regarding the group's State recognition as an

American Indian tribe. Thereafter, the Commission shall render its decision as under Rule .0209 of this Section.

History Note: Authority G.S. 143B-406; Eff. February 11, 1980; Amended Eff. February 1, 2006; April 1, 1999; February 1, 1982.

01 NCAC 15 .0209 PROCEDURE FOR RECOGNITION

The procedure to be followed for recognition shall be:

- (1) Petitioner shall submit a Notice of Intent to Petition, as set out in Rule .0207 of this Section, to the Commission of Indian Affairs.
- (2) The Commission shall acknowledge receipt of the Petitioner's Notice of Intent to Petition and shall explain procedure to Petitioner;
- (3) Upon receipt of the Notice of Intent, the Commission shall notify, in writing, the following interested parties:
 - (a) State recognized Indian tribes and organizations; and
 - (b) local and county governments within a 25 mile radius of the Petitioner's geographic area;
- (4) All petitions and responses to petitions must be received at least 10 days prior to the meeting at which they are to be considered.
- (5) The Petitioner shall provide an original and at least five copies when submitting petitions, responses to petitions, or other supplementary information to the Commission during the petition process.
- (6) The Petitioner shall complete and submit a fully documented petition to the Recognition Committee, including current membership rolls as defined in Rule .0202 of this Section and all past membership lists of the group. The failure to submit these membership rolls is sufficient grounds to deny the petition.
- (7) The Petitioner may submit additional petition documentation and materials throughout the petition process until such time as a recognition decision is made by the full Commission, as described in this Rule.
- (8) The Recognition Committee shall conduct initial review of petition and shall notify Petitioner of preliminary findings and deficiencies.
- (9) Upon receipt of the Recognition Committee's preliminary findings, Petitioner shall have 180 days in which to respond, in writing, to any deficiencies in the petition noted by the Recognition Committee. Not less than 30 days prior to the expiration of the initial response period, Petitioner may request and be granted an additional 180 days to respond. If requested, the additional response period shall commence on the 181st day after the receipt of

- the Recognition Committee's preliminary findings. No further requests for additional time shall be granted.
- (10) The Recognition Committee shall conduct a hearing to consider the petition, including Petitioner's responses to all deficiencies initially noted.
 - (11) The Recognition Committee shall introduce its recommendation at the next Commission meeting. Further Commission action shall not take place until the second Commission meeting after the Recognition Committee's decision.
 - (12) If the Recognition Committee's recommendation is against recognizing the Petitioner, within 30 days following the receipt of that recommendation the Petitioner may request and be granted a hearing before the full Commission. If a request for a hearing is made, the hearing shall not take place prior to the next regularly scheduled quarterly Commission of Indian Affairs meeting. In the event that a Petitioner does not request a hearing within 30 days, the petition is deemed withdrawn.
 - (13) At a subsequent meeting after the Recognition Committee's recommendation is introduced, the Commission may, as permitted by these rules, request additional information, conduct additional hearings, approve or deny the petition, or return the petition to the Recognition Committee if it has received additional information.
 - (14) A decision by the full Commission regarding State recognition shall be rendered by a majority of members present and voting (abstentions not counted) at a duly constituted meeting.
 - (15) If the Commission's decision is for recognition, the group is recognized as an American Indian tribe by the State. Thereafter, the Commission shall explain all services available to the tribe through the Commission.
 - (16) If the decision is against recognition, the Petitioner may appeal to the Office of Administrative Hearings for a hearing pursuant to G.S. 150B-23.
 - (17) A Petitioner may withdraw from the petition process at any time prior to the decision of the full Commission. After a petition is withdrawn, the Petitioner may not initiate a new petition until one year from the date of the withdrawal.
 - (18) During the petition process, any such other material or documents the Recognition Committee or Commission may request are relevant to the Commission's decision. Any additional materials or documents shall be:
 - (a) relevant to the recognition decision; or
 - (b) shall be directly related to recognition requirement deficiencies as outlined by the Recognition Committee or the full Commission.
 - (19) The Commission shall issue a public notification to the news media in the Petitioner's area, giving notification of the group's status as a State recognized American Indian tribe.

*History Note: Authority G.S. 143B-406; 150B-23
Eff. February 11, 1980;
Amended Eff. February 1, 2006; April 1, 1999.*

01 NCAC 15 .0212 CRITERIA FOR RECOGNITION AS AN AMERICAN INDIAN TRIBE

In deciding whether to grant recognition to petitioner, the Commission shall proceed as follows:

- (1) The Petitioner shall demonstrate continuous American Indian identity on a historic basis in satisfying each of these criteria. Documents that shall be used to demonstrate the group's American Indian identity shall include, family bible accounts, baptismal records, and any other material that can substantiate the petitioning group's historic and continuous identification as an American Indian entity. For periods of time where this identification cannot be documented, the Petitioner shall submit a narrative to explain the lack of continuous American Indian identification.
- (2) The criteria to be used in the decision whether to extend State recognition as an American Indian tribe are listed below in Subitems (a) through (h).
 - (a) Traditional North Carolina American Indian names, as they relate to the petitioning group. Surnames among the petitioning group that have been commonly identified as being American Indian since 1790 in the Petitioner's local geographic area shall be considered to be traditional North Carolina American Indian names;
 - (b) Kinship relationships with other recognized American Indian tribes. Relationships with other recognized American Indian tribes shall be based on the petitioner's identification as an American Indian group or community, and shall be evidenced by historic blood and marriage kinship ties and communal interaction of spiritual, educational, and social institutions; or other cultural relationships between known

- (recognized) tribal communities and the petitioner's community;
- (c) Official records, which may include, birth, church, school, military, medical, local or county government records, or other official records identifying the group as American Indian. Vital records shall also be used in assisting the group's documentation of American Indian identity.
 - (d) State or federal documents identifying the group as American Indian. Any instance of historic government-to-government relationships between the Petitioner and federal or state governments shall be evidenced;
 - (e) Anthropological, historical, or genealogical documents identifying the group as American Indian and demonstrating the group's American Indian ancestry;
 - (f) Identification from State or federally recognized American Indian tribes attesting to the petitioning group's identification as American Indian, based on both the historic and current relationships existing between the tribe and the petitioning group.
 - (g) Any other documented traditions, customs, legends, etc., that are uniquely American Indian and signify the petitioning group's American Indian heritage;
 - (h) Participation in grants from sources or programs designated as for American Indian only.
- (3) Five of the recognition criteria listed in Item (2) of this Rule must be satisfactorily met to achieve state recognition.

*History Note: Authority G.S. 143B-406
Eff. February 11, 1980;
Amended Eff. February 1, 2006.*

01 NCAC 30I .0301 SCOPE

The rules in this Section apply to minority business participation in single-prime bidding, separate-prime bidding, construction manager at risk, and alternative contracting methods, on State and local government construction projects as defined in G.S. 143-128.2(a).

*History Note: Authority G.S. 143-128.3(e); 143-128.2;
Eff. February 1, 2006.*

01 NCAC 30I .0305 STATE CONSTRUCTION OFFICE RESPONSIBILITIES

On State Construction Projects, the State Construction Office shall:

- (1) Attend the scheduled prebid conference, if requested, to clarify requirements of the General Statutes regarding minority-business participation, including the bidders' responsibilities.
- (2) Review the apparent low bidders' statutory compliance with the requirements listed in the proposal, if the bid is to be considered as responsive, prior to award of contracts. The State may reject any or all bids and waive informalities pursuant to G.S. 143-129.
- (3) Review minority business requirements at the Preconstruction conference.
- (4) Monitor contractors' compliance with minority business requirements in the contract documents during construction.
- (5) Resolve protests and disputes arising from implementation of the minority business participation outreach plan, in conjunction with the HUB Office.

*History Note: Authority G.S. 143-128.3(e);
Eff. February 1, 2006.*

01 NCAC 30I .0307 DESIGNER REQUIREMENTS

Under the single-prime bidding, separate prime bidding, construction manager at risk, or alternative contracting method, the designer shall:

- (1) Attend the scheduled prebid conference to explain minority business requirements to the prospective bidders.
- (2) Assist the owner to identify and notify prospective minority business prime and subcontractors of potential contracting opportunities and provide documentation of this assistance for the owner's records.
- (3) Maintain documentation of any contacts, correspondence, or conversation with minority business firms made in an attempt to meet the goals and forward the documentation to the owner in support of meeting the requirements.
- (4) Review jointly with the owner, all requirements of G.S. 143-128.2(c) and G.S.143-128.2(f) prior to recommendation of award.
- (5) During construction phase of the project, review payment applications for compliance with minority business utilization commitments and submit documentation that identifies payments to minority businesses along with monthly pay applications to the owner. Additionally, on State Construction Projects, forward copies to the State Construction Office.
- (6) Forward documentation showing evidence of implementation of Items (1) through (5) of this

Rule to the owner, State Construction Office and HUB Office upon request.

History Note: Authority G.S. 143-128.3(e); 143-128.2; Eff. February 1, 2006.

01 NCAC 30I .0310 DISPUTE PROCEDURES

Any business disputes arising under these Rules shall be resolved as set forth in G.S. 143-128(f1).

History Note: Authority G.S. 143-128.3(e); 143-128(f1); Eff. February 1, 2006.

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 06A .0902 TRANSACTIONS WITH INSURED

(a) A public adjuster shall in all respects be fair and honest with an insured and in all communications with an insurer or its representatives.

(b) A public adjuster shall have no financial interests in any aspect of an insured's claim, other than the salary, fee, commission, or compensation that may be established in the written contract between the insured and the public adjuster.

(c) A public adjuster shall not refer or direct any insured needing repairs or other services in connection with a loss to any person with whom the public adjuster has a financial interest; nor to any person who will or is reasonably anticipated to provide the public adjuster any direct or indirect compensation for the referral of any resulting business.

(d) A public adjuster shall not prevent or attempt to dissuade an insured from communicating with an insurer, the insurer's adjuster, an independent adjuster representing the insurer, an attorney, or any other person, regarding the settlement of the insured's claim.

(e) The public adjuster's full consideration for the public adjuster's services shall be stated in the written contract with the insured. If the consideration is based on a share of the insurance proceeds, the exact percentage shall be specified. Any costs to be reimbursed to the public adjuster out of the proceeds shall be specified by type, with dollar estimates set forth in the contract. Compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to an insurer. Such a redaction shall constitute the use of fraudulent, coercive or dishonest practices and the demonstration of untrustworthiness in the conduct of business in this State as described in G.S. 58-33-46(8).

(f) Any choice of counsel to represent the insured shall be made solely by the insured.

(g) A public adjuster may not settle a claim unless the terms and conditions of the settlement are approved by the insured.

(h) All contracts for the services of public adjusters shall:

- (1) Legibly state the full name, as specified in the Department's records, of the licensed public adjuster who is the other party to the contract.
- (2) Be signed by the public adjuster who solicited or in whose name the contract was solicited.

(3) Show the insured's full name and street address, the address and description of the loss, and the name of the insured's insurance company and policy number, if available.

(4) Show the date on which the contract was actually signed by both parties.

(5) Conspicuously disclose the insured's right to cancel or revoke the contract as specified in 11 NCAC 06A .0904(e).

(6) Be in writing.

(i) A public adjuster shall not acquire any interest in salvage property, except with the express written permission of the insured, after settlement with the insurer.

History Note: Authority G.S. 58-2-40; 58-33-10; 58-33-30; 58-33-70; 58-33-76; 58-63-15(11);

Eff. April 1, 1996;

Amended Eff. February 1, 2006.

11 NCAC 08 .0716 COMPLIANCE

(a) General CEO compliance with annual CE requirements may be determined through an audit process conducted by the Board's staff. Determination of individuals to be audited shall be accomplished either through a random selection process or based on information available to the Board's staff. Individuals selected for auditing shall provide the Board's staff with documentation of the CE activities claimed for the renewal period, including attendance verification records in the form of transcripts, completion certificates, and any other documents supporting evidence of attendance.

(b) Attendance records shall be maintained by CEOs for a period of three years following the applicable certificate renewal date for audit verification purposes.

History Note: Authority G.S. 143-151.13A(f);

Eff. February 1, 2006.

11 NCAC 08 .0720 APPROVED COURSES

(a) To be approved for credit in the continuing education program, a course must be directly related to State Building Codes, inspection, administration, or enforcement of State Building Codes; construction or design of buildings or electrical, mechanical, plumbing, or fire prevention systems; or certification courses approved for CEOs.

(b) Credit shall be given only for courses that have been approved by the Board. Continuing education courses for other State occupational licenses must be specifically approved to satisfy the Board's continuing education requirements. Courses from approved sponsors must be specifically approved before being offered.

(c) Some courses shall be approved for credit in more than one area of certification. A CEO with multiple certificates may apply the credit to any certificate for which the course is approved. If the course hours are greater than required for one certificate, the remaining hours may be applied to other certificates for which the course is approved or the remaining hours may be carried over in accordance with 11 NCAC 08 .0713(e).

(d) A CEO shall only receive credit for the same course once within any three-year period.

History Note: Authority G.S. 143-151.13A(f)(1); Eff. February 1, 2006.

11 NCAC 08 .0722 DISTANCE EDUCATION COURSES

A distance education course is a continuing education course in which instruction is accomplished through the use of media and methods whereby instructor and student are separated by distance and sometimes by time. In addition to fulfilling all course accrediting requirements, a sponsor requesting approval of a distance education course must demonstrate that the proposed distance education course satisfies the following criteria:

- (1) The course shall be designed to assure that students have defined learning objectives. If the nature of the subject matter is such that the learning objectives cannot be reasonably accomplished without some direct interaction between the instructor and students, then the course must be designed to provide for such interaction.
- (2) A course that does not provide the opportunity for continuous audio and visual communication between instructor and all students during the course presentation shall utilize testing processes to assure student understanding of the subject material.
- (3) A course that involves students completing the course on a self-paced study basis shall be designed so that the time required for a student of average ability to complete the course will be equivalent to a similar course taught in a classroom setting. The sponsor shall utilize a system that assures that students have actually performed all tasks required for completion and understanding of the subject material.
- (4) The sponsor shall provide technical support to enable students to satisfactorily complete the course.
- (5) The course instructors shall be available to respond in a timely manner to student questions about the subject matter of the course. Instructors shall have training in the proper use of the instructional delivery method utilized in the course, including the use of computer hardware and software or other applicable equipment and systems.
- (6) The sponsor shall provide students with an information package containing all pertinent information regarding requirements unique to completing a distance education course, including any special requirements with regard to computer hardware and software or other equipment, and outlining in detail the instructor and technical support that will be available when taking the course.

(7) The sponsor shall use procedures that provide reasonable assurance that the student receiving continuing education credit for completing the course actually performed all the work required to complete the course. For courses that involve independent study by students, certification that the student personally completed all required course work shall be provided by the student to the sponsor, either by a signed statement (on a form provided by the sponsor) or, in the case of internet or computer based courses, by electronic means that are indicated in the software or on the website. Signed course completion statements or records of electronic certification shall be retained by the sponsor together with any other course records required by the rules in this Section.

(8) Sponsors seeking approval of distance education courses must submit to the Board's staff a complete copy of the course in the medium that is to be used, including all computer software that will be used in presenting the course and administering tests. If the course is to be internet based, the Board's staff must be provided access to the course via the internet and shall not be charged a fee for such access.

(9) Distance education courses shall comply with requirements for course completion reporting. Students shall not be reported for continuing education credit for distance education courses until the signed form from the student or electronic certification as described in Item (7) of this Rule has been received by the sponsor.

History Note: Authority G.S. 143-151.13A(f)(2); 143-151.13A(f)(3); Eff. February 1, 2006.

11 NCAC 08 .0723 DENIAL OR WITHDRAWAL OF APPROVAL OF SPONSOR OR COURSE

The Board may deny, suspend or terminate approval of sponsors or courses offered by a sponsor if the Board finds a failure to comply with the Board's rules or the course outline, or for misstatements as to content or participation.

History Note: Authority G.S. 143-151.13A(f)(7); Eff. February 1, 2006.

11 NCAC 08 .0726 ADVERTISING AND PROVIDING COURSE INFORMATION

- (a) Course sponsors shall not use false or misleading advertising.
- (b) Any flyers, brochures, or other medium used to promote a CE course shall describe the fee to be charged and the sponsor's cancellation and fee refund policies.
- (c) A sponsor of a CE course shall provide a description of the course content to the CEO.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006.*

11 NCAC 08 .0728 CANCELLATION AND REFUND POLICIES

If a scheduled course is canceled, a sponsor shall immediately notify preregistered CEOs of the cancellation. All prepaid fees received from preregistered CEOs shall be refunded within 30 days after the date of cancellation. Failure to provide a refund shall result in revocation of sponsor approval.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006.*

11 NCAC 08 .0729 COURSE ATTENDANCE

(a) Course instructors shall monitor attendance to assure that all CEOs have completed the course. A CEO shall not be reported to the Board's staff as having completed a course unless the CEO satisfies the attendance requirement.

(b) Any CEO providing false information to a course sponsor shall not receive CE credits for the course, shall not be entitled to a refund of course fees, and may be subject to disciplinary action by the Board.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006.*

11 NCAC 08 .0731 COURSE COMPLETION REPORTING

(a) Each sponsor shall submit to the Board's staff a report verifying completion of a CE course for each CEO who completes the course. A sponsor shall submit this report to the Board's staff within 15 calendar days following the course completion. Reports shall be submitted electronically on forms provided by the Board. Reports shall include the sponsor name and the sponsor identifying number, the name and the identifying number of the CEO who completed the course, the date of course completion, the course name and course identifying number, the trade area to which the course applies, the instructor name, the standard or limited certificate number to which to credit the course, and the number of credit hours, and the renewal year to apply the course credit.

(b) Course sponsors shall provide CEOs enrolled in each CE course an opportunity to complete an evaluation on a form provided by the Board of each approved CE course. Sponsors shall submit the completed evaluation forms to the Board's staff. The evaluation form may be provided on the internet at the option of the provider.

(c) Course sponsors shall provide each CEO who completes an approved CE course with a course completion certificate. Sponsors shall provide the certificates to CEOs within 15 calendar days following the course completion. The certificate shall be retained for three years by the CEO as proof of having completed the course.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006.*

11 NCAC 08 .0733 BOARD MONITORS

A course sponsor shall admit representatives of the Board to monitor any CE class without prior notice. Board representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

*History Note: Authority G.S. 143-151.13A(f);
Eff. February 1, 2006.*

11 NCAC 08 .0904 FORMS

(a) The application for license as a manufactured housing manufacturer, dealer, and set-up contractor shall include the following:

- (1) The name of the person or business applicant;
- (2) The business address of applicant;
- (3) The state under whose laws the applicant firm or corporation is organized or incorporated;
- (4) A resume' of each owner, partner, or officer of the corporation. Each resume' shall include education and a complete job history, as well as a listing of residences for the last seven years.
- (5) Type of license applied for;
- (6) Signature of the person with authority to legally obligate the applicant;
- (7) A statement that the appropriate bond is attached; and
- (8) A criminal history record check consent form signed by each owner, partner and officer of the corporation, and any other documentation or materials required by G.S. 143-143.10A.

(b) The application for license as a manufactured housing salesperson shall include the following:

- (1) The name of the applicant;
- (2) The applicant's address;
- (3) The name and business address of the dealer employing the applicant;
- (4) The name and address of previous employers of applicant for the past three years;
- (5) Three personal references;
- (6) A wallet size photograph; and
- (7) A criminal history record check consent form signed by each applicant, and any other documentation or materials required by G.S. 143-143.10A.

(c) Corporate surety bonds shall include the name of the applicant, the name of the surety, the amount of the bond, and the terms of cancellation specified in 11 NCAC 08 .0905.

(d) All license forms shall include the name and address of the licensee, the type of license being issued, the date of issuance, the date of expiration, the amount of the license fee, and the terms of the license.

(e) All applications for renewal of licenses shall include the name and address of the applicant, the type of license, the date the license expires, the amount of the license renewal fee, and instructions for completion.

(f) A request for cancellation of license shall include the name and address of the licensee, the effective date of the cancellation,

the specific reason for the cancellation, and the signature of the person with authority to legally obligate the licensee.

(g) Each application form and criminal history record check form required by Paragraphs (a) and (b) of this Rule may be obtained from the North Carolina Manufactured Housing Board, c/o North Carolina Department of Insurance, 1202 Mail Service Center, Raleigh, NC 27699-1202.

History Note: Authority G.S. 143-143.10; 143-143.10A; 143-143.11; 143-143.12; Eff. January 1, 1983; Amended Eff. February 1, 2006; March 1, 1988.

11 NCAC 08 .0911 SALESMAN EXAM; TEMPORARY LICENSE; LICENSE TRANSFER; FEES

(a) A salesman's license shall be issued to any applicant after the Board has approved the applicant's criminal history record check upon receipt by the Board of a properly executed application, receipt of the applicant of a passing grade (70 percent of a possible 100 percent) on a written examination administered by the Board, and qualification of the applicant for licensure, except as follows:

- (1) Those persons holding a Registered Housing Specialist certification from the North Carolina Manufactured Housing Institute on or before June 30, 1992, are exempt from the examination requirement.
- (2) Any salesman who has been tested and licensed under this Section and whose license has lapsed is not required to be re-tested if he re-applies for licensing within 12 months after the expiration of the lapsed license.

(b) A temporary salesman's license shall be issued prior to the Board's approval of the applicant's criminal history record check for a period of 90 days to a person upon request of the employing dealer. The holder of a valid salesman's or temporary salesman's license may sell manufactured homes only for the dealer with whom he is employed as shown on the application. A temporary salesman's license shall not be renewed.

(c) A salesman's license is valid only as long as the person remains employed with the dealer shown on the application. A salesman must apply for a new salesman's license if he changes or transfers from one dealer to another. In lieu of applying for a new license, the salesman may transfer his license from one dealership to another upon application from the new dealer and the salesman and approval of the Board. When a salesman leaves employment with a dealer, the dealer shall report this fact to the Board within 10 days thereafter.

(d) The fee for a salesman's or temporary salesman's license shall be twenty five dollars (\$25.00). The temporary salesman's license fee shall apply toward the salesman's license fee if both licenses are issued in the same license year. The fee for a salesman's license transfer application shall be fifteen dollars (\$15.00).

(e) A criminal history record check fee in the amount of fifty five dollars (\$55.00) shall be submitted with each applicant application.

History Note: Authority G.S. 143-143.10; 143-143.10A; 143-143.11; Eff. July 1, 1992; Amended Eff. February 1, 2006.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 09C .0308 SPEED MEASUREMENT INSTRUMENT (SMI) OPERATORS CERTIFICATION PROGRAM

(a) Every person employed or appointed by the state or any political subdivision thereof as a law enforcement officer who uses a Speed Measuring Instrument for enforcement purposes shall hold certification from the Commission authorizing the officer to operate the speed measuring instrument.

(b) Standards Division staff shall issue certification in one of the following categories:

- (1) radar operator speed measurement instrument (SMI) certification or re-certification requiring successful completion of the training program as required in 12 NCAC 09B .0210, .0211, .0212, .0213, .0218, .0219, .0220, .0221, or .0222;
- (2) radar and time-distance speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 09B .0211, .0213, .0219, or .0221;
- (3) time-distance speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 09B .0211, .0213, .0214, .0219, .0221, or .0222.
- (4) lidar speed measurement instrument operator certification or re-certification requiring successful completion of the training program as required in 12 NCAC 09B .0238 or .0240.

(c) Certification in any category reflects operational proficiency in the designated type(s) of approved equipment for which the trainee has been examined and tested. Such certification shall be for a three year period from the date of issue and re-certifications shall be for a three year period from the date of issue, unless sooner terminated by the Commission. The applicant shall meet the following requirements for operator certification or re-certification within 90 days of course completion and upon the presentation of documentary evidence showing that the applicant:

- (1) has successfully completed the training program as required in 12 NCAC 09B .0210, .0211, .0212, .0213, .0214, .0218, .0219, .0220, .0221, .0222, .0237, .0238, .0239, or .0240; and
- (2) has successfully completed a Commission-certified basic law enforcement training course as required in 12 NCAC 09B .0400 and is currently certified in a

- probationary status or holds general law enforcement certification; or
- (3) if the applicant is a sheriff, deputy sheriff, or other sworn appointee with arrest authority governed by the provisions of G.S. 17E has met and is in compliance with the then current employment and training standards as established and made effective for such position by the North Carolina Sheriffs' Education and Training Standards Commission.

(d) Certified operators shall be notified by the Commission not less than 90 days prior to expiration of certification. All applicants for re-certification shall successfully complete a Commission-approved re-certification course within 12 months from the expiration of the previous certification. If re-certification is not obtained within the 12 month period, successful completion of the appropriate operator training programs as required by 12 NCAC 09B .0409(a) shall be required to obtain operator certification. This prescribed 12 month period shall not extend the operator certification period beyond its specified expiration date. When a re-certification course is successfully completed prior to the expiration of the previous certification, the new certification shall be issued by the Criminal Justice Standards Division effective upon the receipt of the Post-delivery Report of Training Course Presentation.

(e) Operator re-certification shall be issued only to officers with current law enforcement certification.

(f) All certifications issued pursuant to this Rule and the standards in effect between November 1, 1981 and July 1, 1982 shall continue with full force and effect; however, said certifications shall be subject to the provisions of 12 NCAC 09C .0308(d) and (e).

History Note: Authority G.S. 17C-6; Eff. November 1, 1981; Readopted w/change Eff. July 1, 1982; Temporary Amendment Eff. February 24, 1984, for a period of 120 days to expire on June 22, 1984; Amended Eff. February 1, 2006; May 1, 2004; April 1, 1999; November 1, 1993; March 1, 1992; February 1, 1991; December 1, 1987.

12 NCAC 09E .0108 FAILURE TO COMPLETE ANNUAL IN-SERVICE TRAINING

(a) Failure to successfully complete the annual in-service training topics as specified in 12 NCAC 09E .0102 within the calendar year shall result in suspension of the law enforcement officer's certification.

(b) Upon notification that a law enforcement officer who has been continuously employed with an agency during the 12 month calendar year has failed to meet the requirements for in-service training as specified in 12 NCAC 09E .0102, the officer's certification shall be suspended by the Standards Division Director.

(c) No officer suspended under Paragraph (b) of this Rule shall work as a certified law enforcement officer until:

- (1) the department head or designated representative forwards to the Commission

documentary evidence verifying that the officer has complied with the requirements for reinstatement of certification as specified in this subsection; and

- (2) the department head or designated representative and the officer receive from the Commission documentation that the Commission has terminated the suspension and reissued law enforcement certification to the suspended officer.

(d) If an officer has separated from an agency with less than a 12 month break in law enforcement service and is later reemployed as a law enforcement officer during the same calendar year, the officer shall have completed all of the in-service training topics as specified in 12 NCAC 09E .0102 by the end of that same calendar year. Upon notification that such officer has failed to meet all the requirements for in-service training as specified in 12 NCAC 09E .0102, the law enforcement officer's certification shall be suspended.

(e) If an officer has separated from an agency with less than a 12 month break in law enforcement service and is later reemployed as a law enforcement officer during the subsequent calendar year, the officer shall have completed all of the in-service training topics as specified in 12 NCAC 09E .0102 by the end of the subsequent calendar year. Upon notification that such officer has failed to meet all the requirements for in-service training as specified in 12 NCAC 09E .0102, the law enforcement officer's certification shall be suspended.

History Note: Authority G.S. 17C-6; 17C-10; Eff. January 1, 2005; Amended Eff. April 1, 2006;

12 NCAC 10B .0905 TERMS AND CONDITIONS OF DETENTION OFFICER INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a Detention Officer Instructor shall serve a probationary period. The probationary period shall be set to expire concurrently with the expiration of the instructors' General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. The expiration dates of any existing commission-issued Probationary General Detention Officer Instructor Certifications shall be set to expire concurrently with the expiration of the instructors' General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the time-period before the expiration date is less than one year, then the eight hours of instruction shall be waived for this shortened term and Full General Detention Officer Instructor Certification shall be issued provided all other conditions for Full status as set out in Paragraph (b) of this Section are met.

(b) The probationary instructor shall be awarded full Detention Officer Instructor Certification at the end of the probationary period if the instructors certification required in 12 NCAC 10B .0904(a)(2) remains valid, and that the instructor through application, submits to the Division either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that

the instructor satisfactorily taught a minimum of eight hours as specified in Paragraph (e) of this Rule in a commission-certified Detention Officer Certification Course during his/her probationary year; or

- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on an on-site classroom evaluation of the probationary instructor in a commission-certified Detention Officer Certification Course. Such evaluation shall be certified on a commission Instructor Evaluation Form. In addition, instructors evaluated by a commission or staff member must also teach a minimum of eight hours in a commission-certified Detention Officer Certification Course during his/her probationary year.

(c) The expiration dates of any existing commission-issued Full General Detention Officer Instructor Certifications shall be set to expire concurrently with the expiration of the instructors' General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the time-period before the expiration date shall be less than three years, then the 12 hours of instruction shall be waived for this shortened term and Full General Detention Officer Instructor Certification shall be renewed. Full Detention Officer Instructor Certification is continuous so long as the instructor's certification required in 12 NCAC 10B .0904(a)(2) remains valid, and that the instructor submits to the Division every three years a renewal application which includes either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor satisfactorily taught a minimum of 12 hours as specified in Paragraph (e) of this Rule in a commission-certified Detention Officer Certification Course during the previous two year period. The date full Instructor Certification is originally issued shall be the anniversary date from which each two year period is figured; or
- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on a minimum 12 hours, on-site classroom observation of the instructor in a commission-certified Detention Officer Certification Course.

(d) In the event a General Detention Officer Instructor Certification (either Probationary or Full) is terminated for failure to have been satisfactorily evaluated for 12 hours of instruction in a Detention Officer Certification Course, the individual may re-apply for certification meeting the initial conditions for such certification, but must also provide documentation that he/she has audited the number of hours of instruction that he/she failed to teach in a delivery of an certified Detention Officer Certification Course.

(e) An Instructor Evaluation Form records a rating of instructional ability, student participation, and presentation of

the lesson plan consistent with the requirements for successfully completing the Criminal Justice Instructor Training as set out in 12 NCAC 09B .0209.

- (1) Instructional ability includes the instructor's:
 - (A) voice quality (projection, articulation, speech rate);
 - (B) verbal skill (fluency and clarity);
 - (C) physical appearance and mannerisms (attire, posture, body language, eye contact, movement);
 - (D) personal qualities of the instructor (knowledge, self-confidence, tact, enthusiasm, sensitivity); and
 - (E) selection and use of training aids (use of writing surface and other aids, effective use of multimedia, transparencies, and slides, relates aids to objectives, and use of aids when scheduled).
- (2) Student participation includes the instructor's:
 - (A) use of questions to stimulate and encourage discussion and response to student questions;
 - (B) ability to stimulate and encourage class participation, maintain the students attention and engagement of all students effectively;
 - (C) organization in the arrangement of the classroom for maximum effect, ensuring all training tools/items are ready when needed, and presentation for the class lesson; and
 - (D) exercise of control and discipline of the students to maintain proper behavior and orderliness in the classroom, ability to remain in control during classroom discussions and handle of class disruptions and problems.
- (3) Presentation of lesson plan includes the instructor's:
 - (A) full coverage of the lesson plan;
 - (B) presentation of information in logical sequence;
 - (C) timing of presentation to allow for sufficient time for questions and discussion;
 - (D) transition of subjects with continuous progression and development of lesson;
 - (E) emphasis of key points and frequent summarization of topics to entire lesson or course and use of vivid examples to clarify the subjects; and
 - (F) frequent establishment of relevance of the topics to entire lesson or course and use of vivid examples to clarify the subjects; and

(G) consistency of presentation in following the lesson plan.

(f) Individuals may, for just cause, be granted an extension to successfully teach the required minimum number of hours instruction on a one-time basis only not to exceed 12 months. For purposes of this Rule, just cause means accident, illness, emergency, course cancellation, or other exceptional circumstances which precluded the instructor from fulfilling the teaching requirement.

History Note: Authority G.S. 17E-4; Eff. January 1, 1989; Amended Eff. February 1, 2006; January 1, 2005; August 1, 2002; January 1, 1996; January 1, 1992.

12 NCAC 10B .0915 TERMS AND CONDITIONS OF TELECOMMUNICATOR INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a Telecommunicator Instructor shall serve a probationary period. The Telecommunicator Instructor Certification probationary period shall be set to automatically expire concurrently with the expiration of the instructor's General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. The expiration dates of any existing commission-issued Probationary General Telecommunicator Instructor Certifications shall be set to expire concurrently with the expiration of the instructors, General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the time-period before the expiration date is less than one year, then the eight hours of instruction shall be waived for this shortened term and Full General Telecommunicator Instructor Certification shall be issued provided all other conditions for Full status as set out in Paragraph (b) of this Rule are met.

(b) The probationary instructor shall be awarded full Telecommunicator Instructor Certification at the end of the probationary period if the instructor's certification required in 12 NCAC 10B .0914(a)(2) remains valid, and that the instructor through application, submits to the Division either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor satisfactorily taught a minimum of eight hours as specified in Paragraph (e) of this Rule in a commission-certified Telecommunicator Certification Course during his/her probationary year; or
- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on an on-site classroom evaluation of the probationary instructor in a commission-certified Telecommunicator Certification Course. Such evaluation shall be certified on a commission Instructor Evaluation Form. In addition, instructors evaluated by a commission or staff member must also teach a minimum of eight hours in a commission-certified

Telecommunicator Certification Course during his/her probationary year.

(c) The expiration dates of any existing commission-issued Full General Telecommunicator Instructor Certifications shall be set to expire concurrently with the expiration of the instructors' General Instructor Certification issued by the North Carolina Criminal Justice Education and Training Standards Commission. If the time-period before the expiration date is less than three years, then the 12 hours of instruction shall be waived for this shortened term and Full General Telecommunicator Instructor Certification shall be renewed. Full Telecommunicator Instructor Certification is continuous so long as the instructor's certification required in 12 NCAC 10B .0904(a)(2) remains valid, and that the instructor submits to the Division every three years a renewal application and either:

- (1) a favorable recommendation from a school director accompanied by certification on a commission Instructor Evaluation Form that the instructor satisfactorily taught a minimum of 12 hours as specified in Paragraph (e) of this Rule in a commission-certified Telecommunicator Certification Course during the previous two year period. The date full Instructor Certification is originally issued is the anniversary date from which each three year period is figured; or
- (2) an acceptable written evaluation as specified in Paragraph (e) of this Rule by a commission member or staff member based on a minimum 12 hours, on-site classroom observation of the instructor in a commission-certified Telecommunicator Certification Course.

(d) In the event a General Telecommunicator Instructor Certification (either Probationary or Full) is terminated for failure to have been evaluated for the required minimum number of hours of instruction in a Telecommunicator Certification Course, the individual may re-apply for certification meeting the initial conditions for such certification, but must also provide documentation that he/she has audited the number of hours of instruction that he/she failed to teach in a delivery of a certified Telecommunicator Certification Course.

(e) An Instructor Evaluation Form records a rating of instructional ability, student participation, and presentation of the lesson plan consistent with the requirements for successfully completing the Criminal Justice Instructor Training as set out in 12 NCAC 09B .0209.

- (1) Instructional ability includes the instructor's:
 - (A) voice quality (projection, articulation, speech rate);
 - (B) verbal skill (fluency and clarity);
 - (C) physical appearance and mannerisms (attire, posture, body language, eye contact, movement);
 - (D) personal qualities of the instructor (knowledge, self-confidence, tact, enthusiasm, sensitivity); and
 - (E) selection and use of training aids (use of writing surface and other aids, effective use of multimedia,

transparencies, and slides, relates aids to objectives, and use of aids when scheduled).

- (2) Student participation includes the instructor's:
 - (A) use of questions to stimulate and encourage discussion and response to student questions;
 - (B) ability to stimulate and encourage class participation, maintain the students attention and engagement of all students effectively;
 - (C) organization in the arrangement of the classroom for maximum effect, ensuring all training tools/items are ready when needed, and presentation for the class lesson; and
 - (D) exercise of control and discipline of the students to maintain proper behavior and orderliness in the classroom, ability to remain in control during classroom discussions and handle of class disruptions and problems.
- (3) Presentation of lesson plan includes the instructor's:
 - (A) full coverage of the lesson plan;
 - (B) presentation of information in logical sequence;
 - (C) timing of presentation to allow for sufficient time for questions and discussion;
 - (D) transition of subjects with continuous progression and development of lesson;
 - (E) emphasis of key points and frequent summarization of topics to reinforce learning;
 - (F) frequent establishment of relevance of the topics to entire lesson or course and use of vivid examples to clarify the subjects; and
 - (G) consistency of presentation in following the lesson plan.

(f) Individuals may, for just cause, be granted an extension to successfully teach the required minimum number of hours instruction on a one-time basis only not to exceed 12 months. For purposes of this Rule, just cause means accident, illness, emergency, course cancellation, or other exceptional circumstances which precluded the instructor from fulfilling the teaching requirement.

History Note: Authority G.S. 17E-4; Eff. April 1, 2001; Amended Eff. February 1, 2006; January 1, 2005; August 1, 2002.

15A NCAC 07B .0801 PUBLIC HEARING AND LOCAL ADOPTION REQUIREMENTS

- (a) Public Hearing Requirements. The local government shall provide documentation to DCM that it has followed the process required in G.S. 113A-110.
- (b) Final Plan Content. The final decision on local policies and all contents of the CAMA Land Use Plan consistent with the CAMA land use planning rules shall be made by the elected body of each participating local government.
- (c) Transmittal to the CRC. The local government shall provide the Executive Secretary of the CRC with as many copies of the locally adopted land use plan as the Executive Secretary requests, and a certified statement of the local government adoption action no earlier than 45 days and no later than 30 days prior to the next CRC meeting. If the local government fails to submit the requested copies of the locally adopted land use plan and certified statement to the Executive Secretary within the specified timeframe, the local government shall be able to resubmit the documents within the specified timeframe for consideration at the following CRC meeting.

History Note: Authority G.S. 113A-107(a); 113A-110; 113A-124; Eff. August 1, 2002; Amended Eff. February 1, 2006.

15A NCAC 07B .0901 CAMA LAND USE PLAN AMENDMENTS

- (a) Normal Amendment Process:
 - (1) The CAMA Land Use Plan may be amended and only the amended portions submitted for CRC certification. If the local government amends half or more of the policies of the CAMA Land Use Plan, a new locally adopted plan shall be submitted to the CRC.
 - (2) The local government proposing an amendment to its CAMA Land Use Plan shall provide to the Executive Secretary of the CRC or her/his designee written notice of the public hearing, a copy of the proposed amendment (including text and maps as applicable), and the reasons for the amendment no less than 30 days prior to the public hearing. After the public hearing, the local government shall provide the Executive Secretary or her/his designee with a copy of the locally adopted amendment no earlier than 45 days and no later than 30 days prior to the next CRC meeting for CRC certification. If the local government fails to submit the requested documents as specified above to the Executive Secretary within the specified timeframe, the local government shall be able to resubmit the documents within the specified timeframe for consideration at the following CRC meeting.
 - (3) For joint plans, originally adopted by each participating jurisdiction, each government shall retain its sole and independent authority

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

to make amendments to the plan as it affects their jurisdiction.

- (4) CRC review and action on CAMA Land Use Plan amendments shall be in the same manner as provided in 15A NCAC 07B .0802(b), (c), (d) and (e), except amendments to Land Use Plans which were certified prior to August 1, 2002 are exempt from Rule .0802(c)(3)(D).
- (5) The local resolution of adoption shall include findings which demonstrate that amendments to policy statements or to the Future Land Use Plan Map (FLUP) have been evaluated for their consistency with other existing policies.

(b) Delegation of CRC Certification of Amendments to the Executive Secretary:

- (1) A local government that desires to have the Executive Secretary instead of the CRC certify a CAMA Land Use Plan amendment shall first meet the requirements in Subparagraphs (a)(1) through (3) of this Rule and the following criteria defined in Parts (b)(1)(A) through (D) of this Rule. The local government may then request the Executive Secretary to certify the amendment. The Executive Secretary shall make a determination that all criteria have been met, and mail notification to the local government and CRC members, no later than two weeks after receipt of the request for certification. The CRC's delegation to the Executive Secretary of the authority to certify proposed amendments is limited to amendments that meet the following criteria:
 - (A) Minor changes in policy statements or objectives for the purpose of clarification of intent; or
 - (B) Modification of any map that does not impose new land use categories in areas least suitable for development as shown on the Land Suitability Map; or
 - (C) New data compilations and associated statistical adjustments that do not suggest policy revisions; or
 - (D) More detailed identification of existing land uses or additional maps of existing or natural conditions that do not affect any policies in the CAMA Land Use Plan.
- (2) If the Executive Secretary certifies the amendment, the amendment shall become final upon certification of the Executive Secretary, and is not subject to further CRC review described in 15A NCAC 07B .0802 (Presentation to CRC for Certification).
- (3) If the Executive Secretary denies certification of the amendment, the local government shall submit its amendment for review by the CRC in accordance with the regular plan

certification process in 15A NCAC 07B .0802 (Presentation to CRC for Certification).

- (c) Any amendments to the text or maps of the CAMA Land Use Plan shall be incorporated in context in all available copies of the plan and shall be dated to indicate the dates of local adoption and CRC certification. The amended CAMA Land Use Plan shall be maintained as required by G.S. 113A-110(g).
- (d) Within 90 days after certification of a CAMA Land Use Plan amendment, the local government shall provide one copy of the amendment to each jurisdiction with which it shares a common border, and to the regional planning entity.
- (e) A local government that receives Sustainable Community funding from the Department pursuant to 15A NCAC 07L shall formulate and submit to the CRC for certification a CAMA Land Use Plan Addendum during its first year as a Sustainable Community, and if new planning rules have been adopted by the CRC, shall update the CAMA Land Use Plan within six years of adoption of these new planning rules.

History Note: Authority G.S. 113A-107(a); 113A-110; 113A-124; Eff. August 1, 2002; Amended Eff. February 1, 2006.

15A NCAC 07H .0308 SPECIFIC USE STANDARDS FOR OCEAN HAZARD AREAS

- (a) Ocean Shoreline Erosion Control Activities:
 - (1) Use Standards Applicable to all Erosion Control Activities:
 - (A) All oceanfront erosion response activities shall be consistent with the general policy statements in 15A NCAC 07M .0200.
 - (B) Permanent erosion control structures may cause significant adverse impacts on the value and enjoyment of adjacent properties or public access to and use of the ocean beach, and, therefore, are prohibited. Such structures include bulkheads, seawalls, revetments, jetties, groins and breakwaters.
 - (C) Rules concerning the use of oceanfront erosion response measures apply to all oceanfront properties without regard to the size of the structure on the property or the date of its construction.
 - (D) All permitted oceanfront erosion response projects, other than beach bulldozing and temporary placement of sandbag structures, shall demonstrate sound engineering for their planned purpose.
 - (E) Shoreline erosion response projects shall not be constructed in beach or estuarine areas that sustain substantial habitat for fish and wildlife species, as identified by natural resource

- agencies during project review, unless mitigation measures are incorporated into project design, as set forth in Rule .0306(i) of this Section.
- (F) Project construction shall be timed to minimize adverse effects on biological activity.
 - (G) Prior to completing any erosion response project, all exposed remnants of or debris from failed erosion control structures must be removed by the permittee.
 - (H) Erosion control structures that would otherwise be prohibited by these standards may be permitted on finding that:
 - (i) the erosion control structure is necessary to protect a bridge which provides the only existing road access on a barrier island, that is vital to public safety, and is imminently threatened by erosion as defined in Part (a)(2)(B) of this Rule;
 - (ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate to protect public health and safety; and
 - (iii) the proposed erosion control structure will have no adverse impacts on adjacent properties in private ownership or on public use of the beach.
 - (I) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
 - (i) the structure is necessary to protect a state or federally registered historic site that is imminently threatened by shoreline erosion as defined in Part (a)(2)(B) of this Rule; and
 - (ii) the erosion response measures of relocation, beach nourishment or temporary stabilization are not adequate and practicable to protect the site; and
 - (iii) the structure is limited in extent and scope to that necessary to protect the site; and
 - (iv) any permit for a structure under this Part (I) may be issued only to a sponsoring public agency for projects where the public benefits outweigh the short or long range adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.
 - (J) Structures that would otherwise be prohibited by these standards may also be permitted on finding that:
 - (i) the structure is necessary to maintain an existing commercial navigation channel of regional significance within federally authorized limits; and
 - (ii) dredging alone is not practicable to maintain safe access to the affected channel; and
 - (iii) the structure is limited in extent and scope to that necessary to maintain the channel; and
 - (iv) the structure shall not adversely impact fisheries or other public trust resources; and
 - (v) any permit for a structure under this Part (J) may be issued only to a sponsoring public agency for projects where the public benefits outweigh the short or long range adverse impacts. Additionally, the permit shall include conditions providing for mitigation or minimization by that agency of any unavoidable adverse impacts on adjoining properties and on public access to and use of the beach.
 - (K) Proposed erosion response measures using innovative technology or design shall be considered as experimental and shall be evaluated on a case-by-case basis to determine consistency with 15A NCAC 7M

- .0200 and general and specific use standards within this Section.
- (2) Temporary Erosion Control Structures:
- (A) Permittable temporary erosion control structures shall be limited to sandbags placed above mean high water and parallel to the shore.
 - (B) Temporary erosion control structures as defined in Part (2)(A) of this Subparagraph shall be used to protect only imminently threatened roads and associated right of ways, and buildings and associated septic systems. A structure shall be considered to be imminently threatened if its foundation, septic system, or right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.
 - (C) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not such appurtenances as gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.
 - (D) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.
 - (E) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads.
 - (F) A temporary erosion control structure may remain in place for up to two years after the date of approval if it is protecting a building with a total floor area of 5000 sq. ft. or less, or, for up to five years if the building has a total floor area of more than 5000 sq. ft. A temporary erosion control structure may remain in place for up to five

years if it is protecting a bridge or a road. The property owner shall be responsible for removal of the temporary structure within 30 days of the end of the allowable time period. A temporary sandbag erosion control structure with a base width not exceeding 20 feet and a height not exceeding 6 feet may remain in place for up to five years or until May 2008, whichever is later regardless of the size of the structure if the community in which it is located is actively pursuing a beach nourishment project as of October 1, 2001. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment project if it has:

- (i) been issued a CAMA permit, where necessary, approving such project; or
- (ii) been deemed worthy of further consideration by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local money, when necessary; or
- (iii) received a favorable economic evaluation report on a federal project approved prior to 1986. If beach nourishment is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void and existing sandbags are subject to all applicable time limits set forth in Parts (A) through (N) of this Subparagraph. Sandbag structures within nourishment project areas that exceed the 20 foot base width and 6 foot height limitation may be reconstructed to meet the size limitation and be eligible for this time extension: otherwise they shall be removed by May 1, 2000 pursuant to Part (N) of this Subparagraph.

- (G) Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened structure or beach nourishment, it shall be removed by the property owner within 30 days of official notification from the Division.
- (H) Removal of temporary erosion control structures shall not be required if they are covered by dunes with stable and natural vegetation.
- (I) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- (J) Sandbags used to construct temporary erosion control structures shall be tan in color and three to five feet wide and seven to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed six feet.
- (K) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- (L) An imminently threatened structure may be protected only once, regardless of ownership. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Part (F) of this Subparagraph shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:
 - (i) a building and septic system shall be considered as separate structures.
 - (ii) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Part (F) of this Subparagraph.
- (M) Existing sandbag structures may be repaired or replaced within their originally permitted dimensions during the time period allowed under Part (F) of this Subparagraph.
- (N) Existing sandbag structures that have been properly installed prior to May 1, 1995 shall be allowed to remain in place according to the provisions of Parts (F), (G) and (H) of this Subparagraph with the pertinent time periods beginning on May 1, 1995.
 - (3) Beach Nourishment. Sand used for beach nourishment shall be compatible with existing grain size and type. Sand to be used for beach nourishment shall be taken only from those areas where the resulting environmental impacts will be minimal.
 - (4) Beach Bulldozing. Beach bulldozing (defined as the process of moving natural beach material from any point seaward of the first line of stable vegetation to create a protective sand dike or to obtain material for any other purpose) is development and may be permitted as an erosion response if the following conditions are met:
 - (A) The area on which this activity is being performed shall maintain a slope of adequate grade so as to not endanger the public or the public's use of the beach and shall follow the pre-emergency slope as closely as possible. The movement of material utilizing a bulldozer, front end loader, backhoe, scraper, or any type of earth moving or construction equipment shall not exceed one foot in depth measured from the pre-activity surface elevation;
 - (B) The activity shall not exceed the lateral bounds of the applicant's property unless he has permission of the adjoining land owner(s);
 - (C) Movement of material from seaward of the mean low water line will require a CAMA Major Development and State Dredge and Fill Permit;
 - (D) The activity shall not increase erosion on neighboring properties and shall not have an adverse effect on natural or cultural resources;
 - (E) The activity may be undertaken to protect threatened on-site waste disposal systems as well as the threatened structure's foundations.
 - (b) Dune Establishment and Stabilization. Activities to establish dunes shall be allowed so long as the following conditions are met:
 - (1) Any new dunes established shall be aligned to the greatest extent possible with existing adjacent dune ridges and shall be of the same

general configuration as adjacent natural dunes.

- (2) Existing primary and frontal dunes shall not, except for beach nourishment and emergency situations, be broadened or extended in an oceanward direction.
- (3) Adding to dunes shall be accomplished in such a manner that the damage to existing vegetation is minimized. The filled areas shall be immediately replanted or temporarily stabilized until planting can be successfully completed.
- (4) Sand used to establish or strengthen dunes shall be of the same general characteristics as the sand in the area in which it is to be placed.
- (5) No new dunes shall be created in inlet hazard areas.
- (6) Sand held in storage in any dune, other than the frontal or primary dune, may be redistributed within the AEC provided that it is not placed any farther oceanward than the crest of a primary dune or landward toe of a frontal dune.
- (7) No disturbance of a dune area shall be allowed when other techniques of construction can be utilized and alternative site locations exist to avoid unnecessary dune impacts.

(c) Structural Accessways:

- (1) Structural accessways shall be permitted across primary dunes so long as they are designed and constructed in a manner that entails negligible alteration on the primary dune. Structural accessways shall not be considered threatened structures for the purpose of Paragraph (a) of this Rule.
- (2) An accessway shall be conclusively presumed to entail negligible alteration of a primary dune provided that:
 - (A) The accessway is exclusively for pedestrian use;
 - (B) The accessway is less than six feet in width;
 - (C) The accessway is raised on posts or pilings of five feet or less depth, so that wherever possible only the posts or pilings touch the frontal dune. Where this is deemed impossible, the structure shall touch the dune only to the extent absolutely necessary. In no case shall an accessway be permitted if it will diminish the dune's capacity as a protective barrier against flooding and erosion; and
 - (D) Any areas of vegetation that are disturbed are revegetated as soon as feasible.
- (3) An accessway which does not meet Part (2)(A) and (B) of this Paragraph shall be permitted only if it meets a public purpose or need which

cannot otherwise be met and it meets Part (2)(C) of this Paragraph. Public fishing piers shall not be deemed to be prohibited by this Rule, provided all other applicable standards are met.

- (4) In order to avoid weakening the protective nature of primary and frontal dunes a structural accessway (such as a "Hatteras ramp") shall be provided for any off-road vehicle (ORV) or emergency vehicle access. Such accessways shall be no greater than 10 feet in width and shall be constructed of wooden sections fastened together over the length of the affected dune area.

(d) Building Construction Standards. New building construction and any construction identified in .0306(a)(5) and 07J .0210 shall comply with the following standards:

- (1) In order to avoid danger to life and property, all development shall be designed and placed so as to minimize damage due to fluctuations in ground elevation and wave action in a 100-year storm. Any building constructed within the ocean hazard area shall comply with relevant sections of the North Carolina Building Code including the Coastal and Flood Plain Construction Standards and the local flood damage prevention ordinance as required by the National Flood Insurance Program. If any provision of the building code or a flood damage prevention ordinance is inconsistent with any of the following AEC standards, the more restrictive provision shall control.
- (2) All building in the ocean hazard area shall be on pilings not less than eight inches in diameter if round or eight inches to a side if square.
- (3) All pilings shall have a tip penetration greater than eight feet below the lowest ground elevation under the structure. For those structures so located on or seaward of the primary dune, the pilings shall extend to five feet below mean sea level.
- (4) All foundations shall be adequately designed to be stable during applicable fluctuations in ground elevation and wave forces during a 100-year storm. Cantilevered decks and walkways shall meet this standard or shall be designed to break-away without structural damage to the main structure.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a.,b.,d.; 113A-124; Eff. June 1, 1979; Temporary Amendment Eff. June 20, 1989, for a period of 180 days to expire on December 17, 1989; Amended Eff. August 3, 1992; December 1, 1991; March 1, 1990; December 1, 1989; RRC Objection Eff. November 19, 1992 due to ambiguity; RRC Objection Eff. January 21, 1993 due to ambiguity;

*Amended Eff. March 1, 1993; December 28, 1992;
RRC Objection Eff. March 16, 1995 due to ambiguity;
Amended Eff. April 1, 1999; February 1, 1996; May 4, 1995;
Temporary Amendment Eff. July 3, 2000; May 22, 2000;
Amended Eff. February 1, 2006; August 1, 2002.*

15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

(a) The following types of development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of the Subchapter if all other provisions of this Subchapter and other state and local regulations are met:

- (1) campsites;
- (2) parking areas with clay, packed sand or gravel;
- (3) elevated decks not exceeding a footprint of 500 square feet;
- (4) beach accessways consistent with Rule .0308(c) of this Subchapter;
- (5) unenclosed, uninhabitable gazebos with a footprint of 200 square feet or less;
- (6) uninhabitable, single-story storage sheds with a foundation or floor consisting of wood, clay, packed sand or gravel, and a footprint of 200 square feet or less;
- (7) temporary amusement stands;
- (8) sand fences; and
- (9) swimming pools.

In all cases, this development shall be permitted only if it is landward of the vegetation line; involves no alteration or removal of primary or frontal dunes which would compromise the integrity of the dune as a protective landform or the dune vegetation; has overwalks to protect any existing dunes; is not essential to the continued existence or use of an associated principal development; is not required to satisfy minimum requirements of local zoning, subdivision or health regulations; and meets all other non-setback requirements of this Subchapter.

(b) Where application of the oceanfront setback requirements of Rule .0306(a) of this Subchapter would preclude placement of permanent substantial structures on lots existing as of June 1, 1979, single family residential structures shall be permitted seaward of the applicable setback line in ocean erodible areas, but not inlet hazard areas, if each of the following conditions are met:

- (1) The development is set back from the ocean the maximum feasible distance possible on the existing lot and the development is designed to minimize encroachment into the setback area;
- (2) The development is at least 60 feet landward of the vegetation line;
- (3) The development is not located on or in front of a frontal dune, but is entirely behind the landward toe of the frontal dune;
- (4) The development incorporates each of the following design standards, which are in addition to those required by Rule .0308(d) of this Subchapter.
 - (A) All pilings shall have a tip penetration that extends to at least four feet below mean sea level;

(B) The footprint of the structure shall be no more than 1,000 square feet or 10 percent of the lot size, whichever is greater.

(C) Driveways and parking areas shall be constructed of clay, packed sand or gravel except in those cases where the development does not abut the ocean and is located landward of a paved public street or highway currently in use. In those cases concrete, asphalt or turfstone may also be used.

(5) All other provisions of this Subchapter and other state and local regulations are met. If the development is to be serviced by an on-site waste disposal system, a copy of a valid permit for such a system shall be submitted as part of the CAMA permit application.

(c) Reconfiguration of lots and projects that have a grandfather status under Paragraph (b) of this Rule shall be allowed provided that the following conditions are met:

- (1) Development is setback from the first line of stable natural vegetation a distance no less than that required by the applicable exception;
- (2) Reconfiguration shall not result in an increase in the number of buildable lots within the Ocean Hazard AEC or have other adverse environmental consequences; and
- (3) Development on lots qualifying for the exception in Paragraph (b) of this Rule shall meet the requirements of Paragraphs (1) through (5) of that Paragraph.

For the purposes of this Rule, an existing lot is a lot or tract of land which, as of June 1, 1979, is specifically described in a recorded plat and which cannot be enlarged by combining the lot or tract of land with a contiguous lot(s) or tract(s) of land under the same ownership. The footprint is defined as the greatest exterior dimensions of the structure, including covered decks, porches, and stairways, when extended to ground level.

(d) The following types of water dependent development shall be permitted seaward of the oceanfront setback requirements of Rule .0306(a) of this Section if all other provisions of this Subchapter and other state and local regulations are met:

- (1) piers providing public access (excluding any pier house, office, or other enclosed areas); and
- (2) maintenance and replacement of existing state-owned bridges and causeways and accessways to such bridges.

(e) Where application of the oceanfront setback requirements of Rule .0306(a) of this Section would preclude replacement of a pier house associated with an existing ocean pier, replacement of the pier house shall be permitted if each of the following conditions are met:

- (1) The associated ocean pier provides public access for fishing or other recreational purposes whether on a commercial, public, or nonprofit basis;

- (2) The pier house is set back from the ocean the maximum feasible distance while maintaining existing parking and sewage treatment facilities and is designed to reduce encroachment into the setback area;
- (3) The pier house shall not be enlarged beyond its original dimensions as of January 1, 1996;
- (4) The pier house shall be rebuilt to comply with all other provisions of this Subchapter; and
- (5) If the associated pier has been destroyed or rendered unusable, replacement of the pier house shall be permitted only if the pier is also being replaced and returned to its original function.

(f) In addition to the development authorized under Paragraph (d) of this Rule, small scale, non-essential development that does not induce further growth in the Ocean Hazard Area, such as the construction of single family piers and small scale erosion control measures that do not interfere with natural ocean front processes, shall be permitted on those non-oceanfront portions of shoreline that exhibit features characteristic of Estuarine Shoreline. Such features include the presence of wetland vegetation, lower wave energy and lower erosion rates than in the adjoining Ocean Erodible Area. Such development shall be permitted under the standards set out in Rule .0208 of this Subchapter. For the purpose of this Rule, small scale is defined as those projects which are eligible for authorization under 15A NCAC 07H .1100, .1200 and 07K .0203.

History Note: Authority G.S. 113A-107(a); 113A-107(b); 113A-113(b)(6)a; 113A-113(b)(6)b; 113A-113(b)(6)d; 113A-124; Eff. February 2, 1981; Amended Eff. February 1, 2006; September 17, 2002 pursuant to S.L. 2002-116; August 1, 2000; August 1, 1998; April 1, 1996; April 1, 1995; February 1, 1993; January 1, 1991; April 1, 1987.

15A NCAC 10D .0103 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 restrictions enacted by the National Park Service 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 shall 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) Definitions:

- (1) 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).
- (2) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays and to Thanksgiving, Christmas and New Year's Days within the federally-announced season.
- (3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These "open days" also apply to either-sex hunting seasons listed under each game land. 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.
- (4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons, except that:
 - (A) Bears shall not be taken on lands designated and posted as bear sanctuaries;
 - (B) Wild boar shall 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 for 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.
 - (iii) Additionally, raccoon and opossum may be hunted when in season on Uwharrie Game Lands;
- (D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15.
- (f) The listed seasons and restrictions apply in the following game lands:
- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davie, Davidson, Rowan and Stanly counties.
 - (2) Alligator River Game Land in Tyrrell County
 - (A) Six Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
 - (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (4) Bachelor Bay Game Land in Bertie and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (6) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. 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.
 - (C) Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
 - (D) On the Singletary Lake Tract deer and bear may be taken only by still hunting.
 - (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
 - (F) Camping is restricted to September 1 - February 28 and April 7 - May 14 in areas both designated and posted as camping areas.
 - (7) Broad River Game Land in Cleveland County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.
 - (C) Use of centerfire rifles is prohibited.
 - (8) Brunswick County Game Land in Brunswick County: Permit Only Area
 - (9) Buckhorn Game Land in Orange County: Permit Only Area, except during the bow and arrow season for deer, during which the area shall be open as a three-day-per-week area.
 - (10) Buckridge Game Land in Tyrrell County
 - (A) Three Days per Week Area

APPROVED RULES

- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season.
- (11) Buffalo Cove Game Land in Caldwell and Wilkes Counties
- (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Monday on or nearest September 10 to the fourth Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the deer with visible antlers season. Deer may be taken with muzzle-loading firearms on open days beginning the Monday on or nearest October 8 through the following Saturday, and during the Deer With Visible Antlers season.
 - (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (12) Bullard and Branch Hunting Preserve Game Lands in Robeson County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (13) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall 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. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.
- (D) Horseback riding, including all equine species, is prohibited.
 - (E) Target shooting is prohibited.
 - (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
 - (G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.
- (14) Cape Fear Game Land in Pender County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (15) Caswell Game Land in Caswell County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.
 - (C) Horseback riding is allowed 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.
 - (D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.
 - (E) The area encompassed by the following roads is closed to all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.
- (16) Caswell Farm Game Land in Lenoir County-Dove-Only Area

- (A) Dove hunting is by permit only from opening day through either the first Saturday or Labor Day which ever comes last of the first segment of dove season.
- (17) Catawba Game Land in Catawba County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (18) Chatham Game Land in Chatham County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
 - (D) Horseback riding, including all equine species, is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons.
- (19) Cherokee Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (20) Chowan Game Land in Chowan County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- (21) Chowan Swamp Game Land in Gates County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (22) Cold Mountain Game Land in Haywood County
 - (A) Six Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (23) Columbus County Game Land in Columbus County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (24) Croatan Game Land in Carteret, Craven and Jones counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall be taken only on the following days:
 - (i) The opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (25) Currituck Banks Game Land in Currituck County
 - (A) Six Days per Week Area
 - (B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only after November 1.
 - (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not possess or use a firearm.
 - (D) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
 - (E) Dogs shall be allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
 - (F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
- (26) Dare Game Land in Dare County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last day of the Deer With Visible Antlers Season.
 - (C) No hunting on posted parts of bombing range.
 - (D) The use and training of dogs is prohibited from March 1 through June 30.
- (27) Dupont State Forest Game Lands in Henderson and Transylvania counties
 - (A) Hunting is by Permit only.
 - (B) The training and use of dogs for hunting except during scheduled small game permit hunts for squirrel, grouse, rabbit, or quail is prohibited.
 - (C) Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the

- first segment of the Western bow and arrow season.
- (28) Elk Knob Game Land in Ashe and Watauga counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (29) Goose Creek Game Land in Beaufort and Pamlico counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
- (i) The opening and closing days of the applicable waterfowl seasons; and
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) After November 1, on the Pamlico Point, Campbell Creek, Hunting Creek and Spring Creek impoundments, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.
- (E) Camping is restricted to September 1 - February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (30) Green River Game Land in Henderson, and Polk counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited except on designated trails May 16 through-August 31 and all horseback riding is prohibited from September 1 through May 15. This rule includes all equine species.
- (31) Green Swamp Game Land in Brunswick County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (32) Gull Rock Game Land in Hyde County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl on posted waterfowl impoundments shall be taken only on the following days:
- (i) The opening and closing days of the applicable waterfowl seasons; and
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl season.
- (D) Camping is restricted to September 1 - February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (E) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season on the Long Shoal River Tract of Gull Rock Game Land.
- (33) Harris Game Land in Chatham, Harnett and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl shall be taken only on Tuesdays, Fridays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
- (D) The use or construction of permanent hunting blinds shall be prohibited.
- (E) Wild turkey hunting is by permit only.
- (34) Holly Shelter Game Land in Pender County
- (A) Three Days per Week Area.
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. 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.

- (C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur, provided however, that waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) The opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Camping is restricted to September 1 - February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (35) Hyco Game land in Person County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (36) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area
- (37) Jordan Game Land in Chatham, Durham, Orange and Wake counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) 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.
 - (D) Horseback riding, including all equine species, is prohibited except on those areas posted as American Tobacco Trail and other areas specifically posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed only during June, July and August, and on Sundays the remainder of the year except during open turkey and deer seasons.
 - (E) Target shooting is prohibited.
- (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
- (38) Kerr Scott Game Land in Wilkes County
 - (A) Six Days per Week Area
 - (B) Use of centerfire rifles shall be prohibited.
 - (C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season shall be prohibited.
 - (D) Tree stands shall not be left overnight and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.
 - (E) Deer of either sex may be taken on all open days of the applicable deer with visible antlers season.
- (39) Lantern Acres Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Wild turkey hunting is by permit only.
- (40) Lee Game Land in Lee County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (41) Linwood Game Land in Davidson County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- (42) Mayo Game Land in Person County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl shall 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.
- (43) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
 - (C) Raccoon and opossum shall 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.
- (44) Needmore Game Land in Macon and Swain counties
 (A) Six Days per Week Area
 (B) Horseback riding shall be prohibited except on designated trails May 16 through August 31 and all horseback riding shall be prohibited from September 1 through May 15. This Rule includes all equine species.
- (45) Neuse River Game Land in Craven County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (46) New Lake Game Land in Hyde County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (47) North River Game Land in Currituck and Camden counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season except in that part in Camden County south of US 158 where the season is the last six open days of the applicable Deer With Visible Antlers Season.
 (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
 (D) Wild turkey hunting is by permit only on that portion in Camden County.
- (48) Northwest River Marsh Game Land in Currituck County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 (C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.
- (49) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 (C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- (50) Perkins Game Land in Davie County
 (A) Three Days per Week Area
 (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (51) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season except on that portion in Avery and Yancey counties and that portion in Haywood County encompassed by US 276 on the north, US 74 on the west, and the Blue Ridge Parkway on the south and east.
 (C) 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 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.
- (52) Pungo River Game Land in Hyde County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (53) Roanoke River Wetlands in Bertie, Halifax and Martin counties
 (A) Hunting is by Permit only.
 (B) Vehicles are prohibited on roads or trails except those operated on official Commission business or by permit holders.
 (C) Camping is restricted to September 1 - February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (54) Roanoke Sound Marshes Game Land in Dare County-Hunting is by permit only.
- (55) Robeson Game Land in Robeson County
 (A) Three Days per Week Area

- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (56) Sampson Game Land in Sampson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (57) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
 - (A) Three Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.
 - (C) Gun either-sex deer hunting is by permit only. For participants in the Disabled Sportsman Program, 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 the preceding paragraph. Except for the deer, opossum, rabbit, and raccoon seasons specifically indicated for the field trial grounds in this Rule and Disabled Sportsman Program hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
 - (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.
 - (E) Wild turkey hunting is by permit only.
 - (F) Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.
 - (G) Opossum and raccoon hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving and rabbit season on the field trial grounds will be from the Saturday preceding Thanksgiving through the Saturday following Thanksgiving.
- (H) The following areas are closed to all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In Scotland County: that part east of east of SR 1001 and west of US 15/501.
- (I) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited except by participants in authorized field trials.
- (58) Scuppernong Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (59) Shocco Creek Game Land in Franklin and Warren counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (60) South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
 - (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving.
 - (C) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
 - (E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse, quail and woodcock hunting and all bird dog training.
- (61) Stones Creek Game Land in Onslow County
 - (A) Six-Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Swimming in all lakes is prohibited.

- (62) Suggs Mill Pond Game Land in Bladen County
 (A) Hunting is by Permit only.
 (B) Camping is restricted to September 1 - February 28 and April 7- May 14 in areas both designated and posted as camping areas.
- (63) Sutton Lake Game Land in New Hanover County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (64) Tar River Game Land in Edgecombe County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 (C) Waterfowl may be taken on the following days:
 (i) The opening and closing days of the applicable waterfowl seasons;
 (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (65) Three Top Mountain Game Land in Ashe County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (66) Thurmond Chatham Game Land in Wilkes County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
 (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species. Participants must obtain a game lands license prior to horseback riding on this area.
- (67) Toxaway Game Land in Transylvania County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
 (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (68) Uwharrie Game Land in Davidson, Montgomery and Randolph counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.
- (69) Vance Game Land in Vance County
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- (70) Van Swamp Game Land in Beaufort and Washington counties
 (A) Six Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (71) White Oak River Impoundment Game Land in Onslow County
 (A) Three Days per Week Area
 (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 (i) The opening and closing days of the applicable waterfowl seasons; and
 (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and

(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

(D) After October 1, a special permit is required for hunting on opening and closing days of the applicable waterfowl seasons, Saturdays of the applicable waterfowl seasons, and on Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days.

(g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and shall be nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperater agent or by phone.

(h) The following game lands and refuges shall be 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
- Bladen County—Suggs Mill Pond Game Lands
- Burke County—John's River Waterfowl Refuge
- Dare County-Dare Game Lands (Those parts of bombing range posted against hunting)
- Dare County--Roanoke Sound Marshes Game Lands
- Davie-Hunting Creek Swamp Waterfowl Refuge
- Gaston, Lincoln and Mecklenburg counties-Cowan's Ford Waterfowl Refuge
- Henderson and Transylvania counties--Dupont State Forest Game Lands

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305; Eff. February 1, 1976; Temporary Amendment Eff. October 3, 1991; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994; Temporary Amendment Eff. October 1, 1999; July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this replaces the amendment approved by RRC on July 17, 2003); Amended Eff. February 1, 2006, June 1, 2005; October 1, 2004.

21 NCAC 08N .0210 FORECASTS

(a) Forecast of Future Transactions. A CPA shall not permit the CPA's name to be used in conjunction with any forecast of future transactions in a manner which may lead to the belief that the CPA vouches for the achievability of the forecast.

(b) Applicable Standards. A CPA shall not render services associated with prospective financial statements unless the CPA has complied with the standards for accountants' services on prospective financial information.

(c) Statements on Standards. The Statements on Standards for Accountants' Services on Prospective Financial Information issued by the AICPA, including subsequent amendments and editions, are adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for services on prospective financial information for the purposes of Paragraph (b) of this Rule.

(d) Departures. Departures from the statements listed in Paragraph (c) of this Rule must be justified by those who do not follow them as set out in the statements.

(e) Copies of Standards. Copies of the Statements on Standards for Accountants' Services on Prospective Financial Information may be inspected in the offices of the Board as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars (\$28.00) in paperback form or two hundred dollars (\$200.00) in looseleaf subscription form.

History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(9); Eff. April 1, 1994; Amended Eff. February 1, 2006.

21 NCAC 08N .0211 RESPONSIBILITIES IN TAX PRACTICE

(a) Standards for Tax Services. A CPA shall not render services in the area of taxation unless the CPA has complied with the standards for tax services.

(b) Statements on Standards for Tax Services. The Statements on Standards for Tax Services issued by the AICPA, including subsequent amendments and editions, are hereby incorporated by reference, as provided by G.S. 150B-21.6, and shall be considered as the standards for tax services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Standards. Copies of the Statements on Standards for Tax Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars (\$28.00) in paperback form or two hundred dollars (\$200.00) in looseleaf subscription form.

History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(9); Eff. April 1, 1994; Amended Eff. February 1, 2006; April 1, 2003.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS

CHAPTER 8 - BOARD OF CERTIFIED PUBLIC ACCOUNTANT EXAMINERS

21 NCAC 08N .0403 AUDITING STANDARDS

(a) Standards for Auditing Services. A CPA shall not render auditing services unless the CPA has complied with the applicable generally accepted auditing standards.

(b) Statements on Auditing Standards. The Statements on Auditing Standards issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered generally accepted auditing standards for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Auditing Standards may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars (\$28.00) in paperback form or two hundred dollars (\$200.00) in looseleaf subscription form.

History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(9); Eff. April 1, 1994; Amended Eff. February 1, 2006.

21 NCAC 08N .0404 ACCOUNTING AND REVIEW SERVICES STANDARDS

(a) Standards for Accounting and Review Services. A CPA shall not render accounting and review services unless the CPA has complied with the standards for accounting and review services.

(b) Statements on Standards for Accounting and Review Services. The Statements on Standards for Accounting and Review Services issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for accounting and review services for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Standards for Accounting and Review Services may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately twenty-eight dollars (\$28.00) in paperback form or two hundred dollars (\$200.00) in looseleaf subscription form.

History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(9); Eff. April 1, 1994; Amended Eff. February 1, 2006.

21 NCAC 08N .0405 GOVERNMENTAL ACCOUNTING STANDARDS

(a) Standards for Governmental Accounting. A CPA shall not permit the CPA's name to be associated with governmental financial statements for a client unless the CPA has complied with the standards for governmental accounting.

(b) Statements on Governmental Accounting and Financial Reporting Services. The Statements on Governmental Accounting and Financial Reporting Services issued by the GASB, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered as the approved standards for governmental accounting for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Governmental Accounting and Financial Reporting Standards, including technical bulletins and interpretations, may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the GASB, Post Office Box 9125, Dept. 285, Stamford, CT 06925. They are available at cost, which is approximately forty-seven dollars and fifty cents (\$47.50). In addition to the basic set, an updating subscription service is available for approximately sixty-five dollars (\$65.00) annually.

History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(9); Eff. April 1, 1994; Amended Eff. February 1, 2006.

21 NCAC 08N .0406 ATTESTATION STANDARDS

(a) Standards for Attestation Services. A CPA shall not render attestation services unless the CPA has complied with the applicable attestation standards.

(b) Statements on Standards for Attestation Engagements. The Statements on Standards for Attestation Engagements issued by the AICPA, including subsequent amendments and editions, are hereby adopted by reference, as provided by G.S. 150B-21.6, and shall be considered attestation standards for the purposes of Paragraph (a) of this Rule.

(c) Departures. Departures from the statements listed in Paragraph (b) of this Rule must be justified by those who do not follow them as set out in the statements.

(d) Copies of Statements. Copies of the Statements on Standards for Attestation Engagements may be inspected in the offices of the Board, as described in 21 NCAC 08A .0102. Copies may be obtained from the AICPA, 1211 Avenue of the Americas, New York, NY 10036 as part of the "AICPA Professional Standards." They are available at cost, which is approximately thirty dollars (\$30.00) in paperback form or two hundred dollars (\$200.00) in looseleaf subscription form.

History Note: Authority G.S. 55B-12; 57C-2-01; 93-12(9); Eff. April 1, 1994; Amended Eff. February 1, 2006.

CHAPTER 14 – COSMETIC ART EXAMINERS

21 NCAC 14P .0112 SANITARY RATINGS AND POSTING OF RATINGS - APPLICABLE TO ESTABLISHMENTS WITH A SANITATION GRADE OF LESS THAN 80%

(a) The presumptive civil penalty for failure to display an inspection grade card is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(b) The presumptive civil penalty for non-working toilet facilities is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(c) The presumptive civil penalty for failure to maintain equipment, furnishings and floor coverings is:

- (1) 1st offense warning (\$25.00)
- (2) 2nd offense \$50.00
- (3) 3rd offense \$100.00

(d) The presumptive civil penalty for failure to provide hot and cold running water is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(e) The presumptive civil penalty for keeping any animal or bird in a cosmetic art shop or school is: (Trained animals accompanying sightless or hearing impaired persons are exempt)

- (1) 1st offense warning (\$25.00)
- (2) 2nd offense \$50.00
- (3) 3rd offense \$100.00

(f) The presumptive civil penalty for failure to have students wear clean washable uniform is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(g) The presumptive civil penalty for failure of operators in cosmetic art shops to wear clean outer garments with sleeves is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(h) The presumptive civil penalty for failure to store used or clean towels, or failure to launder used towels is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(i) The presumptive civil penalty for failure to dispose of supplies or instruments which come in direct contact with a patron and which cannot be disinfected is:

- (1) 1st offense warning (\$50.00)

- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(j) The presumptive civil penalty for failure to disinfect non-electrical instruments and equipment is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(k) The presumptive civil penalty for failure to store and label creams, powders, and other cosmetic preparations is:

- (1) 1st offense warning (\$25.00)
- (2) 2nd offense \$50.00
- (3) 3rd offense \$100.00

(l) The presumptive civil penalty for failure to have necessary first aid equipment on hand is:

- (1) 1st offense warning (\$25.00)
- (2) 2nd offense \$50.00
- (3) 3rd offense \$100.00

(m) The presumptive civil penalty for failure to provide necessary lighting or ventilation, unsanitary conditions is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(n) The presumptive civil penalty for windows and doors not effectively screened is:

- (1) 1st offense warning (\$50.00)
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(o) The presumptive civil penalty for trash containers not covered is:

- (1) 1st offense warning (\$25.00)
- (2) 2nd offense \$50.00
- (3) 3rd offense \$100.00

(p) The presumptive civil penalty for failure to use EPA approved disinfectant is:

- (1) 1st offense \$50.00
- (2) 2nd offense \$100.00
- (3) 3rd offense \$200.00

(q) The presumptive civil penalty for failure to maintain a sanitary establishment (80% rating or better) is:

- (1) 1st offense warning (\$25.00)
- (2) 2nd offense \$50.00
- (3) 3rd offense \$100.00

History Note: Authority G.S. 88B-4; 88B-29; Temporary Adoption Eff. January 1, 1999; Eff. August 1, 2000; Amended Eff. February 1, 2006.

CHAPTER 18 - BOARD OF EXAMINERS OF ELECTRICAL CONTRACTORS

21 NCAC 18B .0104 AUTHORIZED LEGAL ACTION BY STAFF

(a) The following members of the Board's staff are authorized to act on behalf of the Board in criminal and civil actions brought under the provisions of G.S. 87-48;

- (1) the Board's executive director; and
- (2) the Board's field representatives/investigators.

(b) The staff members set out in Paragraph (a) of this Rule are authorized to sign affidavits as to the content of Board records, execute or verify civil complaints in the name of the Board, sign criminal warrants with respect to violations of G.S. 87-48, testify in court or in other proceedings and to perform all other acts as may be required in criminal and civil actions related to G.S. 87-48.

History Note: Authority G.S. 87-40; 87-42; 87-43; Eff. October 1, 1988; Amended Eff. February 1, 2006; April 1, 1993.

21 NCAC 18B .1104 CONTACT HOURS

(a) Approved courses must be offered for no fewer than two contact hours.

(b) Credit shall be granted to the qualified individual only upon completion of an entire course.

(c) When a qualified individual has completed more than the required number of hours of continuing education in any one license period, the extra hours shall be carried forward in multiples of two hours and treated as hours earned in the following one or two additional license periods. Extra hours are subject to the provisions of Rule .1101(g) of this Section.

(d) No credit shall be granted for courses attended prior to being qualified by examination.

History Note: Authority G.S. 87-42; 87-44.1; Eff. October 1, 1990; Amended Eff. February 1, 2006; March 1, 1999.

CHAPTER 46 - BOARD OF PHARMACY

21 NCAC 46 .1417 REMOTE MEDICATION ORDER PROCESSING SERVICES

(a) Purpose. The purpose of this Section is to set out requirements for health care facility pharmacies providing remote medication order processing services and facilities contracting with remote medication order processing services.

(b) Definition. Medication order processing does not include the dispensing of a prescription drug but includes any of the following:

- (1) receiving, interpreting, or clarifying medication orders;
- (2) data entry and transferring of medication order information;
- (3) performing drug regimen review;
- (4) interpreting clinical data;
- (5) performing therapeutic interventions; and

(6) providing drug information concerning medication orders or drugs.

(c) Outsourcing. A pharmacy may outsource medication order processing to another pharmacy provided the pharmacies have the same owner or the pharmacy has entered into a written contract or agreement with an outsourcing company that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations. The pharmacy providing the remote processing of medication orders must notify the Board of Pharmacy prior to providing such services.

(d) Training. A pharmacy providing remote medication order processing must ensure that all pharmacists providing such services have been trained on each pharmacy's policies and procedures relating to medication order processing. The training of each pharmacist shall be documented by the pharmacist-manager to ensure competency and to ensure that performance is at least at the same level of performance as pharmacists in the outsourcing pharmacy. Such training shall include policies on drug and food allergy documentation, abbreviations, administration times, automatic stop orders, substitution, and formulary compliance. The pharmacies shall jointly develop a procedure to communicate changes in the formulary and changes in policies and procedures related to medication order processing.

(e) Access. The pharmacies must share common electronic files or have appropriate technology to allow secure access to the pharmacy's information system and to provide the remote pharmacy with access to the information necessary or required to process a medication order.

(f) Communication. The pharmacies must jointly define the procedures for resolving problems detected during the medication order review and communicating these problems to the prescriber and the nursing staff providing direct care.

(g) Recordkeeping. A pharmacy using remote order entry processing services is responsible for maintaining records of all orders entered into their information system including orders entered from a remote location. The system shall have the ability to audit the activities of the individuals remotely processing medication orders.

(h) Licensure. All pharmacies providing remote order processing services must be permitted by the Board. An out-of-state pharmacy providing remote order processing services must be registered with the Board as an out-of-state pharmacy. All pharmacists located in this State or employed by an out-of-state pharmacy providing remote order processing services to health care facilities in this State, shall be licensed by the Board.

(i) Policy and Procedure Manual. All pharmacies involved in remote order processing shall maintain a policy and procedure manual. Each remote pharmacy is required to maintain those portions of the policy and procedure manual that relate to that pharmacy's operations. The manual shall:

- (1) outline the responsibilities of each of the pharmacies;
- (2) include a list of the name, address, telephone numbers, and all license/registration numbers of the pharmacies involved in remote order processing; and
- (3) include policies and procedures for:

- (A) protecting the confidentiality and integrity of patient information;
- (B) maintaining appropriate records to identify the name(s), initials, or identification code(s) and specific activity(ies) of each pharmacist who performed any processing;
- (C) complying with federal and state laws and regulations;
- (D) operating a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems;
- (E) annually reviewing the written policies and procedures and documenting such review; and
- (F) annually reviewing the competencies of pharmacists providing the remote order review service.

History Note: Authority G.S. 90-85.6; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.34; Eff. February 1, 2006.

21 NCAC 46 .1602 LICENSE BY RECIPROCITY

- (a) An applicant for licensure without examination, must have:
 - (1) Originally been licensed as a pharmacist by an examination equivalent to the North Carolina examination specified in Rule .1505(a)(1) of this Chapter;
 - (2) Achieved scores on an equivalent examination, such as the NABPLEX examination, which would qualify for licensure in this state at the time of examination; and
 - (3) Been licensed by a state which deems licensees from this state to be equivalent to the extent that they are suitable for licensure in that state without further substantial examination.
- (b) All applicants shall submit to the Board a signed release form, completed Fingerprint Record Card, and such other form(s) required to perform a criminal history check at the time of application.
- (c) The Board shall require an applicant for licensure without examination who has not practiced pharmacy within two years prior to application to obtain additional continuing education, practical pharmacy experience, successfully complete one or more parts of the Board's licensure examination, or a combination of the foregoing, as the Board deems necessary to ensure that the applicant can safely and properly practice pharmacy.
- (d) The Board shall also restrict licenses granted pursuant to this Rule for such period of time as the Board deems necessary to ensure that the applicant can safely and properly practice pharmacy.

History Note: Authority G.S. 90-85.6; 90-85.20; Eff. April 1, 1983; Amended Eff. February 1, 2006; July 1, 2005; March 1, 2004; April 1, 2003, July 1, 1996; May 1, 1989.

21 NCAC 46 .1605 CHARGE FOR VERIFICATION FOR REINSTATEMENT

The Board shall charge persons requesting written verification for reinstatement of a pharmacy license or permit or a device and medical equipment permit a fee of twenty-five dollars (\$25.00) per verification.

History Note: Authority G.S. 90-85.6; 90-85.17; 90-85.21; 90-85.22; 150B-19(5)(e); Eff. September 1, 1993; Amended Eff. February 1, 2006; September 1, 1995.

21 NCAC 46 .1611 FEE FOR SUBMITTAL OF DISHONORED AND RETURNED CHECK

- (a) Any person, firm or corporation submitting to the Board a check which is subsequently returned to the Board because of insufficient funds or because there is no account open at the bank shall be charged a fee of twenty-five dollars (\$25.00) for processing the check.
- (b) Until such time as the payor of the returned check pays the amount of the check and pays the prescribed fee, the payor shall not be eligible to take an examination, review an examination, obtain a license or permit or have his license or permit renewed.
- (c) Any license or permit which has been issued based on the payment of a check which is subsequently returned to the Board for reasons stated in Paragraph (a) of this Rule shall be declared invalid until such time as the payor pays the amount of the check and pays the prescribed fee.
- (d) Payment to the Board of the amount of the returned check and the prescribed fee shall be made in the form of cash, a cashier's check, or money order.
- (e) All examination, license and permit, and license and permit renewal applications provided by the Board shall contain information in a conspicuous place thereon advising the applicant of the applicable fee for returned checks.

History Note: Authority G.S. 25-3-506; Eff. September 1, 1995; Amended Eff. February 1, 2006.

21 NCAC 46 .2807 ANTI-NEOPLASTIC AGENTS

The following additional requirements are necessary for those permit-holders who prepare anti-neoplastic drugs:

- (1) All anti-neoplastic drugs shall be compounded in a vertical flow, Class II, biological safety cabinet, or similar appropriate preparation area. There must be strict adherence to the hood-cleaning procedures before preparing a product in the hood not classified as an anti-neoplastic agent.
- (2) Protective apparel shall be worn by personnel compounding anti-neoplastic drugs. This shall

include disposable gloves and gowns with tight cuffs.

- (3) Appropriate safety and containment techniques for compounding anti-neoplastic drugs shall be used in conjunction with the aseptic techniques required for preparing sterile parenteral products.
- (4) Disposal of anti-neoplastic waste shall comply with all applicable local, state, and federal requirements.
- (5) Written procedures for handling both major and minor spills of anti-neoplastic agents must be developed and must be included in the policy and procedural manual for the permit-holder.
- (6) Prepared doses of anti-neoplastic drugs must be dispensed, labeled with proper precautions inside and outside, and shipped in a manner to minimize the risk of accidental rupture of the primary container.

History Note: Authority G.S. 90-85.6; Eff. October 1, 1990; Amended Eff. February 1, 2006.

21 NCAC 46 .3301 REGISTRATION

- (a) Following initial registration with the Board, registration of a pharmacy technician shall be renewed annually and shall expire on December 31. It shall be unlawful to work as a pharmacy technician more than 60 days after expiration of the registration without renewing the registration. A registration expired more than 60 days may be renewed upon written request and upon payment of the registration fee and a data processing fee of eleven dollars (\$11.00).
- (b) The current registration of a pharmacy technician shall be readily available for inspection by agents of the Board.
- (c) The training program described in G.S. 90-85.15A(b) is not required for students enrolled in a community college pharmacy technician program.
- (d) Volunteer pharmacy technicians providing services at a facility which has a pharmacy permit designated as a free clinic shall complete the training program described in G.S. 90-85.15A(b) but need not register with the Board.
- (e) A pharmacist may not supervise more than two pharmacy technicians unless the additional pharmacy technicians have passed a national pharmacy technician certification examination administered by a provider whose examination assesses the ability of the technicians to function in accordance with G.S. 90-85.4(q2) and approved by the Board according to these standards.

History Note: Authority G.S. 90-85.6; 90-85.15A; 150B-19(5)(e); Eff. April 1, 2003; Amended Eff. February 1, 2006; February 1, 2005.

CHAPTER 66 - VETERINARY MEDICAL BOARD

21 NCAC 66 .0303 SPECIAL REGISTRATION OF VETERINARY TECHNICIANS, INTERNS AND PRECEPTES; RENEWAL OF TECHNICIAN REGISTRATION

- (a) Applications for registration as a veterinary technician, veterinary student intern, or veterinary student preceptee shall be on application forms provided by the Board, accompanied by the required application fee. Applicants shall be at least 18 years of age and shall furnish to the Board as requested information from which the Board can determine whether the applicant is a person of honesty and integrity.
- (b) To become registered as a veterinary technician, the applicant shall meet the qualification requirements of G.S. 90-181(11). All applicants shall successfully pass the North Carolina Veterinary Technician Examination administered by the Board. Applicants who meet the criteria of G.S. 90-181(11)a shall also successfully pass the Veterinary Technician National Examination (VTNE) as prepared by the Board or a licensure examination service contracted with by the Board.
- (c) To become registered as a veterinary student intern or veterinary student preceptee, no examination is required but the applicant shall demonstrate to the satisfaction of the Board that he meets the qualification requirements of G.S. 90-181(9) or (10) and is currently employed by a licensed veterinarian who directs and supervises his work.
- (d) All registrations of veterinary technicians shall be renewed every 24 months upon payment by the registrant of the renewal fee adopted by the Board, provided the registrant is otherwise eligible for renewal.

History Note: Authority G.S. 90-185(6); 90-186(4); 90-187.6; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. February 1, 2006; May 1, 1996; May 1, 1989; October 1, 1982.

TITLE 25 – OFFICE OF STATE PERSONNEL

25 NCAC 01N .0104 PROGRAM ADMINISTRATION

- (a) The Office of State Personnel shall monitor agency (as defined in 25 NCAC 01A .0103) compliance with the State Employee Workplace Requirements Program for Safety and Health by providing consultative and technical services that include:
 - (1) technical assistance in the design and development of written safety and health programs and operative safety committees as well as assessment of specialized workplace hazards;
 - (2) periodic inspection of state operations to ensure the identification and control of hazardous workplace environments and unsafe work practices that could endanger state employees;
 - (3) maintenance of a State Employee Safety and Health Handbook describing the

responsibilities of employees and outlining the basic rules for working safely in state government;

- (4) investigation of work-related fatalities and major lost workday injuries and illnesses to ensure that agencies have program elements in place to control specific hazards;
- (5) coordination of training programs for designated agency safety and health directors and officers.
- (6) a systematic evaluation of state agencies to ensure compliance with written program and safety committee requirements.

To assist the Office of State Personnel, a State Steering Committee, composed of program staff from state agencies, shall be appointed to recommend program changes, goals, and solutions to problems. Any additions or changes to the administrative or workplace requirements procedures will occur only after consultation with the State Steering Committee.

(b) Annually, the Office of State Personnel shall prepare a report for the Governor, the State Personnel Commission, and all state agencies, which will assess compliance with program requirements, committee effectiveness, recommended changes to enhance program, and a statistical analysis of work-related injuries and illnesses and compensation cost.

(c) The State Personnel Commission shall comply with the provisions set forth in G.S. 143-583.

History Note: Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584; Executive Order No. 6 (1985); Eff. December 1, 1985; Amended Eff. April 1, 2006; February 1, 1993; September 1, 1989.

25 NCAC 01N .0105 STATE AGENCY RESPONSIBILITIES

(a) Each state agency shall have a written State Employee Workplace Requirements Program for Safety and Health consistent with the State Personnel Commission's model program and its procedural requirements. Written components of the program shall at a minimum contain the program requirements set forth in G.S. 143-582.

(b) Each state agency shall establish safety and health committees comprised of a mix of management and non-management personnel in order to address safety and health issues through their input and with the most efficient use of resources and expertise.

(c) The Safety and Health Committee shall be established in compliance with 13 NCAC 07A .0605.

(d) A state agency with field forces must ensure field operations staff safety and health issues are represented on the safety and health committee by a member(s) of that group.

(e) The agency Safety and Health Director or Officer or designee shall serve as ex-officio member with voting rights on the Committee(s).

(f) The agency shall establish a procedure by which Employee Safety and Health Representatives can be selected or appointed.

(g) The Chairperson of the Safety and Health Committee may be appointed by the agency head or elected by the members. Secretarial services are to be provided to the Chairperson to carry out his or her duties.

(h) Each state agency shall verbally notify the Office of State Personnel Workplace Requirements Program for Safety and Health within eight hours after the death of any N.C. State Government employee from a work-related incident or the in-patient hospitalization of three or more employees as a result of a work-related incident. A summary accident investigation report and Death Claim Notice Form shall be filed within five days of knowledge of the death.

History Note: Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584; Executive Order No. 6 (1985); Eff. February 1, 1993; Amended Eff. April 1, 2006.

25 NCAC 01N .0106 COMMITTEE RESPONSIBILITIES

The Safety and Health Committee(s) shall perform the following functions as well as any other functions determined by the State Personnel Commission to be necessary for the effective implementation of the State Employees Workplace Requirements Program for Safety and Health:

- (1) Review safety and health policies and procedures established by the agency as needed.
- (2) Review incidents involving work-related fatalities, injuries, illnesses or near-misses.
- (3) Review employee complaints regarding safety and health hazards.
- (4) Analyze the agency's work injury and illness statistical records.
- (5) Conduct inspections or ensure that safety and health inspections of the worksites are conducted and documented at least annually or more frequently as required by regulatory codes or standards. Ensure responses to complaints regarding safety and health hazards are provided and address process for corrective action.
- (6) Ensure that interviews with employees are conducted in conjunction with inspections of the workplace.
- (7) Ensure that agency's training records are reviewed to ensure compliance with regulatory training requirements.
- (8) Conduct meetings at least once every three months. Maintain written minutes of such meetings and send copy to each committee member. Copy of minutes shall be posted to ensure availability to all employees in the workplace.
- (9) Designate Employee Safety and Health Representative(s) to accompany representatives from regulatory agencies (i.e. NC Department of Agriculture, NC

Department of Health and Human Services, NC Department of Labor Occupational Safety and Health Division, NC Department of Insurance, NC Department of Environment and Natural Resources, etc.) during environmental, safety and health inspections of the workplace.

- (10) Make written recommendations (Example: for elimination of hazards and improvement in occupational safety and health) on behalf of the Committee to the agency head.

History Note: Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584; Executive Order No. 6 (1985); Eff. February 1, 1993; Amended Eff. April 1, 2006.

25 NCAC 01N .0107 STATE EMPLOYEES' RESPONSIBILITIES

- (a) Each supervisor shall provide safe working conditions for each subordinate, know safety and health guidelines, provide for employee's safety and health training, provide required personal protective equipment, report and investigate accidents, advise management of any unsafe work environment(s) or condition(s) and effect corrective actions and interim controls for hazardous work environments under their control.
(b) Each employee shall conduct his or her own work in a safe manner to protect him or herself, fellow employees and the public; make recommendations to improve safety and health in the workplace and notify the supervisor of any accident involving injury, illness, or near-miss to him or herself or to others.

History Note: Authority G.S. 95-148; 126-4(5),(10); 143-580 through 143-584; Executive Order No. 6 (1985); Eff. February 1, 1993; Amended Eff. April 1, 2006.

25 NCAC 01N .0203 EQUIPMENT

History Note: Authority G.S. 126-4; Eff. July 1, 1995; Repealed Eff. April 1, 2006.

25 NCAC 01N .0206 PERSONAL PROTECTIVE EQUIPMENT

- (a) Employer provided personal protective equipment – It is the responsibility of the employer to provide, at no cost to the employee, all personal protective equipment required by the job

that the employee does not wear off the jobsite or use off the job. Reference: North Carolina State Personnel Manual, Section 8, "Personal Protective Equipment"; North Carolina Department of Labor "A Guide to Personal Protective Equipment" as provided by and available on the North Carolina Department of Labor web site.

- (b) Employee-owned equipment - Where employees provide their own protective equipment, the employer shall be responsible for assuring its adequacy, including proper maintenance and sanitation of such equipment.
(c) Design - All personal protective equipment shall be of safe design and constructed for the work to be performed, as recognized in regulatory or industry standards. Defective or damaged personal protective equipment shall not be used. It shall be tagged "DEFECTIVE DO NOT USE" or "DAMAGED UNSAFE DO NOT USE" and repaired to manufacturer specifications or it shall be disposed to prevent future use.
(d) There are special conditions that apply to the purchase of the following equipment:

- (1) Eye Protection
Safety Glasses with Side Shields – 100% State funded except that employees who wear prescription glasses shall pay for the cost of the examination.
(2) Foot protection
(A) Safety Footwear – State shall fund one pair per year, cost not to exceed dollar amount established biennially by the Office of State Budget and Management, which includes inflationary cost increase. Authorization for purchase required by employer management. Employee may purchase and be reimbursed by following State policy and agency procedures or the agency may supply safety footwear under rules of the Division of Purchase and contract. NOTE: Protective footwear purchased shall comply with ASTM-F 2413 March 2005, "American Standard Test Method" for Personal Protective Footwear."
(B) Rubber and Specialized Safety Boots – 100% State funded.

History Note: Authority G.S. 126-4; Eff. July 1, 1995; Amended Eff. April 1, 2006.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday March 16, 2006, 10:00 a.m. at 1307 Glenwood Avenue, Assembly Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Thomas Hilliard, III
Robert Saunders
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
Graham Bell
Lee Settle
Dana E. Simpson
John Tart

RULES REVIEW COMMISSION MEETING DATES

March 16, 2006	April 20, 2006
May 18, 2006	March 16, 2006

LIST OF APPROVED PERMANENT RULES
February 16, 2006 Meeting

ADMINISTRATION, DEPARTMENT OF

<u>Minority Business Responsibilities</u>	01	NCAC	30I	.0309
<u>Organization of the Campaign</u>	01	NCAC	35	.0103
<u>Applications</u>	01	NCAC	35	.0201
<u>Content of Applications</u>	01	NCAC	35	.0202
<u>Review and Schedule</u>	01	NCAC	35	.0203
<u>Response</u>	01	NCAC	35	.0204
<u>Agreements</u>	01	NCAC	35	.0205
<u>Other Solicitation Prohibited</u>	01	NCAC	35	.0301
<u>Coercive Activities Prohibited</u>	01	NCAC	35	.0302
<u>Methods of Giving and Terms of Contribution</u>	01	NCAC	35	.0304
<u>Campaign Literature</u>	01	NCAC	35	.0305
<u>Distribution of Undesignated Funds</u>	01	NCAC	35	.0307

USS NORTH CAROLINA BATTLESHIP COMMISSION

<u>Address</u>	07	NCAC	05	.0103
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CHILD CARE COMMISSION

<u>General Provisions Related to Licensure of Homes</u>	10A	NCAC	09	.1701
<u>Requirements for Daily Operations</u>	10A	NCAC	09	.1718

MENTAL HEALTH, COMMISSION OF

<u>Scope</u>	10A	NCAC	27G	.1301
<u>Scope</u>	10A	NCAC	27G	.1701
<u>Requirements of Qualified Professionals</u>	10A	NCAC	27G	.1702

<u>Requirements for Associate Professionals</u>	10A	NCAC	27G	.1703
<u>Minimum Staffing Requirements</u>	10A	NCAC	27G	.1704
<u>Requirements of Licensed Professionals</u>	10A	NCAC	27G	.1705
<u>Operations</u>	10A	NCAC	27G	.1706
<u>Persons Permitted in the Facility</u>	10A	NCAC	27G	.1707
<u>Transfer or Discharge</u>	10A	NCAC	27G	.1708

CODE OFFICIALS QUALIFICATION BOARD

<u>Continuing Education Requirements</u>	11	NCAC	08	.0713
<u>Course Sponsors</u>	11	NCAC	08	.0718

ALARM SYSTEMS LICENSING BOARD

<u>Recording and Reporting Continuing Education Credits</u>	12	NCAC	11	.0505
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LABOR, DEPARTMENT OF

<u>Certificate and Inspection Fees</u>	13	NCAC	13	.0213
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ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Nutrient Offset Payments</u>	15A	NCAC	02B	.0240
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COASTAL RESOURCES COMMISSION

<u>Exemption/Accessory Uses/Maintenance Repair</u>	15A	NCAC	07K	.0209
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REVENUE, DEPARTMENT OF

<u>Electronic Filing of Returns</u>	17	NCAC	01C	.0701
<u>Electronic Signature</u>	17	NCAC	01C	.0702
<u>Electronic Filing of General Business Franchise Tax</u>	17	NCAC	05B	.0108
<u>Overpayments Applied to Next Year</u>	17	NCAC	05C	.1904
<u>Electronic Filing of Corporation Income Tax Returns</u>	17	NCAC	05C	.1905

DENTAL EXAMINERS, BOARD OF

<u>Examination Required</u>	21	NCAC	16B	.0101
<u>In General</u>	21	NCAC	16B	.0201
<u>Student May Apply</u>	21	NCAC	16B	.0202
<u>Transcripts Required</u>	21	NCAC	16B	.0203
<u>Application for Licensure</u>	21	NCAC	16B	.0301
<u>Board Approved Examinations</u>	21	NCAC	16B	.0303
<u>Other Requirements</u>	21	NCAC	16B	.0304
<u>Time for Filing</u>	21	NCAC	16B	.0305
<u>Foreign Graduates</u>	21	NCAC	16B	.0306
<u>Examinations</u>	21	NCAC	16B	.0307
<u>Patients and Supplies for Clinical Exam</u>	21	NCAC	16B	.0308
<u>Scope of Clinical Examination</u>	21	NCAC	16B	.0309
<u>Reexamination</u>	21	NCAC	16B	.0315
<u>Application for Board Conducted Examination</u>	21	NCAC	16B	.0401

RULES REVIEW COMMISSION

<u>Time for Filing</u>	21	NCAC	16B	.0402
<u>Examination Conducted by the Board</u>	21	NCAC	16B	.0403
<u>Patients and Supplies for Board Conducted Clinical Examin...</u>	21	NCAC	16B	.0404
<u>Scope of Board Conducted Clinical Examination</u>	21	NCAC	16B	.0405

NURSING, BOARD OF

<u>Existing Nursing Program</u>	21	NCAC	36	.0303
<u>Administration</u>	21	NCAC	36	.0317

PHARMACY, BOARD OF

<u>Out-Of-State Pharmacies</u>	21	NCAC	46	.1607
<u>Reinstatement of Licenses and Permits</u>	21	NCAC	46	.1612
<u>Charge for Status</u>	21	NCAC	46	.2511
<u>Dispensing and Delivery</u>	21	NCAC	46	.2601

PODIATRY EXAMINERS, BOARD OF

<u>Practice Orientation</u>	21	NCAC	52	.0205
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APPRAISAL BOARD

<u>Registration, License and Certificate Renewal</u>	21	NCAC	57A	.0203
<u>Continuing Education</u>	21	NCAC	57A	.0204
<u>Display of Registration, Licenses and Certificates</u>	21	NCAC	57A	.0402
<u>Appraisal Reports</u>	21	NCAC	57A	.0405
<u>Supervision of Trainees</u>	21	NCAC	57A	.0407
<u>Program Changes</u>	21	NCAC	57B	.0211
<u>Instructor Requirements</u>	21	NCAC	57B	.0306
<u>Fee for Renewal of Course Approval</u>	21	NCAC	57B	.0403
<u>Fee for Renewal of Course Approval</u>	21	NCAC	57B	.0503
<u>Application and Fee</u>	21	NCAC	57B	.0602
<u>Criteria for Course Approval</u>	21	NCAC	57B	.0603
<u>Changes During the Approval Period</u>	21	NCAC	57B	.0609
<u>Withdrawal or Denial of Approval</u>	21	NCAC	57B	.0612

REAL ESTATE COMMISSION

<u>Agency Agreements and Disclosure</u>	21	NCAC	58A	.0104
<u>Advertising</u>	21	NCAC	58A	.0105
<u>Delivery of Instruments</u>	21	NCAC	58A	.0106
<u>Handling and Accounting of Funds</u>	21	NCAC	58A	.0107
<u>Brokerage Fees and Compensation</u>	21	NCAC	58A	.0109
<u>Broker-In-Charge</u>	21	NCAC	58A	.0110
<u>Drafting Legal Instruments</u>	21	NCAC	58A	.0111
<u>Offers and Sales Contracts</u>	21	NCAC	58A	.0112
<u>Reporting Criminal Convictions and Disciplinary Actions</u>	21	NCAC	58A	.0113
<u>Residential Property Disclosure Statement</u>	21	NCAC	58A	.0114
<u>Form</u>	21	NCAC	58A	.0301

<u>Filing and Fees</u>	21	NCAC	58A	.0302
<u>Experience Qualifications for Applicants</u>	21	NCAC	58A	.0304
<u>Subject Matter and Passing Scores</u>	21	NCAC	58A	.0402
<u>Cheating and Related Misconduct</u>	21	NCAC	58A	.0404
<u>Examination Review</u>	21	NCAC	58A	.0406
<u>Business Entities</u>	21	NCAC	58A	.0502
<u>License Renewal Penalty for Operating While License Expired</u>	21	NCAC	58A	.0503
<u>Active and Inactive License Status</u>	21	NCAC	58A	.0504
<u>Salesperson to be Supervised by Broker</u>	21	NCAC	58A	.0506
<u>Cancellation of Salesperson License Upon Broker Licensure</u>	21	NCAC	58A	.0510
<u>Procedures for Requesting Hearings When Applicant's Chara...</u>	21	NCAC	58A	.0616
<u>Purpose and Applicability</u>	21	NCAC	58A	.1701
<u>Continuing Education Requirement</u>	21	NCAC	58A	.1702
<u>Continuing Education for License Activation</u>	21	NCAC	58A	.1703
<u>No Credit for Prelicensing Courses</u>	21	NCAC	58A	.1704
<u>Equivalent Credit</u>	21	NCAC	58A	.1708
<u>Continuing Education Required of Nonresident Licensees</u>	21	NCAC	58A	.1711
<u>General Provisions</u>	21	NCAC	58A	.1801
<u>Requirements for Licensure Application and Fee</u>	21	NCAC	58A	.1803
<u>Active Status</u>	21	NCAC	58A	.1804
<u>Limitations</u>	21	NCAC	58A	.1806
<u>Affiliation with Resident Broker</u>	21	NCAC	58A	.1807
<u>Trust Monies</u>	21	NCAC	58A	.1808
<u>Advertising</u>	21	NCAC	58A	.1809
<u>Purpose and Applicability</u>	21	NCAC	58A	.1901
<u>Extensions of Time to Complete Postlicensing Education</u>	21	NCAC	58A	.1903
<u>Denial or Withdrawal of Postlicensing Education Credit</u>	21	NCAC	58A	.1904
<u>Public Offering Statement Summary</u>	21	NCAC	58B	.0202
<u>Time Share Trust Funds</u>	21	NCAC	58B	.0501
<u>Designation of Project Broker</u>	21	NCAC	58B	.0601
<u>Duties of the Project Broker</u>	21	NCAC	58B	.0602
<u>Applicability Requirement for Approval</u>	21	NCAC	58C	.0101
<u>Application for Approval</u>	21	NCAC	58C	.0102
<u>Scope Duration and Renewal of Approval</u>	21	NCAC	58C	.0104
<u>Withdrawal or Denial of Approval</u>	21	NCAC	58C	.0105
<u>Original Application Fee</u>	21	NCAC	58C	.0202
<u>School Name</u>	21	NCAC	58C	.0203
<u>Courses</u>	21	NCAC	58C	.0204
<u>Administration</u>	21	NCAC	58C	.0206
<u>Enrollment Contracts</u>	21	NCAC	58C	.0209
<u>Changes During the Licensing Period</u>	21	NCAC	58C	.0216
<u>License Renewal and Fees</u>	21	NCAC	58C	.0217
<u>Purpose and Applicability</u>	21	NCAC	58C	.0301
<u>Course Completion Standards</u>	21	NCAC	58C	.0304
<u>Course Scheduling</u>	21	NCAC	58C	.0305
<u>Real Estate Instructors</u>	21	NCAC	58C	.0307
<u>Certification of Course Completion</u>	21	NCAC	58C	.0309

RULES REVIEW COMMISSION

<u>Instructional Delivery Methods</u>	21	NCAC	58C	.0311
<u>Purpose and Applicability</u>	21	NCAC	58C	.0601
<u>Nature and Scope of Instructor Approval</u>	21	NCAC	58C	.0602
<u>Application and Criteria for Original Approval</u>	21	NCAC	58C	.0603
<u>Instructor Performance</u>	21	NCAC	58C	.0604
<u>Request for Examinations and Video Recordings</u>	21	NCAC	58C	.0605
<u>Broker course Reports</u>	21	NCAC	58C	.0606
<u>Expiration Renewal and Reinstatement of Approval</u>	21	NCAC	58C	.0607
<u>Denial or Withdrawal of Approval</u>	21	NCAC	58C	.0608
<u>Update Course Component</u>	21	NCAC	58E	.0102
<u>Elective Course Component</u>	21	NCAC	58E	.0302
<u>Course Completion Reporting</u>	21	NCAC	58E	.0406
<u>Per Student Fee</u>	21	NCAC	58E	.0407
<u>Basic Requirement</u>	21	NCAC	58F	.0101
<u>Course Sponsors and Instructors</u>	21	NCAC	58F	.0103
<u>Course Operational Requirements</u>	21	NCAC	58F	.0104
<u>Course Completion Reporting and Per Student Fee</u>	21	NCAC	58F	.0105
<u>Withdrawal of Sponsor and Instructor Approval</u>	21	NCAC	58F	.0106
<u>Per Diem</u>	21	NCAC	58G	.0101

RESPIRATORY CARE BOARD

<u>Definitions</u>	21	NCAC	61	.0103
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SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

<u>Social Work Certification Renewal Fees</u>	21	NCAC	63	.0403
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BUILDING CODE COUNCIL

<u>Administrative Code</u>	041214	Item B-2A1	
Adopt/*			
<u>Service Utilities</u>	041214	Item B-2A2	10.7
Amend/*			
<u>Temporary Power</u>	041214	Item B-2A1	10.8
Amend/*			

AGENDA
RULES REVIEW COMMISSION
March 16, 2006, 10:00 A.M.

- I. Reminder of Governor's Executive Order #1
- II. Review of minutes of last meeting
- III. Follow-Up Matters
 - A. Private Protective Services Board – 12 NCAC 7D .0405 (DeLuca)
 - B. Board of Dental Examiners – 21 NCAC 16B .0406 (DeLuca)

- C. Board of Dental Examiners – 21 NCAC 16M .0101 (DeLuca)
- D. Board of Landscape Architects – 21 NCAC 26 .0207 (DeLuca)
- E. Appraisal Board – 21 NCAC 57A .0201; .0301 (DeLuca)
- F. Real Estate Commission – 21 NCAC 58A .0902; .1902 (Bryan)
- G. Real Estate Commission – 21 NCAC 58C .0103; .0302 (Bryan)
- H. Real Estate Commission – 21 NCAC 58F .0102 (Bryan)
- I. Respiratory Care Board – 21 NCAC 61 .0202 (DeLuca)
- J. Building Code Council – 041214 Items B-2, B-1, B-2D1 903.2.7
- K. Building Code Council – 051213 Item D-3 10.10 and Article 100 (Bryan)
 - Board of Pharmacy – 21 NCAC 46 .2502 (DeLuca)
- IV. Review of Rules (Log Report)
- V. Review of Temporary Rules
- VI. Commission Business
- VII. Next meeting: April 20, 2006

Commission Review/Permanent Rules
Log of Filings
January 21, 2006 through February 20, 2006

CHILD CARE COMMISSION

<u>Definitions</u>	10A	NCAC	09	.0102
Amend/*				
<u>On-Going Requirements for a Permit</u>	10A	NCAC	09	.0304
Amend/*				
<u>Requirements for a One Star Rated License for a Child Car...</u>	10A	NCAC	09	.0305
Amend/*				
<u>Administrative Policies Required</u>	10A	NCAC	09	.1601
Repeal/*				
<u>Operational and Personnel Policies</u>	10A	NCAC	09	.1602
Repeal/*				
<u>Space Requirements</u>	10A	NCAC	09	.1604
Repeal/*				
<u>Staff/Child Ratios</u>	10A	NCAC	09	.1606
Repeal/*				
<u>Caregiving Activities for Preschool-Aged Children</u>	10A	NCAC	09	.1612
Repeal/*				

RULES REVIEW COMMISSION

<u>Parent Participation</u> Repeal/*	10A	NCAC	09	.1613
<u>Night Care</u> Repeal/*	10A	NCAC	09	.1615
<u>Scope</u> Amend/*	10A	NCAC	09	.2801
<u>Application for a Voluntary Rated License</u> Amend/*	10A	NCAC	09	.2802
<u>Program Standards for a Three Component Rated License for...</u> Amend/*	10A	NCAC	09	.2803
<u>Administrative Policies</u> Amend/*	10A	NCAC	09	.2804
<u>Operational and Personnel Policies</u> Amend/*	10A	NCAC	09	.2805
<u>Caregiving Activities for Preschool-aged Children</u> Amend/*	10A	NCAC	09	.2806
<u>Parent Participation</u> Amend/*	10A	NCAC	09	.2807
<u>Night Care</u> Amend/*	10A	NCAC	09	.2808
<u>Space Requirements</u> Amend/*	10A	NCAC	09	.2809
<u>Staff/Child Ratios</u> Amend/*	10A	NCAC	09	.2810
<u>Program Standards for a Two Component Rated License for C...</u> Adopt/*	10A	NCAC	09	.2817
<u>Staff/Child Ratios for a Two Component Rated License for ...</u> Adopt/*	10A	NCAC	09	.2818
<u>Education Standards for a Two Component Rated License for...</u> Adopt/*	10A	NCAC	09	.2819
<u>Education Standards for a Two Component Rated License for...</u> Adopt/*	10A	NCAC	09	.2820
<u>Program Standards for a Two Component Rated License for F...</u> Adopt/*	10A	NCAC	09	.2821
<u>Education Standards for a Two Component Rated License for...</u> Adopt/*	10A	NCAC	09	.2822
<u>Quality Point Options</u> Adopt/*	10A	NCAC	09	.2823
<u>How an Operator May Request or Appeal a Change in Rating</u> Amend/*	10A	NCAC	09	.2825

MEDICAL CARE COMMISSION

The rules in chapter 13 are from the NC Medical Care Commission.

The rules in Subchapter 13B set standards for the licensing of hospitals including supplemental rules for the licensure of skilled intermediate, adult care home beds in a hospital (.1900); specialized rehabilitative and rehabilitative services (.2000); general information (.3000); procedure (.3100); general requirements (.3200); patients' bill of rights (.3300); supplemental rules for the licensure of critical care hospitals (.3400); grievance and management (.3500); management and administration of operations (.3600); medical staff (.3700); nursing services (.3800); medical record services (.3900); outpatient services (.4000); emergency services (.4100); special care units (.4200); maternal-neonatal services (.4300); respiratory care services (.4400); pharmacy services and medication administration (.4500); surgical and anesthesia services (.4600); nutrition and dietetic services (.4700); diagnostic

imaging (.4800); laboratory services and pathology (.4900); physical rehabilitation services (.500); infection control (.5100); psychiatric services (.5200); nursing and adult care beds (.5300); comprehensive inpatient rehabilitation (.5400); physical plant (.6000); general requirements (.6100); and construction requirements (.6200).

<u>Applicability of Rules</u> Adopt/*	10A	NCAC	13B	.5501
<u>Independent Donor Advocate Team</u> Adopt/*	10A	NCAC	13B	.5502
<u>Informed Choice</u> Adopt/*	10A	NCAC	13B	.5503
<u>Evaluation Protocol for Living Organ Donors</u> Adopt/*	10A	NCAC	13B	.5504
<u>Perioperative Care and Facility Support</u> Adopt/*	10A	NCAC	13B	.5505
<u>Discharge Planning</u> Adopt/*	10A	NCAC	13B	.5506

MENTAL HEALTH, COMMISSION OF

The rules in Chapter 27 are mental health rules about community facilities and services.

The rules in Subchapter 27G are from either the department or the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services including general information (.0100); operation and management rules (.0200); physical plant rules (.0300); licensing procedures (.0400); area program requirements; over-authority on county program monitoring of facilities and services (.0600); accreditation of area programs and services (.0700); waivers and appeals (.0800); general rules for infants and toddlers (.0900); partial hospitalization for individuals who are mentally ill (.1100); psychological rehabilitation facilities for individuals with severe and persistent mental illness (.1200); residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1300); day treatment for children and adolescents with emotional or behavioral disturbances (.1400); intensive residential treatment for children and adolescents who are emotionally disturbed or who have a mental illness (.1500); residential treatment staff secure facilities for children or adolescents (.1700); psychiatric residential treatment facilities for children and adolescents (.1900); specialized community residential centers for individuals with developmental disabilities (.2100); before/after school and summer developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2200); adult developmental and vocational programs for individuals with developmental disabilities (.2300); developmental day services for children with or at risk for developmental delays or disabilities, or atypical development (.2400); early childhood intervention services (ECIS) for children with an at risk for developmental delays or disabilities, or atypical development and their families (.2500); nonhospital medical detoxification for individuals who are substance abusers (.3100); social setting detoxification for substance abuse (.3200); outpatient detoxification for substance abuse (.3300); residential treatment/rehabilitation for individuals with substance abuse disorders (.3400); outpatient facilities for individuals with substance abuse disorders (.3500); outpatient opioid treatment (.3600); day treatment facilities for individuals with substance abuse disorders (.3700); substance abuse services for DWI offenders (.3800); drug education schools (DES) (.3900); treatment alternatives to street crimes (TASC) (.4000); substance abuse primary prevention services (.4200); therapeutic community (.4300); facility based crises services for individual of all disability groups (.5000); community respite services for individuals of all disability groups (.5100); residential therapeutic (habilitative) camps for children and adolescents of all disability groups (.5200); day activity for individuals of all disability groups (.5400); sheltered workshops for individuals of all disability groups (.5500); supervised living for individuals of all disability groups (.5600); assertive community treatment service (.5700); supportive employment for individuals of all disability groups (.5800); case management for individuals of all disability groups (.5900); inpatient hospital treatment for individuals who have mental illness or substance abuse disorders (.6000); emergency services for individuals of all disability groups (.6100); outpatient services for individuals of all disability groups (.6200); companion respite services for individuals of all disability groups (.6300); personal assistants for individuals of all disabilities groups (.6400); employment assistance programs (.6500); specialized foster care services (.6600); forensic screening and evaluation services for individuals of all disability groups (.6700); prevention services (.6800); and consultation and education services (.6900).

<u>Scope</u> Adopt/*	10A	NCAC	27G	.1801
<u>Requirements of Licensed Professionals</u>	10A	NCAC	27G	.1802

Adopt/*				
<u>Requirements of Qualified Professionals</u>	10A	NCAC	27G	.1803
Adopt/*				
<u>Minimum Staffing Requirements</u>	10A	NCAC	27G	.1804
Adopt/*				
<u>Operations</u>	10A	NCAC	27G	.1805
Adopt/*				
<u>Transfer or Discharge</u>	10A	NCAC	27G	.1806
Adopt/*				
<u>Scope</u>	10A	NCAC	27G	.4401
Adopt/*				
<u>Staff</u>	10A	NCAC	27G	.4402
Adopt/*				
<u>Operations</u>	10A	NCAC	27G	.4403
Adopt/*				
<u>Scope</u>	10A	NCAC	27G	.4501
Adopt/*				
<u>Staff</u>	10A	NCAC	27G	.4502
Adopt/*				
<u>Operations</u>	10A	NCAC	27G	.4503
Adopt/*				

HEALTH SERVICES, COMMISSION FOR

<u>Application Process</u>	10A	NCAC	39A	.1005
Amend/*				

The rules in Chapter 41 are Health and Epidemiology rules adopted by the Commission for Health Services.

The rules in Subchapter 41A concern communicable disease control including rules about reporting (.0100); control measures (.0200 and .0300); immunizations (.0400); purchase and distribution of vaccine (.0500); special program and project funding (.0600); licensed nursing home services (.0700); grants and contracts (.0800); and the biological agent registry (.0900).

<u>Control Measures Tuberculosis</u>	10A	NCAC	41A	.0205
Amend/*				

<u>General Definitions</u>	10A	NCAC	41F	.0101
Adopt/*				

<u>Reporting of Chemical-Related Illness or Injury</u>	10A	NCAC	41F	.0102
Adopt/*				

<u>Method of Reporting</u>	10A	NCAC	41F	.0103
Adopt/*				

MANUFACTURED HOUSING BOARD

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home

Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); and home inspector continuing education (.1300).

Complaints 11 NCAC 08 .1202
Amend/*

JUSTICE, DEPARTMENT OF

Location 12 NCAC 02J .0101
Adopt/*

Purposes 12 NCAC 02J .0102
Adopt/*

Administrative Staff 12 NCAC 02J .0103
Adopt/*

Definitions 12 NCAC 02J .0104
Adopt/*

Minimum Standards for Campus Police Officers 12 NCAC 02J .0201
Adopt/*

Application for Campus Police Agency 12 NCAC 02J .0202
Adopt/*

Application for Campus Police 12 NCAC 02J .0203
Adopt/*

Background Investigation 12 NCAC 02J .0204
Adopt/*

Fee 12 NCAC 02J .0205
Adopt/*

Oath 12 NCAC 02J .0206
Adopt/*

Liability Insurance 12 NCAC 02J .0207
Adopt/*

Suspension, Revocation or Denial of Agency Certification 12 NCAC 02J .0208
Adopt/*

Suspension, Revocation or Denial of Officer 12 NCAC 02J .0209
Adopt/*

Period of Suspension, Revocation or Denial 12 NCAC 02J .0210
Adopt/*

Summary Suspensions 12 NCAC 02J .0211
Adopt/*

Tenure 12 NCAC 02J .0301
Adopt/*

Prohibited Acts 12 NCAC 02J .0302
Adopt/*

Transfers 12 NCAC 02J .0303
Adopt/*

Badges, Uniforms, Vehicles and Officer Identification 12 NCAC 02J .0304
Adopt/*

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 2 are from the Environmental Management Commission.

The rules in Subchapter 2G concern water resources programs and include state participation in civil works projects (.0100); beach project revolving fund advances (.0300); floodway establishment (.0400); allocation of Jordan Lake water supply storage (.0500); and aquatic weed control (.0600).

<u>The Aquatic Weed Control Act</u> Repeal/*	15A	NCAC	02G	.0601
<u>Noxious Aquatic Weed List</u> Amend/*	15A	NCAC	02G	.0602

HEALTH SERVICES, COMMISSION FOR

The rules in Chapter 13 are from the Commission for Health Services and cover hazardous and solid waste management, inactive hazardous substances, and waste disposal sites. The rules in Subchapter 13A cover hazardous waste management, and specifically HWTSD (hazardous waste treatment, storage, or disposal) facilities.

<u>Stds for the Mgmt of Specific HW/Types</u> Amend/*	15A	NCAC	13A	.0111
<u>The Hazardous Wast Permit Program-Part 270</u> Amend/*	15A	NCAC	13A	.0113

REVENUE, DEPARTMENT OF

The rules in Chapter 7 pertain to the sales and use tax. They cover divisional rules, State sales and use tax, and local government sales and use tax.

The rules in Subchapter 7B pertain to the State sales and use tax including general provisions (.0100); the applicability of the State sales and use tax to manufacturing and industrial processing (.0200); application of the sales and use taxes to specific tangible personal property classified for use by industrial users (.0300); application of the taxes to specific industries (.0400); sales to manufacturers that are exempt from the taxes (.0500); taxes to sales of mill machinery and accessories (.0600); application of the taxes to purchases made by specific industries (.0700); how the taxes apply in situations where there are adjustments, replacements, alterations and installment sales (.0800); how the taxes apply to advertising and advertising agencies (.0900); applying the taxes to bankers, beauty shop operators, shoe repairmen, and watch repairmen (.1000); applying the taxes to sales of bulk tobacco barns and farm machines and machinery (.1100); applying the taxes to hotels, motels, tourist camps, and tourist cabins (.1200); applying the taxes to sales in interstate commerce (.1300); applying the taxes to sales of medicine, drugs, and medical supplies (.1400); applying the taxes to sales to or by hospitals (.1600); how the taxes apply to sales by or to the State, counties, or other political subdivisions (.1700); how the taxes apply to hospitals and sanitariums (.1800); how the sales and use tax and scrap tire disposal tax apply to tire recappers and retreaders (.1900); how the taxes apply to sales and gifts by employers to employees or other users (.2000); how the taxes apply to electricity, piped natural gas, bottled gas, coal, coke, fuel oil, oxygen, acetylene, hydrogen, liquefied petroleum gas and other combustibles (.2100); how the taxes apply to sales of food and food products for human consumption (.2200); how the taxes apply to sales to and by veterinarians (.2400); how the taxes apply to furniture and storage warehousemen (.2500); the liability of contractors, the use tax on equipment brought into the State, and building materials (.2600); how the taxes apply to dentists, dental laboratories and dental supply houses (.2700); how the taxes apply to florists, nurserymen, greenhouse operators and farmers (.2800); how the taxes apply to sales of and through vending machines (.2900); how the sales and use tax applies to articles taken in trade, trade-ins, repossessions, returned merchandise, and used or second hand merchandise (.3000); how the taxes apply to radio and television stations, and motion picture theatres (.3100); how the taxes apply to telephone and telegraph companies (.3200); how the taxes apply to orthodontic appliances (.3300); how the taxes apply to memorial stone and monument dealers and manufacturers (.3400); how the taxes apply to machinists, foundrymen and pattern makers (.3500); how the taxes apply to funeral expenses (.3600); how the taxes apply to premiums and gifts and trading stamps (.3800); how the taxes apply to containers, wrapping, and packing and shipping materials (.3900); how the taxes apply to fertilizers, seeds, feed and insecticides (.4000); how the taxes apply to such persons as artists, art dealers and photographers (.4100); how the taxes apply to sales to the United States Government or its agencies (.4200), refunds to interstate carriers (.4300); how the taxes apply to leases and rentals (.4400); how the taxes apply to laundries, dry cleaning plants, launderettes, linen rentals, and to solicitors for such businesses (.4500); how the taxes apply to motor vehicles and boats (.4600); how the taxes apply to printers and newspaper or magazine publishers (.4700); the basis for reporting the taxes (.4800); transportation charges (.4900); how the taxes apply to eyeglasses and other ophthalmologic aids and supplies (.5000); how the taxes apply to leased departments and transient sellers (.5100); how the

taxes apply to baby chicks and poults (.5200); the requirements for posting bond and obtaining a certificate of authority (.5300); and the forms used for sales and use tax purposes (.5400).

<u>Returns</u>	17	NCAC	07B	.0104
Amend/*				
<u>Certificates of Exemption Sales for Resale</u>	17	NCAC	07B	.0106
Amend/*				
<u>Application of Tax to Fish Bait</u>	17	NCAC	07B	.0109
Amend/*				
<u>Stamps, Coins, Etc.</u>	17	NCAC	07B	.0111
Amend/*				
<u>Auctioneers and Auction Sales</u>	17	NCAC	07B	.0113
Amend/*				
<u>REsearch Services</u>	17	NCAC	07B	.0115
Amend/*				
<u>Commercial Fishermen Certificate of Exemption</u>	17	NCAC	07B	.0123
Amend/*				
<u>Adjustments and Replacements</u>	17	NCAC	07B	.0801
Amend/*				
<u>Cabinetmakers</u>	17	NCAC	07B	.0803
Amend/*				
<u>Sign Fabricating and Painting</u>	17	NCAC	07B	.0805
Amend/*				
<u>Repairs and Alterations Generally</u>	17	NCAC	07B	.0806
Amend/*				
<u>Fire Extinguishers Recharging</u>	17	NCAC	07B	.0811
Amend/*				
<u>Advertising and Advertising Agencies</u>	17	NCAC	07B	.0901
Amend/*				
<u>Advertising Artists</u>	17	NCAC	07B	.0902
Amend/*				
<u>Public Relations Firms</u>	17	NCAC	07B	.0904
Amend/*				
<u>Barber and Beautician Supplies</u>	17	NCAC	07B	.1001
Amend/*				
<u>Shoe Repairmen</u>	17	NCAC	07B	.1002
Amend/*				
<u>Watch Clock and Jewelry Repairmen</u>	17	NCAC	07B	.1003
Amend/*				
<u>In-State Deliveries</u>	17	NCAC	07B	.1302
Amend/*				
<u>Deliveries to Donees</u>	17	NCAC	07B	.1303
Amend/*				
<u>Sales to or by Nonprofit Entities</u>	17	NCAC	07B	.1601
Amend/*				
<u>Refunds to Nonprofit Entities</u>	17	NCAC	07B	.1602
Amend/*				
<u>Sales to Employees</u>	17	NCAC	07B	.2001
Amend/*				
<u>Gifts to Employees</u>	17	NCAC	07B	.2002
Amend/*				
<u>Interstate Sale</u>	17	NCAC	07B	.2302

Amend/*				
<u>Moving and Packing Materials</u>	17	NCAC	07B	.2502
Amend/*				
<u>Secondhand Furniture</u>	17	NCAC	07B	.2503
Amend/*				
<u>Sales Through Vending Machines</u>	17	NCAC	07B	.2901
Amend/*				
<u>Sales of Vending Machines</u>	17	NCAC	07B	.2902
Amend/*				
<u>Printing of Containers</u>	17	NCAC	07B	.4702
Repeal/*				
<u>Printing Surface Supplies</u>	17	NCAC	07B	.4705
Repeal/*				
<u>Offset Printing Equipment</u>	17	NCAC	07B	.4706
Repeal/*				
<u>Printing Chemicals</u>	17	NCAC	07B	.4707
Amend/*				
<u>Postage Charges by Printers</u>	17	NCAC	07B	.4708
Amend/*				
<u>Bookbinders</u>	17	NCAC	07B	.4710
Amend/*				
<u>Gas Sold to Printers</u>	17	NCAC	07B	.4711
Repeal/*				
<u>Metal for Making Type</u>	17	NCAC	07B	.4712
Repeal/*				
<u>Typewriters Sold to Printers</u>	17	NCAC	07B	.4713
Amend/*				
<u>Mounting Tape Sold to Printers</u>	17	NCAC	07B	.4714
Repeal/*				
<u>Newspaper Publishers Machinery</u>	17	NCAC	07B	.4715
Amend/*				
<u>Typesetting</u>	17	NCAC	07B	.4716
Amend/*				
<u>Photographs Newspaper</u>	17	NCAC	07B	.4717
Repeal/*				

GENERAL CONTRACTORS, LICENSING BOARD FOR

The rules of the Licensing Board for General Contractors include the board's organization (.0100); licensing requirements (.0200); application procedures (.0300); examinations (.0400); licenses (.0500); disciplinary procedures (.0700); contested cases (.0800); and home-owners recovery fund (.0900).

<u>Eligibility</u>	21	NCAC	12	.0204
Amend/*				
<u>Filing Deadline/App Seeking Qual/Emp/Another</u>	21	NCAC	12	.0205
Amend/*				
<u>Request</u>	21	NCAC	12	.0302
Amend/*				
<u>Person Taking Examination</u>	21	NCAC	12	.0408
Amend/*				
<u>Charge for Status of Licensure Affidavit</u>	21	NCAC	12	.0506
Amend/*				

<u>Improper Practice</u>	21	NCAC	12	.0701
Amend/*				

MEDICAL BOARD

The rules in Subchapter 32S regulate physician assistants.

<u>Definitions</u>	21	NCAC	32S	.0101
Amend/*				
<u>Qualifications for License</u>	21	NCAC	32S	.0102
Amend/*				
<u>Temporary License</u>	21	NCAC	32S	.0103
Repeal/*				
<u>Inactive License Status</u>	21	NCAC	32S	.0104
Amend/*				
<u>Scope of Practice</u>	21	NCAC	32S	.0108
Amend/*				
<u>Supervision of Physician Assistants</u>	21	NCAC	32S	.0110
Amend/*				
<u>Supervising Physicians</u>	21	NCAC	32S	.0111
Amend/*				
<u>Notification of Intent to Practice</u>	21	NCAC	32S	.0112
Amend/*				
<u>Practice During A Disaster</u>	21	NCAC	32S	.0118
Amend/*				

FUNERAL SERVICE, BOARD OF

The rules in Chapter 34 are from the North Carolina Board of Funeral Service.

The rules in Subchapter 34C concern crematories including general provisions (.0100); equipment and processing (.0200); and authorizations, reports, records (.0300).

<u>Election to Crematory Authority</u>	21	NCAC	34C	.0101
Amend/*				

NURSING, BOARD OF

The rules in Chapter 36 are the rules of the Board of Nursing including rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); and articles of organization (.0600).

<u>Definitions</u>	21	NCAC	36	.0120
Amend/*				
<u>Continuing Competence</u>	21	NCAC	36	.0232
Adopt/*				
<u>Facilities</u>	21	NCAC	36	.0322
Amend/*				

CONTESTED CASE DECISIONS

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. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

Sammie Chess Jr.

Beecher R. Gray

Beryl E. Wade

Melissa Owens Lassiter

A. B. Elkins II

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL AND BEVERAGE COMMISSION</u>				
Richard S Blazak, Park View Lounge v. ABC	96 ABC 0053	Gray	07/06/05	
ABC Comm. & City of Asheville v. Elijah Ulysses Jones T/A Jones Convenience Store	98 ABC 0962	Gray	07/12/05	
ABC Comm v. Rudean Robinson Harris T/A Rudean's Diner & Lounge 3	03 ABC 1214	Conner	06/28/05	
ABC Comm v. Desperado's Inc T/A Desperado's	04 ABC 1192	Wade	07/20/05	
ABC Commission v. Don Mariachi Ventures, Inc, T/A El Mariachi Gordo	05 ABC 0188	Morrison	02/01/06	
ABC Comm. v Nuntia Ester Davis T/A N and R Grocery 2	05 ABC 0209	Lassiter	09/13/05	
Cameron's One Stop, Sank Cameron v. ALE Agent B Haynes, Ann H. Johnson, Permit Comm Mgr.	05 ABC 0799	Elkins	07/28/05	
ABC Commission v Carlos Salas, T/A Boom Room Night Club	05 ABC 1831	Conner	01/11/06	
ABC Commission v. Loeffler Enterprises, Inc.,	05 ABC 1842	Conner	01/11/06	
ABC Commission v. Partnership, T/A John Boys County Store	05 ABC 1843	Conner	01/11/06	
<u>BOARD OF LICENSING OF GEOLOGISTS</u>				
James W King, PG v Board of Licensing of Geologists	05 BOG 0149	Morrison	08/10/05	
<u>BOARD OF MEDICAL EXAMINERS</u>				
Ricky E. Townsend v. Medical Board	05 BME 1435	Morrison	12/12/05	
<u>AUCTIONEERS LICENSING BOARD</u>				
Robert H. Rankin, Jr., NCAL #6727 v. Auctioneers Licensing Board	04 CFA 1497	Mann	05/13/05	
<u>COMMERCE, DEPARTMENT OF</u>				
Land-of-Sky Regional Council v. Dept of Commerce, Div of Emp. & Trning	96 COM 1921	Gray	07/05/05	
<u>CRIME VICTIMS COMPENSATION</u>				
Dwight D Hoover Sr. v. Victims Compensation Commission	04 CPS 0988	Conner	07/07/05	
Moreno Edoardo Lovejoy v. Crime Control & Public Safety, Victime Comp. Services Division, Crime Victims Compensation Commission	04 CPS 1176	Wade	09/22/05	
Myrtle Perry v. Crime Victims Compensation Commission	04 CPS 1190	Chess	06/21/05	
Marion A Liles v Dept. of Crime Control & Public Safety, Victims Compensation Service Division	05 CPS 0150	DeLuca	07/29/05	
Cecelia Reid v DCCPS, Div of Vic Comp Svcs, Crime Vic Comp Comm	05 CPS 0220	Lassiter	08/08/05	
Rhonda Lynnette Rhodes v. Crime Victims Compensation Program	05 CPS 0484	Gray	06/23/05	
Brenda Edwards, d/b/a B&H Wrecker Service v. Dept. of Crime Control & Public Safety, Div. of State Highway Patrol	05 CPS 0510	Lassiter	10/19/05	
Terry Ramey, d/b/a Ramey Wrecker Service v. Dept. of Crime Control & Public Safety, Division Of State Highway Patrol	05 CPS 0511	Lassiter	10/18/05	
Curtis Glenn Davis v. Crime Control and Public Safety Crime Victims Compensation Commission	05 CPS 0529	Bryan	10/10/05	
Jamaal O Staten v. Crime Victims Compensation Commission	05 CPS 0711	Elkins	07/28/05	
Sandra A. Tinsley v. Crime Victims Compensation Services	05 CPS 0850	Lassiter	12/02/05	
Ora Evan v. Crime Control and Public Safety, Division of Victim	05 CPS 1578	Gray	11/18/05	

CONTESTED CASE DECISIONS

Compensation Services

BOARD OF ELECTIONS

Republican Governors Association & Holly Lynn Koerber v. State Board of Elections	04 BOE 2051	Morrison	06/30/05	20:02 NCR	100
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HEALTH AND HUMAN SERVICES

MedVisit, Inc. v. Div. of Medical Assistance (DHR)	94 DHR 0012	Gray	07/12/05		
Patsy Norris v. Department of Human Resources	94 DHR 0895	Gray	07/06/05		
Small World DC II, Trena McDaniel v DHHS, Div of Child Dev.	00 DHR 2202 ²	Gray	08/08/05		
Michelle and Doug Sanders, DHHS	01 DHR 0002	Gray	01/27/06		
Trena S McDaniel & Small World DC II v. DHHS, Div of Child Dev.	01 DHR 0321 ²	Gray	08/08/05		
Richard McKinley Whited v. DHHS	02 DHR 0024	Gray	08/04/05		
Jeffrey D. Cannon v. DHHS, Walter B Jones ADACT	03 DHR 0488	Conner	06/29/05		
Aundria Shante Edwards v DHHS, Division of Facility Services	03 DHR 0806	Gray	08/10/05		
Jamie Kearney v. DHHS	03 DHR 0924	Gray	10/04/05		
Constance Pierce v. DHHS	03 DHR 1236	Conner	01/11/06		
Thomas Reiter, a minor, by his mother & legal guardian, Kathryn Reiter	03 DHR 1253	Gray	06/27/05	20:03 NCR	144
Teresa South and Michael South v. DHHS, DMA, Third Party Recovery Section	03 DHR 1515	Gray	10/04/05		
Nina Sherean Hughes v. DHHS, Div of Facility Services	03 DHR 1595	Gray	10/03/05		
Louise Li Lai Fong v. DHHS, Division of Facility Services	03 DHR 1714	Wade	06/27/05		
Lenwood E Hargrove, Wilma Hargrove v. Div. of Medical Assistance	03 DHR 1737	Conner	07/27/05		
Geana E. Anderson v. DHHS, Division of Facility Services	03 DHR 2063	Gray	06/24/05		
Friendly Elm Rest Home (60)	03 DHR 2402	Conner	01/04/06	20:16 NCR	
Gaile Thomas v. DHHS, Division of Facility Services	04 DHR 0110	Lassiter	06/21/05		
Mecca L Stewart v DHHS, Division of Facility Services	04 DHR 0213	Elkins	08/15/05		
Fatmata Gbondo v. DHHS, DFS	04 DHR 0241	Elkins	10/05/05		
Otis D. Wyche, Jr., v. DHHS, Div. of Facility Services	04 DHR 0294	Chess	05/16/05		
North Brook Rest Home, Inc v. DHHS, Adult Licensure Section	04 DHR 0407	Conner	07/26/05		
Priscilla Thomas d/b/a Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 0539 ¹	Mann	06/03/05		
Onslow County Behavioral Healthcare Services, Daniel M. Jones, Area Director v. DFS, Stephanie Alexander, Chief	04 DHR 0768	Conner	11/29/05		
Jamie Lynn Hensley v. DHHS, Div. of Facility Services	04 DHR 0917	Wade	05/16/05		
Aaron Anderson v. DHHS, Div. of Medical Assistance (DMA)	04 DHR 0929	Gray	08/10/05		
Carla Jean Summers v. DHHS, DFS	04 DHR 1020	Lassiter	09/21/05		
Bernice Haddock v. DHHS	04 DHR 1058	Gray	12/29/06		
Patricia A. Reece v. DHHS, Division of Facility Services	04 DHR 1062	Mann	07/27/05	20:05 NCR	266
Mario Flores v. DHHS, Division of Facility Services	04 DHR 1110	Mann	08/01/05		
Kid's Day Out Child Care and Learning Cnter, Inc, ID #76000079 v. DHHS, Division of Child Development	04 DHR 1119	Conner	10/27/05		
Sarah Ada Keller and John George Keller, Jr., for Justin Dean Keller v DHHS Division of Medical Assistance	04 DHR 1158	Wade	11/18/05		
Charleese K Garrison, mother of Jasmine C Garrison v. DHHS, Division of Medical Assistance	04 DHR 1168	Gray	08/03/05		
Carla Jean Summers v. DHHS, DFS	04 DHR 1222	Lassiter	09/19/05		
Betty Louise Bridges v. DHHS, DFS	04 DHR 1300	Conner	09/22/05	20:09 NCR	
Starr Meadows v. DHHS, Div. of Medical Assistance	04 DHR 1334	Wade	10/18/05		
Priscilla Thomas d/b/a Thomas, Priscilla Small Day Care Home-ID#4605036 v. DHHS, Division of Child Development	04 DHR 1413 ¹	Mann	06/03/05		
Wake Forest University Health Sciences (Lessor) and Huntersville Dialysis Center of Wake Forest University d/b/a Huntersville Dialysis Center (Lessee) v. DHHS, Div. of Facility Services, CON Section and Bio-Medical Applications of NC, Inc. and Total Renal Care of North Carolina, LLC	04 DHR 1406	Conner	05/18/05		
Dawn Allison v. Div. of Medical Assistance	04 DHR 1444	Mann	05/27/05		
Stanlina Williams v. DHHS, DFS	04 DHR 1473	Conner	10/31/05		
Julia Carver Thompson v DHHS	04 DHR 1498	Conner	09/13/05		
Rosa E. Arias v. Patricia M. Epps – HCPR Nurse Investigator, Health Care Personnel Registry	04 DHR 1505	DeLuca	10/07/05		
Autumn Green Adult Care Home, Patricia L. Tiller v. DHHS, DFS	04 DHR 1526	Gray	10/03/05		
Filippo Porco v. DHHS, Health Care Personnel Registry Investigations	04 DHR 1647	Elkins	09/29/05		
Dorothy S Coleman v DHHS	04 DHR 2247	Elkins	07/28/05		
Maxine L Fronerberger v DHHS, Division of Facility Services, Health Care Personnel Registry Section	04 DHR 2286	Chess	08/25/05		
Gloria Keller v. Health Care Personnel Registry Investigation	05 DHR 0096	DeLuca	10/05/05		
LaKenya S. Perry v Division of Child Development	05 DHR 0112	Gray	08/24/05		
Katherine Lewis (guardian) in lieu of Francis Curran Lewis (son) v. Wilson-Greene Mental Health Center, CAP Program	05 DHR 0117	Wade	10/06/05		
Keith's Kids, Inc, Keith Richardson v DHHS, Div. of Facility Services	05 DHR 0196	Wade	08/31/05		
Lakisha Sessoms v. DHHS, DFS	05 DHR 0227	Wade	01/10/06		
Tara Sue Clark-Grubb v. Guilford County Dept. of Social Services, Laura Blackwell, Tonya Dupree Freeman, Stacy Taylor-Greene	05 DHR 0243	Conner	06/10/05		

CONTESTED CASE DECISIONS

Vicky Richardson v DHHS	05 DHR 0262	Wade	08/10/05
Teresa Sharon Pyles v. Mecklenburg Co. DSS, Kuralt Centre	05 DHR 0264	Wade	06/20/05
Belinda Darnell Hawkins v. DHHS, Div of Facility Services	05 DHR 0265	Elkins	06/09/05
LaQuasha K Massey v. DHHS, Division of Social Services	05 DHR 0294	Lassiter	07/11/05
Wade R Kearney II v. DHHS, Office of Emer Medical Services	05 DHR 0325	Lassiter	07/25/05
Agnes Williams v. DHHS, DFS	05 DHR 0366	Lassiter	10/24/05
Cherry Bruce Kearney, Operator 7 th Heaven Day Care v. DHHS, Division of Facility Services	05 DHR 0382	Wade	06/20/05
DSS, Deloise Bryant v Halifax County Adoption Agency	05 DHR 0388	Lassiter	07/14/05
Janet Stovall v DHHS	05 DHR 0403	Chess	08/08/05
Sabrina R. Betts, d//b/a Service First – The Alpha House v. DHHS, DFS Mental Health Licensure and Certification Section	05 DHR 0409	Chess	12/20/05
Tammy Trejo v. Office of Administrative Hearings	05 DHR 0452	Gray	06/15/05
Maria Shante Holley v DHHS, DFS	05 DHR 0461	Wade	07/18/05
Albert Ansah Amoatey v. DHHS	05 DHR 0459	Mann	07/20/05
Erdem Narter v. DHHS, Division of Facility Services	05 DHR 0463	Mann	06/16/05
Eric & Carolyn Blue v DHHS	05 DHR 0476	Chess	08/23/05
Jerry Lemar Pettus v Off. Of Emergency Medical Services	05 DHR 0496	Mann	07/19/05
Reginald Lamar Brown v. DSS, Wilson, NC	05 DHR 0527	Mann	11/15/05
Veronica M Black v. DHHS, Division of Facility Services	05 DHR 0533	Gray	08/10/05
Valerie R McGahee ID #26001205 Elite Land Child Care & Learning. Center v DHHS, Division of Child Development	05 DHR 0534	Lassiter	09/12/05
D'Jetta D Miley for Jordana Correa v. Wake Co. Dept. of Human Services	05 DHR 0570	Lassiter	06/02/05
William Henry Lane v. DHHS, Div. of Medical Assistance	05 DHR 0571	Chess	05/31/05
Bennie Frederick, Jr., v. DHHS, Div of Social Services	05 DHR 0572	Wade	09/22/05
Stephanie Marie Mabe v DHHS	05 DHR 0590	Elkins	08/11/05
Dinah Ann Lumpkin v. DHHS	05 DHR 0613	Conner	01/04/06
Estate of Alma M Merrill, Kelly Merrill Dozier-heir v. Medicaid, Third Party Recovery Section	05 DHR 0628	Wade	10/17/05
Denise Warren v Cumberland Co. Department of Social Services	05 DHR 0630	Morrison	08/19/05
PJ's Child Care Learning Center #2 v DHHS, Div of Child Development	05 DHR 0633	Lassiter	08/10/05
Candace L Wood on behalf of Caitlyn A Wood v. OPC Men Hlth Area Prog	05 DHR 0649	Conner	08/01/05
Candace L Wood on behalf of Waylon S Keeter v. OPC Men Hlth Area Prog	05 DHR 0650	Conner	08/01/05
Candace L Wood on behalf of Caitlyn A Wood v Alamance Caswell MHDDSA	05 DHR 0651	Conner	07/12/05
Candace L Wood on behalf of Caitlyn A Wood v Alamance Caswell MHDDSA	05 DHR 0652	Conner	07/12/05
Peachstate Nutrition Services, Inc., Karen Riner v. DHHS, Div. of Public Health, Child and Adult Care Food Program	05 DHR 0653	Morrison	12/28/05
Rose McRae v. DHHS, Division of Health Services	05 DHR 0662	Elkins	07/18/05
Charles Edward Shaw, Jr v Dorothea Dix Hospital	05 DHR 0675	Elkins	09/15/05
Walter G Dunston v. DHHS, Division of Facility Services	05 DHR 0688	Elkins	07/11/05
Pinebrook Residential Facility #1 v DHHS, DFS, Adult Care Licensure Sec	05 DHR 0704	Conner	07/26/05
Cheryl Delk v John Umstead Hospital	05 DHR 0716	Elkins	08/11/05
Felicia Boykin, RHIA, Moses Cone Hospital v. DHHS, DMA	05 DHR 0719	Elkins	12/20/05
Barbara Munch v. DHHS	05 DHR 0725	Morrison	07/22/05
Gwendolyn Bain v. Hoke Co Dept of Social Svcs, Ms Christin Basil	05 DHR 0749	Lassiter	07/22/05
Victor Jones, SCW Residential Care, Inc v. DHHS, DMH, DD & SAS	05 DHR 0755	Lassiter	12/16/05
Princess Watson v. DMA, Third Party Recovery Section	05 DHR 0759	Mann	01/25/06
Amy Hallisey, Pharmacist, Target Pharmacy-Lawndale, Greensboro v. DHHS Accounts Receivable, Division of Medical Assistance	05 DHR 0762	Elkins	08/11/05
Lindsey L Shumacher v DHHS, John Umstead Hospital	05 DHR 0772	Elkins	08/11/05
Amanda M Walters v. DHHS	05 DHR 0779	Elkins	07/28/05
Lisa Shull v. DHHS	05 DHR 0782	Mann	09/14/05
Vernie Ross v. DHHS	05 DHR 0814	Mann	09/14/05
Aralyn F Pressley v DHHS, Div. of Facility Services	05 DHR 0800	Morrison	08/17/05
A Child's Creation DC, Inc., Betty G. Sturgess, v. DHHS, Div. of Child Development, Regulatory Service Section	05 DHR 0826	Gray	01/09/06
Julie Torain v. DHHS	05 DHR 0831	Chess	11/07/05
Tamesha Taft v. DHHS	05 DHR 0836	Gray	08/04/05
Linda M Currie v. Medicaid	05 DHR 0854	Gray	07/07/05
Geneva Walton v DHHS, Division of Facility Services	05 DHR 0861	Chess	07/21/05
James E. Taylor v. DHHS	05 DHR 0887	Wade	12/07/05
Claire Diggs v. Moore County, Program Integrity Unit	05 DHR 0915	Gray	08/10/05
Robert S. Moser Jr., v. DHHS, DMA, 3 rd Part Recovery	05 DHR 0916	Lassiter	12/05/05
Franchesca L Camp v Nurse Aide 1 & Health Care Registry	05 DHR 0919	Lassiter	07/27/05
Damien Godette v. DHHS	05 DHR 0923	Wade	12/07/05
Benny Brown v. DHHS, Division of Facility Services	05 DHR 0949	Elkins	07/28/05
Clarissa Bailey v DHHS	05 DHR 0961	Conner	08/30/05
Frank Haley v. DHHS, DFS, Health Care Personnel Registry Section	05 DHR 0991	Gray	12/28/05
LaYvonne Diaz Evans v DHHS, Division of Facility Services	05 DHR 0994	Lassiter	08/16/05
Charles P. Robinson v. Ms. Santana T. Deberry v. DHHS	05 DHR 1005	Elkins	01/19/06
Narell C. Joyner Scholars, Inc v. DHHS	05 DHR 1013	Gray	10/20/05
Michelle A. Galloway v. DHHS, DFS	05 DHR 1042	Gray	10/03/05
Sandra Gregory v. DHHS, Div. of Child Development	05 DHR 1043	Lassiter	10/26/05
Valinda Streater v. DHHS, DFS	05 DHR 1047	Gray	10/06/05
Wakilat Oloko v. DHHS, DFS	05 DHR 1058	Elkins	09/29/05
John & Mitzi Wolf v. DHHS	05 DHR 1059	Morrison	12/12/05
Priscilla Vann v. Laura Peterson and Dept. of Social Services	05 DHR 1063	Conner	10/26/05

CONTESTED CASE DECISIONS

Amanda Davis Mitchell v. DHHS, DFS	05 DHR 1078	Mann	12/12/05
Tracy Anderson v DHHS, Division of Facility Services	05 DHR 1095	Elkins	09/09/05
Roy L. Simpson Jr v. DHHS, DFS, Health Care Personnel Registry Section	05 DHR 1102	Gray	10/25/05
Tiffany Charles v Office of Administrative Hearings	05 DHR 1105	Gray	09/07/05
Brookside Montessori School v. DHHS, Div of Child Development	05 DHR 1119	Wade	10/12/05
Esther Thompson v. Vance County Dept. of Social Services, Marchita Vann, DHHS, Santana Deberry	05 DHR 1132	Chess	10/03/05
Tammy R. Sykes v. Dare County Social Services, Margaret Scott	05 DHR 1139	Elkins	09/22/05
Hospice & Palliate Care Charlotte Region v. DHHS, DFS, Con Section And Liberty Home Care II, LLC	05 DHR 1142	Elkins	12/14/05
Patricia Collins v. OAH	05 DHR 1174	Elkins	11/01/05
The Learning Tree Enrichment Center, Inc. Joyce W. Cunningham v. The Division of Child Development, DHHS	05 DHR 1184	Elkins	12/13/05
Juanita Williamson, Wee Ones Child Care 67000753 v. Satana T.Deberry DHHS	05 DHR 1218	Lassiter	10/24/05
Shirley Michelle Reinhardt v. DHHS, DFS	05 DHR 1224	Lassiter	09/29/05
Rosetta Starks v. DHHS, DFS, Health Care Personnel Registry Section	05 DHR 1232	Elkins	10/31/05
Janice Arnette, Id# 63000117 v. Div. of Child Development	05 DHR 1257	Lassiter	11/21/05
Steven R. Hudspeth v. DMA	05 DHR 1261	Elkins	12/14/05
Peggy McLendon v. DHHS	05 DHR 1265	Elkins	01/19/06
Unity Tabernacle Christian Day Care v. Division of Child Development	05 DHR 1269	Gray	12/08/05
Vince Horhorouny v. DHHS, Dept. of the Controller	05 DHR 1325	Conner	11/17/05
Earnie B. Walker v. DHHS, DMA	05 DHR 1332	Elkins	11/01/05
Romie McCarty, Jr., v. DHHS, DMA	05 DHR 1361	Gray	12/29/05
Joseph Lawrence James, Health Care Registry	05 DHR 1373	Chess	12/19/05
Marianne Stephenson v. DHHS	05 DHR 1414	Gray	12/05/05
Top Flow Family Care Services d/b/a Tara Cottage v. DMA	05 DHR 1416	Chess	12/09/05
Diversicare Assisted Living of New Port HAL-016-004 v. DFS, DHHS Carteret County DSS	05 DHR 1422	Lassiter	11/02/05
Angel Chandler v. DHHS	05 DHR 1446	Conner	11/03/05
Virginia L. Richmond v. John Umstead Hospital	05 DHR 1454	Morrison	11/02/05
Mumbanga Charlotte Mozobo v. DHHS, DFS	05 DHR 1471	Wade	12/14/05
Georgia A. Powell v. Health Care Personnel Registry Section, DHHS, DFS	05 DHR 1565	Elkins	01/27/06
Lori C. Spence for Julia Spence v. Division of Medical Assistance	05 DHR 1617	Wade	12/07/05
Susan K. Hainey v. ACS/Div of Medical Assistance	05 DHR 1680	Lassiter	11/21/05
David Travis DeBerry v. DHHS, DMA, Third Party Recovery	05 DHR 1687	Conner	01/04/06
Dr. Vallie Guthrie, NC A&T University, NC Mathematics and Science Education Network	05 DHR 1864	Morrison	01/31/06
Liggins Family Care – Woodmere Center, Glenda Liggins	05 DHR 2011	Gray	02/03/06
Choice Health Management Services v. DHHS, DFS, CON Section	05 DHR 2043	Gray	02/03/06
Choice Health Management Services, Facility 920763, v. DHHS, DFS CON Section	05 DHR 2072	Gray	01/27/06

A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions.

DEPARTMENT OF JUSTICE

Andrew Arnold Powell, Jr. v. Crim Just Educ & Trng Stds Comm.	01 DOJ 1771	Chess	07/19/05	
Carlos Orellana v. Private Protective Services Board	04 DOJ 0813	Conner	08/01/05	
David Upchurch v. Criminal Justice Education and Training Stds. Comm.	04 DOJ 1157	Lassiter	05/13/05	
Phillip William Engle v Sheriffs' Education and Training Stds. Comm.	04 DOJ 1283	Mann	06/28/05	20:03 NCR 148
Edward Keith Royal v. Criminal Justice Education & Training Stds. Comm.	04 DOJ 2194	Gray	06/28/05	
Richard Michael Ashley v. Criminal Justice Education & Stds. Comm	04 DOJ 2256	Wade	10/17/05	
Tabitha Ann Boyland v. Sheriffs' Educ. & Training Standards Comm.	05 DOJ 0156	Elkins	07/08/05	
Shuntaneka Brooks v State Bureau of Investigation	05 DOJ 0296	Lassiter	09/07/05	
Ralph Robert Hines, II v. Criminal Justice Educ. & Training Standards Comm.	05 DOS 0482	Elkins	08/24/05	
George Augustus Pyecha v. Criminal Justice Education & Training Stds Commission	05 DOJ 0483	Chess	09/09/05	
Teddy Lynn Warren v. Criminal Justice Education & Training Stds. Comm.	05 DOJ 0505	Conner	06/23/05	
Mark Dana Wilson v. Criminal Justice Education and Training Standards Commission	05 DOJ 0530	Gray	11/29/05	
Amanda Gayle Talbert v. Criminal Justice Educ. and Training Stds. Comm.	05 DOJ 0648	Lassiter	06/15/05	
Amanda Gale Hughes v Sheriffs' Educ Trng Stds. Comm.	05 DOJ 0666	Wade	07/18/05	
Jeremy Westbrook v. Alarm Systems Licensing Board	05 DOJ 0693	Lassiter	07/19/05	
Gary Lee King v Private Protective Services Board	05 DOJ 0830	Lassiter	09/12/05	
Phillip Ray Cox v. Company Police Program	05 DOJ 0895	Elkins	11/30/05	
Kevin Jon Kern v. Criminal Justice Education & Training Stds. Comm.	05 DOJ 0928	Lassiter	10/10/05	
Donald Lee Newton v Criminal Justice Educ. & Training Standards Comm.	05 DOJ 0929	Gray	09/12/05	
Glenn Eric Nealy v. Criminal Justice Education & Training Standards Comm.	05 DOJ 0995	Morrison	12/15/05	
John Thomas Suttle v. Company Police Program	05 DOJ 1026	Gray	11/22/05	
Robert Baxter Wilkerson III v Private Protective Services Board	05 DOJ 1074	Bryan	08/22/05	
Charles Michael Campbell v. Criminal Justice Education & Training Standards Commission	05 DOJ 1149	Gray	12/29/05	
Steven William Neu v Sheriffs' Education & Training Standards Comm.	05 DOJ 1169	Lassiter	09/08/05	
Timothy Robert Parker v. Sheriffs' Education and Training Standards Comm.	05 DOJ 1187	Gray	12/28/05	
Sybil Yvonne Murrill v. Sheriffs' Education & Training Stds. Comm.	05 DOJ 1188	Lassiter	09/19/05	
Errin Jerome Bryant v. Sheriffs' Education & Training Standards Comm	05 DOJ 1239	Chess	01/10/06	
Rodney Thomas Edens v. Sheriffs' Education and Training Standards Comm.	05 DOJ 1247	Morrison	12/22/05	

CONTESTED CASE DECISIONS

Todd Austin Cahoon v. Criminal Justice Education and Training Stds Commission	05 DOJ 1519	Lassiter	12/02/05	
Robert G. Prince, Jr., v. Alarm Systems Licensing Board	05 DOJ 2035	Wade	12/30/05	
Nicholas Scott Bowlin v. Alarm Systems Licensing Board	05 DOJ 2036	Wade	12/30/05	
<u>DEPARTMENT OF TRANSPORTATION</u>				
Vernon Park Exxon, Inc., Station No. 14184, and Danny Spence v. DOT, DMV	05 DOT 1054	Chess	09/06/05	
<u>DEPARTMENT OF STATE TREASURER</u>				
Roy Kevin Tripp v. Dept of St Treasurer, St Retirement Agency	04 DST 1422	Conner	07/27/05	
George L Brown v Dept of St. Treasurer, Retirement Systems Division	05 DST 0147	Morrison	07/22/05	
Tony M Martin v Dept. of State Treasurer, Retirement Systems Division	05 DST 0253	Lassiter	08/31/05	
Robert A. Gabriel, Sr., v. Dept. of State Treasurer	05 DST 0586	Gray	10/21/05	
Cynthia Lee Williams v. DST, Retirement Systems Division	05 DST 0964	Lassiter	11/10/05	
Robert A. Gabriel v. Dept. of State Treasurer	05 DST 1358	Gray	09/23/05	
<u>EDUCATION, STATE BOARD OF</u>				
East Winston Primary School Corporation v. State Board of Education	03 EDC 0029	Chess	09/02/05	
Harry Talmadge Englebert v. State Board of Education	03 EDC 1548	Gray	01/06/06	
Susan Hebach v. Dept. of Public Instruction	05 EDC 0140	Lassiter	09/27/05	
James H. Ballard v State Board of Education	05 EDC 0948	Conner	09/15/05	
Michael L. McIntosh v. DPI	05 EDC 1097	Elkins	11/07/05	
<u>ENVIRONMENT AND NATURAL RESOURCES</u>				
Webster Environmental, Inc v. DENR, Asbestos Hazard Mgmt Branch	94 EHR 0225	Gray	07/06/05	
Webster Environmental, Inc v. DENR, Asbestos Hazard Mgmt Branch	94 EHR 0774	Gray	07/06/05	
JFG, Inc, Mr. Wayne Pierce, Pres. v. Onslow Co Health Dept & DEH&NR, Division of Environmental Health	95 EHR 0110	Gray	07/06/05	
Southwinds Homeowners Association v. DEHNR, Div. of Env. Health	95 EHR 0271	Gray	07/06/05	
Sandy Mitchell & E Ward Norris v. Mecklenburg Co Health Dept and DEHNR	95 EHR 0306	Gray	07/06/05	
Ralph K & Carolyn Emery v. Montgomery Co Health & Env. Section	95 EHR 0317	Gray	07/06/05	
Deerfield Shores Utility Co v. Carteret Co Environmental Health Dept.	95 EHR 0354	Gray	07/05/05	
Ron Launder v. Vance Co. Health Department	95 EHR 0515	Gray	07/05/05	
Bardusch Corporation v. DENR	97 EHR 1265	Gray	01/10/06	
Tall Pines Plantation Property Owners Assoc. Inc. v. DENR	01 EHR 1638	Gray	08/17/05	
Heater Utilities, Inc v. NCDENR, Division of Water Quality	02 EHR 0009	Gray	07/06/05	
Tera B Slaughter v DENR	02 EHR 1286	Conner	08/01/05	
Charles C. Barker, Kenneth W. Frazier v. DENR	02 EHR 1714	Wade	11/01/05	
John & Elizabeth Kaylor v. DENR	03 EHR 0046	Conner	06/29/05	
Colonial Pipeline Co. v DENR, Division of Water Quality	03 EHR 0112 ³	Connor	09/12/05	
Colonial Pipeline Co. v DENR, Division of Water Quality	03 EHR 0815 ³	Connor	09/12/05	
Federal Land & Timer Corp v. DENR	03 EHR 1718	Gray	07/28/05	
Terry D. Gregory and wife, Pennie Gregory v. DENR, Div. of Coastal Management and Michael D. Swearingen, Jr.	03 EHR 2201	Gray	09/30/05	20:10 NCR
Cynthia Williamson Putnam v DENR	03 EHR 2383	Conner	09/12/05	
Brenda Severt, David and Nancie Wilson v. DENR	04 EHR 0383	Gray	10/25/05	
Rebecca Page v. DENR	04 EHR 0458	Bryan	09/20/05	
Milton T. Gibson v. Cumberland County Health Dept., Environmental Health	04 EHR 0990	Lassiter	10/11/05	
Robert L. Grissett v. DENR	04 EHR 1237	Chess	05/16/05	
Ellen Darrigrand & husband Charles Darrigrand v. DENR, Div/Coastal Mgmt	04 EHR 1469	Mann	06/30/05	20:05 NCR 270
Yvonne D. Bledsoe, Bledsoe Construction Co., v. DENR, Div. of Land Quality	04 EHR 1562	Creech	01/04/06	20:16 NCR
Glenda Daniel v. Halifax Co Health Dept, Env Health Division	04 EHR 1583	Conner	07/27/05	
Matthew and Kathy Johnson v. DENR	04 EHR 2163	Conner	06/01/05	
Affordable Appliance, Jack Steale v. DENR	04 EHR 2164	Conner	05/31/05	
William Nelms v. DENR, Div. of Air Quality	04 EHR 2264	Conner	10/13/05	
Cathy Epps v. DENR, Div. of Air Quality	05 EHR 0130	Wade	12/07/05	
Clegg's Termite and Pest Control., Inc., v. DENR, Div Waste Management	05 EHR 0328	Lassiter	12/13/05	
Rebecca Page v. DENR	05 EHR 0458	Bryan	09/20/05	
Don R McGee, McGee's Brother's Co. v. DENR, Div. of Air Quality	05 EHR 0509	Mann	09/07/05	
Lynn E. Graham v. Co. of Durham, Engineering Dept.	05 EHR 0878	Gray	10/06/05	
Ronald G. Overcash v. DENR, Div. of Waste Management, UST Section	05 EHR 0883	Elkins	01/31/06	
Robert W Hudson v. Division of Marine Fisheries	05 EHR 0886	Morrison	07/05/05	
Freedman Farms v. Fayetteville, Div of Water Quality Office	05 EHR 0905	Conner	11/21/05	
Daniel J Smith v State of NC Environmental Health	05 EHR 0925	Lassiter	08/08/05	
John C Gallop, Jane Gallop Newbern v. DENR/Div of Coastal Mgmt	05 EHR 0941	Gray	07/29/05	

CONTESTED CASE DECISIONS

Robert B. Montouri GC v. New Hanover Co. Health Dept.	05 EHR 1001	Morrison	10/03/05
Rosalind Nixon, All Good Detail Inc, v. DENR	05 EHR 1215	Lassiter	10/13/05
George R. Gelsinger Jr. v. DENR, Land Quality Section	05 EHR 1253	Elkins	10/31/05
Keith Spain, Rosewood Farms, LLC v. DENR	05 EHR 1442	Wade	12/07/05
Betty C. Penuel v. Duplin Co. Environmental Health	05 EHR 1476	Conner	12/21/05

DEPARTMENT OF INSURANCE

Anne B. Hooper v. Teachers' and State Employees' Comprehensive Major Medical Plan	93 INS 0989	Gray	01/09/06
Pentech Infusions, Inc., AS/Assignee of Betty W. Green and Ava Cathey v. Teachers' and State Employees' Comprehensive Major Medical Plan	03 INS 1518	Elkins	10/07/05
Rachael Elizabeth Ragin v. Teachers' and State Employees' Comprehensive Major Medical Plan	04 INS 1299	Conner	09/26/05

OFFICE OF STATE PERSONNEL

Charles D Bailey v Department of Cultural Resources	02 OSP 0002 ⁴	Conner	09/12/05
Leavander J. Cheeks v Department of Cultural Resources	02 OSP 0002 ⁴	Conner	09/12/05
Vicki B Tamer v. Department of Public Instruction	03 OSP 0243	Gray	08/15/05
Arlene R Burwell v Department of Corrections	03 OSP 0621	Conner	09/12/05
Eddie Ray Creech v. Department of Corrections	03 OSP 0831	Wade	05/17/05
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 0851 ⁵	Conner	11/07/05
Kathy Sledge v. Department of Corrections	03 OSP 1092	Conner	06/27/05
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 1141 ⁵	Conner	11/07/05
Michael B. Carraway v. Wildlife Resources Commission, Div. of Wildlife Management	03 OSP 1545	Gray	09/07/05
Jack Mason v. Wildlife Resources Commission, Div. of Wildlife Mgt.	03 OSP 1555	Gray	09/07/05
David Thomas Sawyer v. Wildlife Resources Commission, Div. of Wildlife Mgt.	03 OSP 1556	Gray	09/07/05
Arlene Burwell v. DOC, Division of Prisons, Polk Youth Institution	03 OSP 1743 ⁵	Conner	11/07/05
Robert Earl Regan, Jr v DCCPS, State Highway Patrol	03 OSP 2321	Conner	09/12/05
Wanda Thompson v. Pitt Public Health Center	04 OSP 0116	Gray	11/23/05
Edward Todd Suttles v. Crime Control and Public Safety State Highway Patrol	04 OSP 0711	Wade	01/03/06
James A Ray v. UNC at Greensboro, Facility Services	04 OSP 0751	Elkins	06/28/05
Willie Steve Tellado v Dept. of Transportation	04 OSP 0858	Wade	07/18/05
Donald E. Cline, PH.D v. J.H. Lyall, PH.D, O'Berry Center	04 OSP 1091	DeLuca	10/05/05
Mona Dale Batten v Columbus Co Department of Social Services	04 OSP 1194	Gray	09/07/05
Donald E. Cline, PH.D v. J.H. Lyall, PH.D, O'Berry Center	04 OSP 1247	DeLuca	10/05/05
Loretta G Hooks v. Department of Corrections	04 OSP 1266	Wade	07/11/05
Clayton R. Richardson v. Winston-Salem State University	05 OSP 1343	Lassiter	01/18/06
Melvin G. Cline., Jr., v. J. Iverson Riddle Development Center and the NC Department of Health and Human Services	04 OSP 1360	Wade	12/15/05
Wayne Pettit v Department of Correction	04 OSP 1458	Gray	08/04/05
Carroll (ED) Swain v. UNC-Chapel Hill	04 OSP 1476	Gray	09/20/05
Daisy L. Smith v. Cumberland Co Mental Health Center	04 OSP 1558	Elkins	07/28/05
Jacqueline Hightower v Wayne Co Dept of Social Services	04 OSP 1563	Lassiter	09/09/05
Michael A. Kelly v. DENR	04 OSP 1572	Gray	12/28/05
Steven Wayne Mobley v. DENR	04 OSP 1573	Gray	12/28/05
Shelli Henderson Rice v. ESC of NC	04 OSP 1574	Gray	06/27/05
James O. Mitchell v. DOT	04 OSP 1639	Elkins	11/28/05
V Wayne Johnson v Department of Transportation	04 OSP 1716	Elkins	07/06/05
Mimi Jakelsky v. DHHS	05 OSP 1731	Chess	01/13/06
Beverly R Lee v. Employment Security Commission of NC	04 OSP 1742	Conner	08/03/05
David J. Savage v. DOI	04 OSP 1773	Lassiter	01/18/06
Robert D Jones v Hendsen County Dept. of Public Health	04 OSP 2081	Gray	08/01/05
Mary Cogdell v. Wayne Co. Dept. of Social Services, Judy Pelt, Director	04 OSP 2117	Wade	10/11/05
Regina C Gaither v. Forsyth Co Department of Social Services	05 OSP 0047	Conner	06/27/05
Thomas Freeman, Jr. v. DHHS/Murdoch Center	05 OSP 0071	Wade	08/15/05
Percy L. Edwards v. Dept. of Juvenile Justice & Delinquency Prevention	05 OSP 0252	Lassiter	11/30/05
Thomas A Horton v. Dept. of Crime Control and Public Safety	05 OSP 0389	Lassiter	06/02/05
Anthony Bruce Allen v Department of Transportation	05 OSP 0418	Chess	06/09/05
Peggy Anderson v. Whitaker School, NC DHHS	05 OSP 0427	Gray	10/25/05
Angela Twitty v DOC, Marion Correctional Institution	05 OSP 0491	Wade	08/31/05
Alan Bradford v. Avery Co.	05 OSP 0493	Wade	10/06/05
Derek H. Babson v. Department of Transportation	05 OSP 0515	Chess	05/31/05
James Albert Keyes v. DOT	05 OSP 0553	Gray	12/15/06
Mary K French Fornes v DOC Eastern Correctional Institution	05 OSP 0584	Gray	07/08/05
James R Campbell v Forsyth Co Department of Social Services	05 OSP 0587	Elkins	08/26/05
Gloria Woodard v. Lyndo Tippet, Secretary, NC DOT	05 OSP 0588	Lassiter	06/24/05
William Rhodney Reep v. DOT, DMV	05 OSP 0717	Lassiter	11/08/05
Glendora Key v. UNC at Chapel Hill	05 OSP 0784	Gray	09/23/05
Deborah Faye Murray v NW Piedmont Council of Governments	05 OSP 0802	Chess	07/13/05
Milton W. Nobles v. DHHS/Dorothea Dix Hospital	05 OSP 0815	Gray	06/15/05
Sandra Thomas v Department of Correction	05 OSP 0824	Wade	07/21/05

20:05 NCR 291

CONTESTED CASE DECISIONS

Stacy D Bazemore v NCSU CVM-VTH	05 OSP 0874	Gray	08/01/05
Donna P. Minelli v. DOC, Div. of Community Corrections	05 OSP 0889	Conner	10/21/05
Willie Gadden v. Winston-Salem State University	05 OSP 0904	Chess	10/10/05
Susan Hilbourn v. Cumberland County Department of Social Services	05 OSP 0970	Gray	12/07/05
Albert Ridley v. Odom Correctional Institution, Lawrence Solomon	05 OSP 0989	Gray	10/25/05
Mark P. Gibbons v. Derrick Lee, DOT Plymouth, NC, Robby Taylor, DOT, Creswell, NC	05 OSP 1080	Elkins	10/12/05
Cindy Owens v Justice Academy	05 OSP 1038	Conner	09/19/05
Melanie Caudle Pitrolo v. Western NC Regional Air Quality Agency	05 OSP 1075	Conner	12/21/05
Thomas M. Chamberlin v. Vance-Granville Community College	05 OSP 1170	Chess	09/30/05
Joe L. Harris, MSW, LCSW v. Alamance Caswell MHDDSA/LME	05 OSP 1221	Chess	10/11/05
Lolita B. Keel v. Dept. of Revenue	05 OSP 1228	Elkins	10/12/05
David N. Smith v. NC School of Science and Math	05 OSP 1236	Chess	10/04/05
Gerald R. Tripp v. NC School of Science and Math	05 OSP 1242	Chess	09/22/05
Tommy Frank Sykes v. Nash County Government	05 OSP 1334	Chess	12/15/05
Debra D Moore v. Irene Wortham Center	05 OSP 1445	Gray	11/02/05
Samuel Faminiba v. DOT	05 OSP 1468	Morrison	12/13/05
Natalynn P (Para) Tollison v. NCSU Human Resources, Diane Sortini, Director and Galen Jones, Assistant Director	05 OSP 1501	Morrison	12/14/05
Frank G. Bermel v. UNC	05 OSP 1563	Lassiter	12/05/05
William J. Pendleton v. Butner Public Safety MW Hobgood	05 OSP 1720	Lassiter	01/09/06
Michael D. Beal v. Butner Public Safety MW Hobgood	05 OSP 1722	Lassiter	01/09/06
Walter B. Williams v. Butner Public Safety MW Hobgood	05 OSP 1723	Lassiter	01/09/06
Mary F. Parker v. Wilson Technical Community College	05 OSP 1905	Lassiter	01/04/06
Terry Michael Williams v. East Carolina University	05 OSP 2116	Lassiter	02/06/06

SECRETARY OF STATE

Monica A Chitwood v. Dept. of Secretary of State	05 SOS 0237	Conner	06/17/05
Janice W. Craver v. Dept. of Secretary of State	05 SOS 0286	Conner	06/06/05
Barbara Jane Kelly v Secretary of State	05 SOS 0310	Elkins	08/22/05
Richard C Capps v. Dept of Secretary of State	05 SOS 0560	Gray	07/14/05
Silvia Rodriguez v Department of Secretary of State	05 SOS 0926	Lassiter	09/09/05
Curtis Eugene Haynes v. Department of Secretary of State	05 SOS 1031	Wade	10/28/05
Curtis C. Lyons v. Dept. of Secretary of State	05 SOS 1129	Chess	12/12/05

UNC HOSPITALS

Bhimjibhai Lanani v UNC Hospitals	04 UNC 0008	Conner	09/12/05
Amanda Mathis Miller v. UNC Hospitals	05 UNC 0247	Lassiter	06/02/05
Darian C. Jones Ph.D v. UNC Hospitals	05 UNC 0315	Lassiter	06/02/05
Tereasa King v. UNC Hospitals	05 UNC 0376	Lassiter	06/02/05
Lenora White v. UNC Hospitals	05 UNC 0574	Bryan	09/13/05
Ellen Griffith v. UNC Hospitals	05 UNC 0585	Conner	07/26/05
Dawn B & John A Gladden v. UNC Hospitals via Dept. of Revenue	05 UNC 0608	Conner	07/26/05
Joyce Porter v UNC Hospitals	05 UNC 0623	Elkins	08/11/05
Martin T Myers v UNC Hospitals	05 UNC 0632	Elkins	08/11/05
Bettie Brame v UNC Hospitals	05 UNC 0638	Conner	08/01/05
Joyce Daugherty v. UNC Hospitals	05 UNC 0663	Elkins	08/11/05
Margarida Goulart v UNC Hospitals	05 UNC 0683	Conner	07/26/05
Tashuia Williams v UNC Hospitals	05 UNC 0684	Conner	07/26/05
Robert C. Green v. UNC Hospitals	05 UNC 0751	Wade	01/06/06
Audrey Ghia v UNC Hospitals	05 UNC 0856	Gray	09/14/05
De'Juana Middleton v UNC Chapel Hill Hospital	05 UNC 0701	Conner	07/26/05
Marjorie Hindsdale-Shouse v UNC Hospitals	05 UNC 1002	Elkins	09/15/05
Dawn R Dickerson v UNC Hospitals	05 UNC 1028	Elkins	08/11/05

WILDLIFE RESOURCES COMMISSION

Josephine Perdue v. WRC	05 WRC 1440	Gray	11/18/05
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- 1 – Combined Cases
- 2 – Combined Cases
- 3 – Combined Cases
- 4 – Combined Cases
- 5 – Combined Cases