

NORTH CAROLINA

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For the CUMULATIVE INDEX to the NC Register go to:
<http://reports.oah.state.nc.us/cumulativeIndex.pl>

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
<p>1 ADMINISTRATION 2 AGRICULTURE & CONSUMER SERVICES 3 AUDITOR 4 COMMERCE 5 CORRECTION 6 COUNCIL OF STATE 7 CULTURAL RESOURCES 8 ELECTIONS 9 GOVERNOR 10A HEALTH AND HUMAN SERVICES 11 INSURANCE 12 JUSTICE 13 LABOR 14A CRIME CONTROL & PUBLIC SAFETY 15A ENVIRONMENT & NATURAL RESOURCES 16 PUBLIC EDUCATION 17 REVENUE 18 SECRETARY OF STATE 19A TRANSPORTATION 20 TREASURER 21* OCCUPATIONAL LICENSING BOARDS 22 ADMINISTRATIVE PROCEDURES (REPEALED) 23 COMMUNITY COLLEGES 24* INDEPENDENT AGENCIES 25 STATE PERSONNEL 26 ADMINISTRATIVE HEARINGS 27 NC STATE BAR 28 JUVENILE JUSTICE AND DELINQUENCY PREVENTION</p>	<p>1 Acupuncture 2 Architecture 3 Athletic Trainer Examiners 4 Auctioneers 6 Barber Examiners 8 Certified Public Accountant Examiners 10 Chiropractic Examiners 11 Employee Assistance Professionals 12 General Contractors 14 Cosmetic Art Examiners 16 Dental Examiners 17 Dietetics/Nutrition 18 Electrical Contractors 19 Electrolysis 20 Foresters 21 Geologists 22 Hearing Aid Dealers and Fitters 25 Interpreter/Transliterator 26 Landscape Architects 28 Landscape Contractors 29 Locksmith Licensing 30 Massage & Bodywork Therapy 31 Marital and Family Therapy 32 Medical Examiners 33 Midwifery Joint Committee 34 Funeral Service 36 Nursing 37 Nursing Home Administrators 38 Occupational Therapists 40 Opticians 42 Optometry 44 Osteopathic Examination (Repealed) 45 Pastoral Counselors, Fee-Based Practicing Pharmacy 48 Physical Therapy Examiners 50 Plumbing, Heating & Fire Sprinkler Contractors 52 Podiatry Examiners 53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</p>	<p>1 Housing Finance 2 Agricultural Finance Authority 3 Safety & Health Review Board 4 Reserved 5 State Health Plan Purchasing Alliance Board</p>

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 fifteenth 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. 103

PROCLAMATION OF STATE OF DISASTER FOR THE TOWNS OF
BOILING SPRINGS, TAYLORSVILLE, AND TRYON AND FOR THE CITIES OF CHERRYVILLE, KINGS MOUNTAIN,
NEWTON, SHELBY, AND SALUDA

WHEREAS, I have determined that a State of Disaster and State of Emergency, as defined in N.C.G.S. §§166A-4 and 14.288.1(10), exists in the State of North Carolina, specifically in the Towns of Boiling Springs, Taylorsville, and Tryon and for the Cities of Cherryville, Kings Mountain, Newton, Shelby, and Saluda as a result of the December 14-15, 2005, ice storm in the western part of North Carolina.

WHEREAS, on December 15-16, 2005, the Towns of Boiling Springs, Taylorsville, and Tryon; and the Cities of Cherryville, Kings Mountain, Newton, and Shelby; and on January 19, 2006, Saluda proclaimed a local State of Emergency;

WHEREAS, pursuant to N.C.G.S. §166A-6, the criteria of Type I disaster is met including the following: (1) receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; (2) the Towns of Boiling Springs, Taylorsville, and Tryon and for the Cities of Cherryville, Kings Mountain, Newton, Shelby, and Saluda declared a local state of emergency pursuant to N.C.G.S. §166A-8 and N.C.G.S. §§14-288.12, 14-288.13 and 14-288.14, and forwarded a written copy of the declaration to the Governor; (3) the preliminary damage assessment meets or exceeds the criteria established for the Small Business Disaster Loan Program pursuant to 13 C.F.R. Part 123, or meets or exceeds the State infrastructure criteria set out in N.C.G.S. §166A-6.01(b)(2)a; and (4) A major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared; and

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

Section 1. Pursuant to N.C.G.S. §§166A-6 and 14-288.15, a State of Disaster and State of Emergency is hereby declared for the Towns of Boiling Springs, Taylorsville, and Tryon and for the Cities of Cherryville, Kings Mountain, Newton, Shelby, and Saluda are eligible entities, for purposes of reimbursement, as defined by N.C.G.S. § 166A-4(3).

Section 2. State and local government entities and agencies are hereby ordered to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. Bryan E. Beatty, Secretary of Crime Control and Public Safety and/or his designee, is hereby delegated all power and authority granted to me and required of me by Chapter 166A and Article 36A of Chapter 14 of the General Statutes for the purpose of implementing the said Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in the above-referenced towns and cities.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer of the State of North Carolina, shall exercise the powers prescribed in N.C.G.S. §143B-476.

Section 5. I authorize this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of disaster prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 6. The Type I disaster declaration shall expire 30 days after the issuance of the state of disaster and state of emergency and Type I disaster proclamation for the Towns of Boiling Springs, Taylorsville, and Tryon and for the Cities of Cherryville, Kings Mountain, Newton, Shelby, and Saluda issued on July 5, 2006, unless renewed by the Governor or the General Assembly. Such renewals may be made in increments of 30 days each, not to exceed a total of 120 days from the date for first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal of a Type I disaster declaration.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this fifth day of July in the year of our Lord two thousand and six, and of the Independence of the United States of America the two hundred and thirtieth.

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.

From the Codifier

Marine Fisheries Commission

Notice of Text submitted and published in the N.C. Register on July 17, 2006, Volume 21, Issue 02, contained a typographical error.

The first public hearing in the Notice of Text for rules proposed by the Marine Fisheries Commission cited as: 15A NCAC 03I .0101; 03O .0101-.0102, .0106-.0107,.0112-.0113, .0501, .0503; 03L .0208; 03R .0103, found on page 182, should reflect correctly as:

“Public Hearing:

Date: August 8, 2006

Time: 7:00 p.m.

Location: *Roanoke Island Festival Park, One Festival Park, Manteo, NC*

Date: August 15, 2006

Time: 7:00 p.m.

Location: *Department of Environment & Natural Resources, 127 Cardinal Drive, Wilmington, NC*

Date: September 27, 2006

Time: 7:00 p.m.

Location: *Clam Digger Inn, 511 Salter Path Road, Pine Knoll Shores, NC*

Please contact the APA Coordinator for the Marine Fisheries Commission with any questions at 919-715-4192, or nancy.pate@ncmail.net.

**PUBLIC NOTICE
STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION/NPDES UNIT
1617 MAIL SERVICE CENTER
RALEIGH, NC 27699-1617**

NOTIFICATION OF INTENT TO REISSUE A NPDES WASTEWATER GENERAL PERMIT

On the basis of thorough staff review and application of NC General Statute 143.21, Public law 92-500 and other lawful standards and regulations, the North Carolina Environmental Management Commission proposes to reissue the National Pollutant Discharge Elimination System (NPDES) General Permit for point source discharges of wastewater associated with the following activities:

NPDES General Permit No. NCG510000 for discharge of treated wastewater resulting from the remediation of petroleum-contaminated groundwater and similar wastewaters.

Written comments regarding the proposed general permit renewal will be accepted no later than August 31, 2006. All comments received within the comment period will be considered in the final determination regarding permit reissuance. The Director of the NC Division of Water Quality may decide to hold a public hearing for the proposed permit should the Division receive a significant degree of public interest.

Copies of the draft permit, Fact Sheet, and other supporting information used to determine conditions present in the draft permit are available upon request and payment of the costs of reproduction. Mail comments and/or requests for information to the NC Division of Water Quality at the above address, or contact Tom Belnick with the Division's Point Source Branch at (919) 733-5083, extension 543, or email at tom.belnick@ncmail.net. Please include the NPDES permit number (NCG510000) in any communication. Interested persons may also visit the Division of Water Quality at 512 N. Salisbury Street, Raleigh, NC 27604-1148 between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday to review information on file.

Notice of Application for Innovative Approval of a Wastewater System for On-site Subsurface Use

Pursuant to NCGS 130A-343(g), the North Carolina Department of Environment and Natural Resources (DENR) shall publish a Notice in the NC Register that a manufacturer has submitted a request for approval of a wastewater system, component, or device for on-site subsurface use. The following applications have been submitted to DENR:

Application by: Carl Thompson
Infiltrator Systems, Inc.
P.O. Box 768
Old Saybrook, CT 06475

For: Modified Innovative Approval for "Infiltrator" chambered subsurface wastewater systems

And: Craig Jowett
Waterloo Biofilter
PO Box 400
Rockwood, ON N0B 2K0 Canada

Application by

For: Innovative Approval for "Waterloo Biofilter" advanced wastewater pretreatment systems

DENR Contact: Dr. Robert Uebler
1-252-946-6481
FAX 252-975-3716
bob.uebler@ncmail.net

These applications may be reviewed by contacting the applicant or at 2728 Capital Blvd., Raleigh, NC, On-Site Wastewater Section, Division of Environmental Health. Draft proposed innovative approvals and proposed final action on the application by DENR can be viewed on the On-Site Wastewater Section web site: www.deh.enr.state.nc/oww/.

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Andy Adams, Chief, On-site Wastewater Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or andy.adams@ncmail.net, or Fax 919.715.3227. Written comments received by DENR in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

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 AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Coastal Resources Commission intends to adopt the rule cited as 15A NCAC 07H .0312 and amend the rules cited as 15A NCAC 07B .0801 and 07H .0306.

Proposed Effective Date: December 1, 2006

Public Hearing:

Date: September 21, 2006

Time: 5:00 p.m.

Location: Hilton Wilmington, 301 N. Water Street, Wilmington, NC

Reason for Proposed Action:

15A NCAC 07B .0801 - *Comments on locally adopted land use plans be submitted in writing to DCM no less than 15 business days prior to the next scheduled meeting of the CRC's P&SI Committee. Will require local governments to certify and demonstrate via resolution that no inconsistencies exist between their plan's policy statements and Future Land Use Plan Map.*

15A NCAC 07H .0306 - *Remove restrictions on publicly funded infrastructure in ocean hazard areas.*

15A NCAC 07H .0312 - *Under its existing rules, the CRC requires only that sediment for beach fill shall be compatible with the existing grain size and type. The term "compatible" is not currently defined, nor is the methodology for analyzing the sediments at the borrow site and disposal site. The proposed rule corrects these deficiencies.*

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, Division of Coastal Management, 400 Commerce Avenue, Morehead City, NC 28557*

Comments may be submitted to: *Charles S. Jones, 400 Commerce Avenue, Morehead City, NC 28532, phone (252) 808-2808, fax (252)247-3330, email charles.s.jones@ncmail.net.*

Comment period ends: *October 2, 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 .0312
- Local – 15A NCAC 07B .0801; 07H .0312
- Substantive (\geq \$3,000,000)
- None – 15A NCAC 07H .0306

CHAPTER 07 - COASTAL MANAGEMENT

SUBCHAPTER 07B – CAMA LAND USE PLANNING

SECTION .0800 – CAMA LAND USE PLAN REVIEW AND CRC CERTIFICATION

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, 113A-110; and such notice shall include per Rule .0802(b)(3), the disclosure of the public opportunity to provide written comment following local adoption of the Land Use Plan.

(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.

Authority G.S. 113A-107(a); 113A-110; 113A-124.

SUBCHAPTER 07H - STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN

SECTION .0300 - OCEAN HAZARD AREAS

15A NCAC 07H .0306 GENERAL USE STANDARDS FOR OCEAN HAZARD AREAS

(a) In order to protect life and property, all development not otherwise specifically exempted or allowed by law or elsewhere in these Rules shall be located according to whichever of the following rules is applicable.

- (1) If neither a primary nor frontal dune exists in the AEC on or landward of the lot on which the development is proposed, the development shall be landward of the erosion setback line. The erosion setback line shall be set at a distance of 30 times the long-term annual erosion rate from the first line of stable natural vegetation or measurement line, where applicable. In areas where the rate is less than two feet per year, the setback line shall be 60 feet from the vegetation line or measurement line, where applicable.
- (2) If a primary dune exists in the AEC on or landward of the lot on which the development is proposed, the development shall be landward of the crest of the primary dune or the long-term erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, where applicable. For existing lots, however, where setting the development landward of the crest of the primary dune would preclude any practical use of the lot, development may be located seaward of the primary dune. In such cases, the development shall be located landward of the long-term erosion setback line and shall not be located on or in front of a frontal dune. The words "existing lots" in this Rule shall mean 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.
- (3) If no primary dune exists, but a frontal dune does exist in the AEC on or landward of the lot on which the development is proposed, the development shall be set landward of the frontal dune or landward of the long-term erosion setback line, whichever is farthest from the first line of stable natural vegetation or measurement line, where applicable.
- (4) Because large structures located immediately along the Atlantic Ocean present increased risk of loss of life and property, increased potential for eventual loss or damage to the public beach area and other important natural features along the oceanfront, increased potential for higher
- (5) public costs for federal flood insurance, erosion control, storm protection, disaster relief and provision of public services such as water and sewer, and increased difficulty and expense of relocation in the event of future shoreline loss, a greater oceanfront setback is required for these structures than is the case with smaller structures. Therefore, in addition to meeting the criteria in this Rule for setback landward of the primary or frontal dune or both the primary and frontal dunes, for all multi-family residential structures (including motels, hotels, condominiums and motel-inns) of more than 5,000 square feet total floor area, and for any non-residential structure with a total area of more than 5,000 square feet, the erosion setback line shall be twice the erosion setback as established in Subparagraph (a)(1) of this Rule, provided that in no case shall this distance be less than 120 feet. In areas where the rate is more than 3.5 feet per year, this setback line shall be set at a distance of 30 times the long-term annual erosion rate plus 105 feet.
- (6) Structural additions or increases in the footprint or total floor area of a building or structure represent expansions to the principal structure and both shall meet the setback requirements established in Paragraph (a) of this Rule and Rule .0309(a) of this Section. The enclosure of existing roof covered porches shall be exempt from this requirement if the footprint is not expanded, modifications to existing foundations are not required and the existing porch is located landward of the vegetation line or measurement line which ever is applicable. New development landward of the applicable setback may be cosmetically, but shall not be structurally, attached to an existing structure that does not conform with current setback requirements.
- (b) Established common-law and statutory public rights of access to and use of public trust lands and waters in ocean hazard areas shall not be eliminated or restricted. Development shall not encroach upon public accessways nor shall it limit the intended use of the accessways.
- (c) ~~In order to avoid public expenditures for maintaining public safety, construction or placement of growth inducing public~~

facilities to be supported by public funds shall be permitted in the ocean hazard area only when such facilities:

- (1) are of public benefit;
- (2) shall not increase existing hazards or damage natural buffers;
- (3) shall be safe from flood and erosion related damage;
- (4) shall not promote growth and development in ocean hazard areas.

Such growth inducing facilities include sewers, waterlines, roads, and bridges.

(e)(c) Development shall not cause irreversible damage to documented historic architectural or archaeological resources documented by the Division of Archives and History, the National Historical Registry, the local land-use plan, or other sources.

(e)(d) Development shall comply with minimum lot size and set back requirements established by local regulations.

(e)(e) Mobile homes shall not be placed within the high hazard flood area unless they are within mobile home parks existing as of June 1, 1979.

(e)(f) Development shall comply with general management objective for ocean hazard areas set forth in Rule .0303 of this Section.

(e)(g) Development shall not interfere with legal access to, or use of, public resources nor shall such development increase the risk of damage to public trust areas.

(e)(h) Development proposals shall incorporate measures to avoid or minimize adverse impacts of the project. These measures shall be implemented at the applicant's expense and may include actions that:

- (1) minimize or avoid adverse impacts by limiting the magnitude or degree of the action;
- (2) restore the affected environment, or
- (3) compensate for the adverse impacts by replacing or providing substitute resources.

(e)(i) Prior to the issuance of any permit for development in the ocean hazard AECs, there shall be a written acknowledgment from the applicant that the applicant is aware of the risks associated with development in this hazardous area and the limited suitability of this area for permanent structures. By granting permits, the Coastal Resources Commission does not guarantee the safety of the development and assumes no liability for future damage to the development.

(e)(j) All relocation of structures shall require permit approval. Structures relocated with public funds shall comply with the applicable setback line as well as other applicable AEC rules. Structures including septic tanks and other essential accessories relocated entirely with non-public funds shall be relocated the maximum feasible distance landward of the present location; septic tanks may not be located seaward of the primary structure. In these cases, all other applicable local and state rules shall be met.

(e)(k) Permits shall include the condition that any structure shall be relocated or dismantled when it becomes imminently threatened by changes in shoreline configuration as defined in .0308(2)(B). The structure(s) shall be relocated or dismantled within two years of the time when it becomes imminently threatened, and in any case upon its collapse or subsidence.

However, if natural shoreline recovery or beach renourishment takes place within two years of the time the structure becomes imminently threatened, so that the structure is no longer imminently threatened, then it need not be relocated or dismantled at that time. This condition shall not affect the permit holder's right to seek authorization of temporary protective measures allowed under Rule .0308(a)(2) of this Section.

Authority G.S. 113A-107; 113A-113(b)(6); 113A-124.

15A NCAC 07H .0312 TECHNICAL STANDARDS FOR BEACH FILL PROJECTS

Emplacement of sediment along the oceanfront shoreline shall be referred to in this Rule as beach fill. Beach fill projects including beach nourishment, dredged material disposal, habitat restoration, storm protection, and erosion control may be permitted under the following conditions:

- (1) A characterization of the recipient beach shall be determined according to the following methodology:
 - (a) Characterization of the recipient beach shall not be required for the placement of sediment directly from and completely confined to a regularly maintained navigation channel; and
 - (b) Sediment sampling and analysis designed to acceptable geological and engineering standards shall be used to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system; and
 - (c) Shore-perpendicular topographic and bathymetric surveying of the recipient beach shall be conducted to determine the beach profile. Topographic and bathymetric surveying shall occur along a minimum of five shore-perpendicular transects evenly spaced throughout the entire project area. Each transect shall extend from the dune crest seaward to a depth of 20 feet (6.1 meters) below sea level. Transect spacing shall not exceed 5,000 feet (1,524 meters) in the shore-parallel direction. Elevation data for all transects shall be referenced to the North American Vertical Datum of 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83); and
 - (d) No less than 12 sediment samples shall be taken along each beach profile transect. At least one sample shall be taken from each of the following morphodynamic zones

where present: dune, dune toe, mid berm, mean high water (MHW), mid tide (MT), mean low water (MLW), trough, bar crest and at even depth increments from six feet (1.8 meters) below sea level to 20 feet (6.1 meters) below sea level. The total number of samples taken landward of MLW shall equal the total number of samples taken seaward of MLW; and

(e) For the purpose of this Rule, sediment grain size categories shall be defined as "fine" (<0.0625 mm), "sand" (≥0.0625 mm and <2 mm), "granular" (≥2 mm and <4.76 mm) and "gravel" (≥4.76 mm and <76 mm). Each sediment sample shall report percentage by weight of each of these four grain size categories; and

(f) A composite of the simple arithmetic mean for each of the four grain size categories defined in Sub-Item (1)(e) of this Rule shall be calculated for each transect. A grand mean shall be established for each of the four grain size categories by summing the mean for each transect and dividing by the total number of transects. The value that characterizes grain size values for the recipient beach shall be the grand mean of percentage by weight for each grain size category defined in Sub-Item (1)(e) of this Rule; and

(g) Percentage by weight calcium carbonate shall be calculated from a composite of all sediment samples along each transect defined in Sub-Item (1)(d) of this Rule. The value that characterizes the carbonate content of the recipient beach shall be a grand mean calculated by summing the percentage by weight calcium carbonate for each transect and dividing by the total number of transects; and

(h) The total number of sediments and shell material greater than three inches (76 mm) in diameter, observable with the naked eye on the surface of the beach between mean low water (MLW) and the dune toe, shall be calculated for an area of 50,000 square feet (4,645 square meters). This area shall be considered a representative sample of the entire project area and referred to as the "background" value; and

(i) Beaches that have received sediment prior to the effective date of this Rule shall be characterized in a way that is consistent with Sub-Items (1)(a) through (1)(g) of this Rule and shall use data collected from the recipient beach prior to the addition of beach fill. If such data were not collected or are unattainable, a dataset best reflecting the sediment characteristics of the recipient beach prior to beach fill shall be developed in coordination with the Division of Coastal Management.

(2) A characterization of sediment to be placed on the recipient beach shall be determined according to the following methodology:

(a) The characterization of borrow areas including submarine sites, upland sites, and dredged material disposal areas shall be designed to accepted geological and engineering standards to capture the three-dimensional spatial variability of the sediment characteristics including grain size, sorting and mineralogy within the natural system or dredged material disposal area; and

(b) The characterization of borrow sites shall include previously acquired data whenever possible; and

(c) Geophysical imaging of the seafloor at each submarine borrow site shall provide 100 percent coverage and use survey-grade swath sonar in accordance with current US Army Corps of Engineers standards for navigation and dredging. All final hydrographic data shall be tide- and motion-corrected and referenced to the North American Vertical Datum of 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83) and conform to standards for accuracy, quality control and quality assurance as set forth either by the US Army Corps of Engineers, the National Oceanic and Atmospheric Administration, or the International Hydrographic Organization; and

(d) Geophysical imaging of the subsurface shall be used to characterize each borrow site and shall use survey grids with a line spacing not to exceed 1,000 feet (305 meters). Survey grids shall incorporate at least one tie point per survey line. Subsurface geophysical imaging shall not be required for

regularly maintained navigation channels. All final subsurface geophysical data shall use accurate sediment velocity models for time-depth conversions, be tide- and motion-corrected, and be referenced to the North American Vertical Datum of 1988 (NAVD 88) and the North American Datum of 1983 (NAD 83); and

(e) Sediment sampling of borrow sites shall use a vertical sampling device no less than three inches (76 mm) in diameter. Characterization of each borrow site shall use no less than 10 evenly spaced cores or one core per 10 acres (grid spacing of 1,000 feet or 305 meters), whichever is greater. Characterization of borrow sites completely confined to regularly maintained navigation channels shall use no less than five evenly spaced vertical samples per channel or sample spacing of no more than 5,000 linear feet (1,524 m), whichever is greater, and penetrate to a depth equal to or greater than permitted dredge depth. All sediment samples shall be integrated with geophysical data to constrain the horizontal and vertical extent of lithologic units and determine excavation volumes of compatible sediment as defined in Item (3) of this Rule; and

(f) Grain size distributions shall be reported for all sub-samples taken within each vertical sample for each of the four grain size categories defined in Sub-Item (1)(e) of this Rule. Weighted averages for each core shall be calculated based on the total number of samples and the thickness of each sampled interval. A simple arithmetic mean of the weighted averages for each grain size category shall be calculated to represent the average grain size values for each borrow site. Vertical samples shall be geo-referenced and digitally imaged using scaled, color-calibrated photography; and

(g) Percentage by weight of calcium carbonate shall be calculated from a composite sample of each core. A weighted average of calcium carbonate percentage by weight shall be calculated for each borrow site based on the composite sample thickness of each core.

(3) Sediment compatibility shall be determined according to the following criteria:

(a) Sediment completely confined to the permitted dredge depth of a regularly maintained navigation channel shall be considered compatible if the average percentage by weight of fine-grained (<0.0625 mm) sediment is less than 10 percent; and

(b) Sediment used solely to establish or strengthen dunes shall not be considered a beach fill project under this Rule; and

(c) Sediment used solely to re-establish State-maintained transportation corridors across a barrier island breach in a disaster area as declared by the Governor shall not be considered a beach fill project under this Rule; and

(d) Material other than natural sediment and shell material shall not be considered compatible; and

(e) The average percentage by weight of fine-grained sediment (<0.0625 mm) in a borrow site shall not exceed the average percentage by weight of fine-grained sediment of the recipient beach characterization plus five percent; and

(f) The average percentage by weight of granular sediment (≥ 2 mm and <4.76 mm) in a borrow site shall not exceed the average percentage by weight of coarse-sand sediment of the recipient beach characterization plus five percent; and

(g) The average percentage by weight of gravel (≥ 4.76 mm) in a borrow site shall not exceed the average percentage by weight of gravel-sized sediment for the recipient beach characterization plus five percent; and

(h) The average percentage by weight of calcium carbonate in a borrow site shall not exceed the average percentage by weight of calcium carbonate of the recipient beach characterization plus 15 percent; and

(i) Proposed techniques that are able to use innovative technology to take incompatible sediment within a borrow site or combination of sites and make it compatible with that of the recipient beach characterization shall be considered experimental and evaluated on a case-by-case basis by the Division of Coastal Management.

(4) Excavation and placement of sediment shall conform to the following criteria:

(a) Sediment excavation depth from a regularly maintained navigation channel shall not exceed the permitted dredge depth of the channel; and

(b) Sediment excavation depths for all borrow sites shall not exceed the maximum depth of recovered core at each coring location; and

(c) In order to minimize impacts on biological activity within the project area, no work shall occur without the prior approval of the Division of Coastal Management in consultation with other State and Federal agencies; and.

(d) Sediment and shell material with a diameter greater than three inches (76 mm) shall be considered incompatible if it has been placed on the beach during the beach fill project, is observed with the naked eye between mean low water and the dune toe, and is in excess of twice the background value of material of the same size along any 50,000-square-foot (4,645 square meter) section of beach.

Authority G.S. 113A-103(5)a; 113A-118.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Health Services intends to amend the rule cited as 15A NCAC 13A .0107.

Proposed Effective Date: January 1, 2007

Instructions on How to Demand a Public Hearing: Within 15 days from the date the proposed text of the rule is published in the North Carolina Register, a request for Hearing and objections to a rule may be submitted in writing by contacting: Elizabeth W. Cannon, Chief, Hazardous Waste Section, 1646 Mail Service Center, Raleigh, N.C. 27699-1646.

Reason for Proposed Action: In order to allow North Carolina's manifest requirements to be equivalent to federal requirements, 15A NCAC 13A .0107(i) is proposed for amendment to remove two sentences that have created a separate State requirement to include telephone numbers of hazardous waste transporters and duplicate State documenting requirement for applicable EPA hazardous waste codes. The implementation and enforcement of the new Uniform Waste Manifest requirements will be based primarily on federal DOT hazmat law rather than RCRA authority, until North Carolina obtains authorization for program revisions.

Procedure by which a person can object to the agency on a proposed rule: Objections may be filed in writing by contacting: Elizabeth W. Cannon, Chief, Hazardous Waste Section, 1646 Mail Service Center, Raleigh, N.C. 27699-1646. Written objections to the proposed text of the Rule published in the North Carolina Register shall be specific. All comments and written exceptions for or against the proposed text of the Rule will be considered.

Comments may be submitted to: Elizabeth W. Cannon, Chief, Hazardous Waste Section, 1646 Mail Service Center, Raleigh, N.C. 27699-1646, phone (919) 508-8534, fax (919) 715-3605, email Elizabeth.Cannon@ncmail.net

Comment period ends: October 2, 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

CHAPTER 13 – SOLID WASTE MANAGEMENT

SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT

SECTION .0100 - HAZARDOUS WASTE

15A NCAC 13A .0107 STDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE - PART 262

(a) 40 CFR 262.10 through 262.12 (Subpart A), "General", are incorporated by reference including subsequent amendments and editions.

(b) 40 CFR 262.20 through 262.23 (Subpart B), "The Manifest", are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 262.30 through 262.34 (Subpart C), "Pre-Transport Requirements", are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 262.40 through 262.44 (Subpart D), "Recordkeeping and Reporting", are incorporated by reference including subsequent amendments and editions. In addition, a

generator shall keep records of inspections and results of inspections required by Section 262.34 for at least three years from the date of the inspection.

(e) 40 CFR 262.50 through 262.58 (Subpart E), "Exports of Hazardous Waste", are incorporated by reference including subsequent amendments and editions.

(f) 40 CFR 262.60 (Subpart F), "Imports of Hazardous Waste", is incorporated by reference including subsequent amendments and editions.

(g) 40 CFR 262.70 (Subpart G), "Farmers" is incorporated by reference including subsequent amendments and editions.

(h) 40 CFR 262.80 through 262.89 (Subpart H), "Transfrontier Shipments of Hazardous Waste for Recovery within the OECD", are incorporated by reference including subsequent amendments and editions, except that 40 CFR 262.89(e) is not incorporated by reference.

(i) The appendix to 40 CFR Part 262 is incorporated by reference including subsequent amendments and editions; however, a contact telephone number for each transporter and the destination facility is required on the manifest. All applicable EPA Hazardous Waste Codes shall also be included on the manifest.

Authority G.S. 130A-294(c); 150B-21.6.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 32 – BOARD OF MEDICAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to amend the rules cited as 21 NCAC 32M .0101, .0103 - .0105, .0108.

Proposed Effective Date: December 1, 2006

Public Hearing:

Date: September 20, 2006

Time: 1:00 p.m.

Location: N.C. Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action: Need to update and clarify rules to assure all requirements are current and delete requirements that no longer apply to the approval to practice for nurse practitioners.

Procedure by which a person can object to the agency on a proposed rule: Person may submit objections to these Rules by contacting R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, fax (919) 326-1131 or email info@ncmedboard.org.

Comments may be submitted to: R. David Henderson, N.C. Medical Board, 1203 Front Street, Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-1131, email info@ncmedboard.org

Comment period ends: October 2, 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 32M - APPROVAL OF NURSE PRACTITIONERS

21 NCAC 32M .0101 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) "Medical Board" means the North Carolina Medical Board.
- (2) "Board of Nursing" means the Board of Nursing of the State of North Carolina.
- (3) "Joint Subcommittee" means the subcommittee composed of members of the Board of Nursing and Members of the Medical Board to whom responsibility is given by G.S. 90-6 and G.S. 90-171.23(b)(14) to develop rules to govern the performance of medical acts by nurse practitioners in North Carolina.
- (4) "Nurse Practitioner or NP" means a currently licensed registered nurse approved to perform medical acts consistent with the nurse's area of nurse practitioner academic educational preparation and national certification under an agreement with a licensed physician for ongoing supervision, consultation, collaboration and evaluation of medical acts performed. Such medical acts are in addition to those nursing acts performed; by virtue of registered nurse (RN) licensure. The NP is held accountable under the RN license for those nursing acts that he or she may perform.
- (5) "Registration" means authorization by the Medical Board and the Board of Nursing for a registered nurse to use the title nurse practitioner in accordance with this Subchapter.

(6) "Approval to Practice" means authorization by the Medical Board and the Board of Nursing for a nurse practitioner to perform medical acts within her/his area of educational preparation and certification under a collaborative practice agreement (CPA) with a licensed physician in accordance with this Subchapter.

(7) "Nurse Practitioner Applicant" means a registered nurse who may function prior to full approval as a Nurse Practitioner in accordance with Rule .0104(f) .0104(g) of this Subchapter.

(8) "Supervision" means the physician's function of overseeing medical acts performed by the nurse practitioner.

(9) "Collaborative practice agreement" means the arrangement for nurse practitioner-physician continuous availability to each other for ongoing supervision, consultation, collaboration, referral and evaluation of care provided by the nurse practitioner.

(10) "Primary Supervising Physician" means the licensed physician who, by signing the nurse practitioner application, shall provide on-going supervision, collaboration, consultation and evaluation of the medical acts performed by the nurse practitioner as defined in the collaborative practice agreement. Supervision shall be in compliance with the following:

(a) The primary supervising physician shall assure both Boards that the nurse practitioner is qualified to perform those medical acts described in the collaborative practice agreement.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a primary supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation may supervise a nurse practitioner in the non-training situation.

(11) "Back-up Supervising Physician" means the licensed physician who, by signing an agreement with the nurse practitioner and the primary supervising physician(s), shall provide supervision, collaboration, consultation and evaluation of medical acts by the nurse practitioner in accordance with the collaborative practice agreement when the Primary Supervising Physician is not available. Back-up supervision shall be in compliance with the following:

(a) The signed and dated agreements for each back-up supervising physician(s) shall be maintained at each practice site.

(b) A physician in a graduate medical education program, whether fully licensed or holding only a resident's training license, shall not be named as a back-up supervising physician.

(c) A fully licensed physician in a graduate medical education program who is also practicing in a non-training situation and has a signed collaborative practice agreement with the nurse practitioner and the primary supervising physician may be a back-up supervising physician for a nurse practitioner in the non-training situation.

(12) "Volunteer Approval" means approval to practice consistent with this Subchapter except without expectation of direct or indirect compensation or payment (monetary, in kind or otherwise) to the nurse practitioner.

(13) "Disaster" means a state of disaster as defined in G.S. 166A-4(3) and proclaimed by the Governor, or by the General Assembly pursuant to G.S. 166A-6.

(14) "Interim Status" means limited privileges granted by the Board of Nursing to a graduate of an approved nurse practitioner educational program meeting the requirements in Rule .0105(a) of this Subchapter or a registered nurse seeking initial approval in North Carolina, as defined in Rule .0104(f) .0104(g) of this Subchapter, while awaiting final approval to practice as a nurse practitioner.

(15) ~~"Temporary Approval" means authorization by the Medical Board and the Board of Nursing for a registered nurse to practice as a nurse practitioner in accordance with this Rule for a period not to exceed six months while awaiting notification of successful completion of the national certification examination.~~

(16) "National Credentialing Body" means one of the following credentialing bodies that offers certification and re-certification in the nurse practitioner's specialty area of practice: American Nurses Credentialing Center (ANCC); American Academy of Nurse Practitioners (AANP); National Certification Corporation of the Obstetric, Gynecologic and Neonatal Nursing Specialties (NCC); and the Pediatric Nursing Certification Board (PNCB).

Authority G.S. 90-6; 90-18(c)(14); 90-18.2.

**21 NCAC 32M .0103 NURSE PRACTITIONER
REGISTRATION**

(a) The Board of Nursing shall register an applicant who:

(1) has an unrestricted license to practice as a registered nurse in North Carolina and, when applicable, an unrestricted approval, registration or license as a nurse practitioner in another state, territory, or possession of the United States;

(2) has successfully completed a nurse practitioner education program as outlined in Rule .0105 of this Subchapter; ~~and~~

(3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0120(7) and (9); and

(4) (3) has supplied additional information as requestednecessary to evaluate the application.

(b) Beginning January 1, 2005-2005, new graduates of a nurse practitioner program, who are all registered nurses seeking first-time nurse practitioner registration in North Carolina shall:

(1) hold a Master's Degree in Nursing or related field with primary focus on Nursing;

(2) have successfully completed a graduate level nurse practitioner education program accredited by a national credentialing body, ~~and in addition have met the criteria as outlined in Rule .0105(a) and (e) of this Subchapter; accrediting body;~~ and

(3) provide documentation of certification by a national credentialing body.

Authority G.S. 90-18(c)(14); 90-18.2; 90-171.36.

21 NCAC 32M .0104 PROCESS FOR APPROVAL TO PRACTICE

(a) Prior to the performance of any medical acts, a nurse practitioner shall:

(1) meet registration requirements as specified in 21 NCAC 32M .0103 of this Section;

(2) (4) submit notification of her/his intent ~~an application for approval to practice on forms provided by the Board of Nursing and the Medical Board. Such notification of intent to practice shall include:~~

(A) the practice name, practice address, and telephone number of the nurse practitioner; and

(B) the practice name, practice address, and telephone number of the primary supervising physician(s);

(3) (2) submit any additional information as requestednecessary to evaluate the application; and

(4) (3) have a collaborative practice agreement with a primary supervising physician.

(b) A nurse practitioner seeking approval to practice who has not practiced as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

(c) (4) The nurse practitioner shall not practice until notification of approval to practice is received from the Boards.

(d) (e) The nurse practitioner's approval to practice shall terminate when the nurse practitioner discontinues working within the approved nurse practitioner collaborative practice agreement and the nurse practitioner shall notify the Boards in writing. This Rule shall be waived in cases of emergency such as sudden injury, illness or death.

(e) (d) Applications for ~~first time~~ approval to practice in North Carolina shall be submitted to the Board of Nursing and then approved by both Boards as follows:

(1) the Board of Nursing shall verify compliance with Rule .0103 of this Subchapter and Paragraph (a) of this Rule; and

(2) the Medical Board shall verify that the designated primary supervising holds a valid license to practice medicine in North Carolina and compliance with Subparagraph (a) of this Rule.

(f) (e) Applications for approval of changes in practice arrangements for a nurse practitioner currently approved to practice in North Carolina:

(1) addition or change of primary supervising physician shall be submitted to both Boards;

(2) request for change(s) in the scope of practice shall be submitted to the Joint Subcommittee.

(g) (f) Interim status for a nurse practitioner applicant shall be granted to a registered nurse who is a graduate of a nurse practitioner education program meeting the requirements of Rule .0105 of this Subchapter and has met the registration requirements as set forth in Rule .0103 and .0105 of this Subchapter; or a registered nurse seeking first time approval to practice as a nurse practitioner in North Carolina who has worked previously as a nurse practitioner in another state and who meets the nurse practitioner education requirement and has met the registration requirements as set forth in Rule .0103 and .0105 of this Subchapter; and Subchapter with the following limitations:

(1) no prescribing privileges;

(2) primary or back-up physicians shall be continuously available for ongoing supervision, collaboration, consultation and countersigning of notations of medical acts in all patient charts within two working days of nurse practitioner applicant-patient contact;

(3) face-to-face consultation with the primary supervising physician shall be weekly with documentation of consultation consistent with Rule .0110(e)(3) of this Subchapter; and shall not exceed a period of six months.

(g) First time applicants who meet the qualifications for approval to practice, but are awaiting certification from a national credentialing body as referenced in Rule .0101(16) of this Subchapter, shall be granted a temporary approval to practice as a nurse practitioner. Temporary approval is valid for a period not to exceed six months from the date temporary approval is granted or until the results of the applicant's certification examination are available, whichever comes first.

(h) A registered nurse who was previously approved to practice as a nurse practitioner in this state who reapplies for approval to practice shall:

- (1) meet the nurse practitioner approval requirements as stipulated in Rule .0108(c) of this Subchapter; and
- (2) complete the appropriate application application;
- (3) receive notification of approval;
- (4) meet the quality assurance standards and consultation requirements as outlined in Rule .0110(e)(2)-(3) of this Subchapter;
- (5) meet the continuing education requirements as stated in Rules .0107 and .0108(d) of this Subchapter; and
- (6) If for any reason a nurse practitioner discontinues working within the approved nurse practitioner-supervising physician(s) arrangement, or experiences an interruption in her/his registered nurse licensure status, the nurse practitioner shall notify both Boards in writing and the nurse practitioner's approval shall automatically terminate. A waiver to this requirement shall be given in an emergency situation.

(i) Volunteer Approval to Practice. Both Boards may grant approval to practice in a volunteer capacity to a nurse practitioner who has met the qualifications to practice as a nurse practitioner in North Carolina.

(j) The nurse practitioner shall pay the appropriate fee as outlined in Rule .0115 of this Subchapter.

(k) A Nurse Practitioner approved under this Subchapter shall keep proof of current licensure, registration and approval available for inspection at each practice site upon request by agents of either Board.

(l) If for any reason a nurse practitioner discontinues working within the approved nurse practitioner-supervising physician(s) arrangements, or experiences an interruption in her/his registered nurse licensure status, the nurse practitioner shall notify both Boards in writing and the nurse practitioner's approval shall automatically terminate. A waiver to this requirement shall be given in an emergency situation.

Authority G.S. 90-18(c)(14); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.42.

21 NCAC 32M .0105 EDUCATION AND CERTIFICATION REQUIREMENTS FOR REGISTRATION AS A NURSE PRACTITIONER

(a) A nurse practitioner applicant who completed a nurse practitioner education program prior to December 31, 1999 shall provide evidence of successful completion of a course of education that contains a core curriculum including 400 contact hours of didactic education and 400 contact hours of preceptorship or supervised clinical experience.

- (1) The core curriculum shall contain the following components:
 - (a) health assessment and diagnostic reasoning including:

- (i) historical data;
- (ii) physical examination data;
- (iii) organization of data base;
- (b) pharmacology;
- (c) pathophysiology;
- (d) clinical management of common health problems and diseases such as the following shall be evident in the nurse practitioner's academic program:
 - (i) respiratory system;
 - (ii) cardiovascular system;
 - (iii) gastrointestinal system;
 - (iv) genitourinary system;
 - (v) integumentary system;
 - (vi) hematologic and immune systems;
 - (vii) endocrine system;
 - (viii) musculoskeletal system;
 - (ix) infectious diseases;
 - (x) nervous system;
 - (xi) behavioral, mental health and substance abuse problems;
- (e) clinical preventative services including health promotion and prevention of disease;
- (f) client education related to **Parts (a)(1)(D) and (E) Sub-items (1)(d) and (e)** of this Rule; and
- (g) role development including legal, ethical, economical, health policy and interdisciplinary collaboration issues.

(2) Nurse practitioner applicants exempt from components of the core curriculum requirements listed in Subparagraph (a)(1) Item (1) of this Rule are:

- (a) Any nurse practitioner approved to practice in North Carolina prior to January 18, 1981, is permanently exempt from the core curriculum requirement.
- (b) A nurse practitioner certified by a national credentialing body prior to January 1, 1998, who also provides evidence of satisfying **Parts (a)(1)(A) - (C) Sub-items (1)(a)-(c)** of this Rule shall be exempt from core curriculum requirements in **Parts (a)(1)(D) - (G) Sub-items (1)(d)-(g)** of this Rule. Evidence of satisfying **Parts (a)(1)(A) - (C) Sub-items (1)(a)-(c)** of this Rule shall include:
 - (i) a narrative of course content; and
 - (ii) contact hours.
- (c) A nurse practitioner seeking initial approval to practice after January 1, 1998 shall be exempt from the core

~~curriculum requirements if certified as a nurse practitioner in her/his specialty by a national credentialing body.~~

(b) Any nurse practitioner applicant who received first time approval to practice between January 1, 2000 and July 31, 2004 shall be certified by a national credentialing body as referenced in Rule .0101(16) of this Subchapter or be awaiting initial certification by a national credentialing body for a period not to exceed 18 months from date temporary approval is granted.

(c) Each nurse practitioner applicant applying for approval to practice in North Carolina shall meet the education requirements as specified in Subparagraph (a)(1) of this Rule and shall provide documentation of certification by a national credentialing body within six months from the date temporary approval is granted.

(d) A Nurse Practitioner approved under this Rule shall keep proof of current licensure, registration and approval available for inspection at each practice site and made available for inspection upon request by agents of either Board.

Authority G.S. 90-18(c)(14); 90-171.42.

21 NCAC 32M .0108 INACTIVE STATUS

(a) Any nurse practitioner who wishes to place her or his approval to practice on an inactive status shall notify the Boards by completing the form supplied by the Boards.

(b) A nurse practitioner with an inactive approval to practice status shall not practice as a nurse practitioner.

(c) A nurse practitioner with an inactive approval to practice status who reapplies for approval to practice shall meet the qualifications for approval to practice as stipulated in Rules .0103(a)(1), .0104(a); .0106(b); .0107; and .0110 and (b)(1) of this Subchapter and receive notification from both Boards of approval prior to beginning practice.

(d) A nurse practitioner with an inactive approval to practice status of greater than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.

(e) ~~A nurse practitioner seeking first time approval to practice who has not provided direct patient care as a nurse practitioner in more than five years shall complete a nurse practitioner refresher course approved by the Board of Nursing in accordance with Paragraphs (o) and (p) of 21 NCAC 36 .0220 and consisting of common conditions and their management directly related to the nurse practitioner's area of education and certification.~~

Authority G.S. 90-18(c)(14); 90-18.2; 90-171.36.

*This Section includes the Register Notice citation to rules approved by the Rules Review Commission (RRC) at its meeting June 29, 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.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

APPROVED RULE CITATION

02	NCAC	48F	.0301 - .0302*	19:23 NCR
11	NCAC	12	.0307	20:18 NCR
11	NCAC	12	.0329 - .0330*	20:18 NCR
11	NCAC	16	.0201*	20:18 NCR
11	NCAC	16	.0207 - .0208*	20:18 NCR
11	NCAC	20	.0101*	20:18 NCR
11	NCAC	20	.0201*	20:18 NCR
11	NCAC	20	.0205	20:18 NCR
12	NCAC	09B	.0226 - .0227*	20:18 NCR
12	NCAC	09B	.0232 - .0233*	20:18 NCR
12	NCAC	09B	.0303*	20:18 NCR
12	NCAC	09B	.0304	20:18 NCR
12	NCAC	09B	.0312	20:18 NCR
12	NCAC	09G	.0309*	20:18 NCR
12	NCAC	09G	.0312	20:18 NCR
13	NCAC	13	.0101*	20:18 NCR
13	NCAC	13	.0102	20:18 NCR
13	NCAC	13	.0103*	20:18 NCR
13	NCAC	13	.0201 - .0207*	20:18 NCR
13	NCAC	13	.0208 - .0209	20:18 NCR
13	NCAC	13	.0210 - .0211*	20:18 NCR
13	NCAC	13	.0212	20:18 NCR
13	NCAC	13	.0213	G.S. 150B-21.5(a)(3)
13	NCAC	13	.0301 - .0305*	20:18 NCR
13	NCAC	13	.0306	20:18 NCR
13	NCAC	13	.0401*	20:18 NCR
13	NCAC	13	.0402	20:18 NCR
13	NCAC	13	.0404 - .0410	20:18 NCR
13	NCAC	13	.0411*	20:18 NCR
13	NCAC	13	.0414 - .0415	20:18 NCR
13	NCAC	13	.0416*	20:18 NCR
13	NCAC	13	.0419 - .0423	20:18 NCR
13	NCAC	13	.0501	20:18 NCR
13	NCAC	13	.0701 - .0706	20:18 NCR
13	NCAC	13	.0801 - .0809	20:18 NCR
13	NCAC	13	.0811 - .0813	20:18 NCR
13	NCAC	13	.0815	20:18 NCR
15A	NCAC	01O	.0101	20:20 NCR
15A	NCAC	01O	.0105	20:20 NCR
15A	NCAC	02B	.0309*	20:04 NCR
15A	NCAC	02D	.2401 - .2409*	20:11 NCR
15A	NCAC	02D	.2410	20:11 NCR
15A	NCAC	02D	.2411 - .2413*	20:11 NCR
15A	NCAC	03L	.0103	20:15 NCR
15A	NCAC	03M	.0101	20:15 NCR

15A	NCAC	03M	.0502	20:15 NCR
15A	NCAC	03O	.0302*	20:15 NCR
15A	NCAC	03O	.0303	20:15 NCR
15A	NCAC	03R	.0106*	20:15 NCR
15A	NCAC	03R	.0114	20:15 NCR
15A	NCAC	10A	.1101*	20:19 NCR
15A	NCAC	10D	.0103*	20:19 NCR
15A	NCAC	10F	.0327	20:19 NCR
15A	NCAC	18A	.2801*	20:14 NCR
15A	NCAC	18A	.2803	20:14 NCR
15A	NCAC	18A	.2804*	20:14 NCR
15A	NCAC	18A	.2806*	20:14 NCR
15A	NCAC	18A	.2810*	20:14 NCR
15A	NCAC	18A	.2812	20:14 NCR
15A	NCAC	18A	.2815	20:14 NCR
15A	NCAC	18A	.2817 - .2820*	20:14 NCR
15A	NCAC	18A	.2821	20:14 NCR
15A	NCAC	18A	.2822*	20:14 NCR
15A	NCAC	18A	.2832*	20:14 NCR
15A	NCAC	18A	.2834*	20:14 NCR
17	NCAC	07B	.0201 - .0202*	n/a G.S. 150B-1(d)(4)
17	NCAC	07B	.0206 - .0207*	n/a G.S. 150B-1(d)(4)
17	NCAC	07B	.0301 - .0302*	n/a G.S. 150B-1(d)(4)
17	NCAC	07B	.0401 - .0407*	n/a G.S. 150B-1(d)(4)
17	NCAC	07B	.0502*	n/a G.S. 150B-1(d)(4)
17	NCAC	07B	.0601 - .0610*	n/a G.S. 150B-1(d)(4)
17	NCAC	07B	.0613 - .0634*	n/a G.S. 150B-1(d)(4)
17	NCAC	07B	.0701 - .0716*	n/a G.S. 150B-1(d)(4)
17	NCAC	07D	.0101 - .0104*	n/a G.S. 150B-1(d)(4)
17	NCAC	07D	.0201 - .0202*	n/a G.S. 150B-1(d)(4)
21	NCAC	02	.0208 - .0209*	20:09 NCR
21	NCAC	02	.0302*	20:09 NCR
21	NCAC	10	.0208	20:18 NCR
21	NCAC	14I	.0105*	20:16 NCR
21	NCAC	14I	.0108	20:16 NCR
21	NCAC	32S	.0109	20:17 NCR
21	NCAC	36	.0318*	20:09 NCR
21	NCAC	53	.0102*	20:19 NCR
21	NCAC	53	.0205*	20:19 NCR
21	NCAC	53	.0208 - .0209*	20:19 NCR
21	NCAC	53	.0212*	20:19 NCR
21	NCAC	53	.0304 - .0305*	20:19 NCR
21	NCAC	53	.0308	20:19 NCR
21	NCAC	53	.0401	20:19 NCR
21	NCAC	53	.0502*	20:19 NCR
21	NCAC	53	.0503	20:19 NCR
21	NCAC	54	.1707*	19:19 and 20:11 NCR
21	NCAC	54	.1802*	19:19 and 20:11 NCR
21	NCAC	69	.0104*	20:17 NCR

Pursuant to G.S. 150B-21.3(b1), the General Assembly did not introduce a bill to disapprove the following rules. The rules were entered into the Administrative Code on the 31st legislative day (June 29, 2006).

15A	NCAC	02Q	.0102	approved rule published 19:19 NCR
21	NCAC	64	.0215	approved rule published 20:06 NCR

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

02 NCAC 48F .0301 ENDANGERED PLANT**SPECIES LIST**

The North Carolina Plant Conservation Board hereby establishes the following list of endangered plant species:

(1)	Adiantum capillus-veneris L. Venus Hair Fern;	(28)	Robin Runaway; Delphinium exaltatum Aiton
(2)	Aeschynomene virginica (L.) B.S.P. Sensitive Jointvetch;	(29)	Tall Larkspur; Dichanthelium caerulescens (Hack. ex Hitchc.) Correll
(3)	Agrostis mertensii Trin. Arctic Bentgrass;	(30)	Blue Witch Grass; Echinacea laevigata (Boynton and Beadle) Blake
(4)	Amorpha georgiana var. georgiana Wilbur Georgia Indigo-bush;	(31)	Smooth Coneflower; Eriocaulon lineare Small
(5)	Amphicarpum muehlenbergianum (J.A. Schultes) A.S. Hitchc. Florida Goober Grass, Blue Maidencane;	(32)	Linear Pipewort; Eriocaulon texense Koern.
(6)	Arethusa bulbosa L. Bog Rose;	(33)	Texas Hatpins; Filipendula rubra (Hill) B.L. Robins.
(7)	Asplenium heteroresiliens W.H. Wagner Carolina Spleenwort;	(34)	Queen-of-the-Prairie; Fimbristylis perpusilla Harper ex Small & Britt.
(8)	Asplenium monanthes L. Single-sorus Spleenwort;	(35)	Harper's Fimbry; Fimbristylis perpusilla Harper ex Small & Britton
(9)	Aster parviceps (Burgess) Mackenzie & Bush Glade Aster;	(36)	Harper's Fringe-rush; Gaylussacia nana (Gray) Small
(10)	Bryocrumia andersonii (Bartr.) Anders. Gorge Moss;	(37)	Confederate Huckleberry; Gentianopsis crinita (Froelich) Ma
(11)	Buckleya distichophylla (Nuttall) Torrey Piratebush;	(38)	Fringed Gentian;
(12)	Calamagrostis cainii Hitchcock Cain's Reed Grass;	(39)	Geum radiatum Michaux
(13)	Calopogon multiflorus Lindl. Many-flowered Grass-Pink;	(40)	Spreading Avens;
(14)	Canoparmelia amabilis Heiman & Elix Worthy Shield Lichen;	(41)	Grammitis nimbata (Jenm.) Proctor
(15)	Cardamine micranthera Rollins Small-anthered Bittercress;	(42)	Dwarf Polypody Fern;
(16)	Carex aenea Fernald Fernald's Hay Sedge;	(43)	Gymnocarpium appalachianum Pryer & Haufler
(17)	Carex barrattii Schweinitz and Torrey Barratt's Sedge;	(44)	Appalachian Oak Fern;
(18)	Carex lutea LeBlond Golden Sedge;	(45)	Helenium brevifolium (Nutt.) Wood
(19)	Carex oligosperma Michx. Few-seeded Sedge;	(46)	Littleleaf Sneezeweed;
(20)	Carex radfordii Gaddy Radford's sedge;	(47)	Helenium vernale Walt.
(21)	Carex schweinitzii Dewey ex Schweinitz Schweinitz's Sedge;	(48)	Spring Sneezeweed;
(22)	Carya myristiciformis (Michaux f.) Nuttall Nutmeg hickory;	(49)	Helianthemum nashii Britt.
(23)	Cheirolejeunea evansii (M.Taylor) Schust. A liverwort;	(50)	Florida Scrub frostweed;
(24)	Chrysoma pauciflosculosa (Michx.) Greene Woody Goldenrod;	(51)	Helianthus floridanus Gray ex Chapman
(25)	Conioselinum chinense (L.) B.S.P. Hemlock Parsley;	(52)	Florida Sunflower;
(26)	Cystopteris tennesseensis Shaver Tennessee Bladderfern;	(53)	Helianthus schweinitzii T. & G.
(27)	Dalibarda repens L.		Schweinitz's Sunflower;
			Hexastylis contracta Blomquist
			Mountain Heartleaf;
			Hierochloe odorata (L.) Beauv.
			Holy Grass;
			Houstonia purpurea var. montana (Small) Terrell
			Mountain Bluet;
			Hudsonia montana Nutt.
			Mountain Golden Heather;
			Hydrastis canadensis L.
			Goldenseal;
			Hymenophyllum tayloriae Farrar & Raine
			Gorge Filmy fern;
			Isoetes microvela D.F. Brunton
			A Quillwort;
			Isotria medeoloides (Pursh) Raf.
			Small Whorled Pogonia;

(54)	<i>Juncus caesariensis</i> Coville Rough Rush;	(82)	<i>Rhynchospora crinipes</i> Gale Mosquito Beak Sedge;
(55)	<i>Juncus trifidus</i> ssp. <i>carolinianus</i> Hamet Ahti One-flowered Rush;	(83)	<i>Rhynchospora macra</i> (C.B.Clarke) Small Large Beak Sedge;
(56)	<i>Lilium pyrophilum</i> M.W. Skinner & Sorrie Sandhills bog lily;	(84)	<i>Rhynchospora odorata</i> C. Wright ex Griseb. Fragrant Beaksedge;
(57)	<i>Lindera melissaeifolia</i> (Walter) Blume Southern Spicebush;	(85)	<i>Rhynchospora thornei</i> Kral Thorne's Beaksedge;
(58)	<i>Lipocarpha micrantha</i> (Vahl) G. Tucker Small-flowered Hemicarpha;	(86)	<i>Rudbeckia heliopsis</i> Torr. & Gray Sun-facing Coneflower;
(59)	<i>Lophiola aurea</i> Ker-Gawl. Golden Crest;	(87)	<i>Sagittaria fasciculata</i> E.O.Beaal Bunched Arrowhead;
(60)	<i>Lysimachia asperulaefolia</i> Poiret Rough-leaf Loosestrife;	(88)	<i>Sarracenia jonesii</i> Wherry Mountain Sweet Pitcher Plant;
(61)	<i>Lysimachia fraseri</i> Duby Fraser's Loosestrife;	(89)	<i>Sarracenia oreophila</i> (Kearney) Wherry Green Pitcher Plant;
(62)	<i>Minuartia godfreyi</i> (Shinners) McNeill Godfrey's Sandwort;	(90)	<i>Schwalbea americana</i> L. Chaffseed;
(63)	<i>Minuartia uniflora</i> (Walter) Mattfield Single-flowered Sandwort;	(91)	<i>Scirpus flaccidifolius</i> (Fern.) Schuyler Reclining Bulrush;
(64)	<i>Muhlenbergia torreyana</i> (Schultes) Hitchcock Torrey's Muhly;	(92)	<i>Sedum pusillum</i> Michaux Puck's Orpine;
(65)	<i>Myrica gale</i> L. Sweet Gale;	(93)	<i>Sedum rosea</i> (L.) Scop. Roseroott;
(66)	<i>Narthecium americanum</i> Ker Bog Asphodel;	(94)	<i>Senecio schweinitzianus</i> Nuttall Schweinitz's Groundsel;
(67)	<i>Orbexilum macrophyllum</i> (Rowlee ex Small) Rydberg Bigleaf Scurfpea;	(95)	<i>Shortia galacifolia</i> T. & G. Oconee Bells;
(68)	<i>Orthotrichum keeverae</i> Crum & Anders. Keever's Bristle Moss;	(96)	<i>Sisyrinchium dichotomum</i> Bicknell Reflexed Blue-eyed Grass;
(69)	<i>Oxypolis canbyi</i> (Coulter. & Rose) Fern. Canby's Cowbane;	(97)	<i>Solidago plumosa</i> Small Yadkin River Goldenrod;
(70)	<i>Panicum hirstii</i> Swallen Hirst's Panic Grass;	(98)	<i>Solidago ptarmicoides</i> (Nees) Boivin Prairie Goldenrod;
(71)	<i>Parnassia caroliniana</i> Michaux Carolina Grass-of-Parnassus;	(99)	<i>Solidago spithamea</i> M.A.Curtis Blue Ridge Goldenrod;
(72)	<i>Paronychia herniarioides</i> (Michx.) Nutt. Michaux's Whitlow-wort;	(100)	<i>Solidago villosicarpa</i> LeBlond Coastal goldenrod;
(73)	<i>Pellaea wrightiana</i> Hooker Wright's Cliff-brake Fern;	(101)	<i>Sphagnum fuscum</i> (Schimp.) Klinggr. Brown Peatmoss;
(74)	<i>Plantago cordata</i> Lam. Heart-leaf Plantain;	(102)	<i>Sphenolobopsis pearsoni</i> (Sprengel) Schuster & Kitagawa A liverwort;
(75)	<i>Plantago sparsiflora</i> Michaux Pineland Plantain;	(103)	<i>Spigelia marilandica</i> (L.) L. Pink Root;
(76)	<i>Platanthera integrilabia</i> (Correll) Leur White Fringeless Orchid;	(104)	<i>Spiraea virginiana</i> Britton Virginia Spiraea;
(77)	<i>Poa paludigena</i> Fernald & Wiegand Bog Bluegrass;	(105)	<i>Sporobolus heterolepis</i> Gray Prairie Dropseed;
(78)	<i>Pteroglossaspis ecristata</i> (Fernald) Rolfe Eulophia;	(106)	<i>Stylisma pickeringii</i> var. <i>pickeringii</i> (Torrey ex M.A. Curtis) Gray Pickering's Morning Glory;
(79)	<i>Ptilimnium nodosum</i> (Rose) Mathias Harperella;	(107)	<i>Talinum mengesii</i> W.Wolf Large-flowered Fameflower;
(80)	<i>Pyxidanthera barbulata</i> var. <i>brevifolia</i> (Wells) Ahles Wells' Pyxie-moss;	(108)	<i>Thalictrum cooleyi</i> Ahles Cooley's Meadowrue;
(81)	<i>Rhus michauxii</i> Sargent Michaux's Sumac;	(109)	<i>Tortula ammoniana</i> Crum & Anders. Ammon's Tortula;
		(110)	<i>Tridens ambiguus</i> (Ell.) J.A. Schultes

(111)	Pinelands Triodia; Trillium pusillum Michaux	(18)	French Broad Heartleaf; Ilex collina Alexander
(112)	Carolina Least Trillium; Trisetum spicatum var. molle (Michaux)	(19)	Long-stalked Holly; Isoetes piedmontana (Pfeiffer) Reed
	Beal	(20)	Piedmont Quillwort; Liatris helleri (Porter) Porter
(113)	Soft Trisetum; Utricularia resupinata B.D. Greene ex Bigelow	(21)	Heller's Blazing Star; Lilaeopsis carolinensis Coult. & Rose
	Northeastern Bladderwort;	(22)	Carolina Lilaeopsis;
(114)	Warea cuneifolia (Muhl. ex Nutt.) Nutt. Carolina Pineland-cress;	(23)	Lilium grayi Watson
(115)	Zephyranthes simpsonii Chapman Rain Lily.	(24)	Gray's Lily; Lindera subcoriacea Wofford
		(25)	Bog spicebush; Lobelia boykinii T. & G.
		(26)	Boykin's lobelia; Macbridea caroliniana (Walt.) Blake
		(27)	Carolina Bogmint; Menyanthes trifoliata L.
		(28)	Buckbean;
		(29)	Myriophyllum laxum Schuttlew .ex Chapman
		(30)	Loose Watermilfoil; Parnassia grandifolia DC.
		(31)	Large-leaved Grass-of-Parnassus; Platanthera integra (Nuttall) Gray ex Beck
		(32)	Yellow Fringeless Orchid; Platanthera nivea (Nutt.) Luer
		(33)	Snowy Orchid;
		(34)	Portulaca smallii P. Wilson
		(35)	Small's Portulaca;
		(36)	Quercus ilicifolia Wangenheim
		(37)	Bear oak;
		(38)	Rhexia aristosa Britton
		(39)	Awned Meadow-beauty;
		(40)	Rhynchospora pleiantha (Kukenth.) Gale
		(41)	Coastal Beaksedge;
		(42)	Ruellia humilis Nutt.
		(43)	Low Wild-petunia;
		(44)	Sabatia kennedyana Fern.
		(45)	Plymouth Gentian;
		(46)	Sarracenia minor Walt.
			Hooded Pitcher Plant;
			Schisandra glabra (Brickel) Rehder
			Magnolia-vine;
			Schlotheimia lancifolia Bartr.
			Highlands Moss;
			Senecio millefolium T. & G.
			Divided-leaf Ragwort;
			Solidago verna M.A. Curtis
			Spring-flowering Goldenrod;
			Spiranthes longilabris Lindl.
			Giant Spiral Orchid;
			Sporobolus teretifolius Harper
			Wireleaf Dropseed;
			Thelypteris simulata (Davenp.) Nieuwl.
			Bog Fern;
			Trichomanes boschianum Sturm ex Bosch
			Appalachian Filmy-fern;
			Trichomanes petersii A. Gray

(47) Dwarf Filmy-fern;
Trillium discolor Wray ex Hook.
Mottled Trillium;

(48) Utricularia olivacea Wright ex Grisebach
Dwarf Bladderwort.

History Note: Authority G.S. 106-202.15;
Eff. July 1, 1980;
Amended Eff. August 1, 2006; March 1, 2004; July 1, 1998;
April 1, 1993; December 1, 1992; September 1, 1991; August
1, 1990.

(c) Rates by age and mode of payment, including a signed actuarial memorandum, shall be attached to each form requiring a premium.

(d) Forms shall include a unique form number located in the lower left-hand corner of the first page.

(e) Filing shall be comprised of one clean copy of the entire submission.

(f) Electronic submissions shall be formatted in Portable Document Format Adobe Acrobat.

(g) Red-line side by side comparisons shall be provided with initial submissions that are revising previously-approved forms. An officer of the company shall provide a statement certifying that no changes, other than those red-lined, were made to the form(s).

(h) Red-line side by side comparisons shall be provided with each resubmission of forms revised during the review process as requested by the Commissioner.

(4) Rates:
(a) Individual or non-group accident and health products subject to Chapter 58 of the General Statutes shall demonstrate and describe the development of the requested premium. All 30 of the State's "Additional Data Requirements" as required in 11 NCAC 16 .0205 shall be addressed.
(b) Credit involuntary unemployment insurance, credit life, credit accident and health, and credit property products subject to Article 57 of Chapter 58 of the General Statutes shall demonstrate and describe the development of the requested premium. All applicable data elements as required in 11 NCAC 16. 0400 or 16 .0500 shall be addressed;
(c) Health maintenance organizations subject to Article 67 of Chapter 58 of the General Statutes shall demonstrate and describe the development of the requested premium. All data elements as required in 11 NCAC 16 .0400 and 16 .0600 shall be addressed;
(d) Service Corporations subject to Article 65 of Chapter 58 of the General Statutes shall demonstrate and describe the development of the requested premium adjustment

TITLE 11 – DEPARTMENT OF INSURANCE

11 NCAC 12 .0329 SUBMISSION

REQUIREMENTS: FORM AND RATE FILINGS

Any insurer, as defined by G.S. 58-1-5(3), that files with the Commissioner for review or approval product forms of life, annuity, accident and health, multiple employer welfare arrangements or managed care provider contract forms and supporting documents, or premium rates, shall comply with the following:

(1) Include a cover letter, or the NAIC Adopted Uniform Transmittal Document in lieu thereof, that:
(a) Includes the name and address of the submitting company.
(b) States the company issuing the form.
(c) Includes the toll-free telephone number and valid electronic e-mail address of the filer.
(d) Provides a unique identifying form number of each form submitted and its descriptive title.
(e) Indicates whether the form is new or a form revision.
(f) Identifies, for any revised forms, the form being replaced by its form number, assigned tracking number, and approval date.

(2) Submitted either via:
(a) Paper.
(b) Electronic E-Mail compressed in Adobe Acrobat.
(c) The National Association of Insurance Commissioners system for electronic rate and form filings (SERFF).

(3) Using the following forms and formats:
(a) Variable text or benefit ranges shall be in brackets.
(b) If applications, riders, endorsements or certificates are filed separately, the filer shall indicate policy forms with which they are used.

in accordance with sound actuarial principles and standards.

(5) No form or rate shall be deemed approved by statute unless the filer provides the Commissioner with written notice.

(6) Submissions that have been disapproved and are not brought into compliance within 60 days of initial receipt shall be closed. File closure shall not prevent revised subsequent submissions but such will be treated as a new filing.

(7) The Commissioner may reject and disapprove incomplete submissions.

History Note: Authority G.S. 58-2-40; 58-51-1; 58-51-95; 58-54-20; 58-54-35; 58-55-30; 58-55-31; 58-57-30; 58-58-1; 58-65-1; 58-65-40; 58-67-50; 58-67-150;

Eff. July 1, 2006.

11 NCAC 12 .0330 NOTICE OF A CLOSED BLOCK OF INDIVIDUAL BUSINESS

(a) Definitions. As used in this rule:

(1) "Accident and health coverage" has the same meaning as in G.S. 58-3-275.

(2) "Block of business" has the same meaning as in G.S. 58-3-275.

(3) "Closed block of business" has the same meaning as in G.S. 58-3-275.

(4) "Insurer" has the same meaning as in G.S. 58-3-275.

(5) "Policyholder" means the primary insured under an individual accident and health coverage and includes an applicant as described in G.S. 58-3-275(c)(6).

(6) "Qualified actuary" means a member in good standing of the American Academy of Actuaries.

(b) Notices required under G.S. 58-3-275 shall conform to the following:

(1) The notice to the Commissioner shall be submitted to the Life & Health Division of the Department; as applicable, be accompanied by a sample copy of the notices required by G.S. 58-3-275(a)(2) and G.S. 58-3-275(a)(3), in accordance with paragraphs (b)(2) and (b)(3) of this Rule; and include:

(A) Identification of the policy form(s) for which the insurer has determined to cease active marketing, sale and issuance.

(B) The date the cessation of sales will be effective.

(C) The number of North Carolina policyholders and covered individuals currently covered under the listed forms and riders. The number of covered individuals may be estimated by the company.

(D) At the option of the company, a statement by a qualified actuary that the actuary estimates that the expected impact of ceasing sales of the policy form(s) will not result in premium increases in excess of 5.0% per annum, as provided in G.S. 58-3-275(a)(1).

(2) The notice to a policyholder shall be provided by first-class mail to the policyholder's current address or, if not known, to the policyholder's last known address; if the policyholder is an applicant, as defined in G.S. 58-3-275(c)(6), the notice shall be provided no later than the date the policy is delivered to the policyholder; and the notice shall include:

(A) Identification of the policy form(s) of the policyholder for which the insurer has determined to cease active marketing.

(B) The effective date of the cessation of sales, and the closure date as defined in G.S. 58-3-275(c)(4).

(C) Information regarding the availability of the Commissioner's office for assistance, including the telephone number and address of the office.

(D) A toll-free telephone number for the insurer to which a policyholder may direct questions and inquiries regarding the closure.

(E) An explanation of the insurer's decision to cease the sales of the affected products and the possible effects upon future premiums.

(F) A general explanation of the 12-month premium rate guarantee required by G.S. 58-51-95(f).

(G) Language similar in content and meaning to the following:
<INSERT INSURER'S NAME> has decided to stop selling the health insurance policy that you own, creating a closed block of business. With no new sales of this product, future premium rate increases may be greater than they would have been if sales of this product had continued."

(3) The notice to an agent/broker shall include:

(A) Identification of the policy form(s) for which the insurer has determined to cease active marketing, sale and issuance.

(B) The date the cessation of sales will be effective and the closure date as defined in G.S. 58-3-275(c)(4).

(C) An explanation of the insurer's decision to cease the sales of the affected products and the possible effects upon future premiums.

(c) The company's performance of contractual obligations that are contained in policies that are in the closed block of business, including coverage continuation, conversion, or replacement obligations, are not activities inconsistent with the term "closed block of business."

History Note: Authority G.S. 58-2-40(1); 58-3-275; 58-51-95;
Eff. July 1, 2006.

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11 NCAC 16 .0201 MINIMUM LOSS RATIO STANDARDS

(a) For individual accident and health insurance policies and riders delivered in this State, the standard minimum guideline loss ratio for conditionally renewable, guaranteed renewable, and noncancelable medical expense, loss of income, and other type coverages (but not including long-term care insurance policies issued in this State on or after February 1, 2003) shall be as promulgated by the National Association of Insurance Commissioners for such coverages as of the issue date of such policies and riders.

(b) If a company fails to satisfy NAIC minimum future or lifetime loss ratio standards for a particular type of coverage, then to comply with the loss ratio standards in Paragraph (a) of this Rule, the company shall:

- (1) Combine the experience of such policy form(s) with other forms with similar type of coverage for which the pooling of experience is actuarially justified;
- (2) Provide premium credits or refunds;
- (3) Decrease premium rates for one or more subsequent rating periods; or
- (4) Implement an actuarially justified alternative proposal.

History Note: Authority G.S. 58-2-40; 58-3-275; 58-51-95; 58-63-15(7)b;
Eff. March 1, 1992;
Amended Eff. July 1, 2006.

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11 NCAC 16 .0207 COMMON BLOCK

(a) As used in this Rule, "Common Block" means a grouping of similar policy form types for which the pooling of experience is actuarially justified and for which the rate revisions are based upon the common experience. A Common Block may include both open and closed policy form types.

(b) If a company establishes a Common Block for compliance with G.S. 58-51-95(h), with respect to all future rate revision filings, the company shall request a common uniform rate revision to apply to all policy forms in the Common Block and not an apportionment by form. Once policy forms are grouped into a Common Block, they must remain grouped for future rate filings. Actuarially justified apportionments of the

common rate increase, due to differences in benefits between forms, shall be allowed.

(c) If a company establishes a Common Block for compliance with G.S. 58-51-95(h), then compliance with G.S. 58-3-275 is required for the Closed Block portion of policy forms that make up the Common Block.

(d) The requirements of 11 NCAC 16 .0201 with respect to a common block shall be satisfied for all policy forms within the common block if the first filing is made prior to July 1, 2007. In the event that a policy form is added to a common block, the next annual filing for the common block shall meet the requirements of this Rule for that policy form.

History Note: Authority G.S. 58-2-40; 58-3-275; 58-51-95; 58-63-15(7)b;
Eff. July 1, 2006.

11 NCAC 16 .0208 ANNUAL ACTUARIAL CERTIFICATIONS FOR LONG-TERM CARE FORMS

For actuarial certifications required by G.S. 58-51-95(i):

- (1) The actuarial certification shall be made by an individual who is either a Fellow or an Associate of the Society of Actuaries, or a member of the American Academy of Actuaries.
- (2) For a policy form which becomes closed, but for which no corrective action is currently required, or for other situations for which no corrective action is currently required, the actuary shall, in lieu of the plan of corrective action required by G.S. 58-51-95(i)(2), provide a certification that the actuary has reviewed the historical experience for the policy form and that in the actuary's opinion, a rate revision is not currently justified.

History Note: Authority G.S. 58-2-40; 58-2-171; 58-3-275; 58-51-95; 58-63-15(7)b;
Eff. July 1, 2006.

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11 NCAC 20 .0101 SCOPE AND DEFINITIONS

(a) Scope.

- (1) Sections .0200, .0300, and .0400 of this Chapter apply to HMOs, licensed insurers offering PPO benefit plans, and any other entity that falls under the definition of "network plan carrier".
- (2) Sections .0500 and .0600 of this Chapter apply only to HMOs.
- (3) Nothing in this Chapter applies to service corporations offering benefit plans under G.S. 58-65-25 or G.S. 58-65-30 that do not have any differences in copayments, coinsurance, or deductibles based on the use of network versus non-network providers.

(b) Definitions. As used in this Chapter:

(1) "Carrier" means a network plan carrier.

(2) "Health care provider" means any person who is licensed, registered, or certified under Chapter 90 of the General Statutes; or a health care facility as defined in G.S. 131E-176(9b); or a pharmacy.

(3) "Health maintenance organization" or "HMO" has the same meaning as in G.S. 58-67-5(f).

(4) "Intermediary" or "intermediary organization" means any entity that employs or contracts with health care providers for the provision of health care services, and that also contracts with a network plan carrier or its intermediary.

(5) "Member" means an individual who is covered by a network plan carrier.

(6) "Network plan carrier" means an insurer, health maintenance organization, or any other entity acting as an insurer, as defined in G.S. 58-1-5(3), that provides reimbursement or provides or arranges to provide health care services; and uses increased copayments, deductibles, or other benefit reductions for services rendered by non-network providers to encourage members to use network providers.

(7) "Network provider" means any health care provider participating in a network utilized by a network plan carrier.

(8) "PPO benefit plan" means a benefit plan that is offered by a hospital or medical service corporation or network plan carrier, under G.S. 58-50-56, in which plan:

(A) either or both of the following features are present:

(i) utilization review or quality management programs are used to manage the provision of covered services;

(ii) enrollees are given incentives via benefit differentials to limit the receipt of covered services to those furnished by participating providers;

(B) health care services are provided by participating providers who are paid on negotiated or discounted fee-for-service bases; and

(C) there is no transfer of insurance risk to health care providers through capitated payment arrangements, fee withholdings, bonuses, or other risk-sharing arrangements.

(9) "Preferred provider" has the same meaning as in G.S 58-50-56 and 58-65-1.

(10) "Provider" means a health care provider.

(11) "Quality management" means a program of reviews, studies, evaluations, and other activities used to monitor and enhance quality of health care and services provided to members.

(12) "Service area" means the geographic area in North Carolina as described by the HMO pursuant to G.S. 58-67-10(c)(11) in which an HMO enrolls persons who either work in the service area, reside in the service area, or work and reside in the service area and as approved by the Commissioner pursuant to G.S. 58-67-20.

(13) "Service corporation" means a medical or hospital service corporation operating under Article 65 of Chapter 58 of the General Statutes.

(14) "Single service HMO" means an HMO that undertakes to provide or arrange for the delivery of a single type or single group of health care services to a defined population on a prepaid or capitated basis, except for a member's responsibility for non-covered services, coinsurance, copayments, or deductibles.

(15) "Utilization review" means those methodologies used to improve the quality and maximize the efficiency of the health care delivery system through review of particular instances of care, including, whenever performed, precertification, concurrent review, discharge planning, and retrospective review.

History Note: Authority G.S. 58-2-40(1); 58-50-50; 58-50-55; 58-65-1; 58-65-140; 58-67-150;

Eff. October 1, 1996;

Amended Eff. July 1, 2006.

11 NCAC 20 .0201 WRITTEN CONTRACTS

(a) All contracts between network plan carriers and health care providers and between network plan carriers and intermediary organizations offering networks of health care providers to be used by network plan carriers for the provision of care on a preferred or in-network basis shall be in writing and shall comply with 11 NCAC 20 .0202 as a condition of such health care providers' and networks' being listed in the carrier's provider directory.

(b) The form of every contract under Paragraph (a) of this Rule shall be filed with the Division for approval according to these Rules before it is used.

(c) As used in this Section and in Section .0600 of this Chapter, "Division" means the Life and Health Division of the Department of Insurance.

History Note: Authority G.S. 58-2-40(1); 58-50-50; 58-50-55; 58-65-25; 58-65-140; 58-67-10; 58-67-20; 58-67-35; 58-67-65; 58-67-140; 58-67-150;

Eff. October 1, 1996;

Amended Eff. July 1, 2006.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 09B .0226 SPECIALIZED FIREARMS INSTRUCTOR TRAINING

(a) The instructor training course requirement for specialized firearms instructor certification shall consist of a minimum of 83 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each specialized firearms instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice firearms instructor in a Basic Law Enforcement Training Course or a "Law Enforcement Officers' In-Service Firearms Training and Qualification Program".

(c) Each applicant for specialized firearms instructor training shall:

- (1) have completed the criminal justice general instructor training course; and
- (2) present a written endorsement by either
 - (A) a certified school director indicating the student will be utilized to instruct firearms in the Basic Law Enforcement Training Course; or
 - (B) a department head, certified school director, or in-service training coordinator, indicating the student will be utilized to instruct firearms in a "Law Enforcement Officers' In-Service Firearms Training and Qualification Program"; and
- (3) possess a valid CPR Certification that included cognitive and skills testing.

(d) Each specialized firearms instructor training course shall include as a minimum the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation/Pretest	8 Hours
(2)	Range Operations	38 Hours
(3)	Civil Liability	4 Hours
(4)	Night Firing	2 Hours
(5)	Combat Shooting	8 Hours
(6)	Mental Conditioning	1 Hours
(7)	Shotgun Operation and Firing	4 Hours
(8)	Service Handgun - Operation and Use	5 Hours
(9)	Rifle - Operation and Maintenance	4 Hours

- (10) Service Handgun - Maintenance and Cleaning 2 Hours
- (11) Range Medical Emergencies 2 Hours
- (12) In-Service Firearms Requirements 2 Hours
- (13) BLET Lesson Plan Review/Post Test 3 Hours

(e) The "Specialized Firearms Instructor Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for delivery of specialized firearms instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Old Education Building
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemburg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Specialized Firearms Instructor Training" course are: The North Carolina Justice Academy.

History Note: Authority G.S. 17C-6;

Eff. May 1, 1986;

Amended Eff. August 1, 2006; August 1, 2000; November 1, 1998; August 1, 1995; February 1, 1991; March 1, 1990; July 1, 1989.

12 NCAC 09B .0227 SPECIALIZED DRIVER INSTRUCTOR TRAINING

(a) The instructor training course required for specialized driver instructor certification shall consist of a minimum of 35 hours of instruction presented during a continuous period of not more than one week.

(b) Each specialized driver instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice driver instructor in a Basic Law Enforcement Training Course or a "Law Enforcement Officers' Annual In-Service Training Program."

(c) Each applicant for specialized driver instructor training shall:

- (1) have completed the criminal justice general instructor training course;
- (2) present a written endorsement by either
 - (A) a certified school director indicating the student will be utilized to instruct driving in Basic Law Enforcement Training Courses; or
 - (B) a department head, certified school director, or in-service training coordinator, indicating the student will be utilized to instruct driver

training in the "Law Enforcement Officer's Annual In-Service Training Program"; and

(3) possess a valid operator driver's license;

(4) maintain a safe driving record where no more than four points have been assigned against the driving record within the past three years; and

(5) possess a valid CPR Certification that included cognitive and skills testing.

(d) Each specialized driver instructor training course shall include as a minimum the following identified topic areas and minimum instructional hours for each area:

(1) Orientation	1 Hours
(2) Lesson Plan Review (BLET)	4 Hours
(3) General Mechanical Knowledge	1 Hour
(4) Before - Operation Inspection	1 Hours
(5) Laws of Natural Force & Operating Characteristics	2 Hours
(6) Driver Practicum/Pre-Test	19 Hours
(7) Fundamentals of Professional Liability for Trainers	4 Hours
(8) Course Review/State Exam	3 Hours

(e) The "Specialized Driver Instructor Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for delivery of specialized driver instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Old Education Building
Post Office Drawer 149

Raleigh, North Carolina 27602

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemburg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Specialized Driver Instructor Training" course are: The North Carolina Justice Academy and The North Carolina State Highway Patrol.

*History Note: Authority G.S. 17C-6;
Eff. May 1, 1986;*

Amended Eff. August 1, 2006; February 1, 2006; August 1, 2000; November 1, 1998; August 1, 1995; February 1, 1991; March 1, 1990; July 1, 1989.

12 NCAC 09B .0232 SPECIALIZED SUBJECT CONTROL ARREST TECHNIQUES INSTRUCTOR TRAINING

(a) The instructor training course required for specialized subject control arrest techniques instructor certification shall consist of a minimum of 80 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each specialized subject control arrest techniques instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice subject control arrest techniques instructor in a Basic Law Enforcement Training Course or a "Law Enforcement Officers' Annual In-Service Training Program."

(c) Each applicant for specialized subject control arrest techniques instructor training shall:

(1) have completed the criminal justice general instructor training course;
(2) present a letter from a licensed physician stating the applicant's physical fitness to participate in the course;
(3) present a written endorsement by either
(A) a certified school director indicating the student will be utilized to instruct subject control arrest techniques in Basic Law Enforcement Training Courses; or
(B) a department head, certified school director, or in-service training coordinator indicating the student will be utilized to instruct Subject Control Arrest Techniques for the "Law Enforcement Officers' In-Service Training Program"; and
(4) possess a valid CPR Certification that included cognitive and skills testing.

(d) Each specialized subject control arrest techniques instructor training course shall include as a minimum the following identified topic areas and minimum instructional hours for each area:

(1) Orientation	1 Hour
(2) Skills Pre-Test	1 Hour
(3) Student Instructional Practicum	3 Hours
(4) Practical Skills Evaluation	3 Hours
(5) Response to Injury	4 Hours
(6) Importance of Being Physically Fit and Conducting Safe Warm-Up Exercises	12 Hours
(7) Safety Guidelines/Rules	2 Hours
(8) Practical Skills Enhancement	4 Hours
(9) Subject Control/Arrest Techniques Practical Skills and Instructional Methods	44 Hours
(10) Fundamentals of Professional Liability For Law Enforcement Trainers	4 Hours
(11) State Comprehensive Examination/Course Closing	2 Hours
TOTAL	80 Hours

(e) The "Specialized Subject Control Arrest Techniques Instructor Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for delivery of specialized subject control arrest

techniques instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Old Education Building
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemburg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Specialized Subject Control Arrest Techniques Instructor Training" course are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;
Eff. February 1, 1987;
Amended Eff. August 1, 2006; August 1, 2000; November 1, 1998; August 1, 1995; March 1, 1990; July 1, 1989.*

12 NCAC 09B .0233 SPECIALIZED PHYSICAL FITNESS INSTRUCTOR TRAINING

(a) The instructor training course required for specialized physical fitness instructor certification shall consist of a minimum of 60 hours of instruction presented during a continuous period of not more than two weeks.

(b) Each specialized physical fitness instructor training course shall be designed to provide the trainee with the skills and knowledge to perform the function of a criminal justice physical fitness instructor in a Basic Law Enforcement Training Course or a "Law Enforcement Officers' Annual In-Service Training Program."

(c) Each applicant for specialized physical fitness training shall:

- (1) qualify through one of the following three options:
 - (A) have completed the criminal justice general instructor training course; or
 - (B) hold a current and valid North Carolina Teacher's Certificate and hold a minimum of a baccalaureate degree in physical education and be actively teaching in physical education topics; or
 - (C) be presently instructing physical education topics in a community college, college or university and hold a minimum of a baccalaureate degree in physical education; and
- (2) present a written endorsement by either
 - (A) a school director indicating the student will be utilized to instruct physical fitness in Basic Law Enforcement Training Courses; or
 - (B) a certified school director, or in-service training coordinator

indicating the student will be utilized to instruct physical fitness for the "Law Enforcement Officers' In-Service Training Program"; and

- (3) present a letter from a physician stating fitness to participate in the course; and
- (4) possess a valid CPR Certification that included cognitive and skills testing.

(d) Each specialized physical fitness instructor training course shall include as a minimum the following identified topic areas and minimum instructional hours for each area:

(1)	Orientation	5 Hours
(2)	Lesson Plan Review	8 Hours
(3)	Physical Fitness Assessments, Exercise Programs and Instructional Methods	31 Hours
(4)	Injury Care and Prevention	4 Hours
(5)	Nutrition	6 Hours
(6)	Civil Liabilities for Trainers	2 Hours
(7)	CVD Risk Factors	2 Hours
(8)	State Examination	2 Hours
	TOTAL	60 Hours

(e) The "Physical Fitness Instructor Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for delivery of specialized physical fitness instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Old Education Building
Post Office Drawer 149

Raleigh, North Carolina 27602

and may be obtained at no cost to the student from the Academy at the following address:

North Carolina Justice Academy
Post Office Box 99
Salemburg, North Carolina 28385

(f) Commission-certified schools that are certified to offer the "Specialized Physical Fitness Instructor Training" course are: The North Carolina Justice Academy.

*History Note: Authority G.S. 17C-6;
Eff. July 1, 1989;
Amended Eff. August 1, 2006; August 1, 2002; August 1, 2000; November 1, 1998; March 1, 1990; August 1, 1985.*

12 NCAC 09B .0303 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for full general instructor status, if the instructor through application at the end of the probationary period, submits to the Commission:

(1) a favorable recommendation from a school director or in-service training coordinator accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of eight hours in a Commission-certified course or a Commission-recognized in-service training course during the probationary year. The results of the student evaluation of the instructor must be considered by the school director or in-service training coordinator when determining recommendation; or

(2) a favorable written evaluation by a Commission or staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-certified course or a Commission-recognized in-service training 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 training course or a Commission-recognized in-service training course.

(c) The term of certification as a general instructor is three years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for three year periods. The application for renewal shall contain, in addition to the requirements listed in Rule .0302 of this Section, documentary evidence indicating that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include proof that the applicant has, within the three year period preceding application for renewal, instructed a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course; and either

(1) a favorable written recommendation from a school director or in-service training coordinator accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of general certification; or

(2) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three year period of General Instructor Certification. In addition, instructors evaluated by a Commission or staff member must also teach a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course.

(d) For Speed Measuring Instrument Instructors, the General Instructor Certification shall run concurrent with the Speed Measuring Instrument Instructor's certification. For the initial issuance of Speed Measuring Instrument Instructor certifications, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors shall not be required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. For the first renewal of Speed Measuring Instrument instructor certifications occurring after January 2006, the terms for the instructor's General Instructor certification shall automatically be reissued for a three year period determined by the certification period of the Speed Measuring Instrument Instructor certification. The general instructors shall not be required to submit documentation of having taught the minimum 12 hours during the period preceding the initial certification as specified in Paragraph (c) of this Rule. Once the General Instructor's certification becomes concurrent with the Speed Measuring Instrument certification, all instructors must meet the requirements in Subparagraph (c)(1) or (c)(2) of this Rule to be eligible for re-certification.

(e) All instructors shall remain active during their period of certification. If an instructor does not teach a minimum of 12 hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall meet the minimum requirements of Rule .0302 of this Section.

(f) All instructors shall have 90 days from the date of expiration of their instructor certification to submit an application for renewal along with documentation of having met the minimum requirements of Paragraph (c) of this Rule during the previous certification period. The prescribed 90 day period shall not extend the instructor certification period beyond its specified expiration period. If the renewal application is not submitted within 90 days from the expiration of the previous certification, such applicants will be required to meet the minimum requirements for general instructor certification as specified in Rule .0302 of this Section.

(g) The use of guest participants in a delivery of the Basic Law Enforcement Training Course is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the school director. A guest participant shall be used only to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

(h) For purposes of this Section, "Commission-recognized in-service training" shall mean any training for which the instructor is evaluated by a certified school director or in-service training coordinator on a Commission Instructor Evaluation Form. Such training shall be objective based and

documented by lesson plans designed consistent with the Basic Law Enforcement Training format and documented by departmental training records to include required post-test and testing methodology. The signature of the school director or the in-service training coordinator on the Commission Instructor Evaluation Form shall verify compliance with this Rule.

History Note: Authority G.S. 17C-6;

Eff. January 1, 1981;

Amended Eff. August 1, 2006; January 1, 2006; August 1, 2000; July 1, 1991; October 1, 1985; January 1, 1985; January 1, 1983.

12 NCAC 09G .0309 TERMS AND CONDITIONS OF GENERAL INSTRUCTOR CERTIFICATION

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance. (b) The probationary instructor shall be eligible for full general instructor status if the instructor, through application at the end of the probationary period, submits to the Commission:

- (1) a favorable recommendation from a School Director accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of eight hours in a Commission-certified course or a Commission-recognized in-service training course during the probationary year. The results of the student evaluation of the instructor must be considered by the School Director when determining recommendation; or
- (2) a written evaluation by a staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-certified course or a Commission-recognized in-service training course. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a staff member must also teach a minimum of eight hours in a Commission-certified training course or a Commission-recognized in-service training course.

(c) The term of certification as a general instructor is three years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for three year periods. The application for renewal shall contain, in addition to the requirements listed in 12 NCAC 09G .0308 documentary evidence indicating that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include, at a minimum, the following:

(1) proof that the applicant has, within the three year period preceding application for renewal, instructed a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course; and either:

- (A) a favorable written recommendation from a School Director accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of twelve hours in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of general certification; or
- (B) a written evaluation by a staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three year period of General Instructor Certification.

(d) If an instructor does not teach a minimum of 12 hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall be required to meet the minimum requirements of 12 NCAC 09G .0308 of this Section.

(e) All instructors shall have 90 days from the date of the expiration of their instructor certification to submit an application for renewal along with documentation of having met the minimum requirements of Paragraph (c) of this Rule during the previous certification period. The prescribed 90 day period shall not extend the instructor certification period beyond its specified expiration period. If the renewal application is not submitted within 90 days from the expiration of the previous certification, the applicant will be required to meet the minimum requirements for general instructor certification as specified in Rule .0302 of this Section.

History Note: Authority G.S. 17C-6;

Temporary Adoption Eff. January 1, 2001;

Eff. August 1, 2002;

Amended Eff. August 1, 2006; January 1, 2006.

TITLE 13 – DEPARTMENT OF LABOR

13 NCAC 13 .0101 DEFINITIONS

The following definitions are applicable throughout the rules in this Chapter, and shall be construed as controlling in case of any conflict with the definitions contained in any other standard or code:

- (1) "Appurtenance" means any control, fitting, appliance or device attached to or working in conjunction with the boiler or pressure vessel proper.
- (2) "ASME Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.
- (3) "Audit" means activities, other than those identified as certificate inspections, conducted by the Chief Inspector or his designee. These activities include, in part:
 - (a) reviews and surveys for ASME and National Board stamp issuance and renewal;
 - (b) audits conducted on an authorized inspector at the location of a manufacturer or repair organization as may be required by the ASME Code, National Board Inspection Code, or National Board Rules for Commissioned Inspectors; and
 - (c) audits pursuant to evaluation for the issuance of North Carolina Specials.
- (4) "Automatically fired boiler" means a boiler that cycles automatically in response to a control system and which does not require a constant attendant for the purpose of introducing fuel into the combustion chamber or to control electrical input.
- (5) "Authorized Inspection Agency" means an organization employing commissioned inspectors including the following:
 - (a) the Department of Labor, Boiler Safety Bureau;
 - (b) an inspection agency of an insurance company licensed to write boiler and pressure vessel insurance; or
 - (c) an owner-user inspection agency that meets the requirements of G.S. 95-69.15.
- (6) "Authorized inspector" means an employee of an Authorized Inspection Agency who is commissioned by the National Board and this State, holds an appropriate endorsement on his/her National Board Commission, and inspects as the third party inspector in ASME Code manufacturing facilities.
- (7) "Board" means the North Carolina Board of Boiler and Pressure Vessel Rules.
- (8) "Boiler", as defined in G.S. 95-69.9(b), includes the following types of boilers:
 - (a) "Exhibition boiler" means a historical or antique boiler which generates steam or hot water for the purposes of entertaining or educating the public or is used for demonstrations, tourist travel or exhibitions. This term shall include steam tractors, threshers, steam powered sawmills, and similar usages.
 - (b) "High pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig, or water is heated to a temperature greater than 250°F and a pressure greater than 160 psig, including the following:
 - (i) Electric boilers.
 - (ii) Miniature boilers.
 - (iii) High temperature water boilers.
 - (iv) High temperature liquid boilers (other than water).
 - (c) "Low pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of not more than 15 psig, or water is heated to a temperature not greater than 250°F and a pressure not greater than 160 psig, including the following:
 - (i) "Hot water heating boiler" means a low pressure boiler that supplies heated water that is returned to the boiler from a piping system and is used normally for building heat applications (hydronic boiler).
 - (ii) "Hot water supply boiler" means a low pressure boiler that furnishes hot water to be used externally to itself (domestic water boiler).
 - (iii) "Steam heating boiler" means a low pressure boiler that generates steam to be used normally for building heat applications.
 - (d) "Model hobby boiler" means a boiler which generates steam, whether stationary or mobile, where the boiler does not exceed 20 square feet heating surface, a shell diameter of 16 inches, a volume of 5 cubic feet and a pressure not exceeding 150 psig and is used for the purpose of entertainment or exhibiting steam technology.

(e) "Water heater" means a closed vessel in which water is heated by the combustion of fuel, by electricity, or by any other source and withdrawn for use external to the system at pressures not exceeding 160 psig and temperatures not exceeding 210°F.

(9) "Boiler blowoff" means that system associated with the rapid draining of boiler water to remove concentrated solids which have accumulated as a natural result of steam generation. This term also applies to the blowoff for other boiler appurtenances, such as the low-water fuel cutoff.

(10) "Boiler or pressure vessel proper" means the internal mechanism, shell, and heads of a boiler or pressure vessel terminating at:

- (a) the first circumferential joint for welded end connections;
- (b) the face of the first flange in bolted flange connections; or
- (c) the first threaded joint in threaded connections.

(11) "Bureau" means the Boiler Safety Bureau of the North Carolina Department of Labor.

(12) "Certificate inspection" means an inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding or revoking the inspection certificate. The term certificate inspection also applies to the external inspection conducted in accordance with this Chapter whether or not a certificate is intended to be issued as a result of the inspection.

(13) "Certificate of competency" means the certificate issued by the Commissioner to a person who has passed the National Board inspector's examination.

(14) "Chief Inspector" means the Bureau Chief of the Boiler Safety Bureau of the North Carolina Department of Labor.

(15) "Commissioner" means the Commissioner of the North Carolina Department of Labor.

(16) "Condemned boiler or pressure vessel" means a boiler or pressure vessel:

- (a) that has been found not to comply with G.S. Chapter 95, Article 7A, or this Chapter;
- (b) that constitutes a menace to public safety; and
- (c) that cannot be repaired or altered so as to comply with G.S. Chapter 95, Article 7A, and this Chapter.

(17) "Coil type water tube boiler" means a boiler having no steam space, such as a steam drum, whereby the heat transfer portion of the water containing space consists only of a coil of pipe or tubing.

(18) "Commissioned inspector" means an employee of an Authorized Inspection Agency that is commissioned by the National Board and this State and who is charged with conducting in-service inspections of pressure equipment and inspecting repairs or alterations to that equipment.

(19) "Deputy Inspector" means a boiler and pressure vessel inspector employed by the Bureau.

(20) "Design criteria" means ASME requirements relating to the mode of design and construction of a boiler or pressure vessel.

(21) "External inspection" means an inspection of the external surfaces and appurtenances of a boiler or pressure vessel. An external inspection may entail the "shutting down" of a boiler or pressure vessel while it is in operation, including inspection of internal surfaces, if the inspector determines this action is warranted.

(22) "Hydropneumatic storage tank" means a pressure vessel used for storage of water at ambient temperature not to exceed 120°F and where a cushion of air is contained within the vessel.

(23) "Imminent danger" means any condition or practice in any location that a boiler or pressure vessel is being operated which is such that a danger exists, and which could reasonably be expected to cause death or serious physical harm immediately if the condition is not abated.

(24) "Insurance inspector" means the special inspector employed by an insurance company, and holding a valid North Carolina Commission and National Board Commission.

(25) "Internal inspection" means as complete an examination as can reasonably be made of the internal and external surfaces and appurtenances of a boiler or pressure vessel while it is shut down.

(26) "Maximum allowable working pressure (MAWP)" means the maximum gauge pressure as determined by employing the stress values, design rules and dimensions designated by the ASME Code, or as determined by the Chief Inspector in accordance with this Chapter.

(27) "Menace to public safety" means a boiler or pressure vessel that cannot be operated without a substantial risk of injury to persons and property.

(28) "Miniature boiler" means a boiler which does not exceed any of the following:

- (a) 16 inch inside shell diameter;

	(b)	20 square feet of heating surface (does not apply to electrically fired boilers);	(37)	"Nuclear component" means the items in a nuclear power plant such as pressure vessels, piping systems, pumps, valves, and component supports.
	(c)	5 cubic feet volume; and	(38)	"Nuclear system" means a system comprised of nuclear components which collectively serve the purpose of producing and controlling an output of thermal energy from nuclear fuel and includes those associated systems essential to the function and overall safety of the power system.
	(d)	100 psig maximum allowable working pressure.	(39)	"Operating pressure" means the pressure at which a boiler or pressure vessel operates. It shall not exceed the MAWP except as shown in Section I of the ASME Code for forced flow steam generators.
(29)		"National Board" means The National Board of Boiler and Pressure Vessel Inspectors, 1055 Crupper Avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of government jurisdictions who are charged with the enforcement of the provisions of the ASME Code and the National Board Inspection Code.	(40)	"Owner or user" means any person or legal entity responsible for the operation of any boiler or pressure vessel installed in this State. This term shall also apply to a contractor, installer, or agent of the owner or user, as applicable.
(30)		"National Board Commission" means the commission issued by the National Board to a holder of a certificate of competency who has fulfilled the requirements of the National Board Rules for Commissioned Inspectors.	(41)	"Owner-user inspector" means a qualified individual employed by a company operating pressure vessels for its own use and not for resale, and maintains an inspection program that meets the requirements of the National Board for periodic inspection of pressure vessels owned or used by that company.
(31)		"National Board Inspection Code (NBIC)" means the ANSI/NB-23 standard published by the National Board, as adopted by the Bureau.	(42)	"Pressure piping" means piping including welded piping, external to high pressure boilers from the boiler proper to the required valve(s).
(32)		"Nonstandard boiler or pressure vessel" means:	(43)	"Pressure relief devices" mean the devices on boilers and pressure vessels set to open and relieve the pressure in the event of an over pressurization event, and include the following:
	(a)	high pressure boilers contracted for or installed before December 7, 1935;		(a) "Non-reclosing pressure relief device" means a pressure relief device designed to remain open after operation and includes a rupture disk which is a non-reclosing pressure relief device actuated by static pressure upstream of the device and designed to function by the bursting of a pressure retaining disk.
	(b)	heating boilers contracted for or installed before January 1, 1951;		(b) "Pressure relief valve" means a pressure relief device that is designed to reclose and prevent the further flow of fluid after normal conditions have been restored. These devices include:
	(c)	pressure vessels contracted for or installed before January 1, 1976;		(i) "Relief valve" means an automatic pressure relief valve that is actuated by
	(d)	hydropneumatic storage tanks contracted for or installed before January 1, 1986; and		
	(e)	boilers or pressure vessels for which the ASME Code is not intended to apply, other than those boilers and pressure vessels to which the term North Carolina Special applies.		
(33)		"Normal working hours" means between the hours of 6:00 AM and 6:00 PM, Monday through Friday, except for state recognized holidays.		
(34)		"North Carolina Commission" means the commission issued by the Board, to holders of a National Board Commission, authorizing them to conduct inspections in this State.		
(35)		"North Carolina Special" means a boiler or pressure vessel that is not constructed under the ASME Code and for which the owner/operator must apply for a special inspection certificate with the Chief Inspector.		
(36)		"NPS" means nominal pipe size.		

static pressure upstream of the valve which opens further with the increase in pressure over the opening pressure.

(ii) "Safety relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action or by opening in proportion to the increase in pressure over the opening pressure.

(iii) "Safety valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action.

(44) "PSIG" means pounds per square inch gauge.

(45) "Reinspection or Follow-Up Inspection" means as complete an examination as is necessary to verify that any repair or corrective action required as a result of a certificate inspection is completed.

(46) "Service vehicle" means a vehicle mounted with an air storage tank and often with other storage tanks that have oil, grease or other fluids. The purpose of the vehicle is to service vehicles and equipment in the field away from the owner's shop.

(47) "Shop inspection" means an inspection conducted by an Authorized Inspector pursuant to an inspection service agreement whereby the fabrication process or the repair or alteration of a boiler or pressure vessel is observed to ensure compliance with ASME and the National Board.

(48) "Special inspection" means any inspection conducted by a Deputy Inspector other than a regularly scheduled inspection. Special inspection also includes the performance of an inspection by a Deputy Inspector which requires that the inspector make a special trip to meet the needs of the individual or organization requesting the inspection, including conducting certificate inspections during hours other than normal working hours, and inspection of field repairs and alterations.

(49) "Special inspector" means a National Board commissioned inspector employed by an insurance company authorized to write boiler and pressure vessel insurance in the state of North Carolina.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Temporary Amendment [(16)]; Eff. March 10, 1982, for a Period of 120 Days to Expire on July 8, 1982; Amended Eff. August 1, 2006; January 1, 1995; January 1, 1987; January 1, 1986; June 1, 1982.

13 NCAC 13.0103 INCORPORATED - STANDARDS

The following standards are incorporated by reference, including subsequent amendments and editions of the standards. The rules of this Chapter shall control when any conflict between these Rules and the following standards exists.

(1) The ANSI/NB-23 National Board Inspection Code (NBIC). Copies of the ANSI/NB-23 National Board Inspection Code are available for inspection at the offices of the Bureau and may also be obtained from the National Board of Boiler and Pressure Vessel Inspectors, via U.S. Mail at 1055 Crupper Avenue, Columbus, Ohio 43299, via telephone at (614) 888-8320, or via the internet at www.nationalboard.org. The cost is one-hundred and fifty dollars (\$150.00) per copy.

(2) The American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Copies of the complete set of the ASME Code are available for inspection at the offices of the Bureau and may also be obtained from the American Society of Mechanical Engineers, via U.S. Mail at 22 Law Drive, Box 2300, Fairfield, New Jersey 07007-2300, via telephone at (800) 843-2763, or via the internet at www.asme.org. The cost is ten-thousand nine-hundred dollars (\$10,900.00) per set.

(3) The North Carolina State Building Code. Copies of the North Carolina State Building Code are available for inspection at the offices of the Bureau and may also be obtained from the North Carolina Department of Insurance, Office of the State Fire Marshall, Engineering Division, Codebook Section, via U.S. Mail at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603, via telephone at (919) 661-5880, or via the internet at www.ncdoi.com/OSFM/. The cost is fifty dollars (\$50.00) per copy.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. January 1, 1995; Amended Eff. July 1, 2006.

SECTION .0200 - ADMINISTRATION

13 NCAC 13 .0201 NAME: ADDRESS

(a) The Boiler Safety Bureau, which administers the provisions of Article 7A of G.S. Chapter 95, is located in Raleigh at the following physical address:

N.C. Department of Labor

Boiler Safety Bureau

Old Revenue Building

111 Hillsborough Street

Raleigh, North Carolina 27603.

(b) All correspondence shall be addressed to the following mailing address:

North Carolina Department of Labor

Boiler Safety Bureau

1101 Mail Service Center

Raleigh, North Carolina 27699-1101

Telephone (919) 807-2760

Fax (919) 807-2762.

History Note: Authority G.S. 95-69.12;

Eff. May 29, 1981;

Amended Eff. July 1, 2006; January 1, 1995; June 1, 1992.

13 NCAC 13 .0202 INSPECTOR

QUALIFICATIONS

(a) Deputy Inspectors conducting certificate inspections shall be in possession of a valid North Carolina Commission. Special Inspectors and Owner-User Inspectors shall be in possession of a National Board Commission and a North Carolina Commission.

(b) A North Carolina Commission shall be issued to an inspector who has passed an examination administered by the Chief Inspector on the Uniform Boiler and Pressure Vessel Act and the rules of this Chapter. There is no fee for this examination.

(c) If an inspector's North Carolina Commission becomes inactive for more than one year, the inspector must retake and pass this examination before becoming active again in this state.

(d) A Certificate of Competency shall be issued to an inspector who passes an examination written and graded by the National Board and administered by the Chief Inspector. The Certificate of Competency authorizes an individual to obtain a National Board Commission.

(e) National Board examinations are administered on the first Wednesday and Thursday of March, June, September and December. Applicants for the examination shall contact the Chief Inspector by the 10th of the month prior to the month in which they desire to sit for the examination.

(f) The National Board examination covers the construction, installation, operation, maintenance and repair of boilers and pressure vessels and their appurtenances, and is administered upon payment to the Department of Labor of a fee of one hundred dollars (\$100.00). Unsuccessful Applicants who desire to retake the National Board examination must pay an additional one hundred dollar (\$100.00) fee before retaking the examination.

(e) A grade of 70 percent or greater must be attained to achieve a passing grade on both examinations.

History Note: Authority G.S. 95-69.11; 95-69.15;

Eff. May 29, 1981;

Amended Eff. July 1, 2006; January 1, 1995; September 1, 1986.

13 NCAC 13 .0203 NORTH CAROLINA COMMISSION

(a) When requested by the employer, a North Carolina Commission, bearing the signature of the Commissioner, shall be issued by the Board to persons holding a valid National Board Commission.

(b) Requests for a North Carolina Commission shall be processed upon proof of a National Board Commission and payment of a twenty five dollar (\$25.00) fee to the Department of Labor.

(c) North Carolina Commissions are valid through December 31, at which time the inspector's employer shall submit a renewal application and a twenty five dollar (\$25.00) fee to the Department of Labor.

(d) The North Carolina Commission shall be returned by the employing company with notification of termination date to the Bureau within 30 days of termination of employment.

(e) A North Carolina Commission may be suspended or revoked by the Board in accordance with G.S. 95-69.13 for incompetence, untrustworthiness or falsification of any statement in an application or inspection report. The Board shall give notice of the commencement of proceedings for suspension or revocation of a commission pursuant to G.S. 150B-23. A North Carolina Commission may be suspended prior to the hearing if the Chief Inspector determines that the public health, safety or welfare requires this action. In this case, the proceedings shall be promptly commenced and determined in accordance with G.S. 150B-3. The Board's decision regarding the competency of an inspector shall be determined after consideration of the knowledge, skill, and care ordinarily possessed and employed by boiler and pressure vessel inspection personnel in good standing. Industry custom and practice shall be considered but are not determinative. Failure to conduct the inspections in accordance with this Chapter shall constitute incompetence. The inspector shall be given the opportunity to show that he is conducting his duties in a competent manner and that suspension or revocation is unwarranted. If the inspector believes that the decision of the Board is not warranted, he may file a petition for judicial review pursuant to Article 4 of Chapter 150B of the N.C. General Statutes.

History Note: Authority G.S. 95-69.11; 95-69.15;

Eff. May 29, 1981;

Amended Eff. July 1, 2006; January 1, 1995; March 2, 1992; September 1, 1986.

13 NCAC 13 .0204 CONFLICT OF INTEREST

An inspector shall not engage in any conduct or endeavor that would constitute a conflict of interest including the following:

- (1) Ownership or employment in any kind of boiler or pressure vessel sales or service business;

- (2) Ownership or employment in any kind of boiler or pressure vessel parts or appurtenances sales or service business;
- (3) Consultative services for ASME Code or National Board quality programs design or implementation; or
- (4) Inspection services outside the purview of the employing entity.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Amended Eff. July 1, 2006; January 1, 1995.

13 NCAC 13 .0205 OWNER-USER INSPECTION AGENCY

- (a) A company seeking to conduct inspections of its own pressure vessels shall file an application with the Chief Inspector and obtain approval from the Board.
- (b) The company shall, in its application, designate a supervisor who shall be an engineer within its employ, who, upon approval of the application, shall:
 - (1) ascertain that the company's inspectors, pursuant to Rules .0202 and .0203, are issued certificates of competency and owner-user commission cards;
 - (2) supervise inspections of pressure vessels and see that an inspection report, signed by the owner-user inspector, is filed at the equipment site;
 - (3) notify the Chief Inspector of any unsafe pressure vessel which presents a condition of imminent danger;
 - (4) maintain a master file of inspection records which shall be made available for examination by the Chief Inspector or his representative during business hours:
 - (A) identifying each pressure vessel by serial number and abbreviated description; and
 - (B) showing the date of the last and next scheduled inspection;
 - (5) on a date mutually agreed upon with the Chief Inspector, file an annual statement signed by the supervisor, showing the number of boilers and certifying that each inspection was conducted pursuant to this Chapter, accompanied by an administrative fee of twenty dollars (\$20.00) per vessel.
- (c) Inspection certificates are not required for pressure vessels inspected under an owner-user program.

History Note: Authority G.S. 95-69.11; 95-69.15; 95-69.16; Eff. May 29, 1981; Amended Eff. July 1, 2006; January 1, 1995; March 2, 1992; September 1, 1986.

13 NCAC 13 .0206 OWNERS OR USERS TO NOTIFY CHIEF INSPECTOR OF ACCIDENTS

- (a) The owner or user of a boiler or pressure vessel shall notify the Chief Inspector within 24 hours when a device is rendered inoperative due to an over pressurization, dry firing or any related event that causes damage to the equipment, real or personal property, personal injury, or death.
- (b) No person shall remove or disturb the boiler, pressure vessel, or any of its parts, before an investigation by the Chief Inspector or designee has been made, except for the purpose of conserving life or limiting consequential damages.
- (c) Insurance inspectors who elect to investigate an accident may do so after the Director has concluded his investigation.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Amended Eff. July 1, 2006; January 1, 1995.

13 NCAC 13 .0207 INSPECTION REPORTS

- (a) Inspectors shall file inspection reports with the Chief Inspector:
 - (1) within 10 working days after each certificate inspection; and
 - (2) immediately for all conditions of imminent danger, or any condition that would result in the insurance company's refusal to issue or continue an insurance policy on the boiler or pressure vessel.
- (b) Inspectors shall notify the Chief Inspector, in person or by electronic means, upon becoming aware of an accident which renders a boiler or pressure vessel inoperative or causes damage to property, personal injury, or death.
- (c) Should the inspector, during the course of making an inspection, find a condition of imminent danger, he shall immediately notify the Chief Inspector, in person or by electronic means, so that steps might be taken to remove the device from service.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Amended Eff. July 1, 2006; January 1, 1995.

13 NCAC 13 .0210 SHOP INSPECTIONS AND NATIONAL BOARD R STAMP QUALIFICATION REVIEWS

- (a) Shop Inspections.
 - (1) Manufacturers or repair firms seeking to employ the Boiler Safety Bureau to act as their Authorized Inspection Agency pursuant to the ASME Code or National Board Inspection Code, shall enter into a written agreement with the North Carolina Department of Labor, Boiler Safety Bureau for this purpose.
 - (2) An audit of the Deputy Inspector serving as the Authorized Inspector pursuant to Subparagraph (a)(1), of this Rule, and the contracting company in which he/she is working shall be conducted on an annual basis for non-nuclear companies and twice each year for nuclear companies. The

contracting company will be required to pay the Audit fees required in Rule .0213 of this Section.

(b) National Board R Stamp Qualification Reviews

- (1) The Chief Inspector or his designee shall conduct the qualification reviews for issuance of the National Board R symbol stamp pursuant to the National Board Inspection Code as adopted, except as provided in Subparagraph (b)(2) of this Rule.
- (2) The Chief Inspector or his designee shall not conduct the qualification reviews of those companies for which the Boiler Safety Bureau provides inspection services, or those companies which specifically request the review be conducted by the National Board.
- (3) A review to be conducted by the Boiler Safety Bureau shall be scheduled upon receipt of request by the National Board. A deposit of twelve hundred dollars (\$1,200.00) shall be made by the applying company to cover the fees and expenses incurred and shall be received by the Boiler Safety Bureau no less than 30 days prior to the subject review. This deposit will be applied to the cost of the review. Payment of the fee as required in Rule .0213 of this Section shall be the responsibility of the company being reviewed. Should an applicant not be successful in obtaining accreditation, the applicable deposit shall be paid before a new review is conducted.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Amended Eff. July 1, 2006; January 1, 1995.

13 NCAC 13 .0211 CERTIFICATE INSPECTIONS

(a) A commissioned inspector shall inspect all boilers and pressure vessels at the time of installation and at regular intervals thereafter, as provided in this Rule.

(b) Subject to the exceptions in Paragraphs (c) and (d) of this Rule, and after seven days notice is given to the owner or user, an inspector shall conduct an internal inspection of a high pressure boiler at the time of installation and annually thereafter. Three to nine months after the internal inspection, an external inspection shall be conducted while the boiler is in operation. The inspector shall ensure that the safety controls are operating as required. Issuance of the inspection certificate shall be based on the results of the internal inspection; however, if the inspector determines during the external inspection that an unsafe condition exists that is likely to result in serious personal injury or property damage, the certificate of operation may be revoked or suspended until such time as the device has been made safe for operation.

(c) In place of the first internal inspection of a new high pressure boiler, an inspector may conduct an external

inspection if the inspector determines that data sufficient to determine compliance with the rules of this Chapter can be gathered from an external inspection. This shall not apply to relocated used boilers.

(d) Miniature boilers, coil-type watertube boilers, and boilers heating a fluid other than water which do not produce steam or vapor operating as high pressure boilers shall undergo an external inspection annually. Miniature boilers, coil-type watertube boilers and boilers heating a fluid other than water operating as heating boilers shall undergo an external inspection biennially. Hobby boilers, locomotive boilers and exhibition boilers shall be inspected annually, at the beginning of the season when they are anticipated to be operated.

(e) Heating boilers and pressure vessels, except hydropneumatic storage tanks, shall undergo an external inspection biennially.

(f) Owner-user inspectors shall conduct inspections for pressure vessels as prescribed in this Rule.

(g) Inspectors may order coverings removed, internal inspections, external inspections, control and safety device testing or calibration, or pressure tests whenever conditions warrant further evaluation of the pressure equipment.

(h) Hydropneumatic storage tanks shall undergo an external inspection every four years.

(i) When the inspector or Chief Inspector determines that a certificate cannot be issued as a result of an inspection, the boiler or pressure vessel shall be reinspected after the necessary repairs are made.

(j) Inspections shall be conducted in accordance with the National Board Inspection Code. The inspector may require controls and safety devices to be disassembled, tested, checked or calibrated as necessary to ensure their proper operation.

(k) The Chief Inspector may extend an existing inspection certificate for a high pressure boiler for a period not exceeding 90 days beyond the certificate expiration date, should an inspection at the specified period result in undue hardship for the owner or user. The owner or user shall submit a written request to extend an existing inspection certificate, providing justification for an extension. The request shall include a report from a commissioned inspector of an external inspection which shall have been conducted no earlier than 60 days before the certificate expiration date, and the inspection report shall include a recommendation from the inspector for an extension to the inspection certificate.

(l) The inspection frequency established by this Rule may be modified by the Chief Inspector for individual boilers and pressure vessels if the Chief Inspector determines that due to unique conditions, the frequency established herein is not appropriate, and that the safety attained by the normal inspection frequency will be otherwise obtained.

History Note: Authority G.S. 95-69.11; 95-69.14; 95-69.17;

Eff. May 29, 1981;

Amended Eff. July 1, 2006; January 1, 1995; March 2, 1992.

13 NCAC 13 .0301 INSPECTION DOCUMENTATION

(a) The inspector shall document the results of the inspection on a written inspection report or in an electronic format provided by the Chief Inspector.

(b) If the inspector finds that the boiler or pressure vessel is in compliance with the rules in this Chapter, he shall indicate on the report that the boiler or pressure vessel is satisfactory.

(c) If the inspector finds the boiler or pressure vessel is not in compliance with the rules in this Chapter, he shall specify on the inspection report the deficiencies and the required repairs or corrective action.

(d) The inspector shall determine if the deficiency is such that operation of the boiler or pressure vessel creates a condition of imminent danger. If a condition of imminent danger exists, the inspector shall state on the inspection report that operation of the boiler or pressure vessel is to cease until completion of the necessary repairs or corrective action. The inspector shall immediately notify the Chief Inspector of any condition of imminent danger.

(e) If the condition of the boiler or pressure vessel is such that repairs or corrective action cannot bring the boiler or pressure vessel into compliance, he shall recommend to the Chief Inspector that the boiler or pressure vessel be condemned from further use.

(f) For inspections revealing deficiencies, the inspector shall request the owner/user to sign the inspection report acknowledging receipt of a copy of the report and confirming that the inspector explained the necessary repairs or corrective action.

(g) The Bureau shall issue an invoice to the owner or user for the inspections made and for issuance of the inspection certificate. The owner or user shall remit payment as indicated on the invoice within 30 days to the North Carolina Department of Labor.

History Note: Authority G.S. 95-69.11; 95-69.16; Eff. May 29, 1981; Amended Eff. July 1, 2006; January 1, 1995; August 1, 1988.

13 NCAC 13 .0302 CERTIFICATE ISSUANCE

(a) The Chief Inspector shall issue an inspection certificate to the owner/user, upon receipt of payment, when the boiler or pressure vessel is found to be in compliance with this Chapter.

(b) The owner shall post the inspection certificate under protective cover in a prominent place visible to the operator while reading the pressure, or if a pressure gauge is not required to be installed, while observing operation of the boiler or pressure vessel, unless environmental conditions or proprietary reasons make it impracticable. The certificate shall be maintained in a readily retrievable location should the conditions make it impracticable to post.

(c) If the Commissioner determines that a boiler or pressure vessel is exposing the public to an unsafe condition likely to result in serious personal injury or property damage, the Commissioner may refuse to issue or renew or may revoke, suspend or amend an inspection certificate; provided, however, that whenever any action is taken under this subpart, the affected party shall be given notice of the availability of an administrative hearing and of judicial review in accordance with Chapter 150B of the N.C. General Statutes.

History Note: Authority G.S. 95-69.11; 95-69.17; Eff. May 29, 1981; Amended Eff. July 1, 2006; January 1, 1995.

13 NCAC 13 .0303 INSPECTIONS REVEALING DEFICIENCIES

(a) The owner or user shall complete any required repairs or corrective action and request an additional inspection within 60 days of the inspection, except in cases where the boiler or pressure vessel is removed from service, in which case the owner or user shall send in written confirmation, signed by the owner or user, that use of the boiler or pressure vessel has been discontinued and that the boiler or pressure vessel has been removed from the source of energy.

(b) Upon notification by the inspector of a boiler or pressure vessel for which continued operation creates a condition of imminent danger, the Chief Inspector shall determine if the recommendations of the inspector are valid, and if so, he shall notify the owner or user by the most expedient means possible, followed by written notification within 15 days stating that the use of the boiler or pressure vessel shall be discontinued immediately.

(c) The owner or user may continue operation of the boiler or pressure vessel, including those boilers or pressure vessels which are condemned, during the 60 day period, except that this provision shall not apply to boilers and pressure vessels after verbal notification by the Chief Inspector to the owner or user that a condition of imminent danger exists.

(d) After completion of any required repairs or corrective action, the boiler or pressure vessel shall be reinspected to the extent necessary to verify satisfactory completion of the required repairs or corrective action.

(e) For each reinspection or follow-up inspection conducted by Deputy Inspectors, a fee of thirty-five dollars (\$35.00) shall be paid to the North Carolina Department of Labor.

History Note: Authority G.S. 95-69.11; Eff. May 29, 1981; Amended Eff. July 1, 2006; January 1, 1995.

13 NCAC 13 .0304 APPEALS

(a) If the owner or user believes that the recommendations of the inspector are not warranted, he may request a review by the Chief Inspector within 15 days of the inspection. The Chief Inspector shall notify the owner or user of his decision in writing within 15 days of receipt of a request for a decision.

(b) If the owner or user believes that the decision of the Chief Inspector is not warranted he may file for a contested case hearing pursuant to Article 3 of Chapter 150B of the N.C. General Statutes.

(c) After verbal notification from the Chief Inspector that a condition of imminent danger exists, the owner or user shall not operate the boiler or pressure vessel, however, the owner or user may file for a contested case hearing pursuant to Article 3 of Chapter 150B of the N.C. General Statutes.

History Note: Authority G.S. 95-69.11; 95-69.17; Eff. May 29, 1981;

Amended Eff. July 1, 2006; January 1, 1995.

13 NCAC 13 .0305 MENACE TO PUBLIC SAFETY NOTICE

(a) The Chief Inspector or his designee may post a menace to public safety notice on the boiler or pressure vessel:

- (1) if the owner or user fails to request a reinspection within 60 days of an inspection during which deficiencies were noted;
- (2) upon verbal notification by the Chief Inspector regarding an inspection whereby the inspector identified a condition of imminent danger; or
- (3) within 15 days after the Chief Inspector renders a decision regarding an appealed decision.

(b) The notice described in this Rule shall be posted on the boiler or pressure vessel and in the establishment where the boiler or pressure vessel is being used so that it may be easily read by members of the public and employees.

(c) The menace to public safety notice shall not be removed, rendered illegible or inaccessible, or otherwise obliterated except with the approval of the Chief Inspector.

(d) The Chief Inspector shall notify the Commissioner of Labor regarding action pursuant to G.S. 95-69.19.

History Note: Authority G.S. 95-69.11; 95-69.17;

Eff. January 1, 1995;

Amended Eff. July 1, 2006.

13 NCAC 13 .0401 DESIGN AND CONSTRUCTION STANDARDS

(a) The design, construction, installation, inspection, stamping, and operation of all boilers and pressure vessels shall conform to the rules in this Chapter and the ASME Code.

(b) Repairs and alterations to boilers and pressure vessels shall conform to the requirements of the National Board Inspection Code.

(c) The rules of this Chapter shall control when any conflict is found to exist between the Rules and the ASME Code or the National Board Inspection Code.

(d) Welded repairs and alterations may be made only by an individual or organization in possession of a valid certificate of authorization for use of the National Board "R" symbol stamp.

(e) Repairs of safety valves or safety relief valves shall be made by an individual or organization in possession of a valid certificate of authorization for use of the National Board "VR" symbol stamp.

History Note: Authority G.S. 95-69.11; 95-69.13; 95-69.14;

Eff. May 29, 1981;

Amended Eff. July 1, 2006; January 1, 1995; February 1, 1989; February 1, 1985; June 1, 1982.

13 NCAC 13 .0411 VALVES, DRAINS, AND BOTTOM BLOWOFFS

(a) High pressure boilers operating in excess of 100 psig must be provided with two stop valves for boiler blowoff and drain outlets. Any boiler having a common steam connection with another boiler, and having a manhole opening, shall be provided with two steam outlet stop valves with an ample free-blow drain or vent between the two stop valves. The discharge of this drain shall be visible to the operator while operating the valve.

(b) All boilers, except for coil-type water tube boilers, shall be provided with a drain outlet and stop valve of not less than 3/4 inch NPS at the lowest water containing space, except that if the boiler is provided with a blowoff outlet at the lowest water containing space, an additional drain outlet is not required.

(c) High pressure boilers shall be provided with a bottom blowoff outlet and valve of not less than 1 inch NPS nor more than 2 1/2 inches NPS, except as modified below:

- (1) Miniature high pressure boilers shall have a blowoff outlet of not less than 3/4 inch NPS.
- (2) Electric high pressure boilers not greater than 200kW shall have a blowoff outlet of not less than 3/4 inch NPS.
- (3) High pressure boilers having a heating surface not greater than 100 square feet shall have a blowoff outlet of not less than 3/4 inch NPS.
- (4) All other high pressure boilers shall have a blowoff outlet of not less than 1 inch NPS.

(d) Steam heating boilers shall be provided with a bottom blowoff outlet and valve of not less than 1 inch NPS nor more than 2 1/2 inches NPS, except as modified below:

- (1) Steam heating boilers having a minimum safety valve relieving capacity not exceeding 500 pounds of steam per hour shall have a blowoff outlet of not less than 3/4 inch NPS.
- (2) Steam heating boilers having a minimum safety valve relieving capacity greater than 1205 pounds of steam per hour but not greater than 2500 pounds of steam per hour shall have a blowoff outlet of not less than 1 1/4 inches NPS.
- (3) Steam heating boilers having a minimum safety valve relieving capacity greater than 2500 pounds of steam per hour but not greater than 6000 pounds of steam per hour shall have a blowoff outlet of not less than 1 1/2 inches NPS.
- (4) Steam heating boilers having a minimum safety valve relieving capacity greater than 6000 pounds of steam per hour shall have a blowoff outlet of not less than 2 inches NPS.
- (5) All other steam heating boilers shall have a blowoff outlet of not less than 1 inch NPS.

(e) All blowoff from boilers shall discharge into a blowdown tank suitable for separating steam and water or shall be piped to prevent injury. Discharge directly to a sewer is prohibited.

(f) Valves for high pressure boilers shall be designed and constructed in accordance with the requirements of ASME

Section I, and shall be stamped or embossed with the pressure/temperature rating of the valve.

(g) Valves for heating boilers shall be suitable for the operating pressure and temperature of the boiler.

(h) Pressure reducing valves shall be installed in the makeup water line where inlet supply water pressure is more than 75 percent of the maximum allowable working pressure of the boiler or pressure vessel.

(i) A shutoff valve shall be provided in the makeup water line next to each boiler. For a series of boilers having a single water makeup line, the valve shall be installed next to the boiler piping system. If the water-containing capacity of the boiler exceeds 120 gallons, a check valve shall be installed on the source side of the shutoff valve.

(j) Pressure vessels subject to corrosion shall be equipped with a drain valve installed at the lowest point of the pressure vessel or by installation of an internal drain pipe installed not less than 1/4 inch above the lowest internal surface.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. January 1, 1995;

Amended Eff. July 1, 2006.

13 NCAC 13 .0416 REINSTALLATION OF CERTAIN BOILERS AND PRESSURE VESSELS

(a) A boiler or pressure vessel that is not constructed pursuant to the ASME Code shall not be reinstalled at any location in this State when the reinstallation is accompanied by a change of ownership of the boiler or pressure vessel unless the owner/user receives authorization in writing from the Chief Inspector.

(b) Used boilers or pressure vessels cannot be installed unless an application for permission to install the equipment has been approved in writing according to these Rules by the Chief Inspector followed by a certificate inspection by a Deputy Inspector.

(c) Applications to install used or nonstandard boilers or pressure vessels must be made in writing to the Chief Inspector.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Recodified from 13 NCAC 13 .0406 Eff. January 1, 1995;

Amended Eff. July 1, 2006; January 1, 1995.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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
- North Carolina Department of Environment and Natural Resources:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina
 - (B) Winston-Salem Regional Office
585 Waughtown Street
Winston-Salem, North Carolina
 - (C) Fayetteville Regional Office
Systel Building
225 Green Street
Suite 714
Fayetteville, North Carolina
 - (D) Asheville Regional Office
2090 US Highway 70
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;
- (18) July 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.

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

Eff. February 1, 1976;

Amended Eff. July 1, 2006; April 1, 1999; August 1, 1998; August 1, 1995; September 1, 1994; April 1, 1993; December 1, 1992.

15A NCAC 02D .2401 PURPOSE AND APPLICABILITY

(a) Purpose. The purpose of this Section is to implement the federal Clean Air Interstate Rule and thereby reduce the interstate transportation of fine particulate matter and ozone.

(b) Applicability. Except as provided in 40 CFR 96.104(b), 96.204(b), and 96.304(b), this Section applies to:

- (1) any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up of a unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale;
- (2) for a unit that qualifies as a cogeneration unit during the 12-month period starting on the date that the unit first produces electricity and continues to qualify as a

cogeneration unit, a cogeneration unit serving at any time since the later of November 15, 1990 or start-up of the unit's combustion chamber a generator with nameplate capacity of more than 25 MWe and supplying in any calendar year more than one-third of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution system for sale. If a unit that qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity but subsequently no longer qualifies as a cogeneration unit, the unit shall be subject to Subparagraph (1) of this Paragraph starting on the day on which the unit first serves a generator with nameplate capacity of more than 25 MWe producing electricity for sale; or fossil fuel-fired stationary boilers, combustion turbines, or combined cycle systems having a maximum design heat input greater than 250 million Btu per hour that are not covered under Subparagraph (b)(1) or (2) of this Rule except stationary combustion turbines constructed before January 1, 1979, that have a federally enforceable permit that restricts:

- (A) its potential emissions of nitrogen oxides to no more than 25 tons between May 1 and September 30;
- (B) it to burning only natural gas or oil; and
- (C) its hours of operation as described in 40 CFR 96.4(b)(1)(ii) and (iii).

(c) Retired unit exemption. Any unit that is permanently retired and is not an opt-in unit under Rule .2411 of this Section shall be exempted from the annual trading program for:

- (1) nitrogen oxides if it complies with the provisions of 40 CFR 96.105,
- (2) sulfur dioxide if it complies with the provisions of 40 CFR 96.205, or
- (3) ozone season nitrogen oxides if it complies with the provisions of 40 CFR 96.305.

(d) Effect on other authorities. No provision of this Section, any application submitted or any permit issued pursuant to Rule .2406 of this Section, or any exemption under 40 CFR 96.105, 96.205, or 96.305 shall be construed as exempting any source or facility covered under this Section or the owner or operator or designated representative of any source or facility covered under this Section from complying with any other requirements of this Subchapter or Subchapter 15A NCAC 02Q or the Clean Air Act. The Environmental Management Commission may specify through rulemaking a specific emission limit lower than that established under this Rule for a specific source if compliance with the lower emission limit is required to attain or maintain the ambient air quality standard

for ozone or fine particulate (PM2.5) or any other ambient air quality standard in Section 15A NCAC 02D .0400.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); Eff. July 1, 2006.

15A NCAC 02D .2402 DEFINITIONS

(a) For the purpose of this Section, the definitions in 40 CFR 96.102, 96.202 and 96.302 shall apply except that solely for the purposes of units subject to Rule .2401(b)(3) of this Section or Rule .2405(a)(2) of this Section, the term "fossil-fuel-fired" means:

- (1) sources that began operation before January 1, 1996, where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during 1995, or, if a source had no heat input in 1995, during the last year of operation of the unit before 1995;
- (2) sources that began operation on or after January 1, 1996 and before January 1, 1997, where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during 1996; or
- (3) sources that began operation on or after January 1, 1997;
 - (A) Where fossil fuel actually combusted either alone or in combination with any other fuel, comprised more than 50 percent of the annual heat input on a Btu basis during any year as determined by the owner or operator of the source and verified by the Director; or
 - (B) Where fossil fuel combusted either alone or in combination with any other fuel, is projected to comprise more than 50 percent of the annual

15A NCAC 02D .2403 NITROGEN OXIDE EMISSIONS

(a) Allocations. The annual allocations of nitrogen oxide allowances are:

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Butler-Warner Generation Plant	77	65
Craven County Wood Energy, LP	498	424
Duke Energy, Belews Creek	10,837	9,220
Duke Energy, Buck	1,355	1,153
Duke Energy, Cliffside	2,932	2,495
Duke Energy, Dan River	792	674
Duke Energy, G.G. Allen	4,338	3,691
Duke Energy, Lincoln	230	196

heat input on a Btu basis during any year, provided that the unit shall be "fossil-fuel-fired" as of the date, during such year, on which the source begins combusting fossil fuel.

(b) Notwithstanding the provisions of the definition of "commence commercial operation" in 40 CFR 96.302, for a unit under Rule .2401(b)(3) or Rule .2405(a)(2) of this Section, and not serving a generator, the unit's date of commencement of operations shall also be the unit's date of commencement of commercial operation.

(c) Notwithstanding the provisions of the definition of "commence operation" in 40 CFR 96.302, and solely for the purposes of 40 CFR Part 96 Subpart HHHH, for a unit that is not a CAIR NOx Ozone Season unit, under Rule .2401(b)(3) or Rule .2405(a)(2) on the later of November 15, 1990 or the date the unit commenced or commences operation as defined in the first provision of this definition in 40 CFR 96.302 and that subsequently becomes or became such a CAIR NOx Ozone Season unit, the unit's date for commencement of operation shall be the date on which the unit becomes or became a CAIR NOx Ozone Season unit under Rule .2401(b)(3) or Rule .2405(a)(2) of this Section.

(d) For the purposes of this Section, the following definitions apply:

- (1) "Modification" means modification as defined in 15A NCAC 02D .0101.
- (2) "Reconstruction" means the replacement of components of an existing unit that meets the requirements of 40 CFR 60.15(b)(1).
- (3) "Replacement" means removing an existing unit and putting in its place at the same facility a functionally equivalent new unit.

(e) For the purpose of this Section, the abbreviations and acronyms listed in 40 CFR 96.103, 96.203, 96.303 shall apply.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); Eff. July 1, 2006.

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Duke Energy, Marshall	9,667	8,225
Duke Energy, Riverbend	1,709	1,454
Dynegy-Rockingham Power	194	165
Edgecombe GenCo	807	687
Elizabethtown Power	86	73
Lumberton Power	121	103
NC Electric Membership Corps., Anson	7	6
NC Electric Membership Corps., Person	7	6
NC Electric Membership Corps., Richmond	7	6
NC Electric Membership Corps., Wake	7	6
Primary Energy, Roxboro	164	140
Primary Energy, Southport	401	341
Progress Energy, Asheville	2,103	1,789
Progress Energy, Blewett	8	7
Progress Energy, Cape Fear	1,244	1,059
Progress Energy, H.F. Lee	1,776	1,511
Progress Energy, L.V. Sutton	2,146	1,826
Progress Energy, Lee Wayne Co. Plant	94	80
Progress Energy, Mark's Creek Richmond Co.	374	318
Progress Energy, Mayo	4,004	3,407
Progress Energy, Roxboro	11,578	9,851
Progress Energy, Weatherspoon	674	573
Progress Energy, Woodleaf Rowan Co. Plant	25	22
Rosemary Power Station, Halifax	42	36
Westmoreland LG&E Partners Roanoke	963	819
Westmoreland LG&E Partners Roanoke	306	261

In the event that EPA determines that Craven County Wood Energy is not subject to the provisions of this Section, its allocation shall go to the new source growth pool.

(b) Compliance. The emissions of nitrogen oxides of a CAIR NOx source shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section.

(c) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HH shall be used to determine compliance by each CAIR NOx source with its emissions limitation according to 40 CFR 96.106(c).

(d) Excess emission requirements. The provisions of 40 CFR 96.106(d) shall be used for excess emissions.

(e) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.106(f).

(f) Modification and reconstruction, replacement, retirement, or change of ownership. The modification or reconstruction of a CAIR NOx unit shall not make that CAIR NOx unit a "new" CAIR NOx unit under Rule .2412 of this Section. The CAIR NOx unit that is modified or reconstructed shall not change

the emission allocation under Paragraph (a) of this Rule. If one or more CAIR NOx units at a facility covered under this Rule is replaced, the new CAIR NOx unit shall not receive an allocation under Rule .2412 of this Section, nor shall it change the allocation of the facility. If the owner of a facility changes, the emission allocations under this Rule and revised emission allocations made under Rule .2413 of this Section shall remain with the facility. If a CAIR NOx unit is retired, the owner or operator and the designated representatives of the CAIR NOx unit shall follow the procedures in 40 CFR 96.105. The allocations of a retired CAIR NOx unit shall remain with the owner or operator of the retired CAIR NOx unit until a

reallocation occurs under Rule .2413 of this Section when the allocation shall be removed and given to other CAIR NOx units

if the retired CAIR NOx unit is still retired using the procedure in Rule .2413 of this Section.

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10); Eff. July 1, 2006.

15A NCAC 02D .2404 SULFUR DIOXIDE

(a) Applicability. This Rule applies only to facilities that meet the description in Rule .2401(b)(1) or (2) of this Section.

(b) Allocations. The annual allocation of sulfur dioxide allowances shall be determined by EPA. The allocations for CAIR SO₂ units are in 40 CFR 73.10.

(c) Compliance. The emissions of sulfur dioxides of a source described in Paragraph (a) of this Rule shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section.

(d) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HHH shall be used to determine compliance by each CAIR SO₂ source with its emissions limitation according to 40 CFR 96.206(c).

(e) Excess emission requirements. The provisions of 40 CFR 96.206(d) shall be used for excess emissions.

(f) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.206(f).

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10); Eff. July 1, 2006.

15A NCAC 02D .2405 NITROGEN OXIDE EMISSIONS DURING OZONE SEASON

(a) Allocations. The ozone season allocations of nitrogen oxide allowances are:

(1) Facilities that meet the description in 15A NCAC 02D .2401(b)(1) or (b)(2):

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Butler-Warner Generation Plant	53	45
Craven County Wood Energy, LP	211	179
Duke Energy, Belews Creek	4,917	4,184
Duke Energy, Buck	656	558
Duke Energy, Cliffside	1,350	1,148
Duke Energy, Dan River	436	371
Duke Energy, G.G. Allen	2,096	1,784
Duke Energy, Lincoln	169	144
Duke Energy, Marshall	4,179	3,556
Duke Energy, Riverbend	859	731
Dynegy-Rockingham Power	99	84
Edgecombe GenCo	331	281
Elizabethtown Power	51	43
Lumberton Power	46	39
NC Electric Membership Corps.-Anson	7	6
NC Electric Membership Corps.-Person	7	6
NC Electric Membership Corps.-Richmond	7	6
NC Electric Membership Corps.-Wake	7	6
Primary Energy, Roxboro	83	71
Primary Energy, Southport	213	181
Progress Energy, Asheville	899	765
Progress Energy, Blewett	7	6
Progress Energy, Cape Fear	527	448
Progress Energy, H.F. Lee	841	716
Progress Energy, L.V. Sutton	1,023	871
Progress Energy, Lee Wayne Co. Plant	64	54
Progress Energy, Mark's Creek Richmond Co.	335	285

FACILITY	ALLOCATIONS FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Progress Energy, Mayo	1,735	1,476
Progress Energy, Roxboro	5,069	4,314
Progress Energy, Weatherspoon	346	295
Progress Energy, Woodleaf Rowan Co. Plant	25	20
Rosemary Power Station, Halifax	26	22
Westmoreland LG&E Partners Roanoke Valley I	387	329
Westmoreland LG&E Partners Roanoke Valley II	124	105

In the event that EPA determines that Craven County Wood Energy is not subject to the provisions of this Section, its allocation shall go to the new source growth pool.

(2) Facilities that do not meet the description in 15A NCAC 02D .2401(b)(1) or (b)(2):

FACILITY	ALLOCATON FOR 2009-2014 (TONS)	ALLOCATIONS FOR 2015 AND LATER (TONS)
Blue Ridge Paper Products	839	839
International Paper Corp., Columbus Co.	307	307
International Paper Corp., Halifax Co.	346	346
United Cogen, Kenansville	113	113
UNC-Chapel Hill	241	241
Weyerhaeuser, New Bern Mill	193	193
Weyerhaeuser, Plymouth	404	404

(b) Ozone season defined. The ozone season is from May 1 through September 30 of each year.

(c) Change in status. If a unit at a facility named in Subparagraph (a)(2) of this Rule meets the description under Subparagraphs (b)(1) or (b)(2) of Rule .2401 of this Section, it shall lose its allocation under Subparagraph (a)(2) of this Rule and shall receive an allocation under Rule .2412 of this Section as a new unit until it receives an allocation under Rule .2413 of this Section.

(d) Compliance. The nitrogen oxide ozone season emissions of a CAIR NOx Oxone Season source shall not exceed the number of allowances that it has in its compliance account established and administered under Rule .2408 of this Section. For purposes of making deductions for excess emissions for the ozone season in 2008 under the NOx SIP Call (15A NCAC 02D .1400), the Administrator shall deduct allowances allocated under this Rule for the ozone season in 2009.

(e) Emission measurement requirements. The emissions measurements recorded and reported according to 40 CFR Part 96 Subpart HHHH shall be used to determine compliance by each CAIR NOx Ozone Season source with its emissions limitation according to 40 CFR 96.306(c).

(f) Excess emission requirements. The provisions of 40 CFR 96.306(d) shall be used for excess emissions.

(g) Liability. The owner or operator of any unit or source covered under this Section shall be subject to the provisions of 40 CFR 96.306(f).

(h) Modification and reconstruction, replacement, retirement, or change of ownership. The modification or reconstruction of a CAIR NOx Ozone Season unit shall not make that CAIR NOx Ozone Season unit a "new" CAIR NOx Ozone Season unit under Rule .2412. The CAIR NOx Ozone Season unit that is modified or reconstructed shall not change the emission allocation under Paragraph (a) of this Rule. If one or more CAIR NOx Ozone Season units at a facility is replaced, the new CAIR NOx Ozone Season unit shall not receive an allocation under Rule .2412 of this Section, nor shall it change the allocation of the facility. If the owner of a facility changes, the emission allocations under this Rule and revised emission allocations made under Rule .2413 of this Section shall remain with the facility. If a CAIR NOx Ozone Season unit is retired, the owner or operator, and designated representatives, of the CAIR NOx Ozone Season unit shall follow the procedures in 40 CFR 96.305. The allocations of a retired CAIR NOx Ozone Season unit shall remain with the owner or operator of the retired CAIR NOx Ozone Season unit until a reallocation occurs under Rule .2413 of this Section when the allocation shall be removed and given to other CAIR NOx Ozone Season units if the retired CAIR NOx Ozone Season unit is still retired using the procedure in Rule .2413 of this Section.

*History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10);
Eff. July 1, 2006.*

15A NCAC 02D .2406 PERMITTING

(a) The owner or operator of any source covered under this Section shall submit permit applications to comply with the requirements of this Section following the procedures and requirements in 15A NCAC 02Q .0500 (Title V permitting procedures) and in:

- (1) 40 CFR 96.106(a), 96.121, and 96.122 for each CAIR NOx source;
- (2) 40 CFR 96.206(a), 96.221, and 96.222 for each CAIR SO₂ source; and
- (3) 40 CFR 96.306(a), 96.321, and 96.322 for each CAIR NOx Ozone Season source.

(b) The Director shall review applications submitted under Paragraph (a) of this Rule and issue permits for compliance with this Section following the procedures and requirements in 15A NCAC 02Q .0500 (Title V permitting procedures) and in:

- (1) 40 CFR 96.106(a), 96.120, 96.123, and 96.124 for each CAIR NOx source;
- (2) 40 CFR 96.206(a), 96.220, 96.223, and 96.224 for each CAIR SO₂ source; and
- (3) 40 CFR 96.306(a), 96.320, 96.323, and 96.324 for each CAIR NOx Ozone Season source.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); 143-215.108;

Eff. July 1, 2006.

15A NCAC 02D .2407 MONITORING, REPORTING, AND RECORDKEEPING

(a) The owner or operator of a unit covered under this Section shall comply with the monitoring, recordkeeping, and reporting requirements in:

- (1) 40 CFR 96.106(b) and (e) and in 40 CFR Part 96, Subpart HH for each CAIR NOx unit;
- (2) 40 CFR 96.206(b) and (e) and in 40 CFR Part 96, Subpart HHH for each CAIR SO₂ unit; and
- (3) 40 CFR 96.306(b) and (e) and in 40 CFR Part 96, Subpart HHHH for each CAIR Ozone Season NOx unit.

(b) To approve or disapprove monitors used to show compliance with Rules .2403, .2404, or .2405 of this Section, the Division shall follow the procedures in:

- (1) 40 CFR 96.171 for nitrogen oxides,
- (2) 40 CFR 96.271 for sulfur dioxides, and
- (3) 40 CFR 96.371 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.65; 143-215.66; 143-215.107(a)(5), (10);

Eff. July 1, 2006.

15A NCAC 02D .2408 TRADING PROGRAM AND BANKING

(a) EPA to administer. The United States Environmental Protection Agency (EPA) shall administer the allowance tracking system according to the procedures in:

- (1) 40 CFR Part 96, Subpart FF and Subpart GG for nitrogen oxides;

- (2) 40 CFR Part 96, Subpart FFF and Subpart GGG for sulfur dioxide; and
- (3) 40 CFR Part 96, Subpart FFFF and Subpart GGGG for ozone season nitrogen oxides.

(b) Compliance account. The owners and operators of each source covered under this Section shall have a compliance account in the EPA administered tracking system that satisfies the requirements of:

- (1) 40 CFR 96.151 for nitrogen oxides,
- (2) 40 CFR 96.251 for sulfur dioxides, and
- (3) 40 CFR 96.351 for ozone season nitrogen oxides.

(c) General account. Any person may apply to open a general account to hold and transfer allowances by using the procedures and meeting the requirements in:

- (1) 40 CFR 96.151(b) for nitrogen oxides and may close that account using the procedures in 40 CFR 96.157,
- (2) 40 CFR 96.251(b) for sulfur dioxides and may close that account using the procedures in 40 CFR 96.257, and
- (3) 40 CFR 96.351(b) for ozone season nitrogen oxides and may close that account using the procedures in 40 CFR 96.357.

(d) Allowance transfers.

- (1) Any person who has a compliance or general account established under 40 CFR 96.151 may transfer allowances using the procedures in 40 CFR 96.160.
- (2) Any person who has a compliance or general account established under 40 CFR 96.251 may transfer allowances using the procedures in 40 CFR 96.260.
- (3) Any person who has a compliance or general account established under 40 CFR 96.351 may transfer allowances using the procedures in 40 CFR 96.360.

(e) Submittal of information. Persons with accounts shall submit information to EPA following the requirements of:

- (1) 40 CFR 96.152 for nitrogen oxides,
- (2) 40 CFR 96.252 for sulfur dioxides, and
- (3) 40 CFR 96.352 for ozone season nitrogen oxides.

(f) Banking. Any person who has a compliance account or a general account may bank allowances for future use or transfer under:

- (1) 40 CFR 96.155 for nitrogen oxides,
- (2) 40 CFR 96.255 for sulfur dioxides, and
- (3) 40 CFR 96.355 for ozone season nitrogen oxides.

(g) Appeal Procedures. The appeal procedures for decisions of the Administrator are set forth in

- (1) 40 CFR 96.108 for nitrogen oxides,
- (2) 40 CFR 96.208 for sulfur dioxides, and
- (3) 40 CFR 96.308 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);

Eff. July 1, 2006.

15A NCAC 02D .2409 DESIGNATED REPRESENTATIVE

(a) Designated representative. The owners and operators of any source covered under this Section shall select a designated representative according to 40 CFR 96.110 for each CAIR NOx source, 96.210 for each CAIR SO₂ source, and 96.310 for each CAIR NOx Ozone Season source. The designated representative shall have the responsibilities and duties set out in 40 CFR 96.110 for a CAIR NOx source, 96.210 for a CAIR SO₂ source, and 96.310 for a CAIR NOx Ozone Season source.

(b) Alternate designated representative. The owners and operators of any source covered under this Section shall select an alternate designated representative according to 40 CFR 96.111 for each CAIR NOx source, 96.211 for each CAIR SO₂ source, and 96.311 for each CAIR NOx Ozone Season source. The alternate designated representative shall have the responsibilities and duties set out in 40 CFR 96.111 for a CAIR NOx source, 96.211 for a CAIR SO₂ source, and 96.311 for a CAIR NOx Ozone Season source.

(c) Changing designated representative and alternate designated representative. The owner or operator of any source covered under this Section may change the designated representative or the alternate designated representative using:

- (1) 40 CFR 96.112 for a CAIR NOx source;
- (2) 40 CFR 96.212 for a CAIR SO₂ source; and
- (3) 40 CFR 96.312 for a CAIR NOx Ozone Season source.

(d) Changes in owners and operators. Whenever the owner or operator of a source or unit covered under this Section changes, the following provisions shall be followed:

- (1) 40 CFR 96.112(c) for a CAIR NOx source;
- (2) 40 CFR 96.212(c) for a CAIR SO₂ source; and
- (3) 40 CFR 96.312(c) for a CAIR NOx Ozone Season source.

(e) Certificate of representation. A complete certificate of representation for a CAIR designated representative or an alternate CAIR designated representative shall meet the requirements of 40 CFR 96.113 for nitrogen oxides, 40 CFR 96.213 for sulfur dioxide, and 40 CFR 96.313 for ozone season nitrogen oxides.

(f) Objections concerning CAIR designated representative. Objections concerning CAIR designated representative shall be handled according to the procedures in 40 CFR 96.114 for nitrogen oxides, 40 CFR 96.214 for sulfur dioxide, and 40 CFR 96.314 for ozone season nitrogen oxides.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10);

Eff. July 1, 2006.

15A NCAC 02D .2411 OPT-IN PROVISIONS

(a) Opting in. The owners and operators of a unit may opt into:

- (1) the nitrogen oxide trading program by following the procedures in and meeting the requirements of 40 CFR Part 96 Subpart II;
- (2) the sulfur dioxide trading program by following the procedures in and meeting the

requirements of 40 CFR Part 96 Subpart III, and

- (3) the ozone season nitrogen oxide trading program by following the procedures in and meeting the requirements of 40 CFR Part 96 Subpart III.

(b) Permitting. The Director shall permit opt-in units under Paragraph (a) of this Rule according to 15A NCAC 02Q .0500; and

- (1) 40 CFR 96.184 and 96.185 for nitrogen oxides and shall allocate allowances according to 40 CFR 96.188;
- (2) 40 CFR 96.284 and 96.285 for sulfur dioxides and shall allocate allowances according to 40 CFR 96.288, and
- (3) 40 CFR 96.384 and 96.385 for ozone season nitrogen oxides and shall allocate allowances according to 40 CFR 96.388.

(c) Withdrawing. The owners and operators of an opt-in unit under Paragraph (a) of this Rule may withdraw from the trading program according to:

- (1) 40 CFR 96.186 for nitrogen oxides,
- (2) 40 CFR 96.286 for sulfur dioxides, and
- (3) 40 CFR 96.386 for ozone season nitrogen oxides.

(d) Change in regulatory status. If an opt-in unit becomes:

- (1) a CAIR NOx unit under 40 CFR 96.104, then 40 CFR 96.187 shall apply,
- (2) a CAIR SO₂ unit under 40 CFR 96.204, then 40 CFR 96.287 shall apply, or
- (3) a CAIR ozone season NOx unit under 40 CFR 96.304, then 40 CFR 96.387 shall apply.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); 143-215.108;

Eff. July 1, 2006.

15A NCAC 02D .2412 NEW UNIT GROWTH

(a) For nitrogen oxide emissions, the total nitrogen oxide allowances available for allocation in the new unit set-aside for each control period in 2009 through 2014 shall be 2611 tons and the total nitrogen oxide allowances available for allocation in each control period in 2015 and thereafter shall be 1131 tons. Except for the reference to 40 CFR 96.142(b), the procedures in 40 CFR 96.142(c) (2) through (4) shall be used to create allocations for units covered under this Section that commenced operations on or after January 1, 2001 and that are not covered in the table in Rule .2403 of this Section.

(b) For ozone season nitrogen oxides emissions, the total ozone season nitrogen oxide allowances available for allocation in the new unit set-aside for each control period in 2009 through 2014 shall be 1206 tons and the total ozone season nitrogen oxide allowances available for allocation in each control period in 2015 and thereafter shall be 531 tons. Except for the reference to 40 CFR 96.142(b), the procedures in 40 CFR 96.342(c)(2) through (4) shall be used to create allocations for units covered under this Section that commenced operations on or after January 1, 2001 and that are not listed in the table in Rule .2405 of this Section.

(c) New unit allowances in Paragraph (a) of this Rule that are not allocated in a given year shall be redistributed to units under Rule .2401(b)(1) and (2) of this Section according to the provisions of 40 CFR 96.142(d) and 96.342(d) except that the divisor used in calculating individual unit allocations:

- (1) for nitrogen oxide allowances shall be 2611 tons for each control period in 2009 through 2014 and 1131 tons in each control period in 2015 and thereafter, and
- (2) for ozone season nitrogen oxide allowances shall be 1206 tons for each control period in 2009 through 2014 and 531 tons for each control period in 2015 and thereafter.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); Eff. July 1, 2006.

15A NCAC 02D .2413 PERIODIC REVIEW AND REALLOCATIONS

In 2010 and every five years thereafter, the Environmental Management Commission shall review the emission allocations of units covered under Rules .2403 and .2405 of this Section and decide if any revisions are needed. In making this decision the Environmental Management Commission shall consider the following:

- (1) the size of the allocation pool for new unit growth under Rule .2412 of this Section;
- (2) the amount of emissions allocations requested by units under Rule .2412 of this Section;
- (3) the amount of emissions allocations available through the respective trading programs under Rule .2408 of this Section;
- (4) the impact of reallocation on existing units;
- (5) the impact of reallocations on units covered under Rule .2412 of this Section;
- (6) impact on future growth; and
- (7) other relevant information on the impacts of reallocation.

Any revisions of allocations shall be consistent with the requirements in 40 CFR 51.123(o)(2)(ii) and (aa)(2)(iii) or 96.141 and 96.341.

History Note: Authority G.S. 143-215.3(a); 143-215.107(a)(5), (10); Eff. July 1, 2006.

15A NCAC 03O .0302 AUTHORIZED GEAR

(a) The following are the only commercial fishing gear authorized (including restrictions) for use under a valid Recreational Commercial Gear License:

- (1) One seine 30 feet or over in length but not greater than 100 feet with a mesh length less than 2 ½ inches when deployed or retrieved without the use of a vessel or any other mechanical methods. A vessel may be used only to transport the seine;

- (2) One shrimp trawl with a headrope not exceeding 26 feet in length per vessel. Mechanical methods for retrieving otter trawls are not authorized for recreational purposes.
- (3) With or without a vessel, five eel, fish, shrimp, or crab pots in any combination, except only two pots of the five may be eel pots. Peeler pots are not authorized for recreational purposes;
- (4) One multiple hook or multiple bait trotline up to 100 feet in length;
- (5) Gill Nets:
 - (A) Not more than 100 yards of gill nets with a mesh length equal to or greater than 2 ½ inches except as provided in (C) of this Subparagraph. Attendance shall be required at all times;
 - (B) Not more than 100 yards of gill nets with a mesh length equal to or greater than 5 ½ inches except as provided in (C) of this Subparagraph. Attendance shall be required when used from one hour after sunrise through one hour before sunset in internal coastal fishing waters east and north of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean east and north of 77° 04.0000' W. Attendance shall be required at all times in internal coastal fishing waters west and south of the Highway 58 Bridge at Emerald Isle and in the Atlantic Ocean west and south of 77° 04.0000' W; and
 - (C) Not more than 100 yards of gill net may be used at any one time, except that when two or more Recreational Commercial Gear License holders are on board, a maximum of 200 yards may be used from a vessel;
 - (D) It is unlawful to possess aboard a vessel more than 100 yards of gill nets with a mesh length less than 5 ½ inches and more than 100 yards of gill nets with a mesh length equal to or greater than 5 ½ inches identified as recreational commercial fishing equipment when only one Recreational Commercial Gear License holder is on board. It is unlawful to possess aboard a vessel more than 200 yards of gill nets with a mesh length less than 5 ½ inches and more than 200 yards of gill nets with a mesh length equal to or greater than 5 ½ inches identified as recreational commercial fishing equipment when two or more

Recreational Commercial Gear
License holders are on board;

(6) A hand-operated device generating pulsating electrical current for the taking of catfish in the area described in 15A NCAC 03J .0304; and

(7) Skimmer trawls not exceeding 26 feet in total combined width.

(b) It is unlawful to use more than the quantity of authorized gear specified in Subparagraphs (a)(1) through (a)(7) of this Rule, regardless of the number of individuals aboard a vessel possessing a valid Recreational Commercial Gear License.

(c) It is unlawful for a person to violate the restrictions of or use gear other than that authorized by Paragraph (a) of this Rule.

(d) Unless otherwise provided, this Rule does not exempt Recreational Commercial Gear License holders from the provisions of other applicable rules of the Marine Fisheries Commission or provisions of proclamations issued by the Fisheries Director as authorized by the Marine Fisheries Commission.

*History Note: Authority G.S. 113-134; 113-173;
Temporary Adoption Eff. August 9, 1994, for a period of 180
days or until the permanent rule becomes effective, whichever is
sooner;
Eff. February 1, 1995;
Temporary Amendment Eff. August 1, 1999; July 1, 1999;
Amended Eff. August 1, 2000;
Temporary Amendment Eff. August 1, 2000;
Amended Eff. July 1, 2006; November 1, 2005; August 1, 2002.*

15A NCAC 03R .0106 TRAWL NETS PROHIBITED

The trawl net prohibited areas referenced in 15A NCAC 03J .0104 (b)(4) are delineated in the following coastal water areas:

(1) In Pamlico, Core and Back sounds - within the area described by a line beginning at a point 35° 43.7457' N - 75° 30.7014' W on the south shore of Eagles Nest Bay on Pea Island; running westerly to a point 35° 42.9500' N - 75° 34.1500' W; running southerly to a point 35° 39.3500' N - 75° 34.4000' W; running southeasterly to a point 35° 35.8931' N - 75° 31.1514' W in Chicamacomico Channel near Beacon "ICC"; running southerly to a point 35° 28.5610' N - 75° 31.5825' W on Gull Island; running southwesterly to a point 35° 22.8671' N - 75° 33.5851' W in Avon Channel near Beacon "1"; running southwesterly to a point 35° 18.9603' N - 75° 36.0817' W in Cape Channel near Beacon "2"; running westerly to a point 35° 16.7588' N - 75° 44.2554' W in Rollinson Channel near Beacon "42RC"; running southwesterly to a point 35° 14.0337' N - 75° 45.9643' W southwest of Oliver Reef near the quick-flashing beacon; running westerly to a point 35° 09.3650' N - 76° 00.6377' W in Big Foot Slough Channel near Beacon "14BF"; running southwesterly to a point 35° 08.4523' N - 76° 02.6651' W in Nine Foot Shoal Channel near Beacon "9"; running

westerly to a point 35° 07.1000' N - 76° 06.9000' W; running southwesterly to a point 35° 01.4985' N - 76° 11.4353' W near Beacon "HL"; running southwesterly to a point 35° 00.2728' N - 76° 12.1903' W near Beacon "2CS"; running southerly to a point 34° 59.5027' N - 76° 12.3204' W in Wainwright Channel immediately east of the northern tip of Wainwright Island; running easterly to a point 34° 58.6760' N - 76° 12.4164' W; running southerly to a point 34° 56.6697' N - 76° 13.6052' W near Marker "15"; running southwesterly to a point 34° 54.1584' N - 76° 16.9016' W; running southwesterly to a point 34° 52.1484' N - 76° 19.2607' W; running southwesterly to a point 34° 51.0617' N - 76° 21.0449' W; running southwesterly to a point 34° 48.3137' N - 76° 24.3717' W; running southwesterly to a point 34° 46.3739' N - 76° 26.1526' W; running southwesterly to a point 34° 44.5795' N - 76° 27.5136' W; running southwesterly to a point 34° 43.4895' N - 76° 28.9411' W near Beacon "37A"; running southwesterly to a point 34° 40.4500' N - 76° 30.6833' W; running westerly to a point 34° 40.7061' N - 76° 31.5893' W near Beacon "35" in Back Sound; running westerly to a point 34° 41.3178' N - 76° 33.8092' W near Buoy "3"; running southwesterly to a point 34° 39.6601' N - 76° 34.4078' W on Shackleford Banks; running easterly and northeasterly along the shoreline and across Barden Inlet following the COLREGS Demarcation line; then running northerly along the shoreline across the inlets following the COLREGS Demarcation line up the Outer Banks to Eagles Nest Bay at the point of beginning.

(2) In Northern Pamlico Sound, Stumpy Point Bay - north of a line beginning at a point 35° 40.9719' N - 75° 44.4213' W on Drain Point; running westerly to a point 35° 40.6550' N - 75° 45.6869' W on Kazer Point;

(3) In the Pamlico River area, lower Goose Creek - south of a line beginning at a point 35° 18.2676' N - 76° 37.4706' W on the north shore of Snode Creek; running easterly to a point 35° 18.1660' N - 76° 36.9095' W on Store Point;

(4) In the Bay River Area:

(a) In Dump Creek - north of a line beginning at a point 35° 11.6666' N - 76° 33.4207' W on the west shore; running southeasterly to a point 35° 11.3926' N - 76° 32.8993' W on the east shore;

(b) In Rockhole Bay - north of a line beginning at a point 35° 11.3926' N - 76° 32.8993' W on the west shore; running southeasterly to a point 35°

11.1321' N - 76° 32.1360' W on the east shore;

(c) In Vandemere Creek - north of a line beginning at a point 35° 11.2681' N - 76° 39.5220' W on the west shore; running southerly to a point 35° 11.0879' N - 76° 39.3200' W on the east shore;

(d) In Cedar Creek - west of a line beginning at a point 35° 11.2681' N - 76° 39.5220' W on the north shore; running southwesterly to a point 35° 11.1033' N - 76° 39.7321' W on the south shore of an unnamed tributary;

(e) In Chapel Creek - north of a line beginning at a point 35° 08.6768' N - 76° 42.7985' W on the west shore; running easterly to a point 35° 08.7677' N - 76° 42.3604' W on the east shore;

(f) In Upper Bay River - west of a line beginning at a point 35° 08.6704' N - 76° 43.0836' W on the north shore; running southwesterly to a point 35° 08.4590' N - 76° 43.1930' W on the south shore;

(5) In the Neuse River Area, Pierce Creek - west of a line beginning at a point 35° 02.4336' N - 76° 39.7653' W on the north shore; running southerly to a point 35° 02.3767' N - 76° 39.7876' W on the south shore;

(6) In Cape Lookout Bight, all of Cape Lookout Bight - southwest of the COLREGS Demarcation line at Barden Inlet to the northeastern most point of Power Squadron Spit; running northeasterly to a point 34° 38.6150' N - 76° 32.7434' W on Shackleford Banks;

(7) Newport River - all waters upstream of a line beginning at a point 34° 45.6960' N - 76° 43.5180' W near Penn Point; running northeasterly to a point 34° 46.5733' N - 76° 42.6350' W at Hardesty Farms subdivision;

(8) White Oak River - all waters upstream of a line beginning at a point on the west side of the river 34° 43.3425' N - 77° 07.2209' W; running northerly to a point 34° 43.6445' N - 77° 07.3177' W in the river above Cahoon's Slough; running easterly to a point 34° 43.5588' N - 77° 06.6206' W at Hancock Point;

(9) Intracoastal Waterway - all waters in the maintained channel from a point near Marker #105 34° 18.8167' N - 77° 42.8833' W running southerly to a point at the Wrightsville Beach Drawbridge 34° 12.9500' N - 77° 47.9833' W;

(10) Cape Fear River - all waters bounded by a line beginning at a point near Fort Fisher 33° 57.5333' N - 77° 56.9333' W running southwesterly along The Rocks to a point 33° 55.1833' N - 77° 58.0833' W running southeasterly and southerly along the shorelines of Second and Buzzard's Bays to a point 33° 53.0333' N - 57.9333' W running northeasterly and northwestly along the barrier island shorelines of Buzzard's Bay, Second Bay and The Basin back to the point of origin; Cape Creek - all waters upstream of a line beginning at a point on the north shore 33° 53.6167' N - 77° 59.3333' W running southwesterly to a point on the south shore 33° 53.3667' N - 77° 59.4667' W; and

Bald Head Creek - all waters upstream of a line beginning at a point on the west shore 33° 52.8667' N - 77° 59.8000' W running easterly to a point on the east shore 33° 52.8667' N - 77° 59.7167' W.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1994; Recodified from 15A NCAC 3R .0006 Eff. December 17, 1996; Amended Eff. July 1, 2006; August 1, 2004; April 1, 1997.

15A NCAC 03R .0114 SHRIMP TRAWL PROHIBITED AREAS

The shrimp trawl prohibited areas referenced in 15A NCAC 03L .0103(d) are delineated in the following coastal water areas:

(1) Pungo River- all waters upstream of a line from a point 35° 23.3166' N - 76° 34.4833' W at Wades Point; running westerly to a point 35° 23.6463' N - 76° 31.0003' W on the north shore of the entrance to Abels Bay.

(2) Pamlico River- all waters upstream of a line from a point 35° 20.5108' N - 76° 37.7218' W on the western shore of the entrance to Goose Creek; running northeasterly to a point 35° 23.3166' N - 76° 34.4833' W at Wades Point.

(3) Neuse River- all waters upstream of a line from a point 34° 56.3658' N - 76° 48.7110' W at Cherry Point; running northerly to a point 34° 57.9116' N - 76° 48.2240' W at Wilkerson Point.

History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. July 1, 2006.

15A NCAC 10A .1101 WAIVER

(a) The executive director or his designee shall waive rule provisions listed in Paragraph (b) of this Rule and subsequent Paragraphs under specified conditions and according to the following standards:

(1) The applicant has complied with the laws of North Carolina and with rules promulgated by the Wildlife Resources Commission;

(2) The Commission is able to safeguard the wildlife resources in North Carolina while granting the waiver; and

(3) The applicant is able to meet the conditions of the waiver.

(b) The executive director or his designee shall waive the rule banning intrastate transfer of cervids and shall issue a transportation permit to an applicant for such a waiver provided that:

(1) The executive director or his designee determines that the applicant is eligible for a waiver according to standards listed in Paragraph (a) of this Rule;

(2) The eligible applicant shall first notify the Commission of the following:

(A) the tag number(s) assigned to the cervid;

(B) the facility of origination;

(C) the facility of destination;

(D) the date(s) upon which the transfer is to take place; and

(E) the means by which the cervid is to be transported; and

(3) The executive director or his designee confirms receipt of the information requested in Subparagraph (b)(2) of this Rule.

Transportation of cervids between facilities that are licensed to the same individual shall be permitted upon the condition that the licensed applicant log the information required by Subparagraph (b)(2) of this Rule rather than submit a separate application for each transportation.

(c) The executive director or his designee shall waive the rule banning importation of cervids and shall issue a transportation permit to an applicant for such a waiver provided that:

(1) The executive director or his designee determines that the applicant is eligible for a waiver according to standards listed in Paragraph (a) of this Rule;

(2) The herd of origin for all cervids to be imported has met the following conditions:

(A) The herd has been held in a facility that has been secured by a fence that has not been breached or jumped by a cervid for at least five years, and into which no cervid has been introduced for at least five years;

(B) All members of the herd that have died in the past five years have been tested for Chronic Wasting Disease [CWD]; and all CWD test results have been negative; and

(C) Facility records demonstrating compliance with the conditions in this Subparagraph have been submitted with the import application.

(3) The eligible applicant shall first notify the Commission of the following:

(A) the tag number(s) or other identification assigned to the cervid;

(B) the facility of origination;

(C) the facility of destination;

(D) the date(s) upon which the transfer is to take place; and

(E) the means by which the cervid is to be transported; and

(4) The executive director or his designee confirms receipt of the information requested in Subparagraph (c)(3) of this Rule.

(d) The executive director or his designee shall waive the rule against cervid facility expansion and to amend a license to permit expansion to an applicant for such a waiver provided that:

(1) The executive director or his designee confirms the applicant's eligibility for a waiver according to standards listed in Paragraph (a) of this Rule;

(2) The eligible applicant shall first notify the Commission of the following:

(A) the location of the facility for which expansion is desired;

(B) the number of cervids held at that facility;

(C) the number of births or purchases of cervids expected within a year of the application; and

(D) the proposed capacity for which expansion is desired; and

(3) The executive director or his designee confirms receipt of the information requested in Paragraphs (c) and (d) of this Rule.

History Note: Authority G.S. 113-134; 113-274; 150B-19(6); Temporary Adoption Eff. May 21, 2003; Temporary Adoption Expired March 12, 2004; Eff. November 1, 2004; Amended Eff. August 1, 2006.

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 on 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) 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 all the 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 Sept. 1 through Feb. 28 and April 7 through 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

(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 first six open days and 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 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. 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) Carteret County Game Land in Carteret 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.

(16) 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 SR 1746 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 NC 62 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.

(F) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.

(17) Caswell Farm Game Land in Lenoir County

(A) Dove-Only Area

(B) 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.

(18) 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.

(19) 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.

(20) 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.

(21) 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.

(22) 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.

(23) 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.

(24) 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.

(25) 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.

(26) 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.

(G) Deer of either sex may be taken all the days of the applicable deer with visible antlers season.

(27) 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.

(28) 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.

(29) 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.

(30) 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. Camping is restricted to Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.

(E) 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.

(32) 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.

(33) Gull Rock Game Land in Hyde 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 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 Sept. 1 through Feb. 28 and April 7 through 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.

(34) 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.

(35) (E) Wild turkey hunting is by permit only.

(35) Holly Shelter Game Land in Pender 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 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 Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.

(36) 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.

(C) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.

(37) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.

(38) 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.

(39) 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.

(40) 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.

(41) 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.

(42) Light Ground Pocosin Game Land in Pamlico 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.

(43) 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.

(44) 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.

(D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.

(45) Mitchell River Game Land in Surry County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last six days of the applicable Deer with Visible Antlers Season.

(C) Horseback riding, including all equine species, is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.

(46) 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.

(47) 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.

(48) 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.

(49) New Lake Game Land in Hyde and Tyrrell 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.

(50) Nicholson Creek Game Land in Hoke County

(A) Three Days per Week Area

(B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.

(C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.

(D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.

(E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(F) The use of dogs for hunting deer is prohibited.

(G) Wild turkey hunting is by permit only.

(51) North River Game Land in Currituck, Camden and Pasquotank 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) 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.

(E) Hunting on the posted waterfowl impoundment is by permit only.

(52) 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.

(53) 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.

(54) 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.

(55) 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 County south of the Blue Ridge Parkway, Yancey County, 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.

(56) Pungo River Game Land in Hyde 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.

(57) Rhodes Pond Game Land in Cumberland County

(A) Hunting is by permit only.

(B) Swimming is prohibited on the area.

(58) 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 Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.

(59) Roanoke Sound Marshes Game Land in Dare County-Hunting is by permit only.

(60) Robeson Game Land in Robeson 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.

(61) Rockfish Creek Game Land in Hoke County

(A) Three Days per Week Area

(B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the third Friday before Thanksgiving.

(C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the third Saturday before Thanksgiving through the following Wednesday.

(D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.

(E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(F) The use of dogs for hunting deer is prohibited.

(G) Wild turkey hunting is by permit only.

(62) 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.

(63) 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

(C) on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.

(D) 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, raccoon and squirrel 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.

(E) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons

(F) Wild turkey hunting is by permit only.

(G) Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.

(H) Opossum, raccoon and squirrel (fox and gray) 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.

(I) 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.

(J) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited except by participants in authorized field trials.

(64) Sandy Mush Game Land in Buncombe and Madison counties.

(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.

(65) 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.

(66) 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.

(C) Horseback riding, including all equine species, is prohibited.

(67) 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.

(68) 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.

(69) Suggs Mill Pond Game Land in Bladen County;

(A) Hunting is by Permit only.

(B) Camping is restricted to Sept. 1 through Feb. 28 and April 7 through May 14 in areas both designated and posted as camping areas.

(70) 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.

(71) Tar River Game Land in Edgecombe County - - hunting is by permit only.

(72) 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.

(73) 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.

(D) Bearded or beardless turkeys may be taken from the Monday on or nearest to January 15 through the following Saturday by permit only.

(74) 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.

(75) 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.

(76) 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.

(77) 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.

(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.

(78) White Oak River 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 cooperator 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, 2002; July 1, 2001;

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. August 1, 2006; May 1, 2006; February 1, 2006, June 1, 2005; October 1, 2004.

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15A NCAC 18A .2801 DEFINITIONS

The following definitions shall apply in regards to child care centers throughout this Section:

(1) "Adequate" means determined by the Department to be of sufficient size, volume, or technical specifications, to effectively accommodate and support the planned, current, or projected workloads for a specified operational area.

(2) "Approved" means determined by the Department to be in compliance with this Section.

(3) "Communicable Condition" means the state of being infected with a communicable agent but without symptoms.

(4) "Communicable Disease" means any disease that can be transmitted from one person to another directly, by contact with excrement, other body fluids, or discharges from the body; or indirectly, via substances or inanimate objects, such as contaminated food, drinking glasses, toys or water; or via vectors, such as flies, mosquitoes, ticks, or other insects.

(5) "Department" or "DENR" means the North Carolina Department of Environment and Natural Resources. The term also means the authorized representative of the Department.

(6) "Designated Emergency Medication" means any medication used or needed for the immediate recovery from a potentially life-threatening event.

(7) "Disinfecting Solution" means a solution containing 500 to 800 parts per million (ppm) of chlorine. A disinfecting solution can be made by mixing a solution of one-quarter cup (2 fluid ounces) household liquid chlorine bleach with one gallon of tap water (or one tablespoon of liquid household bleach in one quart of water) and prepared fresh daily. In addition, products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.

(8) "Division of Child Development" means the child care licensing agency in the N.C. Department of Health and Human Services.

(9) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

(10) "Food Preparation" means the handling of foods or utensils in the preparation of meals, including opening and closing of baby bottles, baby food jars and cereal boxes, as well as the opening and closing of any other food items intended for the assembly of ingredients for human consumption.

(11) "Food Service" means the distribution of prepared foods for consumption, including those food items prepared at the child care center; received by the center from approved food establishments; milk placed in a pitcher or other serving container; ice transported, stored and dispensed; bagged lunches sent from home; and the use of utensils to minimize direct food contact.

(12) "Frying" means to cook over direct heat in hot oil or fat. This includes the oil or fat that is generated by the food or added to the cooking utensil.

(13) "Hermetically Sealed" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.

(14) "Household bleach" means bleach sold in concentrations that are intended for household use, and not industrial applications. Household bleach is sold in retail stores at strengths of 5.25 percent hypochlorite (regular strength bleach) solution and 6.00 percent hypochlorite (ultra strength bleach) solution.

(15) "Lavatory" means a sink that is equipped with hot and cold water under pressure for the primary purpose of handwashing.

(16) "Multi-Service Articles" means tableware, including flatware and hollowware that are designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used.

(17) "Multi-Use Articles" means bulk food containers and utensils designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used. The term includes food storage containers, beverage pitchers, serving spoons and bowls, tongs, and spatulas. The term does not include multi-service articles as defined in this Rule.

(18) "Potable Water" means water from an approved source which is suitable for drinking.

(19) "Potentially Hazardous Food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxicogenic microorganisms, including Clostridium botulinum. This term includes raw or heat-treated food of animal origin, raw seed sprouts, and heat-treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.

(20) "Putrescible Materials" means materials likely to rot or putrefy, such as fruit, vegetables, meats and dairy products.

(21) "Sanitary Sewage System" means a complete system of sewage collection, treatment, and disposal and includes septic tank systems, connection to a public or community sewage system, sewage reuse or recycle systems, or mechanical or biological treatment systems.

(22) "Sanitizing Solution" means a solution containing 50 to 200 parts per million (ppm) of chlorine. A sanitizing solution can be made by mixing a tablespoon of liquid household chlorine bleach with one gallon of water and prepared fresh daily.

(23) "School Age" means any child who is at least five years old on or before October 16 of the current school year and who is attending, or has attended, a public or private grade school or kindergarten; or any child who is not five years old and will not be five years old on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before moving to and becoming a resident of North Carolina; or any

child who is at least five years old on or before April 16 of the current school year, is determined by the principal of a school to be gifted and mature enough to justify admission to the school and is enrolled no later than the end of the first month of the school year.

(24) "Single-Service Articles" means tableware, including flatware and hollowware, carry-out utensils and other items such as bags, containers, stirrers, straws, toothpicks, and wrappers that are designed, fabricated and intended by the manufacturer for one-time use.

(25) "Single-Use Articles" means bulk food containers and utensils intended by the manufacturer to be used once and discarded. The term includes formed buckets, bread wrappers, pickle barrels, and No. 10 cans. The term does not include single-service articles as defined in this Rule.

(26) "Tempered Water" means water that is between 80°F and 110°F.

(27) "Utensils" means any kitchenware, tableware, glassware, cutlery, containers or other equipment that food or drink comes in contact with during storage, preparation or serving.

(28) "Work Surfaces" means the following locations in the kitchen: food service areas; stove top surfaces; food preparation surfaces; utensil and dishwashing areas; surfaces used for air drying; drain boards; and counter top surfaces. In child care rooms, work surfaces include food preparation areas, diaper changing surfaces, counter top surfaces, children work tables, desks and easels.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. March 1, 1995;

Temporary Amendment Eff. April 15, 1998;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.

15A NCAC 18A .2804 FOOD SUPPLIES

(a) In child care centers, food shall be free from spoilage, filth, or other contamination and shall be safe for human consumption. Potentially hazardous foods, including foods packaged in hermetically sealed containers, shall be obtained only from sources that are permitted or inspected by a local health department, the North Carolina Department of Agriculture and Consumer Services or other government regulatory agency. The use of food packaged in hermetically sealed containers that was not prepared in a commercial food processing establishment is prohibited. Food prepared and sent from home to be shared with other children shall be limited to non-potentially hazardous baked goods.

(b) Milk products that are used shall be Grade "A" pasteurized fluid milk and fluid milk products or evaporated milk. The term "milk products" means those products as defined in 15A NCAC 18A .1200. Copies of 15A NCAC 18A .1200 may be obtained from the Environmental Health Services Section, Division of

Environmental Health. Unless prescribed by a physician, dry milk and dry milk products shall be used only for cooking purposes, including cooked pudding desserts and flavored hot beverages.

(c) Steamed and uncooked shellfish, raw eggs, and products containing raw eggs including raw cookie dough, cake batter, brownie mix, milkshakes and ice cream shall not be consumed by children. A pasteurized egg product may be used as a substitute for raw eggs.

(d) Breast milk, formula, and other bottled beverages, including beverages in sippy cups, sent from home shall be fully prepared, dated, and identified for the appropriate child at the child's home. All breast milk, formula, and other bottled beverages shall be returned to the child's home or discarded at the end of each day. Frozen breast milk shall be stored frozen for up to seven days. Frozen breast milk shall be labeled with the date received and date thawed for use. Previously frozen breast milk shall be refrigerated and may be stored for no more than 24 hours. Microwaves shall not be used to thaw or warm breast milk, baby food, formula or other bottled beverages. Bottle warming equipment shall be inaccessible to children when in use and shall be emptied, cleaned and sanitized daily. Previously frozen breast milk shall not be refrozen for storage. Formula provided by the child care center shall be commercially pre-packaged, ready-to-feed, fully prepared, and packaged in single-use containers. However, breast milk or formula that does not meet these requirements may be provided by the child care center as prescribed by the child's physician or instructed by parent or guardian in writing. Bottles and other drinking utensils provided by the child care center shall be sanitized in accordance with this Section. Formula and other beverages which require refrigeration, baby food after opening, and breast milk shall be identified for the appropriate child and shall be refrigerated at 45°F (7°C) or below. Upon opening, jars of baby food shall be covered, dated, refrigerated, and used within two days. Baby food may be served directly from the jar to one child if unused portions of the food are discarded after each feeding; otherwise, commercially prepared baby foods shall be served from a serving dish rather than the food jar. After the completion of each feeding, leftover formula, breast milk, and other bottled beverages shall be discarded or returned to the child's home at the end of each day.

(e) Child care centers receiving prepared meals or snacks from outside sources shall use meals and snacks obtained from food handling establishments permitted by a local health department, organizations that only serve prepared meals to child care centers, or another child care center inspected by a local health department. Child care centers may also receive prepared meals from organizations not licensed as child care centers only when these organizations are providing prepared meals to licensed child care centers. These organizations shall be inspected as child care centers by the local health department in the county where the meal is prepared. The inspection of these organizations shall be made by the local health department at the same time the inspection of the licensed child care center receiving these prepared meals is done. The inspection report of the organization providing these meals shall be a part of the inspection of the licensed child care center receiving the prepared meals, unless the organization is a permitted food

handling establishment. During transportation, food shall meet the requirements of the Rules of this Section relating to food protection and storage.

(f) Lunches and other meals brought from home shall be dated and identified for the appropriate child at the child's home and shall be returned to the child's home or discarded at the end of each day. Meals containing potentially hazardous foods shall be refrigerated at 45°F (7°C) or below.

(g) Nothing in the Rules of this Section shall prohibit the use of fresh garden fruits and vegetables, including those grown at the child care center, so long as they are washed before being served.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. February 1, 1995; January 1, 1992;

Temporary Amendment Eff. April 15, 1998;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.

15A NCAC 18A .2806 FOOD STORAGE AND PROTECTION

(a) In child care centers, food shall be stored in approved, clean, tightly covered, storage containers once the original package is opened. Approved containers include resealable bags and other containers made of plastic or glass. Reusable containers that come in direct contact with food must be easy to clean, in good repair and intended for food storage.

(b) Food items, that are stored in classrooms or other rooms intended for child care use, shall be limited to those food items which are individually packaged unless the classroom is equipped with a food preparation area. Provisions shall be made to store and protect these food items from all potential sources of contamination and other nonfood items stored in the classroom.

(c) Dry foods that are not readily identifiable and are stored in containers shall be labeled.

(d) Food shall be stored above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area.

(e) Food and containers of food shall not be stored under exposed sewer lines. Food shall not be stored in toilet or laundry rooms. Child care centers licensed for fewer than 13 children and located in a residence may store food in laundry rooms if protected as required in Paragraph (f) of this Rule.

(f) All food shall be stored in a manner to protect it from dust, rodents, insects, drip, splash and other contamination. Raw meats, poultry, fish, shellfish and eggs shall be stored on shelving beneath and separate from other foods. The temperature of potentially hazardous food provided by the center shall be 45°F (7°C) or below, or 140°F (60°C) or above at all times, including field trips, catering events, outdoor service, except during necessary periods of preparation and service, and as otherwise provided in the Rules of this Section.

(g) Packaged food such as milk or other fluid containers may be stored in undrained ice as long as any individual units are not submerged in water. Wrapped sandwiches and other foods shall not be stored in direct contact with ice.

(h) Refrigerated storage:

(1) Refrigeration equipment shall be provided in such number and of such capacity to assure the

maintenance of potentially hazardous food at required temperatures during storage. Each refrigerator shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$) located to measure the air temperature in the warmest part of the refrigerator and located to be easily readable. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$), may be used in lieu of indicating thermometers.

(2) Potentially hazardous food requiring refrigeration after preparation shall be cooled to an internal temperature of 45°F (7°C), or below. Cooling of potentially hazardous foods shall be initiated upon completion of preparation or hot storage. Methods such as pouring into pans, agitation, and chilling with ice or water circulation external to the food containers shall be used to cool potentially hazardous food. Potentially hazardous food to be transported cold shall be prechilled and held at a temperature of 45°F (7°C) or below. Ice used for cooling stored food and food containers shall not be used for human consumption.

(3) (i) Hot storage:

(1) Hot food storage equipment shall be provided in sufficient number and capacity to assure the maintenance of food at the required temperature during storage. Each hot food unit shall be provided with a numerically scaled indicating thermometer, accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$), located to measure the air temperature in the coolest part of the unit and located to be easily readable. Recording thermometers, accurate to $\pm 3^{\circ}\text{F}$ ($\pm 1.5^{\circ}\text{C}$), may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a metal stem-type numerically scaled indicating product thermometer shall be available and used to check internal food temperature.

(2) The internal temperature of potentially hazardous foods requiring hot storage shall be 140°F (60°C) or above except during necessary periods of preparation and service. Potentially hazardous food to be transported hot shall be held at a temperature of 140°F (60°C) or above.

(j) In the event of a fire, flood, water supply interruption, power outage, or similar event that might result in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall either discard the food in question or contact the local health department.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991.

Amended Eff. February 1, 1995;

Temporary Amendment Eff. December 1, 1999;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001

15A NCAC 18A .2810 SPECIFICATIONS FOR KITCHENS, FOOD PREPARATION AREAS AND FOOD SERVICE AREAS

(a) Each child care center shall have at least a two-compartment sink, drainboards or countertop space of adequate size, adequate refrigeration equipment and, when needed, adequate cooking equipment, except for child care centers located in a school that receives all food supplies prepared and ready to serve from a food service establishment permitted by a local health department, which is located at the same school campus and provides food during all hours of child care operation. Domestic or commercial kitchen equipment may be used. Child care centers using multi-service articles shall also provide a dishwasher. In lieu of a dishwasher and two-compartment sink, a three-compartment sink of sufficient size and depth to wash, rinse and sanitize utensils may be used.

(b) A separate lavatory for handwashing is required in food preparation areas. If the dishwashing area is separate from the food preparation area, an additional lavatory shall be required.

(c) A separate food preparation sink with drainboards or countertop space of adequate size shall be required when a plan review indicates that separate facilities are needed based on volume and preparation frequency.

(d) When domestic refrigeration equipment is used, except in child care centers licensed for fewer than 13 children and located in a residence, the following provisions shall apply:

- (1) except for thawing under refrigerated conditions, potentially hazardous foods shall not be prepared prior to the day that such foods are to be served;
- (2) potentially hazardous foods that have been heated shall not be reheated or placed in refrigeration to be used in whole or in part on another day; and
- (3) salads containing potentially hazardous food shall not be prepared on site. Prohibited salads include chicken, egg, tuna, crab, and other salads containing meat.

(e) A commercial hood shall be installed when frying is used for food preparation on site. The hood shall be installed in accordance with the North Carolina Building Code and approved by the local building code enforcement agent.

(f) If food is prepared in a classroom, a food preparation area shall be provided. Water from a handwash lavatory shall not be used to prepare formula, mix dry cereals, or other foods. Toy cleaning and sanitizing may also be conducted in this food preparation area. This food preparation area shall contain an easily cleanable countertop and a lavatory and, when needed, adequate refrigeration. The food preparation counters, bottle warming equipment if used, food and food contact surfaces shall be out of reach of children and the following shall apply:

- (1) all equipment shall be cleaned at least daily. Warming equipment shall be cleaned and

sanitized as required in Rule .2812 of this Section;
(2) after each use, all multi-service articles provided by the center shall be cleaned and sanitized in the child care center kitchen;
(3) single-service articles shall be handled as required in Rule .2814 of this Section; and
(4) counter, shelf or cabinet space shall be provided for food storage. Food supplies shall be stored in accordance with Rule .2806 of this Section.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. March 1, 1995;

Temporary Amendment Eff. April 15, 1998;

Amended Eff. April 1, 1999;

Temporary Amendment Eff. December 1, 1999;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 2001.

15A NCAC 18A .2817 TOILETS

(a) In child care centers, toilet tissue shall be provided in each toilet room and stored in a clean, dry place. The toilet room shall include or be adjacent to a handwash lavatory. Storage in toilet rooms shall be limited to toileting and diapering supplies. All toilet fixtures shall be easily cleanable, and in good repair. Toilet fixtures shall be child-sized, adapted adult toilets or potty chairs.

(b) Toilet fixtures shall be cleaned and disinfected at least daily and when visibly soiled. A disinfecting solution as set out in 15A NCAC 18A .2801(7) shall be used for this purpose. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.

(c) If potty chairs are used, they shall be located and stored in a toilet room equipped with a spray-rinse toilet or utility sink. Potty chairs shall be emptied, rinsed, cleaned and disinfected after each use with a disinfecting solution as described in Paragraph (b) of this Rule.

(d) When cloth diapers are used and emptied, the diaper changing area shall be located next to a toilet room.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; February 1, 1995.

15A NCAC 18A .2818 LAVATORIES

(a) In child care centers, lavatories shall be easily cleanable, in good repair, and kept free of storage. Lavatories shall be

mounted at an appropriate height to accommodate the children, or otherwise made accessible. Any lavatory may be used for handwashing as specified in 15A NCAC 18A .2803, except for flush-rimmed sinks and those with an attached operable drinking fountain.

(b) Lavatories shall be equipped with hot and cold water or tempered water provided through mixing faucets or pre-mixing devices which provide water in the temperature range specified in Rule .2815(e) of this Section.

(c) Lavatories shall be cleaned and disinfected with each change of use, as needed and at least daily. A disinfecting solution as set out in 15A NCAC 18A .2801(7) shall be used for this purpose. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions and restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.

(d) Liquid soap and disposable towels or other hand-drying devices shall be provided at every handwash lavatory area.

(e) Handwash signs shall be posted at every handwash lavatory area.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. July 1, 2006; January 1, 2006; February 1, 1995.

15A NCAC 18A .2819 DIAPERING AND DIAPER CHANGING FACILITIES

(a) In child care centers, children in diapers shall be changed at stations designated for diapering or toileting. Each diaper changing station shall include a handwash lavatory. For centers licensed for fewer than 13 children and located in a residence and for diaper changing areas designated for school age children, a handwash lavatory shall be in or next to a diaper changing area.

(b) Diapering surfaces shall be smooth, intact, nonabsorbent, easily cleanable and shall be approved by the Department. Nothing shall be placed on the diapering surface except for those items required for diapering.

(c) A disinfecting solution as set out in 15A NCAC 18A .2801(7) shall be used to disinfect diapering surfaces. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are

followed. Cleaning and disinfecting solutions shall be kept in separate and labeled bottles at each diaper changing station. Bleach disinfecting solutions shall be stored in hand pump spray bottles. No cloths or sponges shall be used on diapering surfaces.

(d) Diaper changing procedures shall include:

- (1) gathering supplies before placing child on diapering surface;
- (2) donning disposable gloves (if needed);
- (3) using disposable towelette or moistened paper towel to clean child, wiping front to back;
- (4) disposing of gloves if used, soiled towelettes and diaper in a plastic-lined, covered receptacle;
- (5) wiping hands with disposable towelette or moistened paper towel;
- (6) sliding a clean diaper under the child, applying diapering products (if needed) using facial or toilet tissue, discarding the tissue in a plastic-lined, covered receptacle;
- (7) fastening the diaper and placing clothing on child;
- (8) washing child's hands in accordance with Rule .2803 of this Section, or, if child is unable to support her or his head, cleaning the child's hands with a disposable towelette or moistened paper towel, then drying the child's hands and returning the child to a supervised area;
- (9) spraying entire diapering surface with detergent solution and wipe clean, using disposable paper towels;
- (10) spraying entire diapering surface with approved disinfecting solution and allowing to remain on the surface for two minutes or as specified by the manufacturer, or air dry; and
- (11) washing hands in accordance with Rule .2803 of this Section even if disposable gloves are used by the caregiver.

(e) Vinyl or latex disposable gloves shall be used by caregivers during the diaper changing process if she or he has cuts or sores on her or his hands or has chapped hands.

(f) Caregivers may dispose of feces in diapers in the toilet, but shall not rinse soiled cloth diapers, or training pants or clothes. Soiled cloth diapers, training pants or clothes shall be sent to a diaper service or placed in a tightly closed plastic bag or other equivalent container approved by the Department, stored out of reach of children, and sent daily to the child's home to be laundered.

(g) Receptacles containing soiled disposable diapers shall be emptied in an exterior garbage area at least daily.

(h) Instructions for caregivers on proper methods of diaper changing and handwashing shall be posted in each diaper changing area.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. February 1, 1995;

Temporary Amendment Eff. April 15, 1998;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.

15A NCAC 18A .2820 STORAGE

(a) In child care centers, adequate space shall be provided for the storage of equipment, furniture, toys, clothes, linens, backpacks, book bags, diaper bags, beds, cots, mats, and supplies and shall be kept clean. Shelving or other storage areas shall be provided and constructed in a manner to facilitate cleaning. Soiled laundry shall be handled and stored separately from clean laundry using separate cleanable containers.

(b) All corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product which is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if ingested, inhaled, or handled shall be kept in its original container or in another labeled container, used according to the manufacturer's instructions and stored in a locked storage room or cabinet when not in use. Locked storage rooms and cabinets shall include those which are unlocked with a combination, electronic or magnetic device, key, or equivalent locking device. These unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any product not listed above, which is labeled "keep out of reach of children" without any other warnings, shall be kept inaccessible to children when not in use, but is not required to be kept in locked storage. The product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor.

(c) Non-aerosol sanitizing, disinfecting, and detergent solutions, hand sanitizers, and hand lotions shall be kept out of reach of children when not in use, but are not required to be in locked storage. These solutions shall be labeled as sanitizing, disinfecting, or detergent (soapy water) solutions. Hand soap other than that which is in bulk containers is not required to be kept out of reach of children or in locked storage.

(d) Medications including prescription and non-prescription items shall be stored in a locked cabinet or other locked container and shall not be stored above food. Designated emergency medications shall be stored out of reach of children, but are not required to be in locked storage. Non-prescription diaper creams and sunscreen shall be kept out of reach of children when not in use, but are not required to be in locked storage.

(e) Individual cubicles, lockers, or coat hooks shall be provided for storage of coats, hats, or similar items. Coat hooks not in individual cubicles or lockers, shall be spaced at least 12 horizontal inches apart. Combs shall be labeled and stored individually. Toothbrushes shall be individually identified, allowed to air dry and protected from contamination. When a container of toothpaste is used for multiple children, the toothpaste shall be dispensed onto an intermediate surface such as waxed paper.

(f) Employee purses and other personal effects shall be kept out of reach of children.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; February 1, 1995.

15A NCAC 18A .2822 TOYS, EQUIPMENT AND FURNITURE

(a) Toys, equipment and furniture provided by a child care center shall be kept clean and in good repair. In rooms designated for children who are not toilet trained, toys and other mouth-contact surfaces shall be cleaned and then sanitized at least daily when used and more frequently if visibly dirty, by the following methods:

- (1) scrubbed in warm, soapy water using a brush to reach into crevices;
- (2) rinsed in clean water;
- (3) submerged in a sanitizing solution as set out in 15A NCAC 18A .2801(22) for at least two minutes or sanitized with another approved sanitizing solution; and

(4) air dried.

A testing method or kit shall be available to ensure compliance with the prescribed concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Other sanitizing solutions that have been determined to be at least as effective as the chlorine bleach solution are acceptable as long as these products are nontoxic to children, used according to the manufacturer's instructions and approved by the Department. Toys, items and surfaces not designed to be submerged shall be washed and rinsed in place, sprayed with a sanitizing solution and allowed to air dry. Hard plastic toys may be washed and rinsed in a dishwasher and cloth toys may be laundered and mechanically dried without requiring sanitizing.

(b) Toys, furniture, cribs, or other items accessible to children, shall be free of peeling, flaking, or chalking paint.

(c) Water play centers shall be filled just prior to each water play session. Water shall be emptied after each session or more often if visibly soiled. The water play centers including toys, shall be cleaned and sanitized at least daily or more often if visibly soiled. Water play is prohibited during the outbreak and investigation of communicable diseases at the site. Wading pools are not considered water play centers and are regulated under 15A NCAC 18A .2500.

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. February 1, 1995; July 23, 1992;

Temporary Amendment Eff. April 15, 1998;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.

15A NCAC 18A .2832 OUTDOOR LEARNING ENVIRONMENT AND PREMISES

(a) At child care centers, the premises, including the outdoor learning environment, shall be kept clean, drained to minimize standing water, free of litter and hazardous materials, and maintained in a manner which does not encourage the harborage of vermin. All debris, glass, dilapidated structures and broken play equipment shall be removed. Wells, grease traps, cisterns and utility equipment shall be made inaccessible to children.

(b) Sand toys, water tables and other items that can collect standing water in the outdoor learning environment shall be emptied and stored to prevent standing water.

(c) For outdoor play equipment, including all structures accessible to children, the following shall apply:

- (1) Equipment shall be kept in good repair, free of peeling, flaking, or chalking paint and free of rust and corrosion;
- (2) The sandbox used in outdoor play shall be constructed to allow for drainage and shall be covered when not in use and kept clean.

(d) If a daily air quality forecast is made by the Division of Air Quality or the regional air quality agency for the county where a center is located, outdoor activity for children shall be restricted as follows. On days with a code orange (unhealthy for sensitive groups) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than one hour. On days with a code red (unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than 15 minutes. On days with a code purple (very unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. Provisions shall be made to allow children with diagnosed asthma or with coughing or wheezing symptoms to participate in physical activity indoors on days with a code orange, red or purple air quality forecast.

(e) When food service is provided in the outdoor learning environment, food shall be protected, stored, prepared and served in accordance with 15A NCAC 18A .2806, .2807 and .2808. Employees and children shall wash hands in accordance with 15A NCAC 18A .2803 and food service tables shall be cleaned or covered prior to use.

(f) When diapering and toileting facilities are provided in the outdoor learning environment, they shall be maintained in accordance with 15A NCAC 18A .2817 and .2819 and employees and children shall wash hands in accordance with 15A NCAC 18A .2803.

(g) Storage provided outdoors for children's toys shall be kept clean. Storage areas that are accessible to children shall be kept free of hazardous equipment and substances in accordance with 15A NCAC 18A .2820. Storage areas shall meet requirements for lighting in accordance with 15A NCAC 18A .2826 by means of opening doors, windows, sky lights, battery operated light, flashlight or electric lighting. Spare batteries shall be available for battery operated light fixtures and flashlights.

(h) Outdoor water activity centers shall be maintained in accordance with 15A NCAC 18A .2822. Flow through water play systems shall be designed to minimize standing water. Employees and children shall wash hands in accordance with 15A NCAC 18A .2803 before and after water play.

(i) Central vacuums that exhaust to the outdoors away from children may be used in lieu of HEPA vacuum cleaners to meet the daily vacuuming requirements in Rule .2824(c).

History Note: Authority G.S. 110-91;

Eff. July 1, 1991;

Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999; July 23, 1992.

15A NCAC 18A .2834 COMPLIANCE, INSPECTIONS AND REPORTS

(a) When requested by a child care operator or the Division of Child Development, a sanitation inspection shall be conducted by the local health department within 30 days.

(b) Unannounced inspections of child care centers shall be made by the Department at least once each six-month period. The evaluation shall be completed on the Sanitation Standards Evaluation Form for Child Care Centers provided by the Department. Other versions of the form, including electronic, are allowed but shall be duplicates of the Sanitation Standards Evaluation Form for Child Care Centers. An original and two copies of the form shall be completed by the Department. The original shall be submitted to the Division of Child Development. The child care center operator and the Department shall each retain a copy.

(c) The Department shall inspect each child care program that has been designated as a child care center by the Division of Child Development. Demerits shall be assigned for each occurrence of violations within these requirements:

- (1) violation of Rules .2803 or .2836 of this Section related to handwashing when required shall be assessed five demerits;
- (2) violation of Rule .2803 of this Section related to proper handwashing procedures shall be assessed five demerits;
- (3) violation of Rule .2804 of this Section related to food from approved sources, no spoilage, or adulteration shall be assessed six demerits;
- (4) violation of Rules .2804, .2806, or .2807 of this Section related to potentially hazardous food meeting storage and holding temperatures; and refrigeration of bottles and lunches at 45° F or below shall be assessed six demerits;
- (5) violation of Rules .2806, .2807, .2808, or .2836 of this Section related to food properly stored, thawed, prepared, cooked, cooled, handled, served, transported, packaged, and identified, and only supervised children in the kitchen shall be assessed five demerits;
- (6) violation of Rule .2808 of this Section related to food not re-served shall be assessed three demerits;
- (7) violation of Rule .2807 of this Section related to food thermometers provided and accurate shall be assessed two demerits;
- (8) violation of Rules .2809 or .2810 of this Section related to food service equipment and utensils meeting specifications for refrigeration, sinks, lavatories and dishwashing equipment shall be assessed six demerits;
- (9) violation of Rules .2809 or .2810 of this Section related to food service equipment and utensils meeting specifications for other equipment and utensils, approved material and construction shall be assessed four demerits;
- (10) violation of Rules .2809 or .2812 of this Section related to food contact surfaces

properly washed, rinsed, sanitized and air dried; and single-service articles not re-used shall be assessed five demerits;

(11) violation of Rule .2812 of this Section related to sanitizer provided and test kit available shall be assessed two demerits;

(12) violation of Rule .2812 of this Section related to equipment and non-food contact surfaces clean and in good repair shall be assessed four demerits;

(13) violation of Rule .2814 of this Section related to proper storage and handling of clean equipment, utensils, and single-service articles shall be assessed three demerits;

(14) violation of Rule .2815 of this Section related to water supply and drinking water facilities meets 15A NCAC 18A .1700 or 15A NCAC 18C, whichever is applicable, and documentation provided shall be assessed six demerits;

(15) violation of Rule .2815 of this Section related to hot water supplied and maintained in the kitchen shall be assessed six demerits;

(16) violation of Rule .2815 of this Section related to hot water supplied and tempered water maintained as required in all other areas shall be assessed four demerits;

(17) violation of Rule .2815 of this Section related to hot water in excess of 120° F not allowed in areas accessible to children shall be assessed six demerits;

(18) violation of Rule .2815 of this Section related to backflow prevention provided, no cross connections shall be assessed three demerits;

(19) violation of Rules .2815 or .2836 of this Section related to drinking fountains of approved type, pressure regulated, clean shall be assessed two demerits;

(20) violation of Rule .2816 of this Section related to identified lead poisoning hazards as defined under G.S. 130A-131.7(7) shall be assessed six demerits;

(21) violation of Rules .2817, .2818 or .2836 of this Section related to toilet and lavatory facilities properly sized, located and accessible, and in good repair; sinks, toilets and potty chairs cleaned and disinfected shall be assessed four demerits;

(22) violation of Rules .2817 or .2818 of this Section related to soap, approved hand drying devices, and toilet tissue available shall be assessed three demerits;

(23) violation of Rules .2817 or .2818 of this Section related to approved storage in toilet rooms, lavatories free of storage; and handwash signs posted shall be assessed two demerits;

(24) violation of Rules .2817, .2819 or .2836 of this Section related to approved diaper changing facilities shall be assessed six demerits;

(25) violation of Rule .2819 of this Section related to diapering surfaces cleaned and disinfected after each use shall be assessed six demerits;

(26) violation of Rule .2819 of this Section related to cleaning and disinfecting solutions provided and test kit available when required shall be assessed two demerits;

(27) violation of Rules .2818, .2819 or .2820 of this Section related to diaper changing facilities free of storage and in good repair; cleaning and disinfecting solutions labeled; approved diapering methods used; and diaper changing and handwash signs posted shall be assessed four demerits;

(28) violation of Rule .2820 of this Section related to medications properly stored shall be assessed six demerits;

(29) violation of Rule .2820 of this Section related to hazardous products properly stored and locked shall be assessed six demerits;

(30) violation of Rule .2820 of this Section related to non-hazardous products properly stored shall be assessed three demerits;

(31) violation of Rule .2820 of this Section related to facilities provided for proper storage, used and kept clean shall be assessed two demerits;

(32) violation of Rules .2821 or .2836 of this Section related to individual linen provided; adequate beds, cots, or mats provided, in good repair, properly stored, labeled, and spaced during use shall be assessed three demerits;

(33) violation of Rule .2821 of this Section related to linen, bedding, wash cloths, bibs and burping cloths laundered and in good repair shall be assessed three demerits;

(34) violation of Rules .2822 or .2836 of this Section related to toys, equipment and furniture clean and in good repair; water play centers cleaned, sanitized and maintained shall be assessed four demerits;

(35) violation of Rules .2822 or .2836 of this Section related to mouth-contact surfaces cleaned and sanitized in rooms where children who are not toilet trained are cared for shall be assessed four demerits;

(36) violation of Rules .2808 or .2823 of this Section related to personnel using approved hygienic practices, clean clothes and hair restraints where required, and evidence of tobacco use in the outdoor learning environment or in any part of a child care center without a separate ventilation system shall be assessed two demerits;

(37) violation of Rules .2824, .2825 or .2836 of this Section related to floors, walls and ceilings easily cleanable, in good repair, clean, carpets

vacuumed and extraction cleaned as required shall be assessed four demerits;

(38) violation of Rule .2826 of this Section related to the lighting and thermal environment and room temperature between 65°F and 85°F shall be assessed three demerits;

(39) violation of Rule .2826 of this Section related to equipment clean and in good repair and maintained as required shall be assessed two demerits;

(40) violation of Rule .2827 of this Section related to persons with a communicable disease or a condition excluded in accordance with 15A NCAC 19A .0200 shall be assessed six demerits;

(41) violation of Rules .2827 or .2836 of this Section related to persons caring for sick or mildly ill children excluded from situations in which transmission of communicable disease can be expected to occur shall be assessed four demerits;

(42) violation of Rule .2827 of this Section related to the designated area for sick children maintained as required shall be assessed two demerits;

(43) violation of Rule .2829 of this Section related to wastewater disposed of by approved methods in accordance with 15A NCAC 18A .1900 shall be assessed six demerits;

(44) violation of Rules .2830 or .2836 of this Section related to solid waste properly handled; containers and cleaning equipment kept clean, and can cleaning facilities adequate shall be assessed two demerits;

(45) violation of Rule .2831 of this Section related to approved pesticides properly used and new Chromated Copper Arsenate (CCA) pressure-treated wood shall be assessed six demerits;

(46) violation of Rule .2831 of this Section related to Chromated Copper Arsenate pressure-treated wood sealed and soil covered or inaccessible as required shall be assessed two demerits;

(47) violation of Rule .2831 of this Section related to animals in food preparation areas and no unrestrained or prohibited animals except as noted shall be assessed three demerits;

(48) violation of Rules .2831 or .2832 of this Section related to effective control of rodents, insects and other vermin; premises free of vermin harborage and breeding areas shall be assessed three demerits;

(49) violation of Rule .2832 of this Section related to premises clean and drained, equipment in good repair, sandboxes properly constructed and clean, and adherence to air quality forecast outdoor activity restrictions shall be assessed two demerits; and

(50) violation of Rule .2833 of this Section related to swimming and wading pools designed, constructed, operated and maintained in accordance with 15A NCAC 18A .2500 shall be assessed six demerits.

(d) The Department shall indicate on the Child Care Inspection Sanitation Form whether the center is superior, approved, provisional, or disapproved. A Sanitation Classification placard shall be posted in the center in a conspicuous place designated by the Department. The classification of a child care center is based on the center's compliance with the Rules of this Section. A summary classification of disapproved shall be issued and forwarded to the Division of Child Development when the right-of-entry to inspect is denied or when an inspection is discontinued at the request of the operator or administrator unless the decision to discontinue the inspection is mutual. A summary classification of disapproved shall also be issued and forwarded to the Division of Child Development when a water sample is confirmed positive for fecal coliform, total coliform or other chemical constituents in accordance with 15A NCAC 18A .1725.

(e) The child care center's compliance is indicated by the number of demerits on the Child Care Sanitation Inspection Form.

(1) When an inspection is requested and conducted for the purpose of issuing a license to a new operator, a Child Care Sanitation Inspection Form shall be forwarded to the Division of Child Development only when the child care center can be granted a superior classification. If the center is not yet open and children are not in attendance when the initial inspection is conducted, a Child Care Sanitation Inspection Form shall be completed and forwarded to the Division of Child Development, but the Sanitation Classification placard shall not be posted. Another sanitation inspection shall be conducted when children are in attendance within 30 days of opening and the Sanitation Classification placard shall then be posted. When a temporary license is issued as a result of a change of ownership in a child care center that continues to operate, the operator shall request an inspection from the Department within fourteen days. A sanitation classification placard shall be posted after each inspection of a center operating under a temporary license.

(2) A child care center shall be classified as superior if the demerit score does not exceed 15 and no 6-point demerit item is violated.

(3) A child care center shall be classified as approved if the demerit score is more than 15 and does not exceed 30, and no 6-point demerit item is violated.

(4) A child care center shall be classified as provisional if any 6-point demerit item is violated or if the total demerit score is more than 30 but does not exceed 45. The

provisional classification period shall not exceed seven days unless construction or renovation is necessary to correct any violation, in which case the Department may specify a longer provisional classification period.

(5) A child care center shall be classified as disapproved if the demerit score is more than 45, or if conditions which resulted in a provisional classification have not been corrected in the time period specified by the Department.

(6) If the child care center receives a disapproved classification, the Department shall immediately notify the Division of Child Development by faxing a copy of the inspection form.

(7) The Sanitation Classification placard shall not be removed except by or upon the instruction of the Department.

(f) If the Department determines that conditions found at the child care center at the time of any inspection or visit are dangerous to the health of the children, the Department shall immediately notify the Division of Child Development by verbal contact. The original inspection report or other documentation of the dangerous conditions shall be sent to the Division of Child Development within two working days following the inspection.

(g) The Department may conduct an inspection of any child care center as frequently as necessary in order to ensure compliance with the Rules in this Section.

(h) The Department shall use the Child Care Sanitation Inspection Form to document demerits for violations of the rules. A written explanation and corrective action for each violation shall be documented on a comment addendum form.

(i) In filling out the inspection form, demerits may be assessed only once for a single occurrence or condition existing within or outside the child care center. Demerits shall be assessed based on actual violations of the Rules of this Section observed during the inspection.

History Note: Authority G.S. 110-88; 110-91; Eff. July 1, 1991; Amended Eff. February 1, 1995; Temporary Amendment Eff. April 15, 1998; Amended Eff. July 1, 2006; January 1, 2006; April 1, 1999.

TITLE 17 – DEPARTMENT OF REVENUE

17 NCAC 07B .0201 TAX ON MANUFACTURING AND PROCESSING MACHINERY
17 NCAC 07B .0202 CLASSIFICATION OF MANUFACTURING ACTIVITIES

History Note: Authority G.S. 105-164.4; 105-164.6, 105-262; 105-264; Eff. February 1, 1976;

Amended Eff. October 1, 1993; June 1, 1992; October 1, 1991; May 11, 1979; September 30, 1977; Repealed Eff. July 1, 2006.

17 NCAC 07B .0206 SALES BY MANUFACTURERS
17 NCAC 07B .0207 PURCHASES BY
MANUFACTURERS

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-164.28; 105-262; Eff. February 1, 1976; Amended Eff. July 1, 2000; July 1, 1999; August 1, 1998; October 1, 1993; March 1, 1993; August 1, 1988; November 1, 1982; Repealed Eff. July 1, 2006.

17 NCAC 07B .0301 MILL MACHINERY
17 NCAC 07B .0302 ITEMS NOT MILL MACHINERY

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Eff. February 1, 1976; Amended Eff. October 1, 1993; June 1, 1992; October 1, 1991; January 3, 1984; Repealed Eff. July 1, 2006.

17 NCAC 07B .0401 SPECIFIC INDUSTRIES:
CLASSIFICATIONS
17 NCAC 07B .0402 FURNITURE FACTORIES
17 NCAC 07B .0403 BOTTLING PLANTS
17 NCAC 07B .0404 ELECTRIC POWER
COMPANIES
17 NCAC 07B .0405 MINING AND QUARRYING
17 NCAC 07B .0406 OTHER MILLS AND
PROCESSORS
17 NCAC 07B .0407 DAIRIES AND CREAMERIES

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-164.21A; 105-262; 105-264; Eff. February 1, 1976; Amended Eff. August 1, 1998; October 1, 1993; October 1, 1991; August 1, 1988; June 1, 1985; June 1, 1984; May 11, 1979; September 30, 1977; Repealed Eff. July 1, 2006.

17 NCAC 07B .0502 PACKAGING MATERIALS

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; Eff. February 1, 1976; Amended Eff. October 1, 1993; October 1, 1991; Repealed Eff. July 1, 2006.

17 NCAC 07B .0601 IN GENERAL
17 NCAC 07B .0602 PACKAGING MACHINERY
17 NCAC 07B .0603 TAPE DISPENSING MACHINES
17 NCAC 07B .0604 STRAPPING MACHINE
17 NCAC 07B .0605 MIXING TANKS

17 NCAC 07B .0606 EQUIPMENT	POLLUTION ABATEMENT
17 NCAC 07B .0607	GAS STACKS
17 NCAC 07B .0608	PRINTING PLATES
17 NCAC 07B .0609 CHEMICALS	POLLUTION ABATEMENT
17 NCAC 07B .0610 EQUIPMENT AND CHEMICALS	WATER PURIFICATION

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; Eff. February 1, 1976; Amended Eff. October 1, 1993; October 1, 1991; April 1, 1986; July 5, 1980; May 11, 1979; September 30, 1977; Repealed Eff. July 1, 2006.

17 NCAC 07B .0613	CHEMICALS FOR BOILERS
17 NCAC 07B .0614	IDENTIFICATION AND INSTRUCTION TICKETS
17 NCAC 07B .0615 MANUFACTURERS	INSULATION MATERIALS:
17 NCAC 07B .0616	SANDBLAST SAND
17 NCAC 07B .0617	LIFT TRUCKS
17 NCAC 07B .0618 APPLICATION: SYSTEM	SINGLE ARTICLE
17 NCAC 07B .0619	WELDING RODS
17 NCAC 07B .0620 REMOVERS	COMBUSTIBLE SOOT
17 NCAC 07B .0621	ELECTRIC LIGHT BULBS
17 NCAC 07B .0622	PRINTING PRESSES
17 NCAC 07B .0623 SALT	CALCIUM CHLORIDE AND
17 NCAC 07B .0624	ELEVATORS
17 NCAC 07B .0625 CONTRACTORS	INSULATION MATERIALS:
17 NCAC 07B .0626	PAPER STOCK
17 NCAC 07B .0627	HANG TAGS AND LABELS
17 NCAC 07B .0628	STOCK CONTROL CARDS
17 NCAC 07B .0629	OFFICE SUPPLIES: STENCILS
17 NCAC 07B .0630	SCALES
17 NCAC 07B .0631	SEWAGE TREATMENT PLANTS
17 NCAC 07B .0632	GRAIN ELEVATORS
17 NCAC 07B .0633	ANIMALS AND ANIMAL CAGES
17 NCAC 07B .0634	ELECTRIC POWER DRIVE

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; Eff. February 1, 1976; Amended Eff. October 1, 1993; October 1, 1991; July 1, 1984; July 5, 1980; May 11, 1979; September 30, 1977; September 14, 1977; Repealed Eff. July 1, 2006.

17 NCAC 07B .0701	IN GENERAL
17 NCAC 07B .0702	FURNITURE FACTORIES
17 NCAC 07B .0703	BOTTLING PLANTS
17 NCAC 07B .0704	MINING AND QUARRYING
17 NCAC 07B .0705	TEXTILE MILLS
17 NCAC 07B .0706	SAWMILLS

17 NCAC 07B .0707	CONCRETE MANUFACTURERS
17 NCAC 07B .0708	ICE MANUFACTURERS
17 NCAC 07B .0709	PURIFICATION PLANTS
17 NCAC 07B .0710	FOOD PROCESSORS
17 NCAC 07B .0711	MODULAR HOME MANUFACTURERS
17 NCAC 07B .0712	MONUMENT MANUFACTURERS
17 NCAC 07B .0713	ELECTROPLATING INDUSTRIES
17 NCAC 07B .0714	REFRACTORY MANUFACTURERS
17 NCAC 07B .0715	HATCHERIES
17 NCAC 07B .0716	STATE AGENCIES

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; Eff. February 1, 1976; Amended Eff. April 1, 1995; October 1, 1993; June 1, 1992; October 1, 1991; October 1, 1990; March 1, 1984; January 1, 1982; July 5, 1980; May 11, 1979; September 30, 1977; Repealed Eff. July 1, 2006.

17 NCAC 07D .0101 PRIVILEGE TAX ON MANUFACTURING AND PROCESSING MACHINERY

(a) Streamlined Sales Tax Agreement Certificates of Exemption, Form E-595E, are available from the Taxpayer Assistance Division, North Carolina Department of Revenue, for use in connection with sales of manufacturing fuel and mill machinery, mill machinery parts and accessories as the vendor's authority to exempt such sales from sales and use tax. Purchases of manufacturing fuel and mill machinery, mill machinery parts, and accessories are subject to a privilege tax. The rate for manufacturing fuel is one percent. The rate for mill machinery, mill machinery parts, and accessories is one percent with a maximum tax of eighty dollars (\$80.00) per article.

(b) Sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts encompassed in such contracts with manufacturing industries and plants are exempt from sales and use tax where applicable. Such mill machinery or mill machinery parts and accessories must be for use by a manufacturing industry or plant in the production process, as the term "production" is defined in 17 NCAC 07D .0102(a)(1), to qualify for the exemption from sales and use tax when purchased by such contractors or subcontractors. Contractors and subcontractors may obtain Form E-595E, Streamlined Sales Tax Agreement Certificate of Exemption, from the Taxpayer Assistance Division, North Carolina Department of Revenue, to be executed by them and furnished to their vendors in connection with such purchases as the vendor's authority to exempt such sales from the sales and use tax. Such purchases of mill machinery, mill machinery parts, and accessories are subject to a one percent privilege tax with a maximum tax of eighty dollars (\$80.00) per article. The purchaser must file Form

E-500J, Machinery, Equipment, and Fuel Tax Return, and pay the tax directly to the Department.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-187.51; 105-187.52; 105-262; 105-264; Eff. July 1, 2006.

17 NCAC 07D .0102 CLASSIFICATION OF MANUFACTURING ACTIVITIES FOR PRIVILEGE TAX

(a) For the purposes of administering the privilege tax, the following classifications are based on the three principal activities of manufacturers and industrial processors and shall be followed by manufacturers purchasing tangible personal property which is used or consumed in different phases of the operation of an industrial plant:

(1) Production as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating or other operations are done on ingredient materials as an actual routine on a processing or assembly line turning out a finished product of manufacture. It shall also include the movement of raw materials or ingredients from an inventory or a stockpile located on the premises of the manufacturing facility to the assembly or processing line, the movement of goods in process along the processing line and the movement of manufactured products from the assembly or processing line into shipping or storage areas and yards located on the premises of the manufacturing facility. Purchases by a manufacturing industry or plant of machinery, and parts and accessories therefore for use in production, as defined above, are classified as mill machinery and mill machinery parts and accessories. The term production shall also mean the work of experimentation and research performed on the manufactured products. Purchases by a manufacturing industry or plant of research and development equipment and supplies for quality control or the improvement of its manufactured products or for the development of products which it will manufacture are classified as mill machinery and mill machinery parts and accessories. Items which are not classified as mill machinery and mill machinery parts and accessories when purchased by manufacturing industries and plants for use in their research and development areas include such items as desks, calculators, personal computers and chairs and are subject to the applicable statutory state and local sales or use tax. Production does not include any activity connected with the movement of raw materials or ingredients into inventory nor does it

include distribution as defined in Subparagraph (a)(2) of this Rule. Sales to manufacturing industries and plants of machinery, parts and accessories to such machinery, or other items of tangible personal property which are used in the movement of raw materials or ingredients into inventory or in distribution activities as defined or which are used for other similar purposes are subject to the applicable statutory state and local sales or use tax.

(2) Distribution with reference to industrial and manufacturing plants shall mean any activity connected with the movement of manufactured products within storage warehouses, shipping rooms and other such finished products storage areas and the removal of such products there from for sale or shipment. Sales of distribution equipment to manufacturing industries and plants are subject to the applicable statutory state and local sales or use tax.

(3) Administration with reference to industrial and manufacturing plants shall mean and include the administrative work of offices, promotion of sales and collection of accounts. Sales of administrative equipment, such as office equipment of all kinds, stationery and related articles such as pens, pencils, rubber stamps, paper cutters, printed forms, books of accounts and records, file cabinets, small tools and implements such as scissors, staplers, desk trays, and other miscellaneous articles generally sold exclusively for office use and furniture and fixtures are subject to the applicable statutory state and local sales or use tax.

(b) Any question regarding the application of the proper rate of tax, the classification of a purchaser for purposes of the sales and use tax or privilege tax, or the exempt status of certain transactions may be submitted to the department for determination. Persons purchasing articles subject to the eighty dollars (\$80.00) maximum tax shall not treat as one article two or more articles which, when joined together, make a functional unit or several components of machinery or equipment purchased from the same or different vendors which may be assembled by the purchaser into a single article. The purchase of a quantity of repair parts necessary to recondition or upgrade mill machinery is not considered a single article. If there is any question as to whether property involved in any transaction involves one or more articles, such question may be submitted to the department for decision.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-187.51; 105-187.52; 105-262; 105-264; Articles 39, 40, 42, 43, 44; Eff. July 1, 2006.

17 NCAC 07D .0103 SALES BY MANUFACTURERS

(a) Sales of tangible personal property by a manufacturer to a registered retailer or a wholesale merchant in this State for the purpose of resale are not subject to sales or use tax if the transactions are supported by properly executed Form E-595E, Streamlined Sales Tax Agreement Certificate of Exemption.

(b) Sales of tangible personal property by a manufacturer to a nonresident retail or wholesale merchant for the purpose of resale in another state are not subject to sales or use tax even though the property is delivered to purchasers in this State if the nonresident retail or wholesale merchant is registered for sales and use tax purposes in a taxing jurisdiction outside this State and the transactions are supported by properly executed Form E-595E, Streamlined Sales Tax Agreement Certificate of Exemption.

(c) Sales of tangible personal property by a manufacturer who delivers the property to purchasers outside this State or who delivers the property to a common carrier or to the mails for delivery to purchasers at a point outside this State are not subject to sales or use tax. These sales must be supported by the prescribed records.

(d) Sales of tangible personal property by manufacturers to nonregistered merchants in this State and sales to nonregistered nonresident merchants who accept delivery of the property in this State are subject to the applicable statutory state and local sales or use tax unless specifically exempt from tax.

(e) Manufacturers who make sales to registered merchants for resale or sales that are otherwise exempt from the sales and use tax are not required to report the sales to the Department; however, manufacturers making taxable retail sales or purchases subject to the applicable statutory state and local use tax must register with the Department and file sales and use tax reports reflecting the taxable sales or purchases and pay the applicable statutory sales and use tax due thereon.

(f) A manufacturer becomes liable for the applicable state sales and use tax on its sales of tangible personal property when it sells directly to users and consumers, including employees. These sales include all of the following:

- (1) sales of bottled drinks by a bottling plant to users and consumers, including employees.
- (2) sales to employees or other persons of food products, meals, and other prepared foods by an industrial plant or other business of any kind through a commissary, concession stand, cafeteria, lunch stand, or other similar place.
- (3) sales of fuel, hosiery, furniture, or any other kind of taxable tangible personal property to employees or any other users or consumers.

(g) A manufacturer's casual or occasional sale of its worn out, obsolete, or surplus machinery, accessories, and similar items are not subject to the sales and use tax. A manufacturer that purchases such worn out, obsolete, or surplus machinery, accessories, and similar items is not liable for paying the privilege tax on such purchases.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-164.28; 105-187.51; 105-187.52; 105-262; Articles 39, 40, 42, 43, 44; Eff. July 1, 2006.

17 NCAC 07D .0104 PURCHASES BY MANUFACTURERS

Purchases of tangible personal property by a manufacturer for use in its business are subject to either the sales or use tax or privilege tax. A manufacturer who owes use tax must report and pay the tax in accordance with the filing requirements for a wholesale merchant.

History Note: Authority G.S. 105-164.3; 105-164.6; 105-187.50; 105-187.51; 105-187.51A; 105-187.52; 105-262; Articles 39, 40, 42, 43, 44; Eff. July 1, 2006.

17 NCAC 07D .0201 MILL MACHINERY

The following items, when purchased by manufacturing industries and plants for use in their manufacturing process, are considered mill machinery, mill machinery parts and accessories within the meaning of the Article F (manufacturing fuel and certain machinery and equipment):

- (1) motors, pulleys, motor bases but not foundations, gears, belts, chains and textile rope drives, line shafting with hangers and pulleys, and other types and makes of drives connecting motors to the driven machinery for direct production processes;
- (2) controls for motors consisting of:
 - (a) magnetic starters, push button stations, pressure and float switches, and other types of relays operating motor controllers;
 - (b) compensators of auto transformer starters;
 - (c) thermal relay types of motor starters;
 - (d) drum controllers and resistors;
 - (e) disconnecting switches when built as a part of magnetic starters;
 - (f) oil switches;
 - (g) synchronous motor controllers if a part of production machinery, but not otherwise;
- (3) repair and renewal parts for motors and motor controllers as production machinery;
- (4) steam engines, gasoline engines, diesel engines, motor generators;
- (5) pumps for industrial processes, air compressors, air hoses and nozzles, and pipe for carrying compressed air from compressor to hose for cleaning machinery and equipment; pumps used to remove waste of a manufacturing process;
- (6) moistening or humidifying equipment on or adjacent to machinery when the function of this equipment is the conditioning of materials for processing; This includes piping located on or immediately adjacent to mill machinery and which supports and supplies water to moistening or humidifying equipment, but does not include general piping in the mill supplying water to moistening or humidifying

equipment. General piping in the mill is subject to the applicable statutory state and local sales or use tax;

(7) that portion of the purchase price of general air conditioning systems allocated to conditioning materials for processing;

(8) boiler room machinery with flue cleaners, and brushes for boiler tubes, when the boilers are operated for power generation or supplementary thereto in connection with manufacturing processes; stokers, shovels, and other equipment used in boiler rooms for feeding fuels and water to power units, and smoke stacks which are attached to and are a part of the boilers. Equipment as used here does not include storage places for fuels and water, or reserve tanks, bins or other similar items located either inside or outside power rooms or buildings. Storage tanks, bins or other facilities for water, fuel, raw materials or manufactured products are not considered as mill machinery or accessories to such machinery and are therefore subject to the applicable statutory state and local sales or use tax. However, tanks, bins and other facilities in which mixing, blending or other processing action takes place are classified as mill machinery or accessories and are therefore subject to the one percent privilege tax with a maximum tax of eighty dollars (\$80.00) per article when such items are used in the manufacturing operation;

(9) conveyors, hoists and hoist cables, (but not track or other fixtures determined to be a part of and which lend support to the building or structure) roving trucks and other materials handling equipment, including lift trucks, used in individual mills for transporting materials or spindles or like articles from inventory to the manufacturing process, transporting materials during temporary interruptions in the manufacturing process in the mill or moving the finished product from the manufacturing or processing line into shipping and storage areas or yards at the individual mill or plant. Included for the purpose of this Paragraph are work tables, with seats and other accessories thereto at which employees work on materials in process; racks, bins, canvas baskets and similar equipment for handling goods in process; and roving cans;

(10) hand tools designed for use on a particular machine, such as special wrenches supplied by makers of textile machinery for special machines; hammers, screwdrivers, blow torches, soldering irons, rubber mallets and similar general-use tools and machines used in repair shops to repair mill machinery or along the production line to perform work necessary as a part of the manufacturing processes and all files for general and specific use in a mill or manufacturing plant;

(11) metal-cutting and wood-cutting lathes and their accessories in all kinds of manufacturing plants, factories and mills; band saws, circular saws, all hack saws and blades; shapers and accessories, jointers, planers; drill presses; welding machines; torches; and all other manufacturing machinery and accessories thereto; spinners' whisks, comber brushes and other brushes, in hosiery mills and cotton mills, designed for use on particular machines; polishing wheels, sanding machines and drums, portable or stationary; sandpaper, emery cloth, rubbing tow, paint brushes and filler brushes, steel wool, rubbing waste or cloths or other hand or machine devices for polishing or other finishing processes on a manufactured product; oils and lubricants for use in lubricating production machinery; and wiping cloths, cleaning compounds and paint for mill machinery, mill machinery parts and accessories; chemicals or other materials used to clean ingredient or component parts of manufactured products but which do not enter into or become an ingredient or component part of property being manufactured;

(12) dyehouse thermometers, recording charts for mill machinery, hank scales and yarn scales, and tachometers and other testing devices used for checking performance or output of machinery;

(13) air compressors, steam hose and air hose for cleaning mill machinery;

(14) cloth pencils and mill crayons for marking cloth, lumber or other ingredients in process;

(15) dynamite and other explosives used in mining and quarrying whether or not such mining or quarrying is carried on as a regular or continuous business within itself, or as a part of a manufacturing industry. Sales of explosives used in excavation in connection with building or construction are subject to the applicable statutory state and local sales or use tax;

(16) machinery and equipment used in packaging manufactured products as a part of the manufacturing process;

(17) pollution abatement equipment used in the manufacturing process.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-187.51; 105-187.52; Articles 39, 40, 42, 43, 44; Eff. July 1, 2006.

17 NCAC 07D .0202 ITEMS NOT MILL MACHINERY
The following items are not considered mill machinery or mill machinery parts and accessories to manufacturing industries and

plants and are therefore subject to the applicable statutory state and local sales or use tax:

- (1) tangible personal property attached to or in any way a part of any building or structure of any kind whatsoever; freight elevators; plumbing and sprinkler systems; electric wiring and electric fixtures; electric lamps and tubes; and fuses and fuse links. Electrical equipment, including control panels, or wiring and related conduit affixed to mill machinery to furnish power to mill machinery and equipment, is classified as an accessory to such machinery and is therefore subject to the one percent privilege tax with a maximum tax of eighty dollars (\$80.00) per article. However, electrical equipment or wiring and related conduit which is used for general distribution of power to or in a manufacturing industry or plant is subject to the applicable statutory state and local sales or use tax;
- (2) that part of the purchase price of a general air conditioning or humidifying system charged to general building heating or cooling or to moistening of air for the comfort and convenience of employees;
- (3) ventilating fans in walls or roofs of buildings and portable or stand type fans for plant ventilation; make-up air systems used for the purpose of ventilating manufacturing industries and plants. However, exhaust fans or hoods that are a part of mill machinery and which remove fumes, vapors or dust arising from the manufacturing operation which would damage the product in process or the mill machinery unless removed from the area would be classified as mill machinery or mill machinery parts and accessories and subject to the one percent privilege tax;
- (4) all scales not used in the manufacturing process;
- (5) time clocks and cards, and all signal systems operated therewith; watch clocks and watch clock stations; and all parts and supplies therefore;
- (6) protective clothing, such as gloves, safety shoes and similar items, regardless of whether they are purchased and paid for by the employer or the employee;
- (7) machinery and equipment used in warehouses, shipping rooms or other locations separate and apart from the manufacturing process to prepare property for shipment.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-187.51; 105-187.52; 105-262; Articles 39, 40, 42, 43, 44; Eff. July 1, 2006.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 02 - BOARD OF ARCHITECTURE

21 NCAC 02 .0208 DISHONEST CONDUCT

- (a) **Deception.** An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with his application for registration renewal.
- (b) **Contributions.** An architect shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
- (c) **Registration of Others.** An architect shall not assist the application for registration of a person known by the architect to be unqualified with respect to education, training, experience, or character.
- (d) **Knowledge of Violation.** An architect possessing knowledge of a violation of these Rules by another architect shall report such a violation to the Board.

History Note: Authority G.S. 14-353; 83A-6; 83A-14; 83A-15;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff.; July 1, 2006; December 1, 1995; June 1, 1995; October 1, 1989; May 1, 1989.

21 NCAC 02 .0209 UNPROFESSIONAL CONDUCT

In addition to those grounds as stated in G.S. 83A-15(3) the following acts or omissions, among others, may be deemed to be "unprofessional conduct" and to be cause for the levy of a civil penalty or for denial, suspension, or revocation of a license or certificate of registration to practice architecture:

- (1) **Compliance With Laws.** It shall be deemed unprofessional conduct for an architect, in the conduct of his or her professional practice, to knowingly violate any state or federal criminal law. A criminal conviction shall be deemed *prima facie* evidence of knowingly violating the law.
- (2) **Compliance With Foreign Registration.** It shall be deemed unprofessional conduct for an architect to knowingly violate the laws governing the practice of architecture or the rules promulgated by any other architectural licensing board in any United States jurisdiction. A finding by a foreign architectural registration board that an architect has violated a law or rule governing the practice of architecture shall be deemed *prima facie* evidence of knowingly violating the law or rule.
- (3) **Product Specification.** It shall be deemed unprofessional conduct for an architect to solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying their products.

(4) Advertising. It shall be deemed unprofessional conduct for an architect to engage in any false, deceptive, fraudulent, or misleading advertising.

(5) False Statements. It shall be deemed unprofessional conduct for an architect to knowingly make false statements about the professional work of; or to maliciously injure the prospects, practice, or employment position of others active in the design and construction of the physical environment.

(6) Evasion. Evasion shall be as follows:

(a) It shall be deemed unprofessional conduct for an architect, through employment by building contractors, or by another not holding an individual or corporate certificate from the Board, to enable the employer to offer or perform architectural services, except as provided in G.S. 83A-13. In design/build arrangements, the architect shall not be an employee of a person or firm not registered or licensed to practice architecture in North Carolina.

(b) It shall be deemed unprofessional conduct for an architect to furnish limited services in such manner as to enable owners, draftsmen, or others to evade the public health and safety requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.

(c) When building plans are begun or contracted for by persons not licensed and qualified, it shall be deemed unprofessional conduct for an architect to take over, review, revise, or sign or seal such drawings or revisions thereof for such persons, or do any act to enable either such persons or the project owners, directly or indirectly, to evade the requirements of Chapter 83A, G.S. 133-2, G.S. 153A-357, or G.S. 160A-417.

(7) Branch Office. It shall be deemed unprofessional conduct for an architect to maintain or represent by sign, listing, or other manner that he maintains an architectural office or branch office unless such office is continuously staffed with a registered architect in charge. Provided, however, that this Rule does not apply to on-site project offices during construction.

(8) Misrepresentation Regarding Prior Experience. An architect shall accurately represent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit. Misrepresentation shall be as follows:

(a) It shall be the responsibility of each registered architect to state prior professional experience of the architect and the firm the architect is representing in presenting qualifications to prospective clients, both public and private. If an architect uses visual representations of prior projects or experience, all architects-of-record must be clearly identified. Architect-of-record means persons or entities whose seals appear on plans, specifications and/or contract documents.

(b) An architect who has been an employee of another architectural practice may not claim credit for projects contracted for in the name of the previous employer. The architect shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee, and identify the previous architectural firm. The architect shall also describe the nature and extent of his/her participation in the project.

(c) An architect who was formerly a principal in a firm may make additional claims provided he/she discloses the nature of ownership in the previous architectural firm (e.g. stockholder or junior partner) and identifies with specificity his/her responsibilities for that project.

(d) An architect who presents a project that has received awards recognition must comply with the requirements in Subparagraph (8) of this Rule with regard to project presentation to the public and prospective clients.

(e) Projects which remain unconstructed and which are listed as credits shall be listed as "*unbuilt*" or a similar designation.

(9) Fee Bidding on Public Projects. An architect shall not knowingly cooperate in a violation of any provisions of G.S. 143-64.31.

(10) Cooperation with Board. An architect shall cooperate with the Board in connection with any inquiry it shall make. Cooperation includes responding in a timely manner to all inquiries of the Board or representative of the Board and claiming Board correspondence from the U.S. Postal Service.

(11) Copyright Infringement. It shall be deemed unprofessional conduct for an architect to be found by a court to have infringed upon the copyrighted works of other architects or design professionals.

History Note: Authority G.S. 83A-6; 83A-14; 83A-15; Eff. February 1, 1976; Amended Eff. February 24, 1976; Readopted September 29, 1977; Amended Eff. July 1, 2006; June 1, 1995; July 1, 1992; October 1, 1989; May 1, 1989.

21 NCAC 02 .0302 EXAMINATION

(a) Licensure Examination. All applicants for architectural registration in North Carolina by examination must pass the Architectural Registration Examination (ARE), prepared by the National Council of Architectural Registration Boards (NCARB). Provided, applicants who have never been registered in any state or territory may transfer credits for portions of the examination previously passed in another state if at the time of taking the exam elsewhere they otherwise qualified for taking the exam under the rules in this Chapter.

(1) Description. The nature of the examination is to place the candidate in areas relating to actual architectural situations whereby his abilities to exercise competent value judgments will be tested and evaluated.

(2) Qualifications. The prequalifications necessary for an applicant's admission to the Architectural Registration examination (ARE) are as follows:

- (A) be of good moral character as defined in G.S. 83A-1(5);
- (B) be at least 18 years of age;
- (C) the professional education qualification is the NAAB (National Architectural Accrediting Board) accredited professional degree in architecture;
- (D) all applicants who apply for architectural registration shall be required to follow the Intern Development Program (IDP) through the National Council of Architectural Registration Boards or an equivalent program approved by the North Carolina Board of Architecture in order to satisfy the requirements of this Section.

(b) Retention of Credit. Passing grades on any part of the ARE shall remain valid for a period of time established by the exam provider, NCARB.

(c) Practical Training. Practical training means practical experience and diversified training as defined by the Intern Development Program (IDP) through the National Council of Architectural Registration Boards. However, the Board reserves the right to judge each case on its own merits.

(d) Personal interview. During the application process, the applicant may be interviewed by the Board members. The purpose of the interview is to augment the evidence submitted in an application with regard to education and experience.

(e) Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB.

(1) An applicant must receive a passing grade in each division. Grades from the individual divisions shall not be averaged. A passing grade for any division on any examination taken after July 1, 1996 and before January 1, 2006, shall be valid only for five years.

(2) Each candidate shall be assigned a number that will be unique for each candidate.

(f) A person currently employed under the responsible control of an architect, who holds a first Professional Degree from a NAAB accredited program, and who maintains in good standing or has successfully completed a National Council of Architectural Registration Boards Record in the Intern Development Program (IDP) may use the title "Architectural Intern" in conjunction with his current employment.

History Note: Authority G.S. 83A-1; 83A-6; 83A-7;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. July 1, 2006; July 1, 2000; July 1, 1996; June 1, 1995; December 1, 1992; July 1, 1991.

CHAPTER 14 – COSMETIC ART EXAMINERS

21 NCAC 14I .0105 TRANSFER OF CREDIT

(a) In order that hours may be transferred from one cosmetic art school to another, a student must pass an entrance examination given by the school to which the student is transferring.

(b) A cosmetology student must complete at least 500 hours in the cosmetic art school certifying his or her application for the state board examination.

(c) Upon written petition by the student, the Board shall make an exception to the requirements set forth in Paragraph (b) of this Rule if the student shows that circumstances beyond the student's control prohibited him or her from completing 500 hours at the school that certifies his or her application.

(d) A student who transfers from a cosmetology curriculum to a manicuring or an esthetics curriculum shall not receive credit for hours received in the cosmetology curriculum.

(e) A student who transfers from a manicurist or an esthetic curriculum to a cosmetology curriculum shall not receive credit for hours received in the manicurist or an esthetic curriculum.

(f) If a student is transferring from another state, the student shall submit certification of hours and performances to the cosmetic art school in which they are enrolled.

(g) Licensed manicurists or estheticians may apply up to 50 percent of required hours earned toward another cosmetic art curriculum.

History Note: Authority G.S. 88B-4;

Eff. February 1, 1976;

Amended Eff. July 1, 2006; December 1, 2004; February 1, 2004; August 1, 1998; December 1, 1993; January 1, 1991; January 1, 1989; April 1, 1988.

CHAPTER 36 - BOARD OF NURSING

21 NCAC 36 .0318 FACULTY

(a) Full-time and part-time faculty members shall be considered nursing program faculty. When part-time faculty are utilized, they shall participate in curriculum implementation and evaluation.

(b) Policies for nursing program faculty members shall be consistent with those for other faculty of the institution. Variations in these policies may be necessary due to the nature of the nursing curriculum.

(c) Nurse faculty members shall be academically qualified and sufficient in number to accomplish program outcomes.

(d) Each nurse faculty member shall hold a current unrestricted license to practice as a registered nurse in North Carolina. The program director shall document current licensure to practice as a registered nurse in North Carolina.

(e) Nursing faculty who teach in a program leading to initial licensure as a nurse shall:

- (1) hold either a baccalaureate in nursing or a master's degree in nursing from an accredited institution;
- (2) if employed after December 31, 1983, have two calendar years or the equivalent of full time clinical experience as a registered nurse;
- (3) prior to or within the first three years of employment, have preparation in teaching and learning principles for adult education, including curriculum development, implementation, and evaluation, appropriate to assignment. This preparation may be demonstrated by one of the following:
 - (A) completion of 45 contact hours of continuing education courses;
 - (B) completion of a certificate program in nursing education;
 - (C) nine semester hours of education coursework;
 - (D) national certification in nursing education; or
 - (E) documentation of successful completion of structured, individualized development activities of at least 45 contact hours approved by the Board. Criteria for approval include content in the faculty role within the curriculum implementation, objectives to be met and evaluated, review of strategies for identified student population and expectations of student and faculty performance;

- (4) by December 31, 2010, all current faculty shall meet the requirements in Subparagraph (e)(3) of this Rule;
- (5) maintain competence in the areas of assigned responsibility; and
- (6) have current knowledge of nursing practice for the registered nurse and the licensed practical nurse.

(f) Interdisciplinary faculty who teach in nursing program courses shall have academic preparation in the content area they are teaching.

(g) Clinical preceptors shall have competencies, assessed by the nursing program, related to the area of assigned clinical teaching responsibilities and serve as role models to the student. Clinical preceptors may be used to enhance faculty-directed clinical learning experiences after a student has received basic instruction for that specific learning experience. Clinical preceptors shall hold a current, unrestricted license to practice as a registered nurse in North Carolina.

(h) Nurse faculty members shall have the authority and responsibility for:

- (1) student admission, progression, and graduation requirements; and
- (2) the development, implementation, and evaluation of the curriculum.

(i) Nurse faculty members shall be sufficient in number to implement the curriculum as demanded by the course objectives, the levels of the students, and the nature of the learning environment, and shall be sufficient to provide for teaching, supervision and evaluation. The faculty-student clinical ratio shall be 1:10 or less.

(j) There shall be written evaluation of each nurse faculty member by the program director or a designee; and a written evaluation of the program director according to the institutional policy.

History Note: Authority G.S. 90-171.23(b)(8); 90-171.38; 90-171.83;

Eff. February 1, 1976;

Amended Eff. July 1, 2006; July 1, 2000; January 1, 1996; June 1, 1992; January 1, 1989; January 1, 1984.

CHAPTER 53 - BOARD OF LICENSED PROFESSIONAL COUNSELORS

21 NCAC 53 .0102 PROFESSIONAL ETHICS

The Board of Licensed Professional Counselors has adopted the Code of Ethics and Standards of Practice promulgated by the American Counseling Association, effective 2005, including the guidelines for the practice of online counseling adopted in October 1999 and any subsequent revisions of or amendments to the Code of Ethics and Standards published by the American Counseling Association and they are hereby incorporated by reference. Copies of the Code of Ethics and Standards are available free of charge from the American Counseling Association, 5999 Stevenson Ave., Alexandria, VA 22304, and online at www.counseling.org.

History Note: Authority G.S. 90-334(h); 1993 S.L. c. 514, s.5;
Temporary Rule Eff. February 21, 1984, for a Period of 120 Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. July 1, 2006; July 1, 1994.

21 NCAC 53 .0205 COUNSELING EXPERIENCE

Counseling [counseling services as defined in G.S. 90-330(a)(3)] experience applicable to the experience requirement for licensure consists of a minimum of 2000 hours of supervised professional practice. No more than 750 hours may be obtained as part of the master's degree. The remaining 1250 hours must be obtained after the master's degree has been awarded. The post-master's experience shall be for a period of at least two years. To be applicable, experience shall be gained at a rate of not less than eight hours per week. At least 100 hours of individual or group clinical supervision shall be documented during the minimum of 2000 hours of supervised professional practice at a rate of not less than one hour of clinical supervision per 40 hours of experience, and at least three-quarters of the hours of clinical supervision shall be individual.

History Note: Authority G.S. 90-334(i); 90-336(b)(2);
Eff. July 1, 1995;
Amended Eff. July 1, 2006.

21 NCAC 53 .0208 SUPERVISED PROFESSIONAL PRACTICE

Supervised professional practice consists of counseling experience under the supervision of a qualified clinical supervisor, as defined in Rule .0209 of this Section, including a minimum of one hour of individual and group clinical supervision per 40 hours of counseling practice. At least three-quarters of the hours of clinical supervision shall be individual. Persons who are exempt from licensure under the provisions of G.S. 90-332.1(a)(4) and who wish to counsel as employed supervised counselors in supervised professional practices under G.S. 90-336(b)(2) shall have their arrangements for supervised practice approved by the Board prior to engaging in practice. Persons who wish to counsel as employed supervised counselors in independent (private) practices must be under the on-site supervision of a qualified clinical supervisor who provides supervision on a case-by-case basis, and must have their arrangements for supervised practice approved by the Board prior to engaging in practice.

History Note: Authority G.S. 90-332.1(a)(4); 90-334(i); 90-336(b)(2);
Eff. July 1, 1995;
Amended Eff. July 1, 2006.

21 NCAC 53 .0209 QUALIFIED CLINICAL SUPERVISOR

A qualified clinical supervisor is a licensed professional counselor with at least a master's degree in counseling and a minimum of five years of counseling experience, with a minimum of two years post licensure experience or other

equivalently licensed and experienced qualified mental health professionals, as determined by the Board. Equivalently experienced means that the licensed professional must have a minimum of five years counseling experience, with a minimum of two years post licensure experience.

History Note: Authority G.S. 90-330(a)(4); 90-334(i); 90-336(b)(2);
Eff. July 1, 1995;
Amended Eff. July 1, 2006.

21 NCAC 53 .0212 FACE TO FACE SUPERVISION DEFINED

For the purposes of this Chapter, face to face supervision means supervision that is live, interactive, and visual. Video supervision with no interaction with the facilitator does not qualify for face to face supervision.

History Note: Authority G.S. 90-334(h);
Eff. July 1, 2006.

21 NCAC 53 .0304 APPLICANTS LICENSED IN OTHER STATES

If a candidate is licensed to practice counseling by a Board in another state, the applicant must apply for licensure with the North Carolina Board. The Board shall consider the application in accordance with the provisions of G.S. 90-336 and G.S. 90-337.

History Note: Authority G.S. 90-334; 90-337; 1993 S.L. c. 514, s. 5;
Temporary Rule Eff. February 21, 1984, for a Period of 120 Days to Expire on June 19, 1984;
Eff. July 1, 1984;
Amended Eff. July 1, 2006; July 1, 1994.

21 NCAC 53 .0305 EXAMINATION

The National Counseling Examination (NCE) of the National Board for Certified Counselors (NBCC) is the examination required for licensure. The Board shall accept counselor licensing examinations from other states if the examinations are recognized by the NBCC. The Board shall accept examinations administered by other state counselor licensing boards and professional counselor credentialing associations if the Board determines that such examinations are equivalent to the NCE relative to content and minimum satisfactory performance level.

History Note: Authority G.S. 90-334(g); 90-336(b)(3); 90-337;
Eff. July 1, 1995;
Amended Eff. July 1, 2006.

21 NCAC 53 .0502 EXAMINATION FEE

Examination fees are set by the individual examination agencies but shall not exceed the amount set in G.S. 90-334(f).

History Note: Authority G.S. 90-334;
Temporary Rule Eff. February 21, 1984, for a Period of 120 Days to Expire on June 19, 1984;

Eff. July 1, 1984;
Amended Eff. July 1, 2006; July 1, 1994.

CHAPTER 54 - NORTH CAROLINA PSYCHOLOGY BOARD

21 NCAC 54 .1707 SENIOR PSYCHOLOGIST

(a) A senior psychologist is someone who has achieved longevity in the practice of psychology and has demonstrated exemplary professional behavior over the course of his/her career, as defined in this Rule.

(b) Except as provided in Paragraph (c) of this Rule, to be approved for licensure at the Licensed Psychologist level on the basis of senior psychologist status, an applicant shall hold a doctoral degree in psychology from an institution of higher education and shall meet all of the following requirements:

- (1) is licensed and has been licensed for 12 continuous years at the doctoral level by one or more other state or provincial psychology boards which are members of the Association of State and Provincial Psychology Boards, during which time, and in which jurisdiction(s), he/she has practiced psychology for a minimum of 10 years on at least a half-time (i.e., 20 hours per week) basis;
- (2) has had no disciplinary sanction during his/her entire period of licensure in any jurisdiction;
- (3) has no unresolved complaint in any jurisdiction at the time of application or during the pendency of application in North Carolina; and
- (4) passes the North Carolina State Examination.

(c) An applicant who received the doctoral degree prior to January 1, 1978, upon which his or her psychology licensure in another jurisdiction is based, shall hold a doctoral degree from an institution of higher education and meet all of the requirements specified in Subparagraphs (b)(1) through (b)(4) of this Rule.

(d) Except as provided in Paragraph (e) of this Rule, to be approved for licensure at the Licensed Psychological Associate level on the basis of senior psychologist status, an applicant shall hold a master's, specialist, or doctoral degree in psychology from an institution of higher education and shall meet all of the following requirements:

- (1) is licensed and has been licensed for 12 continuous years at the master's level by one or more other state or provincial psychology boards which are members of the Association of State and Provincial Psychology Boards, during which time, and in which jurisdiction(s), he/she has practiced psychology for a minimum of 10 years on at least a half-time (i.e., 20 hours per week) basis;
- (2) has had no disciplinary sanction during his/her entire period of licensure in any jurisdiction;

(3) has no unresolved complaint in any jurisdiction at the time of application or during the pendency of application in North Carolina; and

(4) passes the North Carolina State Examination.

(e) An applicant who received the degree prior to January 1, 1978, upon which his or her psychology licensure in another jurisdiction is based, shall hold a master's, specialist, or doctoral degree from an institution of higher education and meet all of the requirements specified in Subparagraphs (d)(1) through (d)(4) of this Rule.

(f) The information required for each applicant shall consist of:

- (1) typed, or legibly printed, notarized application form, including an affidavit which attests to meeting the requirements specified in Subparagraphs (b)(1) through (b)(3) or Subparagraphs (d)(1) through (d)(3) of this Rule, as applicable;
- (2) typed, or legibly printed, notarized supervision contract form;
- (3) application fee;
- (4) official college transcript(s) sent directly to the Board by any training institution(s) from which the applicant received a graduate degree;
- (5) three completed reference forms from professionals who are familiar with the applicant's current work, one of which is from a doctoral level psychologist; and
- (6) verification and report on the status of licensure, including dates of licensure and any disciplinary action which is pending or has been taken, sent directly to the Board from any other regulatory agency in North Carolina and any other jurisdiction in which the applicant has applied for a license, is currently licensed, or previously has been licensed.

(g) An application shall contain all requested materials to be complete. An incomplete application shall be active for three months from the date on which the application is received in the Board office. At the end of such time, if still incomplete, the application shall be void, the applicant shall be deemed to have discontinued the application process, and the individual shall totally reapply if the individual wishes to pursue licensure further.

History Note: Authority G.S. 90-270.4(h); 90-270.5(a); 90-270.9; 90-270.13(a),(e);

Eff. January 1, 1996;

Amended Eff. August 1, 2006.

21 NCAC 54 .1802 PSYCHOLOGICAL ASSOCIATE

(a) Licensure for the level of psychological associate requires a master's degree or specialist degree in psychology from an institution of higher education. The degree program shall meet all of the following requirements:

- (1) The program shall be identified and labeled as a psychology program; such a program shall specify in institutional catalogues its intent to

educate and train students to engage in the activities which constitute the practice of psychology as defined in G.S. 90-270.2(8).

(2) The program shall maintain authority and primary responsibility for the core and specialty areas even if the program crosses administrative lines.

(3) The program shall have an identifiable body of students in residence at the institution who are matriculated in that program for a degree.

(4) There shall be an identifiable full-time psychology faculty in residence at the institution, sufficient in size and breadth to carry out its responsibilities, employed by and providing instruction at the home campus of the institution.

(5) There shall be a psychologist responsible for the student's program either as the administrative head of the program, or as the advisor, major professor, or committee chair for the individual student's program.

(6) The program shall be an integrated, organized sequence of study in psychology as demonstrated by an identifiable curriculum track or tracks wherein course sequences and course content are described in institutional catalogues, departmental handbooks, or other institutional publications.

(7) The program shall encompass the equivalent of a minimum of one academic year of full-time graduate study in student residence at the institution from which the degree is granted. Residence requires interaction with psychology faculty and other matriculated psychology students at the institution. One year's residency is defined as 30 semester (45 quarter or 40 trimester) hours taken on a full-time or part-time basis at the institution.

(8) The program shall include, as listed on the transcript, internship, externship, practicum, or other supervised field experience appropriate to the area of specialty and the practice of psychology, as defined in G.S. 90-270.2(8), which shall be referred to hereinafter as supervised training experience. This supervised training experience shall meet all of the following criteria:

(A) It shall be a planned and directed program of training for the practice of psychology, in contrast to on-the-job training, and shall provide the trainee with a planned and directed sequence of training that is integrated with the educational program in which the student is enrolled. This supervised training experience shall be planned by the educational program faculty and training site staff, rather than by the student.

(B) The supervised training experience shall have a written description detailing the program of training, or a written agreement, developed prior to the time of the training, between the student's educational program and the training site, detailing the responsibilities of the student and the training site. Such an agreement shall be approved by the student's educational program prior to the beginning of the supervised training experience.

(C) The supervised training experience site shall have a designated and appropriately licensed or certified psychologist or psychological associate responsible for the integrity and quality of the supervised training experience.

(D) A student enrolled in a supervised training experience shall be designated as any of the following: an "intern," "extern," or "practicum student," or shall hold a title which indicates training status for the practice of psychology.

(E) The supervised training experience shall be a minimum of 12 weeks consisting of at least 500 hours of supervised training. At least 400 hours of the training shall be in the practice in psychology as defined by G.S. 90-270.2(8). Supervision for this training experience shall be provided as required by Parts (a)(8)(G) or (a)(8)(H) of this Rule.

(F) The supervised training experience shall be completed within a period of 12 consecutive months at not more than two training sites.

(G) Except as provided in Part (a)(8)(H) of this Rule, regularly scheduled individual face-to-face supervision with the specific intent of overseeing the practice of psychology shall be provided by a North Carolina licensed or certified psychologist or psychological associate or by a psychologist who is exempt from licensure, pursuant to G.S. 90-270.4(b), at a rate of not less than one hour per week during at least 12 separate weeks of the supervised training experience. The supervisor shall establish and maintain a level of supervisory contact consistent with professional standards and shall be accessible to the student.

(H) If completing a supervised training experience outside of North Carolina, the student shall be provided regularly scheduled individual face-to-face supervision with the specific intent of overseeing the practice of psychology by a licensed or certified psychologist or psychological associate or by an individual holding a master's, specialist, or doctoral degree in psychology, at a rate of not less than one hour per week during at least 12 separate weeks of the supervised training experience. The supervisor shall establish and maintain a level of supervisory contact consistent with professional standards and shall be accessible to the student. Proof of the supervisor's license or degree program, as applicable, may be required by the Board to establish the supervisor's training in psychology.

(9) Except as provided in Paragraph (b) of this Rule, the program of study shall include a minimum of 45 semester (68 quarter or 60 trimester) hours of graduate study in standard psychology courses, including courses drawn from academic psychology (e.g., social, experimental, physiological, developmental, history and systems), statistics and research design, scientific and professional ethics and standards, and a specialty area. Of the required 45 semester (68 quarter or 60 trimester) program hours, not more than 6 semester (9 quarter or 8 trimester) hours shall be credited for internship/practicum and not more than 6 semester (9 quarter or 8 trimester) hours shall be credited for thesis/dissertation. No credit shall be allowed for audited courses or courses taken at an institution which does not meet the definition of an "institution of higher education" as defined by G.S. 90-270.2(5).

(b) If an individual's degree program did not include a minimum of 45 semester (68 quarter or 60 trimester) hours of course content, as defined in Subparagraph (a)(9) of this Rule, but included a minimum of 39 semester (59 quarter or 52 trimester) hours of graduate study in standard psychology courses, as specified in Subparagraph (a)(9) of this Rule, allowing not more than 6 semester (9 quarter or 8 trimester) hours for practicum/internship and 6 semester (9 quarter or 8 trimester) hours for thesis/dissertation, the individual shall be allowed to take, and must pass with a grade of "B" or above, additional graduate level course work to meet the hourly requirement specified in Subparagraph (a)(9) of this Rule. The individual shall complete specified course content, as defined by Subparagraph (a)(9) of this Rule, to meet the minimum educational requirements to apply for licensure. The aforementioned course work shall be completed at an institution of higher education, as defined by G.S. 90-270.2(5), in a graduate psychology program in the same specialty area as the degree program completed by the individual and shall be reported on an official transcript. The institution of higher education which permits a student to take additional course work shall be construed as being responsible only for the specific course work taken at that institution and not for the student's entire course of study, unless the student's entire program was completed at that institution. No credit shall be accepted by the Board for audited courses. This additional graduate level course work shall not duplicate course work taken by the individual in his or her degree program or prior to admittance to his or her degree program and shall be completed in one or more of the following areas:

- (1) academic psychology (e.g., social, experimental, physiological, developmental, history and systems);
- (2) statistics and research design;
- (3) scientific and professional ethics and standards; or
- (4) electives offered in the course of study for the individual's specialty area (e.g., clinical psychology, counseling psychology, school psychology, or other specialty area in psychology).

(c) If an individual's degree program did not include a minimum of 39 semester (59 quarter or 52 trimester) hours in standard psychology courses, as specified in Subparagraph (a)(9) of this Rule, allowing not more than 6 semester (9 quarter or 8 trimester) hours for practicum/internship and not more than 6 semester (9 quarter or 8 trimester) hours for thesis/dissertation, the individual shall not be allowed to obtain additional hours at a post-graduate level to meet the hourly requirements in Subparagraph (a)(9) of this Rule.

(d) An individual shall not, under any circumstance following the completion of the individual's master's or specialist degree in psychology, be allowed to complete a practicum, internship, or other supervised training experience requiring the individual to practice psychology in order to meet the minimum educational requirement.

(e) An applicant whose credentials have been approved by the Board for examination at the licensed psychologist level may be issued a license as a psychological associate if the applicant fails an examination at the licensed psychologist level but passes such at the psychological associate level. To receive this license, the applicant shall make a written request to the Board for licensure at the psychological associate level within 30 days from the date on which the applicant is notified of his or her examination score

History Note: Authority G.S. 90-270.9; 90-270.11(b); Eff. September 1, 1982; Amended Eff. August 1, 2006; July 1, 1997; October 1, 1991; August 1, 1984.

CHAPTER 69 - BOARD FOR LICENSING OF SOIL SCIENTISTS

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 for license	50.00
(2)	examination	125.00
(3)	license	85.00
(4)	renewal of license	85.00
(5)	restoration of license	110.00

(6) replacement of license 50.00
(7) licensed soil scientist seal 30.00

*History Note: Authority G.S. 55B-10; 55B-11; 89F-25;
150B-19;
Temporary Adoption Eff. May 15, 1996;
Eff. April 1, 1997;
Amended Eff. July 1, 2006.*

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>
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Valerie Joy McGill v. Crime Victims Compensation Commission	06 CPS 0038	Gray	06/08/06	
Charles Leon Champion v. Crime Victims Compensation Commission	06 CPS 0155	Elkins	06/08/06	
A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions .				
HEALTH AND HUMAN SERVICES				
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Duke University Health System d/b/a Durham Regional Hospital v. DHHS, DFS, Certificate of Need Section	05 DHR 1492	Lassiter	05/31/06	
Community General Health Partners, Inc. d/b/a Thomasville Medical Center v. DHHS, DFS, Certificate of Need Section	05 DHR 1506	Lassiter	05/31/06	
Bertha Graham v. DHHS, DFS, Health Care Personnel Registry	05 DHR 2040	McCotter	06/08/06	
Ruben Perez v. DHHS, Div. of Public Health Women and Children's Health Section	05 DHR 2225	Lassiter	05/10/06	
Richard Wayne Baird v. DHHS, DMA	06 DHR 0177	Gray	06/15/06	
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Delisa Jean Scott v. DHHS, DFS	06 DHR 0475	Elkins	06/23/06	
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Eric Bector v. DHHS	06 DHR 0594	Elkins	06/23/06	
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Denise Little v. Catawba County LME, John Hardy, Director Consultant Deanna Hoxworth	06 DHR 0860	Lassiter	06/23/06
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