

# NORTH CAROLINA REGISTER

VOLUME 21 • ISSUE 13 • Pages 1123 - 1245

JANUARY 2, 2007

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## Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings  
Rules Division  
Capehart-Crocker House (919) 733-2678  
424 North Blount Street (919) 733-3462 FAX  
Raleigh, North Carolina 27601-2817

contact: Molly Masich, Director APA Services molly.masich@ncmail.net (919) 733-3367  
Dana Sholes, Publications Coordinator dana.sholes@ncmail.net (919) 733-2679  
Julie Edwards, Editorial Assistant julie.edwards@ncmail.net (919) 733-2696  
Felicia Williams, Editorial Assistant felicia.williams@ncmail.net (919) 733-3361

### **Rule Review and Legal Issues**

Rules Review Commission  
1307 Glenwood Ave., Suite 159 (919) 733-2721  
Raleigh, North Carolina 27605 (919) 733-9415 FAX

contact: Joe DeLuca Jr., Staff Director Counsel joe.deluca@ncmail.net  
Bobby Bryan, Staff Attorney bobby.bryan@ncmail.net  
Lisa Johnson, Administrative Assistant lisa.johnson@ncmail.net

### **Fiscal Notes & Economic Analysis**

Office of State Budget and Management  
116 West Jones Street (919) 733-7061  
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX

contact: Nathan Knuffman nathan.knuffman@ncmail.net

### **Governor's Review**

Reuben Young reuben.young@ncmail.net  
Legal Counsel to the Governor (919) 733-5811  
116 West Jones Street (919) 733-5811  
Raleigh, North Carolina 27603

### **Legislative Process Concerning Rule-making**

Joint Legislative Administrative Procedure Oversight Committee  
545 Legislative Office Building  
300 North Salisbury Street (919) 733-2578  
Raleigh, North Carolina 27611 (919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney karen@ncleg.net  
Jeff Hudson, Staff Attorney jeffreyh@ncleg.net

### **County and Municipality Government Questions or Notification**

NC Association of County Commissioners  
215 North Dawson Street (919) 715-2893  
Raleigh, North Carolina 27603

contact: Jim Blackburn or Rebecca Troutman jim.blackburn@ncacc.org  
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities (919) 715-4000  
215 North Dawson Street  
Raleigh, North Carolina 27603

contact: Anita Watkins awatkins@ncmlm.org

**NORTH CAROLINA REGISTER**  
 Publication Schedule for January 2007 – December 2007

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 <sup>th</sup> day from publication in the Register
21:13	01/02/07	12/07/06	01/17/07	03/05/07	03/20/07	05/01/07	05/08	09/29/07
21:14	01/16/07	12/20/06	01/31/07	03/19/07	03/20/07	05/01/07	05/08	10/13/07
21:15	02/01/07	01/10/07	02/16/07	04/02/07	04/20/07	06/01/07	05/08	10/29/07
21:16	02/15/07	01/25/07	03/02/07	04/16/07	04/20/07	06/01/07	05/08	11/12/07
21:17	03/01/07	02/08/07	03/16/07	04/30/07	05/21/07	07/01/07	05/08	11/26/07
21:18	03/15/07	02/22/07	03/30/07	05/14/07	05/21/07	07/01/07	05/08	12/10/07
21:19	04/02/07	03/12/07	04/17/07	06/01/07	06/20/07	08/01/07	05/08	12/28/07
21:20	04/16/07	03/23/07	05/01/07	06/15/07	06/20/07	08/01/07	05/08	01/11/08
21:21	05/01/07	04/10/07	05/16/07	07/02/07	07/20/07	09/01/07	05/08	01/26/08
21:22	05/15/07	04/24/07	05/30/07	07/16/07	07/20/07	09/01/07	05/08	02/09/08
21:23	06/01/07	05/10/07	06/16/07	07/31/07	08/20/07	10/01/07	05/08	02/26/08
21:24	06/15/07	05/24/07	06/30/07	08/14/07	08/20/07	10/01/07	05/08	03/11/08
22:01	07/02/07	06/11/07	07/17/07	08/31/07	09/20/07	11/01/07	05/08	03/28/08
22:02	07/16/07	06/22/07	07/31/07	09/14/07	09/20/07	11/01/07	05/08	04/11/08
22:03	08/01/07	07/11/07	08/16/07	10/01/07	10/22/07	12/01/07	05/08	04/27/08
22:04	08/15/07	07/25/07	08/30/07	10/15/07	10/22/07	12/01/07	05/08	05/11/08
22:05	09/04/07	08/13/07	09/19/07	11/05/07	11/20/07	01/01/08	05/08	05/31/08
22:06	09/17/07	08/24/07	10/02/07	11/16/07	11/20/07	01/01/08	05/08	06/13/08
22:07	10/01/07	09/10/07	10/16/07	11/30/07	12/20/07	02/01/08	05/08	06/27/08
22:08	10/15/07	09/24/07	10/30/07	12/14/07	12/20/07	02/01/08	05/08	07/11/08
22:09	11/01/07	10/11/07	11/16/07	12/31/07	01/21/08	03/01/08	05/08	07/28/08
22:10	11/15/07	10/25/07	11/30/07	01/14/08	01/21/08	03/01/08	05/08	08/11/08
22:11	12/03/07	11/08/07	12/18/07	02/01/08	02/20/08	04/01/08	05/08	08/29/08
22:12	12/17/07	11/26/07	01/01/08	02/15/08	02/20/08	04/01/08	05/08	09/12/08

## EXPLANATION OF THE PUBLICATION SCHEDULE

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

### GENERAL

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

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

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

### FILING DEADLINES

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

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

### NOTICE OF TEXT

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

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

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

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

**EXECUTIVE ORDER NO. 110**

**Extending Executive Order No. 109  
Proclamation of State of Disaster  
for Jones County and Duplin County**

**WHEREAS**, on October 10, 2006, Executive Order No. 109, which proclaimed a State of Disaster and State of Emergency in Jones and Duplin counties as a result of the damage done by Tropical Storm Ernesto on August 31, 2006, through September 3, 2006, was issued and is hereby extended until December 9, 2006.

This executive order is effective immediately.

**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 ninth day of November 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.

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Michael F. Easley  
Governor

**ATTEST:**

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Elaine F. Marshall  
Secretary of State

**EXECUTIVE ORDER NO. 111**

**PROCLAMATION OF A STATE OF DISASTER  
FOR COLUMBUS COUNTY**

**WHEREAS**, I have determined that a State of Disaster, as defined in N.C.G.S. §§166A-6, exists in the State of North Carolina, specifically Columbus County, as a result of severe weather on November 16, 2006;

**WHEREAS**, on November 16, 2006, Columbus County proclaimed a local State of Emergency;

**WHEREAS**, pursuant to N.C.G.S. §166A-6, the criteria of a Type I disaster are met including the following: (1) receipt of the preliminary damage assessment from the Secretary of Crime Control and Public Safety; (2) Columbus County declared a local state of emergency pursuant to N.C.G.S §§166A-8, 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; and (4) a major disaster declaration by the President of the United States pursuant to the Stafford Act has not been declared.

**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 is hereby declared for Columbus County.

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 North Carolina.

Section 4. Further, Bryan E. Beatty, Secretary of Crime Control and Public Safety, as chief coordinating officer for 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. This Type I Disaster Declaration shall expire 30 days after issuance of the state of disaster and Type I disaster proclamation for Columbus County issued on November 17, 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 of 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 seventeenth day of November 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

**EXECUTIVE ORDER NO. 112**

**Notice of Termination  
of Executive Order No. 107  
by the Governor of the State of North Carolina**

**WHEREAS**, Executive Order No. 107, Proclamation of a State of Emergency, was signed on August 31, 2006, declaring a State of Emergency due to the approach and proximity of Tropical Storm Ernesto beginning on August 31, 2006; and,

**WHEREAS**, the Proclamation contained the provision that it would be effective until terminated in writing.

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

That the Executive Order declaring a State of Emergency signed on August 31, 2006, is hereby terminated, effective as of 5:00 p.m. on the date signed below, due to the ending of that emergency.

**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 twenty-first day of November 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

**EXECUTIVE ORDER NO. 113**

**PROCLAMATION OF A STATE OF EMERGENCY  
FOR DARE COUNTY**

**WHEREAS**, I have determined that a state of emergency, as defined in G.S. §§166A-4 and 14-288.1(10), exists in the State of North Carolina, specifically Dare County, where the primary transportation route, Highway 12, has been severely compromised as a result of severe weather on November 22, 2006.

**WHEREAS**, on November 22, 2006, Dare County proclaimed a local State of Emergency;

**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 G.S. §§166A-5 and 14-288.15, I, therefore, proclaim the existence of a state of emergency in the State.

Section 2. I hereby order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3. I hereby delegate to Bryan E. Beatty, Secretary of Crime Control and Public Safety, and/or his designee, 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 North Carolina.

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

Section 5. I hereby order 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 emergency 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. This proclamation shall become effective immediately, and shall expire 30 days after issuance 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 of first issuance. The Joint Legislative Commission on Governmental Operations shall be notified prior to the issuance of any renewal.

**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 twenty-ninth day of November 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:**

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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.*

**NARROW THERAPEUTIC INDEX DRUGS DESIGNATED BY THE NORTH  
CAROLINA SECRETARY OF HUMAN RESOURCES**

Pursuant to N.C.G.S. 90-85.27(4a), this is a revised publication from the North Carolina Board of Pharmacy of narrow therapeutic index drugs designated by the North Carolina Secretary of Human Resources upon the advice of the State Health Director, North Carolina Board of Pharmacy, and North Carolina Medical Board:

Carbamazepine: all oral dosage forms

Cyclosporine: all oral dosage forms

Digoxin: all oral dosage forms

Ethosuximide

Levothyroxine sodium tablets

Lithium (including all salts): all oral dosage forms

Phenytoin (including all salts): all oral dosage forms

Procainamide

Theophylline (including all salts): all oral dosage forms

Warfarin sodium tablets

**SUMMARY OF NOTICE OF  
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY  
Midtown Redevelopment Partners, LLC**

Pursuant to N.C.G.S. § 130A-310.34, Midtown Redevelopment Partners, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Charlotte, Mecklenburg County, North Carolina. The Property, known as the former Midtown Square Mall, consists of approximately 10.3 acres and is located at 401 South Independence Boulevard and 431 South Kings Drive. Environmental contamination exists on the Property in soil and groundwater. Midtown Redevelopment Partners, LLC intends to effect mixed use redevelopment of the Property that may include commercial, retail, office, residential and institutional uses, as well as parking structures and open space. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Midtown Redevelopment Partners, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Public Library of Charlotte & Mecklenburg County, 310 N. Tryon St., Charlotte, NC 28202 by contacting Rita Rouse at that address or at (704) 336-2725; or at NC Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents), at shirley.liggins@ncmail.net, or at (919) 508-8411.

Written public comments, and written requests for a public meeting, may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Thus, if Midtown Redevelopment Partners, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on January 3, 2007. All such comments and requests should be addressed as follows:

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

**SUMMARY OF NOTICE OF  
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY  
South End Silos, LLC**

Pursuant to N.C.G.S. § 130A-310.34, South End Silos, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Charlotte, Mecklenburg County, North Carolina. The Property, which is known as the former Rea Asphalt Plant, consists of 8.551 acres and is located at 2701 Youngblood Street (Tax Parcel Identification Numbers 14701724, 14701725 and 14701733). Environmental contamination exists on the Property in groundwater and soil. South End Silos, LLC has committed itself to mixed use redevelopment of the Property that may include commercial, office, retail and residential uses. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and South End Silos, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Public Library of Charlotte & Mecklenburg County, 310 N. Tryon St., Charlotte, NC 28202 by contacting Rita Rouse at that address or at (704) 336-2725; or at the offices of the N.C. Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 (where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents) by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411.

Written public comments, and written requests for a public meeting, may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the brownfields property is located, or in the North Carolina Register, whichever is later. Thus, if South End Silos, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on January 3, 2007. All such comments and requests should be addressed as follows:

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

**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 North Carolina Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10B .0304; 10F .0110; 10G .0405, amend the rules cited as 15A NCAC 10F .0102 - .0107, .0109; 10G .0401 - .0403, and repeal the rule cited as 15A NCAC 10G .0404.

**Proposed Effective Date:** May 1, 2007

**Public Hearing:**

**Date:** February 5, 2007

**Time:** 2:00 p.m.

**Location:** 5<sup>th</sup> floor Commission Hearing Room, WRC Centennial Campus Building, 1751 Varsity Drive, Raleigh, NC

**Reason for Proposed Action:**

**15A NCAC 10B .0304** - Adoption of 15A NCAC 10B .0304 is being considered by request of North Carolina Trapper's Association to improve the trap used for capturing certain species.

**15A NCAC 10F .0102 - .0107, and .0109** - These rules are being rewritten to update their provisions with recent legislation and current practice for titling boats in North Carolina.[S.L. 2006-185]

**15A NCAC 10F .0110** - This rule is being adopted to implement provisions of recent legislation.[S.L. 2006-185]

**15A NCAC 10G .0401 - .0405** - These rules are being rewritten, adopted and repealed to update the contract provisions and other terms of operation for wildlife service agents.

**Procedure by which a person can object to the agency on a proposed rule:**

Any person who wishes to object to a proposed rule may do so by writing (or emailing) the person specified in connection with a given rule within the public comment period set up for this rule. For rule 15A, NCAC 10B .0304, the contact person is David Cobb, Chief, Wildlife Management Division. For rules 15A NCAC 10F .0102 - .0107, .0109 - .0110; 15A NCAC 10G .0401 - .0405, the contact person is Lisa Hocutt, Licensing, WRC.

**Comments may be submitted to:** David Cobb, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0050, email David.Cobb@ncwildlife.org or Lisa Hocutt, 1701

Mail Service Center, Raleigh, NC 27699-1701, phone (919) 707-0251, email Lisa.Hocutt@ncwildlife.org

**Comment period ends:** March 5, 2007

**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

**CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY**

**SUBCHAPTER 10B - HUNTING AND TRAPPING**

**SECTION .0300 - TRAPPING**

**15A NCAC 10B .0304 TRAPS**

A steel-jaw or leghold trap set on dry land with a solid anchor shall not have a chain longer than eight inches unless the chain is fitted with a shock-absorbing device with at least 40 pounds and no more than 75 pounds of pressure to stretch or compress the device.

Authority G.S. 113-134; 113-291.6.

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

**SECTION .0100 - MOTORBOAT REGISTRATION**

**15A NCAC 10F .0102 APPLICATION FOR**

**CERTIFICATE OF VESSEL NUMBER**

(a) General: Every owner of a vessel required to be numbered pursuant to G.S. 75A-4 and 75A-7 shall apply to the ~~Vessel Registration and Title Section of the North Carolina Wildlife Resources Commission~~ or to one of its ~~authorized agents~~ Wildlife Service Agents for a certificate of vessel number using an approved application.

~~(b) Individual Owners of Vessels:~~ The application shall contain the following information:

- ~~(1)~~ name of owner(s);
- ~~(2)~~ address of owner, including zip code; address, telephone number, date of birth, and North Carolina driver license number of owner(s);
- ~~(3)~~ state of principal use of vessel;
- ~~(4)~~(3) present or previous ~~vessel registration certificate of number~~ (if any);
- ~~(5)~~(4) desired period of registration (one or three years);
- ~~(6)~~(5) primary use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other commercial);
- ~~(7)~~(6) make model of vessel (if known);
- ~~(7)~~ manufacturer (if known)
- ~~(8)~~ year of manufacture or model year (if known);
- ~~(9)~~ manufacturer's hull identification number (if any);
- ~~(10)~~ overall length of vessel in feet and inches;
- ~~(11)~~ type of vessel (open, cabin, houseboat, personal watercraft, pontoon, other);
- ~~(12)~~ hull material (wood, metal, fiberglass, inflatable, plastic, other);
- ~~(13)~~ type of propulsion ~~(inboard, outboard, inboard outdrive, jet drive, sail, auxiliary sail/inboard)~~ (inboard; outboard; inboard-outdrive; jet drive; sail; auxiliary sail/inboard; auxiliary sail/outboard);
- ~~(14)~~ type of fuel (gasoline, diesel, electric, other);
- ~~(15)~~ proof of ownership document;
- ~~(16)~~ signature of ~~owner(s)~~ owner(s);
- ~~(17)~~ make of motor (if over 25 horsepower), serial number, purchase price of motor;
- ~~(18)~~ lien holder name, address, and telephone number;
- ~~(19)~~ effective lien date.

(b) Application for new or never before registered vessels. The new owner(s) shall complete and submit the standard application for a certificate of number, along with the proper proof of ownership document and applicable fees to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale. The new owner(s) shall indicate on the application whether or not any liens exist on the vessel. If a lien exists or the vessel is over 14 feet or is a personal watercraft, then a Certificate of Title for Vessel shall be issued, including recordation of any liens listed on the application. A new certificate of number shall be issued for new or never before registered vessels. For

a period of 60 days following the date of sale, the new owner may use a copy of the proof of ownership document, provided it contains the date of sale, as a temporary certificate of number pending receipt of the original certificate.

(c) Livery Vessel Owners. A "livery" vessel is one that is rented or leased to an individual for a specific time period by the owner. The registration and numbering requirements of G.S. 75A-4 and 75A-7 shall apply to livery vessels. ~~In any case where the motor is not rented with the vessel, the description of the motor and type of fuel may be omitted from the application.~~ The standard application form for vessel registration for a certificate of number shall be used for livery vessels with the term "livery" marked in the section designated for ~~"use of vessel."~~ "primary use."

(d) Dealers and Manufacturers of Vessels. A "manufacturer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of manufacturing vessels either upon prior commission or for the purpose of selling them after manufacture. A "dealer" as the term is used in this Rule is defined as a person, firm, or corporation engaged in the business of offering vessels for sale at retail or wholesale from an established location(s). The registration and numbering requirements of G.S. 75A-4 and 75A-7 shall apply to vessels belonging to dealers and manufacturers. The standard application for a certificate of vessel number shall be used for ~~dealer and manufacturer certificates~~ dealers and manufacturers with the term "demonstration" marked in the section designated for ~~"use of vessel."~~ "primary use." Upon receipt of a properly completed application and fee ~~from a dealer or manufacturer for dealer or manufacturer vessel registration,~~ the Wildlife Resources Commission shall issue to the applicant a dealer's or manufacturer's certificate of ~~vessel number, as appropriate,~~ number, which may be used in connection with the operation of any vessel in the possession of the dealer or manufacturer when the vessel is being demonstrated. Demonstration vessels shall not be titled so long as the vessel is owned by the dealer or manufacturer. Additional dealer's or manufacturer's certificates of vessel number may be obtained by making application in the same manner as prescribed for the initial certificate with payment of an additional fee for each additional certificate. Dealers and manufacturers have the option of registering individual vessels in accordance with Rule .0104(a) of this Section.

(e) Government Agency Vessels. The certificate of numbering requirements of G.S. 75A-4 and 75A-7 shall apply to vessels belonging to State or local government agencies. The standard application for a certificate of number shall be used for government agencies with the term "other" marked in the section designated for "primary use." Upon receipt of a properly completed application from a State or local government agency, the Wildlife Resources Commission shall issue to the applicant a permanent certificate of number. There is no fee for a permanent State or local government agency certificate of number and the certificate is valid until the vessel is transferred to another government agency, an individual, business, or dealer. Government agency registered vessels shall not be titled.

(f) Commercial Fishing Vessel. The certificate of numbering requirements of G.S. 75A-4 and 75A-7 shall apply to commercial fishing vessels. The standard application for a certificate of number shall be used for commercial fishing vessels with the term "commercial fishing" marked in the section designated for "primary use." Upon receipt of a properly completed application, the Wildlife Resources Commission shall issue to the applicant a certificate of number. The vessel owner must pay for the first certificate of number. Subsequent renewals, for a period of one year, are free provided the owner provides proof of a valid Commercial Fishing Vessel Registration, when applying to the Wildlife Resources Commission for a renewal certificate of number. A valid Commercial Fishing Vessel Registration is one that has been issued by the Division of Marine Fisheries.

(g) Commercial Passenger Vessel. The certificate of numbering requirements of G.S. 75A-4 and 75A-7 shall apply to commercial passenger vessels. The standard application for a certificate of number shall be used for commercial passenger vessels with the term "commercial passenger" marked in the section designated for "primary use." Upon receipt of a properly completed application, proof of ownership document, and fee, the Wildlife Resources Commission shall issue to the applicant a certificate of number.

*Authority G.S. 75A-3; 75A-5; 75A-7; 75A-19; 33 C.F.R. 174.17.*

**15A NCAC 10F .0103 TRANSFER OF OWNERSHIP**

(a) Transfer of previously registered and titled vessels.

(1) Transfer of previously registered and titled vessels from one individual owner(s) to another.

~~(+)(A)~~ When the ownership of a titled vessel is transferred, the current owner(s) as recorded listed on the face of the Certificate of Title for Watercraft-Vessel shall complete the Assignment of Title section on the reverse side of the certificate of title and transmit the title to the new owner(s). If the certificate of title contains any encumbrances, security interests, or liens on its face, the Release of First Lien section on the face of the certificate of title must be completed by the lienholder(s) before the title is transmitted to the new owner(s). If more than one lien is outstanding on the title, all liens must be satisfied as evidenced by attaching additional Release of Lien statements completed in the same fashion as the Release of First Lien section before the certificate of title is transmitted to the new owner(s). If the ownership of a titled vessel is

transferred by court order, will, settlement agreement, separation agreement, judgment or other document and the original title is not available, the previous owner(s) or estate representative shall provide the new owner(s) with documents establishing ownership.

~~(2)(B)~~ The new owner(s) must shall complete and submit an Application for Title and registration submit the application for a certificate of number and certificate of title, along with the properly assigned certificate of title and applicable registration and title fees to the Vessel Registration and Title Section of the Wildlife Resources Commission for processing-processing within 15 days of the date of sale. The new owner(s) shall indicate on the application whether or not the vessel will be titled under the new ownership; and, if so, whether or not any liens exist on the vessel. If the new owner(s) elects to transfer the title, then a new A new Certificate of Title for Watercraft shall be issued, including recordation of any new liens that are listed on the application. The original certificate of number shall be retained when a vessel, previously registered in North Carolina, is transferred to a new owner. A new certificate of number shall be issued to vessels previously registered in another state or to vessels never before registered.

~~(C)~~ For 60 days following the transfer of ownership of a previously titled vessel, the new owner may use a copy of the properly assigned certificate of title as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.

(2) Transfer of previously registered and titled vessels through a dealer.

(A) When the ownership of a titled vessel is transferred to a dealer, the owner(s) listed on the face of the Certificate of Title for Vessel shall complete the Assignment of Title

section on the reverse side of the certificate of title and surrender the title to the dealer. If the certificate of title contains any encumbrances, security interests, or liens on its face, the Release of First Lien section on the face of the certificate of title must be completed by the lienholder(s) before the title is surrendered to the dealer. If more than one lien is outstanding on the title, all liens must be satisfied as evidenced by attaching additional Release of Lien statements completed in the same fashion as the Release of First Lien section before the certificate of title is surrendered to the dealer.

(B) When the vessel is subsequently sold, the dealer shall, on the day of the sale, provide the new owner(s) the original certificate of title completed by the previous owner(s) and a Dealer Bill of sale. The Dealer's Bill of Sale shall include the dealer's name, the name of the new owner(s), the date of sale, certificate of number, manufacturer's hull identification number, model, year, and length of the vessel. The Dealer's Bill of Sale shall be signed by both the dealer and the new owner(s).

(C) The new owner(s) shall complete and submit the standard application for a certificate of number and certificate of title, along with the properly assigned certificate of title, Dealer Bill of Sale, and applicable fees, to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale. The new owner(s) shall indicate on the application whether or not any liens exist on the vessel. A new Certificate of Title for Vessel shall be issued, including recordation of any new liens listed on the application. The original certificate of number must be retained when a vessel, previously registered in North Carolina, is transferred to a new owner(s). A new certificate of number shall be issued to vessels previously registered in another state or vessels never before registered.

(D) For a period of 60 days following the transfer of ownership of a previously registered vessel, the new owner may use a copy of the Dealer's Bill of Sale as a temporary certificate of number pending receipt of his own certificate

(b) Transfer of previously registered, non-titled vessels.

(1) ~~Direct transfer~~ Transfer of a previously registered, non-titled vessel from one individual owner to another.

(A) If the ownership of a ~~onee-registered~~ previously registered vessel is transferred, by sale or gift, the previous owner shall complete a notarized bill of sale. The bill of sale shall be given to the new owner and shall include the previous owner's name, the new owner's name, the date of sale or gift, certificate of number, manufacturer's hull identification number, model, year, and length of the vessel. The previous owner's signature shall be notarized. An individual may also use the Statement of Transfer form provided with some certificates of numbers. The statement shall be completed by the previous owner and given to the new owner at the time of sale or gift. ~~the statement of transfer provided with the certificate of vessel number, date it as of the day of the transaction, sign it, and deliver it to the new owner.~~

(B) ~~The new owner shall complete the transfer of vessel ownership by preparing and submitting an official application form for this purpose within 10 days from the date of transfer.~~ The new owner shall complete and submit the standard application for a certificate of number and certificate of title, along with the proof of ownership document and applicable fees, to the Wildlife Resources Commission for processing within 15 days of the date of sale or gift. The new owner shall indicate on the application whether or not any liens exist on the vessel. A new Certificate of Title for Vessel shall be issued, including recordation of any new liens listed on the application. The original vessel

- ~~registration certificate of number must shall~~ be retained when a vessel ~~most recently previously~~ registered in North Carolina is ~~registered transferred~~ to a new owner. A new vessel registration certificate of number shall be issued to vessels ~~most recently previously~~ registered in another State or to vessels never before registered.
- (C) For 60 days following the transfer of ownership of a ~~once registered previously registered~~ vessel, the new owner may use ~~the certificate of vessel number of the prior owner~~ a copy of the proof of ownership document, provided it contains the date of sale, as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.
- ~~(D) An individual may also transfer ownership of a vessel by preparing a Bill of Sale naming the new owner, provided both parties to the sale sign the Bill of Sale before a notary public. If a Bill of Sale is the instrument of transfer, the new owner may use a copy of it as a temporary certificate of vessel number for a period of 60 days. The notarized Bill of Sale must accompany the application for transfer of ownership and the application must be mailed within 10 days of the date of sale.~~
- (2) Transfer of a ~~once registered previously registered, non-titled~~ vessel through a dealer.
- (A) ~~An~~ The owner selling or transferring a ~~once registered previously registered~~ vessel to a dealer shall complete a notarized bill of sale naming the dealer as the new owner. The bill of sale shall be given to the dealer and shall include the previous owner's name, date of sale, certificate of number, manufacturer's hull identification number, model, year, and length of the vessel. The previous owner(s) signature shall be notarized. An individual may also use the Statement of Transfer form provided with some certificates of
- ~~numbers. The statement shall be completed by the previous owner and given to the dealer, shall, on the day of the transaction, give the certificate of vessel number to the dealer after dating and signing the statement of transfer provided with the certificate.~~
- (B) When the vessel is subsequently sold, the dealer shall, on the day of the sale, provide the new owner(s) a dealer bill of sale. The dealer's bill of sale shall include the dealer's name, the new owner(s) name, the date of sale, certificate of number, manufacturer's hull identification number, model and year of the vessel. The dealer's bill of sale shall be signed by both the dealer and the new owner. ~~transaction, date and sign the statement of transfer which was received from the previous owner and give it to the new owner. If no certificate of vessel registration is available, a Bill of Sale may be used to document transfer of ownership to the purchaser, provided both parties to the sale sign the Bill of Sale before a notary public.~~
- (C) For a period of 60 days following the transfer of ownership of a ~~once registered~~ vessel, the new owner may use the certificate of vessel number of the prior owner as a temporary certificate of vessel number, provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule; or a copy of the notarized Bill of Sale may be used as a temporary certificate. The new owner shall complete and submit the standard application for a certificate of number and certificate of title, along with the proof of ownership document and applicable fees, to the Wildlife Resources Commission or one of its authorized agents for processing within 15 days of the date of sale. The new owner shall indicate on the application whether or not any liens exist on the vessel. A new Certificate of Title for Vessel shall be issued, including recordation of any new liens listed on the application. The original certificate of number must be retained when a



vessel, previously registered in North Carolina, is transferred to a new owner(s). A new certificate of number shall be issued to vessels previously registered in another state or vessels never before registered.

(D) For a period of 60 days following the transfer of ownership of a previously registered vessel, the new owner may use a copy of the dealer's bill of sale as a temporary certificate of number pending receipt of his own certificate provided the certificate is validated in accordance with Part (b)(1)(A) of this Rule.

- (3) Transfer of a vessel individually-registered to a dealer or manufacturer. Vessels that have been individually numbered by dealers or manufacturers shall upon transfer of ownership be governed by the provisions of Subparagraph (b)(1) of this Rule.

*Authority G.S. 75A-3; 75A-5; 75A-19; 33 C.F.R. 174.21.*

**15A NCAC 10F .0104 CERTIFICATE OF NUMBER**

(a) General. Upon receipt of a completed ~~application together with fee~~ application, proof of ownership document, and applicable fee, the Wildlife Resources Commission shall issue to the applicant a certificate of vessel number which shall authorize the operation of the vessel. The certificate of vessel number shall be carried while operating the vessel and shall be presented for inspection to any law enforcement officer upon request. The certificate of vessel number shall include the following information:

- (1) name of owner(s);
- (2) address of the primary owner, including zip code;
- (3) ~~state of principal use of vessel; title indicator;~~
- (4) certificate of number awarded to vessel;
- (5) expiration date of the certificate of number;
- (6) use of vessel (pleasure, livery, demonstration, commercial passenger, commercial fishing, other commercial);
- (7) ~~make~~ model of vessel (if known);
- (8) manufacturer (if known);
- ~~(8)~~(9) year of manufacture or model year (if known);
- ~~(9)~~(10) manufacturer's hull identification number (if any);
- ~~(10)~~(11) overall length of vessel;
- ~~(11)~~(12) type of vessel (open, cabin, houseboat, personal watercraft, pontoon, other);
- ~~(12)~~(13) hull material (wood, metal, fiberglass, plastic, inflatable, other);

~~(13)~~(14) type of propulsion (inboard, outboard, inboard-outdrive, sail, auxiliary sail/inboard, auxiliary sail/outboard, jet drive);

~~(14)~~(15) type of fuel (gasoline, diesel, electric, other);

~~(15)~~(16) notice to owner that he shall report within 15 days changes of address or ownership, and destruction or abandonment of vessel;

(17) signature of owner;

~~(16)~~(18) notice to the owner that the operator shall:

- (A) always carry this certificate on vessel when in use;
- (B) report every accident involving injury or death to persons, or property damage ~~over one hundred dollars (\$100.00);~~ more than two thousand dollars (\$2,000);
- (C) stop and render assistance if involved in boating accident.

(b) Livery Vessel Owners. The certificate of number awarded to a livery vessel shall be plainly marked "livery vessel" and shall include the same information in Paragraph (a) of this Rule. ~~in any case where the motor is not rented with the vessel, the description of the motor and type of fuel shall be omitted from the certificate.~~

(c) Dealers and Manufacturers. The certificate of ~~vessel~~ number awarded to dealers and manufacturers shall be plainly marked "dealer" or "manufacturer" in lieu of the description of the ~~boat, vessel,~~ motor and type of fuel. Any dealer ~~or any permittee of a dealer-manufacturer~~ demonstrating or testing a vessel may utilize a set of dealer's numbers and the corresponding dealer's certificate of ~~vessel~~ number to operate any vessel held for sale, but only for demonstration or testing purposes. Vessels owned or possessed by dealers or manufacturers for personal use or for any use whatsoever other than for demonstration and testing purposes must be individually registered in the name of the dealer in accordance with Paragraph (a) of this Rule. A dealer or manufacturer's certificate of number shall contain the following information:

- (1) name of dealer or manufacturer;
- (2) address of dealer or manufacturer;
- (3) certificate of number;
- (4) expiration date of certificate of number; and
- (5) primary use of vessel.

(d) Government agency. The certificate of number awarded to State or local government agencies shall be plainly marked "permanent" and shall include the same information in Paragraph (a) of this Rule; however, there will be no title indicator or expiration date listed for permanent certificate of numbers.

(e) Commercial Fishing. The certificate of number awarded to a commercial fishing vessel shall be plainly marked "commercial fishing" and shall include the same information in Paragraph (a) of this Rule.

(f) Commercial Passenger. The certificate of number awarded to a commercial passenger vessel shall be plainly marked "commercial passenger" and shall include the same information in Paragraph (a) of this Rule.

~~(d)(g)~~ Vessel Registration Agents. In order to make certificates of ~~vessel~~-number readily available throughout the State, vessel dealers, manufacturers, and other related businesses which operate from established locations within North Carolina may be appointed as wildlife service agents of the Wildlife Resources Commission and authorized to issue and renew temporary certificates of ~~vessel~~-number and handle related for new registrations, transfers of ownership, renewal and duplicate transactions. All official certificates of numbers shall be processed and mailed from the Wildlife Resources Commission headquarters. Rules governing the appointment and operations of ~~vessel registration~~ wildlife service agents are contained in 15A NCAC 10G .0400 Wildlife Service Agents.

*Authority G.S. 75A-3; 75A-5; 75A-7; 75A-19; 33 C.F.R. 174.19.*

**15A NCAC 10F .0105 NUMBERING PATTERN**

(a) General. The ~~vessel~~-certificate of number assigned shall consist of the symbol "NC" identifying the state, followed by not more than four arabic numerals and two capital letters, in sequence, separated by a hyphen or equivalent space, in accordance with the serials, numerically and alphabetically. As examples: NC-1-A or NC-1234-AA.

(b) Individual. Since the letters "I," "O," and "Q" may be mistaken for arabic numerals, they shall not be used in the letter sequences. Letters, or letters and numbers, forming words or combinations shall not be used.

(c) Government Agency. The single letter "P" shall be reserved for use following the numerals of vessels numbered by governmental entities. Permanent certificate of numbers shall not be transferred to a non-government agency. A new certificate of number shall be issued upon transfer.

(d) Dealer/Manufacturer. The single letter "X" shall be reserved for use following the numerals of vessels numbered for demonstration purposes by ~~vessel~~-dealers and manufacturers. Dealer and manufacturer certificate of numbers shall not be transferred. A new certificate of number shall be issued upon transfer.

*Authority G.S. 75A-3; 75A-5; 75A-7; 33 C.F.R. 174.23.*

**15A NCAC 10F .0106 DISPLAY OF VESSEL NUMBERS**

(a) The numbers shall be painted on or attached to each side of the forward half of the vessel for which issued in such a position as to provide clear legibility for identification. The numbers shall read from left to right and shall be in block characters of good proportion not less than three inches in height. The numbers shall be of a solid color which will contrast with the color of the background and so maintained as to be clearly visible and legible; i.e., dark numbers on a light background, or light numbers on a dark background.

(b) No other number, except the year date of the validation decal described in Rule .0107 of this Section, shall be carried on the bow of such vessel.

(c) Manufacturers or dealers may have the number awarded to them printed upon or attached to a removable sign or signs to

be temporarily but firmly mounted upon or attached to the vessel being demonstrated, so long as the display meets the requirements of the Rules in this Section. Where a currently or previously-numbered vessel is being demonstrated with a set of dealer's numbers, the permanent numbers painted on or attached to the bow shall be covered.

(d) A vessel registered to a governmental entity and bearing the letter "P" shall continue to display the assigned numbers for so long as the vessel belongs to a governmental entity. Upon transfer of ownership to a private ~~individual~~ individual(s) or business the new owner shall apply to the Wildlife Resources Commission for a new certificate of ~~vessel~~ number and shall be assigned a new ~~vessel registration~~ certificate of number.

*Authority G.S. 75A-3; 75A-5; 75A-19.*

**15A NCAC 10F .0107 VALIDATION DECAL**

In addition to the certificate of ~~vessel~~-number, the Wildlife Resources Commission shall supply to the owner of each vessel that is numbered, an official validation decal indicating the ~~last year and month of the period of expiration~~ registration. The owner shall affix such validation decal so as to be clearly legible on the starboard bow of the vessel immediately following and within six inches of the vessel number. Any validation decal issued for a vessel numbered on application by a governmental entity shall contain no expiration date, but shall bear the letter "P" and shall not be subject to renewal so long as the vessel remains the property of a governmental entity. When any such vessel is transferred to private ownership, the decal shall be removed or obliterated by the transferring agency.

*Authority G.S. 75A-3; 75A-5; 75A-7; 33 C.F.R. 174.15.*

**15A NCAC 10F .0109 TEMPORARY CERTIFICATE OF NUMBER**

(a) Whenever a wildlife service agent processes the final transaction to issue, renew, or transfer a ~~permanent~~-certificate of ~~vessel~~-number or to issue a duplicate ~~vessel registration~~ certificate of number ~~cannot be completed for some reason and the required fee and vessel and owner information for the transaction are provided,~~ the new owner ~~may~~ shall be issued a temporary certificate of ~~vessel~~-number. For a period not exceeding 60 days following the date of the transaction, the vessel may be operated on the temporary certificate of ~~vessel~~ number pending receipt of the regular certificate.

(b) In order to be valid, the temporary certificate of ~~vessel~~ number ~~must~~ shall contain the following:

- (1) ~~full name and address of issuing agent;~~
- (2) ~~full name and address of owner(s), including zip code;~~
- (3) ~~previous vessel registration number, if any (if none, so state);~~
- (4) ~~state of principal use of vessel;~~
- (5) ~~make of vessel;~~
- (6) ~~vessel length in feet;~~
- (7) ~~hull material;~~

- ~~(8) type of propulsion;~~
- ~~(9) date of purchase of vessel;~~
- ~~(10) date of application for regular certificate of vessel number;~~
- ~~(11) expiration date of temporary certificate;~~
- ~~(12) signature(s) of owner(s) and agent.~~
- ~~(1) name of issuing wildlife service agent;~~
- ~~(2) name and address of owner(s);~~
- ~~(3) title indicator;~~
- ~~(4) certificate of number;~~
- ~~(5) use of vessel;~~
- ~~(6) model of vessel;~~
- ~~(7) manufacturer;~~
- ~~(8) year of manufacture or model year;~~
- ~~(9) manufacturer's hull identification number;~~
- ~~(10) length of vessel;~~
- ~~(11) type of vessel;~~
- ~~(12) hull material;~~
- ~~(13) type of propulsion;~~
- ~~(14) type of fuel;~~
- ~~(15) date temporary certificate of number is issued;~~
- ~~(16) date temporary certificate of number expires;~~
- ~~(17) transaction status;~~
- ~~(18) signature of owner(s).~~

*Authority G.S. 75A-3; 75A-5; 33 C.F.R. 174.21.*

**15A NCAC 10F .0110 ABANDONED VESSELS**

(a) General. An abandoned vessel is defined as a vessel that has been relinquished, left or given up by the lawful owner(s) without the intention to later resume any right or interest in such vessel. It does not include any vessel left by an owner(s) or agent of the owner(s) with any person or business for the purpose of storage, maintenance or repair which is not subsequently claimed.

(b) Abandonment: A person may acquire ownership of an abandoned vessel by providing proof, satisfactory to the Wildlife Resources Commission, that such vessel has actually been abandoned by the lawful owner(s). A person finding an abandoned vessel can become the registered and titled owner of the vessel, provided the previous owner(s) cannot be located and that they have not reported the vessel missing or stolen. The applicant shall comply with the below procedures to seek ownership of such vessel:

- (1) The Finder shall send a Certified Letter, return receipt requested, to the last registered owner(s). The Finder shall demonstrate to Wildlife Resources Commission that this letter was not deliverable or that the last registered owner(s) failed to acknowledge or respond.
- (2) The Finder shall also provide to the Wildlife Resources Commission a written police report stating that the abandoned vessel has not been reported missing or stolen in the area where it is listed as being moored.

- (3) The Finder shall complete and submit the standard application for a certificate of number and certificate of title, along with a notarized statement summarizing when and where the vessel was found, the evidenced attempts to locate the owner(s), any available evidence that the vessel is abandoned, statements from any other persons knowledgeable about the history of the vessel and applicable fees to the Wildlife Resources Commission.

(c) The Wildlife Resources Commission will consider the evidence and documentation presented. If Wildlife Resources Commission determines that the vessel has been abandoned, it will issue a certificate of number and certificate of title to the applicant.

*Authority G.S. 113-134; 75A-5(i2).*

**SUBCHAPTER 10G - DISTRIBUTION AND SALE OF HUNTING: FISHING: AND TRAPPING LICENSE**

**SECTION .0400 - WILDLIFE SERVICE AGENTS**

**15A NCAC 10G .0401 PURPOSE OF WILDLIFE SERVICE AGENTS**

Wildlife Service Agents are official license and vessel agents of the North Carolina Wildlife Resources Commission (Commission) who are appointed by the agency and thereby authorized to issue hunting and hunting, fishing and other licenses, permits, and tags; sell subscriptions to Wildlife in North Carolina; issue certificates of vessel number and decals; renew vessel registrations; and transfer ownership of vessels. applications, vessel transactions, and other items authorized by the Commission pursuant to a Wildlife Service Agent Agreement. The purpose of Wildlife Service Agents is to provide efficient and convenient outlets across the State for the distribution of licenses, permits, tags, certificates of vessel number, vessel decals, and other items desired by or necessary to the public for participation in activities regulated by the Commission.

*Authority G.S. 113-134; 113-270.1.*

**15A NCAC 10G .0402 APPOINTMENT OF WILDLIFE SERVICE AGENTS**

Any business operating from a fixed location in North Carolina may apply in writing to the Wildlife Resources Commission for appointment as a Wildlife Service Agent. The applicant shall completely and accurately furnish all information requested in the application. application provided by the Commission. An applicant may be appointed as a Wildlife Service Agent, if the information provided on the application and by any further investigation that may be made, provides evidence, convincing to the Executive Director, that the applicant shall comply with all rules and meets all standards and qualifications applicable to Wildlife Service

~~Agents. In order to ensure security of State funds to be collected by Wildlife Service Agents and to determine the qualification of the applicant in the field of business, the Executive Director may require that applicants have a minimum of one year's experience in operating the business for which the application is made or some other comparable business experience. Applicants may also be required to submit financial statements of the business so that the solvency of the business can be judged. Every initial appointment as a Wildlife Service Agent is probationary for the first year and new agents are subject to close monitoring of their performance.~~

~~(1) Application. Applications for Wildlife Service Agent appointment shall contain information about the agent such as the business name, address, county where the business is located, agent contact information, bank account information, business hours, and any other information requested by the Commission that is reasonably necessary to determine the fitness of the applicant to serve as a Wildlife Service Agent.~~

~~(2) Qualifications and Requirements. Applicants shall meet all qualifications established by the Commission in order to be considered for appointment as a Wildlife Service Agent.~~

~~(a) Businesses shall operate from a fixed location in North Carolina and shall be required to sell a minimum of one thousand dollars (\$1,000) in transaction sales annually. This minimum requirement may be waived by the Executive Director if he finds the applicant's services necessary to maintain adequate agent services to the public in that area.~~

~~(b) An applicant shall have a minimum of one year's experience in operating the business for which the application is made or other equivalent business experience or training. In those cases where other equivalent business experience or training is accepted in lieu of the minimum one year's experience, the applicant shall submit financial statements of the business so that the solvency of the business can be judged.~~

~~(c) Applicants shall provide a bank account for the purpose of transferring net proceeds from all Wildlife Service Agent transactions to the Commission's account in the~~

State Treasury every week via an electronic transfer of funds.

~~(d) Applicants shall provide a telephone line or other form of Internet connection for the purpose of processing transactions related to services provided by Wildlife Service Agents. A dedicated telephone line or high-speed Internet connection is recommended for high volume agents.~~

The qualifications as provided by Sub-items (2)(a) and (2)(b) of this Rule shall be met prior to appointment. Failure to comply with the qualifications and requirements as provided by Sub-item (2)(b) of this Rule, throughout the term of the appointment, may result in termination of the agent appointment. All agents are subject to close monitoring of their performance.

*Authority G.S. 113-134; 113-270.1.*

**15A NCAC 10G .0403 WILDLIFE SERVICE AGENT AGREEMENT**

In consideration of appointment as a Wildlife Service Agent and the fees received ~~there from~~, each Wildlife Service Agent shall execute an Agreement with the Commission acknowledging that the agency shall be operated in compliance with all laws, rules, ~~and~~ administrative directives related to the sale of licenses and the registration of vessels. Furthermore, the agency shall be operated as a public convenience; and, to that end, the agent agrees to serve the public in an efficient and helpful manner with all reasonable requests for assistance whenever open for business. It shall be the duty of the agent to be informed and knowledgeable of the laws and rules governing requirements for licenses and vessel transactions and to stay abreast of changes in these requirements so that the agent can provide accurate and reliable information and instruction to persons who seek assistance in these matters. Unless otherwise specifically provided in the Agreement, the appointment as a Wildlife Service Agent and the Agreement under which the appointment is made ~~is~~ are nontransferable, singularly valid ~~for the person named thereon who is authorized to act on behalf of the business and applies only to the business and location named. If the manager, location, or ownership of the business changes, then the Agreement becomes null and void and, if the agency is to remain operational, the Agreement shall be amended to reflect the changes. Notice of any change in management, location, or ownership shall be sent to the Commission at least 10 days prior to the change to allow time to issue a new or amended Agreement, provided the new conditions of the agency conform to all requirements for appointment. In the event of fire, theft, or natural disaster that damages or destroys any equipment, records, or supplies related to the operations of a Wildlife Service Agent, the agent shall notify the Commission by telephone within 48 hours of~~

~~the occurrence and shall submit a written report within 10 days.~~

*Authority G.S. 113-134; 113-270.1.*

**15A NCAC 10G .0404 CUSTOMER SUPPORT SYSTEM**

**REPEALED**

~~(a) Equipment. Each Wildlife Service Agent shall be equipped with a transaction terminal, which is a network computer linked to the Commission's central data base by telephone lines. Using the transaction terminal, the agent shall issue licenses, permits, tags, vessel registrations and decals, magazine subscriptions, and other items. The record of sale and issuance of each item shall be transmitted by the terminal to the Commission overnight via telephone connection. The Commission shall communicate information and instructions about individual agent accounts and messages of general interest to all agents via the transaction terminal. Agents shall also be provided two printers: one to print receipts and messages and the other to print licenses, permits, tags, decals, registrations, and other items. All necessary training, troubleshooting, maintenance, equipment replacements, materials and supplies shall be furnished by the Commission. Toll-free telephone service to link transaction terminals to the system's central data base shall be supplied by the Commission. Net proceeds from all transactions shall be transferred to the Commission every week via an electronic transfer of funds from the bank account designated by an agent in the Wildlife Service Agent Agreement to the Commission's account in the State Treasury.~~

~~(b) Cancellation. A Wildlife Service Agent may resign at any time by sending written notice to the Commission. The Commission shall immediately instruct resigning agents in the required procedures to follow to return all equipment and supplies and to settle their accounts. The Commission may cancel any Wildlife Service Agent appointment for failure to comply with these Rules or with any administrative directives related to performance as a Wildlife Service Agent. Deficiencies that may result in cancellation include but are not limited to such things as failure to deposit sufficient funds to cover the electronic transfer of funds each week, failure to use the surge protector provided in conjunction with a properly grounded electrical outlet or telephone line, failure to operate as a public convenience, failure to provide the proper license and correct information about licenses to customers, failure to return all required documentation for transactions on schedule, and failure to safeguard or care for the equipment. Upon resignation or termination of appointment as a Wildlife Service Agent, the previous agent must return all consigned equipment and supplies to the Commission and settle the agent financial account, both with 15 days of the date of receiving written notice from the Commission.~~

*Authority G.S. 113-134; 113-270.1.*

**15A NCAC 10G .0405 WILDLIFE SERVICE AGENT TERMS AND CONDITIONS**

Failure to comply with the terms and conditions as provided in this Rule may result in temporary suspension or termination of a Wildlife Service Agent's appointment. The terms and conditions include the following.

- (1) Public Service. Unless otherwise specified in the Agreement, Wildlife Service Agents shall be required to provide a public service to all persons seeking assistance with matters related to the duties of a Wildlife Service Agent during regular business hours.
- (2) Training. New Wildlife Service Agents shall be required to attend a training session at a location specified by the Commission prior to activation of agent status and prior to receiving any equipment or supplies from the Commission. The Commission may require new agents, as a result of a business ownership change, to attend a training session at a location specified by the Commission prior to activating their agent status.
- (3) Activation of Agent Status. Upon completion of training and receipt of equipment and supplies, Wildlife Service Agents shall have their equipment set up and ready for operation 10 days after the date they receive the equipment and supplies.
- (4) Equipment and Internet service provided by the Commission. Upon completion of training, each Wildlife Service Agent shall be equipped with the computer equipment and peripherals necessary to perform transactions required by the Commission. This computer application is web-based and is linked to the Commission's central database via the Internet. Agents shall be responsible for providing a telephone line for this purpose.
  - (a) Using the equipment and Internet service provided, the agent shall issue all transactions desired by the Commission. The record of sale and issuance of each item shall be transmitted immediately to the Commission's database via the Internet. The Commission shall communicate information and instructions about individual agent accounts and messages of general interest to all agents via the computer application and the agent web site.
  - (b) All necessary training, troubleshooting, maintenance, equipment replacements, materials and supplies shall be furnished by the Commission. Toll-free telephone service to link transaction

- equipment to the system's central database shall be supplied by the Commission.
- (c) Upon termination of an agent appointment, all computer equipment and peripherals shall be returned to the Commission as instructed by the Commission.
- (d) Wildlife Service Agents shall be financially responsible for any damage to computer equipment and peripherals resulting from negligence, malicious activity, equipment abandonment, failure to return equipment upon request of the Commission or improper electrical service to the equipment. In the event of fire, theft, or natural disaster, if insured, agents shall relinquish to the Commission any insurance payment(s) for damaged computer equipment or peripherals provided by the Commission within 10 days of receipt. Agents shall report, by telephone to the Commission, any lost, stolen, damaged, or destroyed equipment within 48 hours of the occurrence and shall submit a written report within 10 days thereafter.
- (5) Equipment and Internet service provided by the Agent. Upon completion of training, each Wildlife Service Agent shall be given access to the Commission's agent web site in order to perform transactions required by the Commission. This web site is linked to the Commission's central database via the internet. Agents using their own equipment shall provide their own Internet service provider and shall be responsible for providing a telephone line for this purpose. Agents providing their own Internet service provider shall receive a monthly credit to their bank account from the Commission.
- (a) Using the web site provided, the agent shall issue all transactions desired by the Commission. The record of sale and issuance of each item shall be transmitted immediately to the Commission's database via the internet. The Commission shall communicate information and instructions about individual agent accounts and messages of general interest to all agents via the computer application and the agent web site.
- (b) All necessary training, materials, and supplies shall be furnished by the Commission. The Commission shall not provide technical support, trouble-shooting, or maintenance to agents using their own equipment and Internet service provider.
- (c) Upon termination of an agent appointment, access to the Commission's agent web site shall be terminated.
- (6) Supplies. Each Wildlife Service Agent shall be provided the necessary forms and supplies, furnished by the Commission, to perform transactions or to provide information desired by the Commission. In the event that any records or supplies related to the operations of a Wildlife Service Agent are stolen, lost, damaged or destroyed, the agent shall notify the Commission by telephone within 48 hours of the occurrence and shall submit a written report within 10 days thereafter. Willful failure to return such items as instructed by the Commission is a Class 2 misdemeanor.
- (7) Documentation. Unless otherwise specified in the Agreement, Wildlife Service Agents shall be required to mail all transaction documentation to the Commission daily.
- (8) Application. Each Wildlife Service Agent shall notify the Commission of any changes to the original application for appointment such as business name, address, agent contact information, bank account information, business hours and other information related to agent appointment, immediately upon its change.
- (9) Business Change of Ownership, Location, or Management. If the ownership of the business, location or management changes, then the Agreement becomes null and void. Written notice of any change in ownership, location, or management shall be sent to the Commission at least 10 days prior to the change along with an application for a new Wildlife Service Agreement, if desired, pursuant to these Rules.
- (10) Renewal. All Wildlife Service Agent Agreements are issued for a term of three years, but may be renewed for additional three year terms upon agreement of both the Commission and the Wildlife Service Agent.
- (11) Cancellation. A Wildlife Service Agent may cancel the Agreement at any time by sending written notice to the Commission. The Commission shall immediately instruct resigning agents on the required procedures for returning all equipment and supplies and

to settle their account. Upon resignation of appointment as a Wildlife Service Agent, the former agent must return all consigned equipment and supplies to the Commission and settle the agent financial account, both within 10 days of the resignation letter's date.

(12) Suspension. The Commission shall temporarily suspend any Wildlife Service Agent appointment for failure to comply with these rules or with any administrative directives related to performance as a Wildlife Service Agent.

(a) Deficiencies that shall result in temporary suspension include, but are not limited to, such things as failure to comply with the terms and conditions as outlined in the Wildlife Service Agent Agreement, failure to deposit sufficient funds one or more times to cover the electronic transfer of funds each week, failure to operate as a public convenience as specified in the Agreement one or more times, failure to provide proper and correct information one or more times about wildlife transactions and related issues to customers as documented by customer complaints or agency inspections, failure to submit or return all required documentation for transactions as outlined in the Agreement one or more times, failure to safeguard or care for the equipment and supplies, and any other act or omission by the agent that results in financial loss or that reflects poorly on the Commission.

(b) Temporary suspension is effective immediately upon communication of that fact to the Wildlife Service Agent. Such communication shall state the grounds for temporary suspension and that the agent may request a hearing within five working days if he contests the grounds for temporary suspension. If the initial notification is not in writing, it shall be followed by written notice of temporary suspension containing the same information. An employee of the Commission may enter the premises and impound all property and supplies issued or entitled to by the Commission such as

equipment, moneys, record books, reports, license forms, other documents and materials pertinent to the agent being suspended. The Commission must make the impounded property, or copies of it, available to the agent during the period of temporary suspension. If a hearing is requested, it shall be before the Executive Director or his designee and shall be held at a location specified by the Executive Director.

(c) Temporary suspension remains in effect until the hearing. A temporary suspension may not last longer than 30 days, but additional suspensions may be imposed if, at the end of the suspension period, the agent has not corrected the deficiency or deficiencies that resulted in the suspension. A Wildlife Service Agent may at any time after a hearing appeal his suspension to the Commission. A new suspension shall comply with the provisions of this subsection.

(13) Termination. The Commission may terminate any Wildlife Service Agent appointment for failure to comply with these Rules or with any administrative directives related to performance as a Wildlife Service Agent.

(a) Deficiencies that may result in termination include, but are not limited to, such things as failure to comply with the terms and conditions as outlined in the Wildlife Service Agent Agreement, failure to deposit sufficient funds two or more times to cover the electronic transfer of funds each week, failure to meet the minimum transaction sales requirement of one thousand dollars (\$1,000) annually, failure to operate as a public convenience as specified in the Agreement two or more times, failure to provide proper and correct information two or more times about wildlife transactions and related issues to customers as documented by customer complaints or agency inspections, failure to return all required documentation for transactions as outlined in the Agreement two or more times, failure to safeguard or

- care for the equipment and any other act or omission by the agent that results in financial loss or that reflects poorly on the Commission.
- (b) Notice of termination of the appointment may be sent to the Wildlife Service Agent in lieu of or in addition to temporary suspension. The notice must state the grounds for termination of the appointment and the agent's right to a hearing if he has not previously been afforded one. If the appointment is to be terminated, the notice must state the effective date and hour of termination. If the agent has not been previously afforded a hearing, the agent is entitled to a hearing within 14 days before the Executive Director or his designee to be held at a location specified by the Executive Director. After the hearing, the Executive Director, applying appropriate standards, must take action with respect to the appointment as a Wildlife Service Agent that the facts warrant. If the Executive Director upholds the decision to terminate the appointment, an agent may appeal his termination to the Commission. Pending the hearing and any appeal from it, the termination is held in abeyance, but no transaction may be made once the agent's termination effective date and time have passed.
- (c) Upon termination of appointment as a Wildlife Service Agent, the former agent must return all consigned equipment and supplies to the Commission and settle the agent financial account, both within 10 days of the date of receiving written notice from the Commission. Employees of the Commission shall have the right to conduct necessary inspections and audits required when terminating an agent.
- (d) The Executive Director or his designee holding any hearing under this section must keep a written record of evidence considered and findings made. Upon appeal to the Commission, the Commission Chairman or another presiding

officer must cause such a written record of evidence and findings to be made and kept. Hearings and appeals under this section are internal matters concerning Wildlife Service Agents of the Commission and are not governed by the North Carolina Administrative Procedure Act.

- (e) No person denied appointment or whose appointment was terminated under this section is eligible to apply again for an appointment as a Wildlife Service Agent for a minimum of two years. Upon application, the Commission may not grant the appointment as a Wildlife Service Agent unless the applicant produces clear evidence, convincing to the Commission, that he meets all standards and qualifications and will comply with all requirements of statutes, rules, and administrative directives pertaining to Wildlife Service Agents.

- (14) Use of customer information. Customer information for customers of the Commission is protected by G.S. 143-254.5. Wildlife Service Agents shall not disclose any customer information to any third party without the express authorization of the Commission. Wildlife Service Agents shall not use such customer information for any purpose whatsoever other than the processing of Commission transactions requested by the customer. Failure to abide by either of these provisions shall be grounds for immediate termination of the agency.

*Authority G. S. 113-134; 113-270.1.*

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**TITLE 21 – OCCUPATIONAL LICENSING BOARDS  
AND COMMISSIONS**

**CHAPTER 26 – LICENSING BOARD OF LANDSCAPE  
ARCHITECTS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Landscape Architects intends to amend the rules cited as 21 NCAC 26 .0207, .0301, .0303.*

**Proposed Effective Date:** *May 1, 2007*

**Public Hearing:**



Date: January 17, 2007

Time: 2:00 p.m.

Location: 434 Fayetteville Street, Suite 2500, Raleigh, NC 27601

Reason for Proposed Action:

21 NCAC 26 .0207 - Because of changes in technology, the Board has determined that electronic signatures and seals should be allowed on certain documents; therefore, the rule implements procedures to allow licensed landscape architects to use electronic signatures and seals.

21 NCAC 26 .0301 - First, the Board is proposing a technical amendment to change the reference from "Uniform National Examination" to "Landscape Architecture Registration Exam (LARE)". Second, the Board proposes to define "qualified applicant".

21 NCAC 26 .0303 - The Board is proposing a technical amendment to change the reference from "Uniform National Examination" to "Landscape Architecture Registration Exam (LARE)".

Procedure by which a person can object to the agency on a proposed rule: Objections or comments must be submitted in writing to Charles McDarris, Bailey & Dixon, 434 Fayetteville Street, Raleigh, NC 27601. Objections or comments must be submitted by the end of the comment period.

Comments may be submitted to: Charles F. McDarris, 434 Fayetteville Street, Suite 2500, Raleigh, NC 27601, phone (919) 828-0731

Comment period ends: March 5, 2007

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

21 NCAC 26 .0207 APPLICATION OF PROFESSIONAL SEAL

(a) Use of Seal. The seal(s) of the landscape architect(s) responsible for the work and the landscape architectural corporation seal, if appropriate, shall be applied to the following documents:

- (1) Drawings and specifications prepared for public agency approval.
(2) Drawings and specifications issued for the purpose of bidding, negotiation or construction.
(3) Reports of technical nature.
(4) Letters and certificates of professional opinion.

(b) Standard Design Documents are defined as drawings and specifications prepared by another and obtained by the Landscape Architect for review and certification by the Landscape Architect. Such drawings may be sealed by the landscape architect registered in North Carolina provided:

- (1) the origin of the "standard design documents" appears on each drawing or sheet of the documents sealed by the landscape architect;
(2) the North Carolina landscape architect clearly identifies all modifications of the standard design documents.

(c) The seal of the North Carolina landscape architect placed on each sheet identified as "standard design documents" is prima facie evidence that the landscape architect whose seal is affixed assumes responsibility for the adequacy of the standard design for its specific application in North Carolina, including conformance with applicable codes and ordinances.

(d) The seal(s) shall be applied only to documents prepared personally or under the immediate supervision of the landscape architect whose seal is affixed.

(e) Signature and Date. The individual's seal or facsimile thereof shall have the landscape architect's original signature across its face and the effective date shall be indicated below or elsewhere on the document.

(f) Co-authorship. When a document requiring seals has been co-authored by the landscape architect and another licensed design professional of another discipline, the landscape architect shall indicate by notation each portion for which he or she is responsible.

(g) Failure to use the professional seal according to this Rule shall may be deemed by the Board to be "unprofessional conduct" "gross malpractice" within the meaning of G.S. 89A-7.

(h) Electronically transmitted documents and electronic seals shall be allowed. Documents, including drawings, specifications and reports, that are transmitted electronically to a client or a governmental agency shall have the computer-generated seal removed from the original file, unless signed with a digital signature as defined in Paragraph (j) of this Rule.

SECTION .0200 - PRACTICE OF REGISTERED LANDSCAPE ARCHITECTS

(i) After removal of the seal, the electronic media shall have the following language inserted in lieu of the signature and date:

This document originally issued and sealed by (name of sealer), (license number), on (Date of sealing). This medium shall not be considered a certified document. Hardcopy documents containing the original seal, signature, and date may be obtained from (name of sealer).

(j) The scanned digital files of certified documents that cannot be altered are not subject to the requirements of this Paragraph. The electronic transmission of CAD, vector or other similar files subject to easy editing are subject to the requirements of this Paragraph. Easy editing is based on the file consisting of separate elements that can be modified or deleted in part or in whole.

(i) Documents to be electronically transmitted that are signed using a digital signature shall contain the authentication procedure in a secure mode and a list of the hardware, software and parameters used to prepare the document(s). Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. The digital signature shall be:

- (1) Unique to the licensee using it;
- (2) Capable of verification;
- (3) Under the sole control of the licensee; and
- (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

Authority G.S. 89A-3(c); 89A-7.

**SECTION .0300 - EXAMINATION AND LICENSING PROCEDURES**

**21 NCAC 26 .0301 EXAMINATION**

(a) Notice. The Board shall hold at least one examination during each year and may hold such additional examinations as may appear necessary. The secretary shall give public notice of the time and place for each examination at least 60 days in advance of the date set for the examination.

(b) Examination. The Landscape Architect Registration Examination published by the Council of Landscape Architectural Registration Boards shall be the examination given by the Board, so long as the Board shall remain a member of the Council of Landscape Architectural Registration Boards. The Board in its discretion may administer a state supplement to the ~~Uniform National Examination~~ Landscape Architecture Registration Exam (LARE) as allowed by the Council.

(c) ~~Qualified applicants who are admitted to the Landscape Architects Registration Examination who do not successfully complete all parts of the examination shall be admitted to as many subsequent Uniform National Examinations as necessary until the examination is successfully completed.~~

~~Such applicants shall be required to pay the prescribed fees for the examination.~~ "Qualified Applicant" - An applicant is deemed qualified to take the Landscape Architects Registration Examination (LARE) upon graduation from a Landscape Architect's Accreditation Board (LAAB) accredited collegiate curriculum in landscape architecture and has completed the equivalent educational and experience as set forth in Paragraphs (d) and (e) of this Rule.

(d) Educational Equivalents. In allowing credit for education and experience in fulfilling the minimum qualification requirements established by statute, the Board will allow credit for educational experience as follows:

- (1) Degree in Landscape Architecture from accredited curriculum approved by the Board: Maximum Credit - 100 percent;
- (2) Degree in Landscape Architecture from non-accredited curriculum approved by the Board:
  - (A) first two years - 100 percent;
  - (B) succeeding years - 100 percent;
  - (C) maximum credit - 4 years.
- (3) Credits in landscape architecture from an accredited curriculum approved by the Board:
  - (A) each year - 100 percent;
  - (B) maximum credit - 3 years.
- (4) Credits in landscape architecture from a non-accredited curriculum approved by the Board:
  - (A) first two years - 100 percent;
  - (B) succeeding years - 67 percent;
  - (C) maximum credit - 3 years.
- (5) Degree (or credits toward a degree) in architecture, civil engineering, and ornamental horticulture:
  - (A) first two years - 100 percent;
  - (B) succeeding years - 50 percent;
  - (C) maximum credit - 3 years.
- (6) BS or AB Degree (or credits toward a degree) in curricula not covered in Rule .0301 (e)(5) as approved by the Board:
  - (A) first two years - 75 percent;
  - (B) succeeding years - 25 percent;
  - (C) maximum credit - 2 years.
- (7) Work at a community college shall be creditable only to the extent that North Carolina State University at Raleigh or North Carolina A&T University at Greensboro would accept the work toward the requirements of an undergraduate or graduate degree in Landscape Architecture.
- (8) Education Equivalency shall be based on full-time enrollment as prescribed by the institution of higher education attended or based on the percentage of credits required for the degree being sought; assuming that one should earn 25% of the required credits each academic year.

- (9) Maximum cumulative educational credit shall be 4 years.
- (e) Experience Equivalents. In allowing credit for education and experience in fulfilling the minimum qualification requirements established by statute, the Board will allow credit for professional experience as follows:
  - (1) Practical training and experience in the office of a Landscape Architect in a position of responsible charge after receiving a degree in landscape architecture or related field.
    - (A) allowable credit - 100 percent;
    - (B) maximum credit - no limit.
  - (2) Practical training and experience in the office of a Landscape Architect in periods of 12 months or more and after completing 75% of the requirements for a degree in landscape architecture or related field.
    - (A) allowable credit - 75 percent;
    - (B) maximum credit - no limit.
  - (3) Practical training and experience in the office of a Landscape Architect in periods of three months or more prior to completing 75% of the requirements for a degree in landscape architecture or related field.
    - (A) allowable credit - 50 percent;
    - (B) maximum credit - no limit.
  - (4) Full-time research or teaching in a landscape architectural curriculum as approved by the Board.
    - (A) allowable credit - 50 percent;
    - (B) maximum credit - 2 years.
  - (5) Employment by governmental agencies when diversified and comparable to employment in the office of a Landscape Architect, provided that the work is directly related to landscape architecture, and:
    - (A) The supervisor is a licensed Landscape Architect.
      - (i) allowable credit - 100 percent;
      - (ii) maximum credit - no limit.
    - (B) The supervisor is not a Landscape Architect.
      - (i) allowable credit - 75 percent;
      - (ii) maximum credit - no limit.
  - (6) Employment doing landscape architectural type work by an organization having employees perform such work in connection with projects owned or managed by the organization, and:
    - (A) The supervisor is a licensed Landscape Architect.
      - (i) allowable credit - 100 percent;
- (ii) maximum credit - no limit.
- (B) The supervisor is not a Landscape Architect.
  - (i) allowable credit - 100 Percent;
  - (ii) maximum credit - no limit.
- (7) Employment or self-employment as an architect, or professional engineer (civil).
  - (A) allowable credit - 75 percent;
  - (B) maximum credit - no limit.
- (8) Employment or self-employment as a professional engineer (other than civil engineer) nurseryman, horticulturist, land surveyor, landscape contractor, or in similar related activities approved by the Board.
  - (A) allowable credit - 50 percent;
  - (B) maximum credit - no limit.
- (9) Experience credits shall be based on a full-time work week of 40 hours and a work year of at least 2,000 hours. Part-time work must be fully described and can be given proportional credit.
- (10) No credit will be given for experience of less than three months duration.
- (11) One cannot receive both educational credit and experience credit for the same period of time.

*Authority G.S. 89A-3(c); 89A-4(a), (b).*

**21 NCAC 26 .0303 CERTIFICATE OF RECIPROCITY**

- (a) To assure that the requirements of the other state are at least equivalent to those of this state, the applicant shall be required to show evidence of education and experience equal to those required of applicants residing in this state who seek registration by examination.
- (b) An application for a certificate of registration by reciprocity must be made on the form prescribed by the board and must be accompanied by the prescribed fee.
- (c) To be approved for a certificate of registration by reciprocity, the applicant must meet the following requirements:
  - (1) Provide evidence of having successfully completed the ~~Uniform—National Examination for Landscape Architects~~ Landscape Architecture Registration Examination published by the Council of Landscape Architectural Registration Boards or hold a certificate issued by the Council of Landscape Architectural Registration Boards;
  - (2) Provide certification from the proper official of any state having a landscape architectural registration act that the individual is

currently registered and in good standing in that state;

- (3) Submit such additional information as may be requested by the board;
- (4) Submit examples of work upon request;
- (5) Take a written or oral examination, if requested to do so.

Authority G.S. 89A-3(c); 89A-4(c).

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CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

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 32B .0209, .0213, .0308, .0506 - .0507; 32R .0102.

Proposed Effective Date: May 1, 2007

Public Hearing:

Date: January 22, 2007

Time: 10:00 a.m.

Location: NC Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 32B .0209, .0308, and .0506 - The referenced rules are proposed for amendment based on a change in 90-15 which allowed for the fees to be increased.

21 NCAC 32B .0213 – To identify the correct program for approving training programs. LCME approves medical schools but does not approve training programs. ACGME and AOA approve training programs.

21 NCAC 32B .0507 – To be consistent with 21 NCAC 32B .0302, which was changed in July 2004 to require an original ECFMG Certification Status Report.

21 NCAC 32R .0102 – This rule is being amended to clarify categories that are approved for continuing medical education.

Procedure by which a person can object to the agency on a proposed rule: A person may submit objections to the proposed amendments by March 5, 2007, by writing to R. David Henderson, Executive Director, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609.

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

Comment period ends: March 5, 2007

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 32B – LICENSE TO PRACTICE MEDICINE

SECTION .0200 - LICENSE BY WRITTEN EXAMINATION

21 NCAC 32B .0209 EXAMINATION FEE

(a) A fee of ~~two hundred and fifty dollars (\$250.00)~~ three hundred and fifty dollars (\$350.00) is due at the time of application.

(b) In the event the applicant does not appear for the exam, licensure is denied, or the application is withdrawn no portion of the fee shall be refunded.

Authority G.S. 90-15.

21 NCAC 32B .0213 GRADUATE MEDICAL EDUCATION AND TRAINING FOR LICENSURE

Before licensure, physicians who pass the written examination shall furnish the following current credentials:

- (1) Board application questionnaire;
- (2) Proof of graduate medical education and training taken after graduation from medical school, (except for a dentist as permitted in G.S. 90-9(2)), as follows:
  - (a) A graduate of a medical school approved by LCME or AOA must have satisfactorily completed one year of graduate medical education and training approved by ACGME or AOA.
  - (b) A graduate of a medical school not approved by LCME or AOA must have satisfactorily completed three years of graduate medical education and training approved by ACGME or AOA;
  - (c) A graduate of a medical school not approved by LCME or AOA may

satisfy the three-year postgraduate training requirement with at least one year of ~~LCME-ACGME~~ or AOA approved training in combination with certification by a specialty board recognized by the ABMS or AOA.

- (3) Letters from all training program directors since passing the written examination regarding standing and length of training;
- (4) Reports from all relative state agencies in which the applicant has ever held a professional license to include medical, dental, nursing and law, indicating the status of the applicant's license and whether or not the license has been revoked, suspended, surrendered, or placed on probation (must be mailed directly from other state agencies to the Board).
- (5) AMA Physician Profile (requested by applicant of AMA);
- (6) FSMB Data Bank Inquiry (requested by applicant of FSMB); and
- (7) AOIA Physician Profile (requested by applicant of AOIA) if applicant is an osteopathic physician).

Authority G.S. 90-9.

**SECTION .0300 – LICENSE BY ENDORSEMENT**

**21 NCAC 32B .0308 FEE**

A fee of ~~two hundred and fifty dollars (\$250.00)~~ three hundred and fifty dollars (\$350.00) is due at the time of application. In the event the applicant does not appear for a scheduled personal interview, no portion of the fee may be refunded. In the event licensure is denied or the application is withdrawn, no portion of the fee may be refunded.

Authority G.S. 90-15.

**SECTION .0500 - RESIDENT'S TRAINING LICENSE**

**21 NCAC 32B .0506 FEE**

A fee of ~~twenty five dollars (\$25.00)~~ one hundred dollars (\$100.00) is due at the time of application. No portion of the application fee is refundable.

Authority G.S. 90-15.

**21 NCAC 32B .0507 ECFMG CERTIFICATION**

To be eligible for a resident's training license, applicants who are graduates of medical schools other than those approved by LCME or AOA must furnish ~~a photocopy~~ an original ECFMG Certification Status Report, of a currently valid standard certificate of the ECFMG. Upon passing the ECFMG examination and successfully completing an approved Fifth

Pathway Program, ECFMG certification may be waived by the Board.

Authority G.S. 90-15.

**SUBCHAPTER 32R – CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS**

**SECTION .0100 – CONTINUING MEDICAL EDUCATION (CME) REQUIREMENTS**

**21 NCAC 32R .0102 APPROVED CATEGORIES OF CME**

The following are the approved categories of CME:

- (1) Educational Provider-Initiated CME: All education offered by institutions or organizations accredited by the Accreditation Council on Continuing Medical Education (ACCME) and reciprocating organizations or American Osteopathic Association (AOA) including:
  - (a) Formal courses
  - (b) Scientific/clinical presentations, or publications
  - (c) Enduring Material (printed or electronic materials)
  - (d) Skill development
  - (e) Performance improvement activities
- (2) Physician-Initiated CME:
  - (a) Practice based self study
  - (b) Colleague Consultations
  - ~~(c) Office based outcomes research~~
  - ~~(d)(c)~~ Study initiated by patient inquiries
  - ~~(e)(d)~~ Study of community health problems
  - ~~(f)(e)~~ Successful Specialty Board Exam for certification or recertification
  - ~~(g)(f)~~ Teaching (professional, patient/public health)
  - ~~(h)(g)~~ Mentoring
  - ~~(i)(h)~~ Morbidity and Mortality (M&M) conference
  - ~~(j)(i)~~ Journal clubs
  - ~~(k)(j)~~ Creation of generic patient care pathways and guidelines
  - ~~(l)(k)~~ Competency Assessment

Authority G.S. 90-14(a)(15).

**CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to adopt the rule cited as 21 NCAC 32B .1001.*

**Proposed Effective Date:** June 1, 2007

**Public Hearing:**

**Date:** February 13, 2007

**Time:** 10:00 a.m.

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

**Reason for Proposed Action:** *To clarify the responsibility of supervising physicians that in order to supervise an allied health professional who prescribe controlled substances, the supervising physician must also be able to lawfully prescribe the same medications as that allied health professional.*

**Procedure by which a person can object to the agency on a proposed rule:** *Person may submit objections to this Rule 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, Executive Director, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, phone (919) 326-1100, fax (919) 326-1131, email david.henderson@ncmedboard.org*

**Comment period ends:** March 5, 2007

**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 32B – LICENSE TO PRACTICE MEDICINE**

**SECTION .1000 - PRESCRIBING**

**21 NCAC 32B .1001 AUTHORITY TO PRESCRIBE**

(a) A license to practice medicine issued under this Subchapter allows the physician to prescribe medications, including controlled substances, so long as the following conditions are met:

- (1) the physician complies with all state and federal laws and regulations governing the writing and issuance of prescriptions; and
- (2) the physician comports with acceptable and prevailing standards of medical practice, and the ethics of the profession, in the writing and issuance of prescriptions.

(b) A physician must possess a valid United States Drug Enforcement Administration ("DEA") registration in order for the physician to supervise an allied health professional (physician assistant, nurse practitioner, clinical pharmacist practitioner) with prescriptive authority for controlled substances. In addition, the DEA registration of the supervising physician must be for the same schedule(s) of controlled substances as the allied health professional's DEA registration.

Authority G.S. 90-2(a).

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**CHAPTER 38 - BOARD OF OCCUPATIONAL THERAPISTS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Board of Occupational Therapy intends to adopt the rules cited as 21 NCAC 38 .0801 - .0808, .0901 - .0905, .1001 - .1005, .1101 - .1102 and amend the rules cited as 21 NCAC 38 .0101 - .0103, .0201, .0204, .0301 - .0305, .0401 - .0402, .0502, .0701 - .0704.*

**Proposed Effective Date:** July 1, 2007

**Public Hearing:**

**Date:** January 22, 2007

**Time:** 1:00 p.m.

**Location:** Wachovia Capital Center, 13<sup>th</sup> Floor Conference Room, 150 Fayetteville Street, Raleigh, NC 27601

**Reason for Proposed Action:** *These amendments are being submitted to implement and interpret the recently enacted amendments to the North Carolina Occupational Therapy Practice Act as contained in Session Law #2005-432.*

**Procedure by which a person can object to the agency on a proposed rule:** *Any person may object to any of these proposed adoptions by submitting a written statement to Charles P. Wilkins at P.O. Box 2280, Raleigh, NC 27602, postmarked on or before March 5, 2007.*

**Comments may be submitted to:** *Charles P. Wilkins, P.O. Box 2280, Raleigh, NC 27602, phone (919) 833-2752, fax (919) 833-1059, email cwilkins@bws-law.com*

**Comment period ends:** March 5, 2007

**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

**SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS**

**21 NCAC 38 .0101 PURPOSE**

It is the responsibility of the Board to license occupational therapists and occupational therapisttherapy assistants and to see that the qualifications and activities of those engaged in occupational therapy are in accord with law and in the best interest of the public.

The Board is not a Board of arbitration and has no jurisdiction to settle disputes between parties.

Authority G.S. 90-270.66; 90-270.69.

**21 NCAC 38 .0102 BOARD OFFICE**

The administrative offices of the North Carolina Board of Occupational Therapy are located at:  
First Union Wachovia Capitol Center  
150 Fayetteville Street-Mall, Suite 1900  
P.O. Box 2280  
Raleigh, North Carolina 27602  
Telephone: (919) 832-1380  
Office hours are 9:00 a.m. until 5:00 p.m., Monday through Friday, except holidays.

Authority G.S. 90-270.69(5).

**21 NCAC 38 .0103 DEFINITIONS**

The definitions in G.S. 90-270.67 apply to this Chapter. The following definitions also apply to the Chapter:

- (1) "Activities of daily living" means self-care activities.
- (2) "Assessment" means the specific tools or instruments that are used during the evaluation process.
- (3) "Entry-level" means a person who has no experience in a specific position, such as a new graduate, a person new to the position,

- or a person in a new setting with no previous experience in that area of practice.
- (4) "Evaluation" means the process of obtaining and interpreting data necessary for intervention. This includes planning for and documenting the evaluation process and results.
- (5) "Instrumental activities of daily living" means multi-step activities to care for self and others, such as household management, financial management and childcare.
- (6) "Intervention" means treatment.
- (7) "Intervention plan" is the program established by the occupational therapist for the delivery of occupational therapy services. It may also be referred to as treatment plan, individualized education plan (IEP), individualized family service plan (IFSP), plan of care, or other terminology as determined by the occupational therapy service delivery setting.
- (8) "Level I Fieldwork" provides introductory level clinical training opportunities.
- (9) "Level II Fieldwork" provides clinical training in preparation for entry-level practice.
- (10) "Neglect of duty" occurs when a Board member fails to attend a majority of the official meetings of the Board within any 12 month period.
- (11) "Occupational Therapy", as defined in G.S. 90-270.67(4), may include evaluation of activities of daily living (ADL), instrumental activities of daily living (IADL), education, work, play, leisure, and social participation.
- (12) "Occupational Therapy evaluation, treatment, and consultation" include the following:
  - (a) remediation or restitution of performance abilities that are limited due to impairment in biological, physiological, psychosocial and developmental process;
  - (b) adaptation of skills, process or environment, or the teachings of compensatory techniques in order to enhance performance;
  - (c) disability prevention methods and techniques which facilitate the development or safe application of performance skills;
  - (d) health promotion strategies and practices which enhance performance abilities;
- (13) "Occupational therapy practitioner" means an individual currently licensed by the

- Board, as an occupational therapist or an occupational therapy assistant.
- (14) "Occupational therapy services" include the following:
- (a) screening, evaluating, developing, improving, sustaining or restoring skills in activities of daily living, work or productive activities, including instrumental activities of daily living, and play and leisure activities;
  - (b) evaluating, developing, remediating, or restoring sensorimotor, cognitive, or psychosocial components of performance;
  - (c) designing, fabricating, or training in the use of assistive technology, upper extremity orthotic devices and lower extremity positioning orthotic devices;
  - (d) training in the use of prosthetic devices, excluding gait training;
  - (e) adaptation of environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles;
  - (f) application of physical agent modalities based on physician order as an adjunct to or in preparation for engagement in purposeful activities;
  - (g) evaluating and providing intervention and case management in collaboration with the client's family, caregiver, or other involved individuals or professionals;
  - (h) educating the client, family, caregiver, or others in carrying out non-skilled interventions;
  - (i) consulting with groups, programs, organizations, or communities to provide population-based services.
- (15) "Occupational therapy student" means an individual currently enrolled in an occupational therapist or occupational therapy assistant program accredited by the Accreditation Council for Occupational Therapy Education (ACOTE).
- (16) "Practice Act" refers to the North Carolina Occupational Therapy Practice Act found in G.S. 90-270.65 et.seq.
- (17) "Screening" means obtaining and reviewing data relevant to a potential client to determine the need for further evaluation and intervention.
- (18) "Service Competency" is the ability to provide occupational therapy services in a safe and effective manner. It implies that two practitioners can perform the same or equivalent procedure and obtain the same result.
- (19) "Skilled occupational" therapy services means functions that require the exercise of professional occupational therapy judgment, including the interpretation of referrals, screening, assessment, evaluation, development or modification of intervention plans, implementation of intervention, reassessment, or discharge planning.
- (20) "Supervision" is the process by which two or more people participate in joint effort to establish, maintain and elevate a level of performance to ensure the safety and welfare of clients during the provision of occupational therapy. A variety of types and methods of supervision may be used. Methods may include direct face-to-face contact and indirect contact. Examples of methods or types of supervision that involve face-to-face contact include observation, modeling, co-treatment, discussions, teaching, instruction, and video conferencing. Examples of methods or types of supervision that involve indirect contact include phone conversations, written correspondence, electronic exchanges, and other methods using secure telecommunication technology. Supervision is structured according to the supervisee's qualifications, position, level of preparation, depth of experience and the environment within which the supervisee functions. A change in practice setting may require a change in level of supervision until service competency has been established. Levels of supervision are:
- (a) "Close supervision" requires daily, direct contact at the service delivery site (where intervention plan is provided).
  - (b) "Routine supervision" requires direct contact at least every two weeks, with interim supervision occurring by other methods, such as telephone or written communication.
  - (c) "General supervision" requires at least monthly direct contact, with supervision available as needed by other methods.
  - (d) "Direct supervision" means the Occupational Therapy practitioner must be within audible and visual



range of the client and unlicensed personnel and available for immediate physical intervention. Direct supervision is required for unlicensed personnel.

- (21) "Unlicensed personnel" means individuals within an occupational therapy setting who work under the direct supervision of occupational therapy practitioners to provide non-intervention services.

Authority G.S. 90-270.67; 90-270.69(4).

**SECTION .0200 - APPLICATION FOR LICENSE**

**21 NCAC 38 .0201 APPLICATION PROCESS**

Each applicant, including those trained outside the United States or its territories, for an occupational therapist or occupational therapist assistant license shall complete an application form provided by the Board. This form shall be submitted to the Board and shall be accompanied by:

- (1) ~~one recent~~ head and shoulders photograph (passport ~~type~~ type), ~~taken within the past six months~~, of the applicant of acceptable quality for identification, two inches by two inches in size;
- (2) the proper fees, as required by 21 NCAC 38 .0204;
- (3) ~~documentation from the applicant's educational institution that the applicant for licensure:~~
  - (a) ~~as an occupational therapist has successfully completed an accredited occupational therapy educational curriculum in the United States or its territories approved by the Board and that the applicant has successfully completed the therapist level field work requirements as stipulated in the Essentials of an Accredited Educational Program for the Occupational Therapist published by the American Occupational Therapy Association, which is adopted by reference under G.S. 150B-14(e);~~
  - (b) ~~as an occupational therapist assistant has successfully completed an accredited occupational therapy assistant educational curriculum in the United States or its territories approved by the Board and that the applicant has successfully completed the occupational therapist assistant level field work requirements as stipulated in the~~

~~Essentials of an Accredited Educational Program for the Occupational Therapist Assistant published by the American Occupational Therapy Association, which is adopted by reference under G.S. 150B-14(e).~~

- (4) a form provided by the Board containing signed statements from two ~~state licensed occupational therapists~~ therapy practitioners certified by the American Occupational Therapy Certification Board (AOTCB) attesting to the applicant's good moral character; and
- (5)(3) ~~satisfactory~~ evidence from the AOTCB National Board for Certification of Occupational Therapy (NBCOT) of successful completion of the certification examination administered by it. Evidence of successful completion of the AOTCB/NBCOT certification examination will shall be accepted as proof of graduation from an accredited curriculum and successful completion of field work ~~requirements.~~ requirements;
- (5) successful completion of a jurisprudence exam administered by the Board.

Authority G.S. 90-270.69(4); 90-270.70.

**21 NCAC 38 .0204 FEES**

- (a) Fees are as follows:
  - (1) a request for an initial application for licensure as an occupational therapist, an occupational therapist assistant or a ~~provisional licensee~~ limited permittee is ten dollars (\$10.00);
  - (2) ~~consideration of the~~ application for issuance of a license or re-issuance of an expired license is one hundred dollars (\$100.00);
  - (3) annual renewal of a license is fifty dollars (\$50.00);
  - (4) late renewal of a license is an additional fifty dollars (\$50.00);
  - (5) issuance of a ~~provisional licensee~~ limited permit is thirty-five dollars (\$35.00).
- (b) Fees shall be non-refundable and shall be paid in cash or in the form of a cashier's check, certified check or money order made payable to the North Carolina Board of Occupational Therapy. ~~However, personal~~ Personal checks ~~may~~ shall be accepted for payment of renewal fees.

Authority G.S. 90-270.77.

**SECTION .0300 - LICENSING**

**21 NCAC 38 .0301 LICENSE NUMBER: DISPLAY OF LICENSE**

Each individual who is issued a license shall be issued a license number. Should that number be retired for any reason (such as death, failure to renew the license, or any other reason) that number ~~will~~shall not be reissued. ~~A~~The license and current renewal card must be ~~displayed in a prominent place~~available for inspection at the licensee's principal place of business. ~~so as to be visible for inspection.~~

Authority G.S. 90-270.69(4); 90-270.73.

**21 NCAC 38 .0302 LICENSE RENEWAL**

(a) Any licensee desiring the renewal of a license shall apply for renewal and shall submit the renewal application, documentation of continuing competence activities, and the required fee. Occupational therapy assistants who are employed must also include evidence of required supervision.

(b) Any person whose license is ~~lapsed or~~ expired and who engages in any occupational therapy activities governed by the occupational therapy law ~~will~~shall be subject to the penalties prescribed in ~~G.S. 90-270.76 and 90-270.79~~90-270.76, 90-270.79, 90-270.80 and 90-270.80A.

(c) Licenses not renewed by June 30 shall expire. Persons whose licenses have expired and who desire to be licensed shall apply for and complete the requirements to renew the license. If the person has not been engaged in the practice of occupational therapy in another state or country for a majority of the time since the person's license expired, the person shall also provide proof of 15 hours of continuing competence activities for each year the person's license was expired, with a maximum requirement of 30 hours.

~~(d)~~(d) Licenses ~~expired~~lapsed in excess of 24 months ~~are expired and~~ shall not be renewable. Persons whose licenses have ~~been lapsed~~expired in excess of 24 months and who desire to be licensed shall apply for and complete the requirements for a new license. If the person has not been engaged in the practice of occupational therapy in another state or country for a majority of the time since the person's license expired, the person~~license and~~ shall meet ~~all the following additional requirements;~~requirements then existing.

- (1) 15 hours of continuing competence activities for each year the person's license was expired with a maximum requirement of 90 hours;
- (2) written offer of employment as an occupational therapy practitioner;
- (3) submission of a written plan to the Board for at least 90 days of supervision and mentoring;
- (4) submission of documentation to the Board that the supervision and mentoring has been provided.

(e) Any required hours of additional continuing competence activities to renew an expired license or to obtain a new license shall be prorated taking into consideration any months less than a year the person has not been practicing occupational therapy while the person's license was expired.

Authority G.S. 90-270.69(4); 90-270.75.

**21 NCAC 38 .0303 LIMITED PERMITS**

An applicant for a ~~provisional license~~limited permit must have completed the course work and field work experience requirement of the license for which ~~he~~the applicant applies, must have made application to take the certification exam administered by the ~~AOTCB~~National Board for Certification in Occupational Therapy (NBCOT) and must have filed ~~his~~an application with the Board in accordance with G.S. 90-270.70 and ~~these rules.~~the rules in this Chapter. A limited permit shall not be issued until the Board has received the verification of supervision form. ~~The provisional license shall be valid for nine months from date of issuance or until revoked by the Board, whichever occurs first.~~ This Rule expires October 1, 2007.

Authority G.S. 90-270.69(4); 90-270.74.

**21 NCAC 38 .0304 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE**

(a) In addition to the conduct set forth in G.S. 90-270.76, the Board may deny, suspend, or revoke a license, or ~~issue a letter of reprimand~~impose probationary conditions on a licensee to a licensee, upon any of the following grounds:

- (1) writing a check given to the Board in payment of required fees which is returned unpaid;
- (2) allowing an unlicensed occupational therapist or occupational ~~therapist~~therapy assistant to practice under the licensee's supervision or control;
- (3) making any false statement or giving any false information in connection with an application for a license or renewal of a license or any investigation by the Board or the Board's designee;
- (4) committing a crime the circumstances of which substantially relate to the occupational therapy profession;
- (5) violating any federal or state statute or rule which relates to the occupational therapy profession;
- (6) practicing occupational therapy while the licensee's ability to practice was impaired by alcohol or other drugs or a physical or mental disability or disease;
- (7) ~~engaging in unprofessional conduct which includes violating any standard of professional behavior which through professional experience has become established in the profession of occupational therapy;~~engaging in sexual misconduct. For the purposes of this Paragraph, sexual misconduct includes:
  - (A) Engaging in or soliciting sexual relationships, whether consensual or non-consensual, while an Occupational Therapist or

Occupational Therapy Assistant/patient relationship exists with that person;

(B) Making sexual advances, requesting sexual favors or engaging in physical contact of a sexual nature with patients or clients;

- (8) obtaining or attempting to obtain compensation payment by fraud or deceit;
- (9) violating any order of the Board;
- (10) failing to properly make the disclosures required by 21 NCAC 38 .0305, 21 NCAC 38 .0305;
- (11) abandoning or neglecting a patient or client under and in need of immediate professional care, without making reasonable arrangements for the continuation of such care.

(b) A licensee has been incompetent in practice under G.S. 90-270.76(a)(5) if the licensee has engaged in conduct which evidences a lack of ability, fitness or knowledge to apply principles or skills of the profession of occupational therapy.

Authority G.S. 90-270.69(4); 90-270.76.

**21 NCAC 38 .0305 CONTINUING DUTY TO REPORT CERTAIN CRIMES AND CIVIL SUITS**

~~(a)~~ All occupational therapists, occupational therapist therapy assistants and ~~provisional licensees~~ limited permittees are under a continuing duty to report to the Board within 30 days ~~any and~~ all:

- (1) convictions of, or pleas of guilty or no contest to, a felony or any crime, such as fraud, that involves moral turpitude; and
- (2) involvements in a civil suit arising out of or related to a licensee's practice of occupational therapy.

~~(b) A licensee must report a conviction, plea, or involvement in a civil suit within 30 days after it occurs.~~

Authority G.S. 90-270.69(2),(4).

**SECTION .0400 - GENERAL**

**21 NCAC 38 .0401 CHANGE OF ADDRESS OR BUSINESS NAME**

All licensees shall notify the Board in writing of each change of ~~trade name, or residence or~~ residence, trade name, business address, including or mailing address, within ten days of such change.

Authority G.S. 90-270.69(2),(4).

**21 NCAC 38 .0402 ADVERTISING**

In all advertisements relating to occupational therapy, the occupational therapist's or occupational ~~therapist~~ therapy assistant's name and license number shall be ~~clearly~~ given. A

licensee may not advertise under a name that is different from the licensee's surname unless written notice has been filed with the Board. The licensee shall notify the Board of all certificates of assumed name filed with any county register of deeds in compliance with G.S. 66-68.

Authority G.S. 90-270.69(4).

**SECTION .0500 - RULES**

**21 NCAC 38 .0502 PROCEDURE FOR ADOPTION OF RULES**

(a) General. The procedure for the adoption, amendment or repeal of a rule is governed by G.S. 150B.

(b) Notice of Rule-Making. ~~In addition to the mandatory publication of notice in the North Carolina Register, the Board, in its discretion, may also publish notice to licensees through its newsletter or by separate mailing.~~ Any person who wishes to receive individual notice shall file a written request with the Board and shall be responsible for the cost of mailing said notice.

(c) Public Hearing. Any public rule-making hearing required by G.S. 150B shall be conducted by the Chairman of the Board or by any person he may designate. The presiding officer shall have complete control of the hearing and shall conduct the hearing so as to provide a reasonable opportunity for any interested person to present views, data and comments.

(+) Oral presentations shall not exceed 15 minutes ~~minutes unless the presiding officer, in his discretion, prescribes a greater time limit.~~

(2) Written presentations shall be acknowledged by the presiding officer and shall be given the same consideration as oral presentations.

Authority G.S. 150B-21.2.

**SECTION .0700 - PROFESSIONAL CORPORATIONS**

**21 NCAC 38 .0701 AUTHORITY AND DEFINITIONS**

~~(a) Under the Professional Corporation Act, G.S. 55B, the North Carolina Board of Occupational Therapy has the authority to regulate professional corporations whose purpose is the provision of occupational therapy related services.~~

~~(b) The rules in this Section supplement the basic statutory governing professional corporations and shall be interpreted so as not to conflict with such statutory law, as it may be amended from time to time, or with other statutes and laws governing corporations generally.~~

As used in this Section:

~~(e)~~(2) "Board" means the North Carolina Board of Occupational Therapy.

~~(d)~~(5) "Occupational therapy related services" means those activities through which occupational therapy, as defined in G.S. 90-270.67(4), is practiced.

- ~~(e)~~(4) "Licensee" means any individual who is duly licensed to practice occupational therapy in North Carolina as an occupational therapist.
- ~~(f)~~(6) "Professional Corporation" means professional corporations organized for the purpose of providing occupational therapy related services in North Carolina.
- ~~(g)~~(3) "Legal Counsel" means the legal counsel to the North Carolina Board of Occupational Therapy.
- ~~(h)~~(1) ~~"Assistant"~~"Administrator" means the ~~administrative assistant to~~administrator of the North Carolina Board of Occupational Therapy.

Authority G.S. 55B-2; 55B-12; 90-270.69(4).

**21 NCAC 38 .0702 PREREQUISITES FOR INCORPORATION**

The following requirements must be met in order to incorporate:

- (1) The incorporator, whether one or more, of a professional corporation shall be ~~duly~~ licensed to practice occupational therapy in North Carolina as an occupational therapist.
- (2) Before the filing of the articles of incorporation with the Secretary of State, the incorporators shall file with the ~~assistant to~~administrator of the Board a copy of the original articles of incorporation, together with a registration fee of fifty dollars (\$50.00).
- (3) The copy of the articles of incorporation shall be accompanied by an application to the Board (Corp. Form 01) certified by all incorporators, setting forth the names, addresses and N.C. license numbers of each shareholder of ~~said~~the corporation who will be practicing occupational therapy for ~~said~~the corporation.
- (4) Included with the ~~above~~articles of incorporation shall be a statement that all such persons are ~~duly~~ licensed to practice occupational therapy in North Carolina as occupational therapists, and stating that the corporation will be conducted in compliance with the Professional Corporation Act and ~~these Regulations;~~the rules of this Section.
- (5) If the articles are changed in any manner before being filed with the Secretary of State, they shall be resubmitted to the ~~assistant to~~administrator of the Board and shall not be filed until approved by the ~~assistant to~~administrator of the Board.

Authority G.S. 55B-4; 55B-10; 90-270.69(4).

**21 NCAC 38 .0703 CERTIFICATE OF REGISTRATION**

The Certificate of Registration shall be issued as follows:

- (1) The legal counsel or ~~assistant~~administrator shall issue a Certificate of Registration (Corp. Form 02) for the professional corporation to become effective only when the professional corporation files the articles of incorporation with the Secretary of State and if:
  - (a) the legal counsel or ~~assistant to~~administrator of the Board finds that no disciplinary action is pending before the Board against any of the licensed incorporators or persons who will be directors, officers, or shareholders of such corporation; and
  - (b) it appears to the legal counsel or ~~assistant~~administrator that such corporation will be conducted in compliance with the law and ~~regulations;~~rules.
- (2) The proposed original articles of incorporation, and the Certificate of Registration, ~~will~~shall be returned to the incorporators for filing with the Secretary of State. The copy of the articles and a copy of the certification ~~will~~shall be retained in the administrative offices of the Board. If the required findings cannot be made, the registration fee shall be refunded to the incorporators.
- (3) The initial Certificate of Registration shall remain in effect until June 30 of the year in which it was issued unless suspended or terminated as provided by law. The Certificate of Registration shall be renewed annually thereafter.
- (4) ~~At least 20 days prior~~Prior to the date of expiration of the certificate, the corporation shall submit its written application for renewal upon a form as provided by the ~~Board~~Board (Corp. Form 03), ~~said~~The application ~~to~~shall be accompanied by check in the amount of twenty-five dollars (\$25.00) in payment of the renewal fee. The Board shall renew the certificate provided that the Board finds that the corporation has followed the law and the ~~regulations;~~rules of the Board.
- (5) If the corporation does not apply for renewal of its Certificate of Registration within 30 days after the date of its expiration, the Certificate of Registration shall be automatically suspended. Upon suspension of the Certificate of Registration, the legal counsel or the ~~assistant to~~administrator of

the Board ~~will~~shall notify the Secretary of State in writing.

- (6) The Certificate of Registration may be reinstated within the fiscal year upon payment of the renewal fee plus a late renewal fee of ten dollars (\$10.00), if such corporation is then otherwise qualified and entitled to a renewal of its Certificate of Registration.

Authority G.S. 55B-10; 55B-11; 55B-12; 90-270.69(4).

21 NCAC 38 .0704 GENERAL AND ADMINISTRATIVE PROVISIONS

The following general provisions shall apply to all incorporating professional associations:

(1)(a) If the legal counsel or assistant administrator shall decline to issue a Certificate of Registration required by 21 NCAC 38 .0703(1), or decline to renew the same when requested, or shall refuse to take any other action required of him/her in writing by a professional corporation, the aggrieved party may request, in writing, a review of such action by the Board, and the Board shall provide a formal hearing for such aggrieved party before a majority of the Board.

(2)(b) All amendments to charters of professional corporations, all merger and consolidation agreements to which a professional corporation is a party, and all dissolution proceedings and similar changes in the corporate structure of a professional corporation shall be filed with the legal counsel or assistant administrator of the Board for approval before being filed with the Secretary of State.

(3)(c) The legal counsel or assistant administrator is authorized to may issue the certificate (Corp. Form 04) required by G.S. 55B-6 when stock is transferred in a professional corporation, and such certificate shall be permanently attached to the stub of the transferee's certificate in the stock book of the professional corporation.

Authority G.S. 55B-6; 90-270.69(4).

SECTION .0800 – CONTINUING COMPETENCE ACTIVITY

21 NCAC 38 .0801 CONTINUING COMPETENCE DEFINITIONS

As used in this Section:

- (1) "AOTA Approved Provider Program" refers to a voluntary process of review and approval of continuing education (CE) providers by the American Occupational Therapy Association (AOTA) based on criteria and guidelines that assess a provider's ability to develop and implement CE activities that are relevant to the practice of occupational therapy.
(2) "Contact Hour" means a unit of measure for a continuing education activity. One contact

hour equals 60 minutes in a learning activity, excluding meals and breaks.

- (3) "Continuing Competence" means a process in which an occupational therapist or an occupational therapy assistant develops and maintains the knowledge, performance skills, interpersonal abilities, critical reasoning skills, and ethical reasoning skills necessary to perform his or her professional responsibilities.
(4) "Continuing Education" means structured educational experiences beyond entry-level academic degree work that are intended to provide advanced or enhanced knowledge in a particular area.
(5) "Continuing Education Credit" means credit given for a formalized activity in the form of contact hours or continuing education units.
(6) "Continuing Education Unit (CEU)" means a unit of measure for continuing education. One CEU is defined as 10 contact hours of participation in a learning activity excluding meals and breaks.
(7) "Peer Reviewed" means any written work that is blind reviewed by more than one person.
(8) "Points" means an assigned unit of measure for each continuing competence activity as defined in Rule .0805 of this Section.

Authority G.S. 90-270.69; 90-270.75(a).

21 NCAC 38 .0802 CONTINUING COMPETENCE REQUIREMENTS FOR LICENSURE

(a) Licensed occupational therapists and occupation therapy assistants applying for license renewal shall document having earned a minimum of 15 points for approved continuing competence activities between June 1 and May 31 of the immediately preceding licensure period.

(b) Every two years all licensees shall document completion of at least one contact hour of an ethics course related to the practice of occupational therapy, which shall be included in the total points for the year.

(c) Continuing competence contact hours exceeding the total needed for renewal shall not be carried forward to the next renewal period.

(d) Continuing competence activities shall not include new employee orientation or annual training required by the employer.

(e) Licensees may not receive credit for the same continuing competence activity more than once.

Authority G.S. 90-270.69; 90-270.75(a).

21 NCAC 38 .0803 APPROVAL OF ACTIVITIES FOR MAINTAINING CONTINUING COMPETENCE

(a) Provided that the activities are consistent with the provisions of rules in this Section, the Board shall grant pre-approval to:

- (1) Continuing competence activities sponsored or approved by the North Carolina Occupational Therapy Association.
- (2) Continuing competence activities sponsored or approved by the American Occupational Therapy Association.
- (3) Continuing competence activities sponsored by AOTA approved providers.

(b) A provider who wishes to obtain Board approval of activities for maintaining continuing competence, consistent with Rule .0804 of this Section, shall submit to the Board, at least 90 days in advance of the program, the following:

- (1) course description;
- (2) learning outcomes;
- (3) target audience;
- (4) content focus;
- (5) detailed agenda for the activity;
- (6) amount of contact hours;
- (7) qualifications for the presenter(s);
- (8) sample documentation for demonstrating satisfactory completion by course participants such as certificate of completion.

(c) Upon review of the completed application, the Board shall notify the provider as to whether or not the program has been approved.

(d) A provider of a continuing competence activity shall furnish documentation for demonstrating completion to all participants, specifying the following information:

- (1) name of the participant;
- (2) name of the provider;
- (3) dates of the activity and completion;
- (4) title and location of the activity;
- (5) number of contact hours; and
- (6) signature of the provider or representative.

*Authority G.S. 90-270.69; 90-270.75(a).*

**21 NCAC 38 .0804 SCOPE OF QUALIFIED ACTIVITIES FOR MAINTAINING CONTINUING COMPETENCE**

(a) To be approved by the Board, activities must be related to roles and responsibilities in occupational therapy and must directly or indirectly serve to protect the public by enhancing the licensee's continuing competence.

(b) Subject matter for approved activities include research; theoretical or practical content related to the practice of occupational therapy; or the development, administration, supervision, and teaching of clinical practice or service delivery programs by occupational therapists or occupational therapy assistants.

*Authority G.S. 90-270.69; 90-270.75(a).*

**21 NCAC 38 .0805 QUALIFIED ACTIVITIES FOR**

**MAINTAINING CONTINUING COMPETENCE**

Activities that qualify for maintaining continuing competence are:

- (1) Continuing Education Courses
  - (a) Includes attendance and participation at a live presentation such as a workshop, seminar, conference, or in-service educational program. May also include participation in other continuing education activities that require a formal assessment of learning. Examples include electronic or Web-based courses, AOTA Self-Paced Clinical Courses or other formalized self-study courses, AOTA Continuing Education Articles.
  - (b) A licensee may earn one point for each contact hour or equivalent unit that is awarded by the provider. There are no maximum points in this category.
  - (c) Documentation shall include a certificate of completion or similar documentation including name of course, date, author/instructor, sponsoring organization, location, and number of hours attended.
- (2) Academic Coursework
  - (a) Includes participation in on-site or distance learning academic courses from a university, college, or vocational technical adult education course related to the practice of occupational therapy.
  - (b) A licensee may earn one point per credit hour, up to a maximum of six points.
  - (c) A licensee enrolled full-time in a graduate or post-graduate OT curriculum has no maximum points in this category.
  - (d) Documentation shall include an original official transcript indicating successful completion of the course, date, and a description of the course from the school catalogue or course syllabus.
- (3) Small Group Study
  - (a) Includes review and discussion of journal articles, clinical videotapes or audiotapes by at least two licensed practitioners.
  - (b) A licensee may earn one point for one hour spent in an independent study activity, up to a maximum of three points.

- (c) Documentation shall include title, author, publisher, time spent, and date of completion. Licensee must complete the Small Group Study Form provided by the NCBOT and include a statement that describes how the activity relates to a licensee's current or anticipated roles and responsibilities.
- (4) Mentorship
  - (a) Participation as a Mentee
    - (i) Participation in a formalized mentorship agreement with a mentor as defined by a signed contract between the mentor and mentee that outlines specific goals and objectives and designates the plan of activities that are to be met by the mentee. These activities must be related to the development of new occupational therapy skills outside current required job performance.
    - (ii) A licensee may earn one point for every four hours spent in activities directly related to achievement of goals and objectives up to a maximum of five points.
    - (iii) Documentation shall include name of mentor and mentee, copy of signed contract, dates, hours spent and focus of mentorship activities, and outcomes of mentorship agreement.
  - (b) Participation as Mentor
    - (i) Participation in a formalized mentorship agreement with a mentee as defined by a signed contract between the mentor and mentee that designates the responsibilities of the mentor and specific goals and objectives that are to be met by the mentee. These activities must be related to the development of new occupational therapy skills for the mentee that are outside current required job performance.
    - (ii) A licensee may earn one point for each four hours spent in mentorship activities as a mentor up to a maximum of five points.
- (5) Fieldwork Supervision
  - (a) Participation as the primary clinical fieldwork educator for Level I or Level II OT or OTA fieldwork students.
  - (b) A licensee may earn one-half point for each 40 hours of fieldwork, up to a maximum of six points.
  - (c) Documentation shall include verification provided by the school to the fieldwork educator with the name of student, school, and dates of fieldwork or the signature page of the completed student evaluation form. Evaluation scores and comments shall be deleted or blocked out.
  - (d) If fieldwork spans two licensure years, credit shall be given only for the year it is completed.
- (6) Professional Writing
  - (a) Publication of a peer-reviewed book, chapter, article or contracted review of occupational therapy resource material.
  - (b) During the year written, edited or reviewed a licensee may earn:
    - (i) 15 points as author of a book.
    - (ii) 10 points as author of a chapter.
    - (iii) Five points as author of a peer-reviewed article.
    - (iv) Five points as a contracted reviewer of a print or multimedia occupational therapy resource.
    - (v) 10 points as listed editor of a book.
  - (c) Documentation shall consist of full reference for publication including title, author, editor, and date of publication; or copy of acceptance letter, if not yet published.
  - (d) Credit for submitted items shall be given for one licensure period only.
- (7) Presentation and Instruction
  - (a) Presentation of an academic course or peer-reviewed or non peer-reviewed workshop, seminar, in-service, electronic or Web-based

course for the first time or for which more than 50% of the material has been revised.

- (b) A licensee may earn two points for each one hour of credit that is awarded for an activity, up to a maximum of six points.
- (c) Documentation shall include a copy of official program, schedule, or syllabus including presentation title, date, hours of presentation, and type of audience or verification of such, signed by the sponsor.
- (8) Professional Meetings and Activities
  - (a) Consistent with Rule .0804 of this Section, participation in board or committee work with agencies or organizations in professionally related areas to promote and enhance the practice of occupational therapy.
  - (b) A licensee may earn two points for participation on a committee or board for one year or a minimum of 10 hours.
  - (c) Documentation must include name of committee or board, name of agency or organization, purpose of service, and description of licensee's role. Participation must be validated by an officer or representative of the organization or committee.
- (9) Board Certification or Specialty Certification
  - (a) The Board shall recognize completion of activities that result in board certification or specialty certification by AOTA during the current licensure period.
  - (b) A licensee may earn 15 points for each board certification or specialty certification credential earned or re-certified during the current licensure period.
  - (c) Documentation shall include certificate of completion or other documentation from the recognized certifying body that identifies satisfactory completion of requirements for obtaining board certification or specialty certification.
- (10) Licensees may submit continuing competency activities other than those listed in this Rule.

*Authority G.S. 90-270.69; 90-270.75(a).*

**21 NCAC 38 .0806 WAIVER OF REQUIREMENTS**

The Board shall waive all or part of the continuing competence activity requirements of this section if an occupational therapist or occupational therapy assistant submits written request for a waiver and provides evidence to the satisfaction of the Board of an illness, injury, financial hardship, family hardship, or other similar extenuating circumstance which precluded the individual's completion of the requirements. The Board shall add the unfulfilled continuing competence hours to the following year's requirements.

*Authority G.S. 90-270.69; 90-270.75(a).*

**21 NCAC 38 .0807**

**DOCUMENTATION/REPORTING**

**PROCEDURES**

- (a) Licensees shall maintain the required proof of completion for each continuing competence activity as specified in the rules of this Section. The required documentation shall be retained by the licensee for two years following the last day of the license renewal period for which the continuing competence activities were earned.
- (b) Licensees shall not send their continuing competence activity documentation to the Board unless audited or otherwise requested by the Board.

*Authority G.S. 90-270.69; 90-270.75(a).*

**21 NCAC 38 .0808 AUDIT OF CONTINUING COMPETENCE ACTIVITIES**

- (a) The Board shall perform a random audit or full review of licensees' continuing competence activity requirements at least once during each licensing period.
- (b) A licensee who is audited shall provide proof of completion of the continuing competency activities.
- (c) A licensee who fails to comply with the continuing competence activity requirements of this Section shall be subject to disciplinary action that may include suspension or revocation of license.

*Authority G.S. 90-270.69; 90-270.75(a).*

**SECTION .0900 SUPERVISION, SUPERVISORY ROLES, AND CLINICAL RESPONSIBILITIES OF OCCUPATIONAL THERAPIST AND OCCUPATIONAL THERAPY ASSISTANTS**

**21 NCAC 38 .0901 NOTIFICATION OF SUPERVISION CHANGE**

Occupational therapy assistants and supervising occupational therapists must notify the Board office in writing and within 10 days of any change ceasing or assuming supervision. The occupational therapist is responsible for supervision of the occupational therapy assistant until official notice that



supervision has ceased is received at the Board office. Failure to notify the Board may subject both the occupational therapist and occupational therapy assistant to disciplinary action. Notices must be signed. Telephone or email notices will not be accepted.

*Authority G.S. 90-270.69.*

**21 NCAC 38 .0902 SUPERVISION IS AN INTERACTIVE PROCESS.**

The occupational therapist and the occupational therapy assistant are each responsible for supervision to ensure safe and effective service delivery of occupational therapy services and to foster professional competence and development. The supervising occupational therapist shall provide supervision. The occupational therapy assistant shall obtain supervision. Evidence of supervision must be recorded on a supervisory log and/or in the documentation.

*Authority G.S. 90-270.69.*

**21 NCAC 38 .0903 TYPES OF SUPERVISION**

(a) Occupational therapy assistants at all levels require supervision by an occupational therapist. Supervision can be close, routine or general. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent on the complexity of client needs, number and diversity of clients, demonstrated service competency of the occupational therapist and the occupational therapy assistant, type of practice setting, requirements of the practice setting, and other regulatory requirements.

(b) Occupational therapy assistants with less than one year experience and occupational therapy assistants new to a particular practice setting require close supervision. Occupational therapy assistants with up to three years experience require routine supervision; and occupational therapy assistants with three or more years experience require general supervision. Supervision that is more frequent than the minimum level required by the practice setting or regulatory agencies is necessary when the needs of the client and the occupational therapy process are complex and changing, the practice setting provides occupational therapy services to a large number of clients with diverse needs, or the occupational therapist and occupational therapy assistant determine that additional supervision is necessary to ensure safe and effective delivery of occupational therapy services.

*Authority G.S. 90-270.69.*

**21 NCAC 38 .0904 DOCUMENTATION OF SUPERVISION**

(a) Documentation of supervision is the responsibility of both the occupational therapist and occupational therapy assistant. Documentation must include the frequency of supervisory contact, method(s) or type(s) of supervision, content areas addressed, and names and credentials of the persons participating in the supervisory process. Effectiveness of the

supervision shall be regularly evaluated by both the occupational therapist and the occupational therapy assistant.

(b) Supervision must reflect a review of all aspects of the occupational therapy assistant's practice. In any situation, the occupational therapist is ultimately responsible for all delegated services. Co-signature on occupational therapy service documentation, even if mandated by statute or rule, does not accurately satisfy supervision requirements.

*Authority G.S. 90-270.69.*

**21 NCAC 38 .0905 DELINEATION OF CLINICAL RESPONSIBILITIES**

Regardless of the setting in which occupational therapy services are delivered, the occupational therapist and the occupational therapy assistant have the following responsibilities during evaluation, intervention, and outcomes evaluation:

- (1) Evaluations;
  - (a) The occupational therapist shall
    - (i) Direct the evaluation process.
    - (ii) Determine the need for services.
    - (iii) Define the problems within the domain of occupational therapy that need to be addressed.
    - (iv) Determine the client's goals and priorities in collaboration with the occupational therapy assistant and the client or caregiver.
    - (v) Interpret the information provided by the occupational therapy assistant and integrates that information into the evaluation decision-making process.
    - (vi) Establish intervention priorities.
    - (vii) Determine specific future assessment needs.
    - (viii) Determine specific assessment tasks that can be delegated to the occupational therapy assistant.
    - (ix) Initiate and completes the evaluation, interprets the data, and develops the intervention plan in collaboration with the occupational therapy assistant.

- (b) The occupational therapy assistant may contribute to the evaluation process by implementing specifically delegated assessments for which service competency has been established.
- (2) Intervention Planning;
  - (a) The occupational therapist shall develop of the occupational therapy intervention plan. The plan shall be developed collaboratively with the occupational therapy assistant and the client or caregiver.
  - (b) The occupational therapy assistant may provide input into the intervention plan.
- (3) Intervention implementation;
  - (a) The occupational therapist
    - (i) Is responsible for implementing the occupational therapy intervention.
    - (ii) May delegate aspects of the occupational therapy intervention to the occupational therapy assistant depending on the occupational therapy assistant's service competency.
    - (iii) Shall supervise all aspects of intervention delegated to the occupational therapy assistant.
  - (b) The occupational therapy assistant shall implement delegated aspects of intervention in which the occupational therapy assistant has established service competency.
  - (c) Occupational therapists or occupational therapy assistants shall not be subject to disciplinary action by the Board for refusing to delegate or refusing to provide the required training for delegation, if the occupational therapist or occupational therapy assistant determines that delegation may compromise client safety.
- (4) Intervention review;
  - (a) The occupational therapist shall meet at least once per month with each client who has been assigned to an occupational therapy assistant, to further assess the client, evaluate intervention, and, if necessary, to modify the individual's intervention plan.
- (b) The occupational therapist shall determine the need for continuing or discontinuing services.
  - (c) The occupational therapy assistant shall contribute to the process of determining continuing or discontinuing services by providing information about the client's response to intervention to assist with the occupational therapist's decision making.
- (5) Documentation;
  - (a) The occupational therapist shall determine the overall completion of the evaluation, intervention, or discharge plan.
  - (b) The occupational therapy assistant
    - (i) Documents intervention, intervention response and outcome.
    - (ii) Documents client's level of function at discharge.
- (6) Discharge;
  - (a) The occupational therapist shall determine the client's discharge from occupational therapy services.
  - (b) The occupational therapy assistant
    - (i) Reports data for discharge summary.
    - (ii) Formulates discharge and/or follow-up plans under the supervision of the occupational therapist.
- (7) Outcome evaluation;
  - (a) The occupational therapist is responsible for the selection, measurement, and interpretation of outcomes that are related to the client's ability to engage in occupations.
  - (b) The occupational therapy assistant must be knowledgeable about the client's targeted occupational therapy outcome and provide information relating to outcome achievement.
- (8) Supervision of occupational therapy students;
  - (a) An occupational therapy practitioner shall comply with Accreditation Council for Occupational Therapy Education (ACOTE) requirements for experience when supervising Level II fieldwork occupational therapist and occupational therapy assistant students, which ACOTE

requirements are incorporated by reference.

(b) The occupational therapist may supervise Level I and Level II fieldwork occupational therapist and occupational therapy assistant students.

(c) The occupational therapy assistant may

(i) Supervise Level I occupational therapist or occupational therapy assistant students.

(ii) Supervise Level II occupational therapy assistant students.

(iii) Participate in the supervision of Level II occupational therapist students under the direction and guidance of the supervising occupational therapist.

(9) Supervision of unlicensed personnel and volunteers. Unlicensed personnel or volunteers may be supervised by occupational therapists or occupational therapy assistants.

*Authority G.S. 90-270.69.*

**SECTION .1001 – SUPERVISION OF LIMITED PERMITTEES**

**21 NCAC 38 .1001 LIMITED PERMIT DEFINED**

A limited permit does not infer clinical competence, only the completion of academic preparation. All limited permittees require close supervision by a licensed occupational therapist.

*Authority G.S. 90-270.69.*

**21 NCAC 38 .1002 SUPERVISION OF LIMITED PERMITTEE**

The supervising occupational therapist must guide, direct and supervise the limited permittee. In turn the limited permittee must obtain supervision. All limited permittees require close supervision, which requires direct, daily contact at the service delivery site (where intervention is provided) with the supervising occupational therapy practitioner. When a limited permittee carries out a task with a client, the occupational therapy practitioner must be available for immediate physical intervention within the service delivery site. If this type of supervision is not available to the limited permittee, occupational therapy services must be discontinued.

*Authority G.S. 90-270.69.*

**21 NCAC 38 .1003 SERVICE COMPETENCY OF**

**LIMITED PERMITTEE**

The supervising occupational therapist must determine the service competency of the limited permittee in the delivery of occupational therapy services. The limited permittee may only supervise unlicensed personnel or volunteers at the limited permittee's service delivery site. The limited permittee may not supervise another limited permittee, a student, or licensed occupational therapy practitioners.

*Authority G.S. 90-270.69.*

**21 NCAC 38 .1004 SIGNATURE OF LIMITED PERMITTEE**

(a) The limited permittee must use the professional designation of OT/LP or OTA/LP when signing clinical documentation.

(b) Documentation produced by the limited permittee must be co-signed by the supervising occupational therapist.

*Authority G.S. 90-270-69.*

**21 NCAC 38 .1005 BOARD NOTIFICATION**

(a) The occupational therapist who supervises a limited permittee must notify the Board office when assuming, changing or ceasing such supervision. Should the occupational therapist cease supervising the limited permittee, the occupational therapist shall be responsible for that supervision until official notice is received at the Board office. Failure to notify the Board may result in disciplinary action. Notice to the Board must be in writing, signed by the OT/L and postmarked within ten days. Telephone or email notice shall not be accepted.

(b) The limited permittee must notify the Board office within ten days of any change in occupational therapist supervision. Failure to notify the Board may result in disciplinary action. Notice to the Board must be in writing and signed by the limited permittee. Telephone or email notice shall not be accepted.

*Authority G.S. 90-270-69.*

**SECTION .1100 – SUPERVISION OF UNLICENSED PERSONNEL**

**21 NCAC 38 .1101 RESPONSIBILITY OF THE OCCUPATIONAL THERAPY PRACTITIONER**

(a) The occupational therapy practitioner is responsible for the quality of all occupational therapy services provided to the client by persons under the practitioner's supervision. It is the occupational therapy practitioner who provides skilled occupational therapy services through the exercise of professional judgment.

(b) The occupational therapy practitioner shall provide and review these Rules with each unlicensed person under the practitioner's supervision.

*Authority G.S. 90-270-69.*

**21 NCAC 38 .1102 DELEGATION OF DUTIES TO UNLICENSED PERSONNEL**

(a) A licensee may delegate duties associated with non-intervention aspects of occupational therapy services to unlicensed personnel, if the following conditions are met:

(1) The licensee who delegates a duty shall accept professional responsibility for the performance of that duty by the unlicensed person to whom it is delegated. Responsibility for the performance of a duty delegated by an occupational therapy assistant shall lie with both the assistant and with the occupational therapist who supervises that assistant.

(2) The unlicensed person does not perform any activity which requires licensure under the act.

(b) The following are examples of the lawful use of unlicensed personnel in the occupational therapy setting:

- (1) Clerical or secretarial activities;
- (2) Transportation of clients;
- (3) Preparing, maintaining, setting-up or cleaning of intervention equipment and work area;

(4) Attending to the personal needs of clients during intervention.

(c) The following are examples of the unlawful use of unlicensed personnel in the occupational therapy setting:

(1) Interpreting referrals or prescriptions for occupational therapy services;

(2) Performing evaluative procedures;

(3) Developing, planning, adjusting, or modifying intervention procedures;

(4) Acting on behalf of the occupational therapy practitioner in any manner related to direct client care which require judgment or decision making;

(5) Acting independently or without direct supervision of an occupational therapy practitioner;

(6) Client intervention;

(7) Documenting or recording occupational therapy progress reports for the client.

(d) Occupational therapy practitioners shall not allow employer or work place pressures to result in the inappropriate use of unlicensed personnel.

*Authority G.S. 90-270-69.*

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**APPROVED RULES**

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*This Section includes the Register Notice citation to rules approved by the Rules Review Commission (RRC) at its meeting November 16, 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.*

<b>APPROVED RULE CITATION</b>				<b>REGISTER CITATION TO THE NOTICE OF TEXT</b>
01	NCAC	12	.0601-.0605	21:04 NCR
01	NCAC	12	.0701-.0704	21:04 NCR
01	NCAC	12	.1001-.1008	21:04 NCR
04	NCAC	06C	.1205*	21:04 NCR
10A	NCAC	06P	.0201	21:04 NCR
10A	NCAC	06P	.0401*	21:04 NCR
10A	NCAC	06R	.0101-.0102	21:04 NCR
10A	NCAC	06R	.0201*	21:04 NCR
10A	NCAC	06R	.0301*	21:04 NCR
10A	NCAC	06R	.0303	21:04 NCR
10A	NCAC	06R	.0306	21:04 NCR
10A	NCAC	06R	.0402-.0403	21:04 NCR
10A	NCAC	06R	.0501-.0502*	21:04 NCR
10A	NCAC	06R	.0503	21:04 NCR
10A	NCAC	06R	.0504-.0505*	21:04 NCR
10A	NCAC	06R	.0506-.0507	21:04 NCR
10A	NCAC	06R	.0508*	21:04 NCR
10A	NCAC	06R	.0601*	21:04 NCR
10A	NCAC	06R	.0701-.0703	21:04 NCR
10A	NCAC	06S	.0102	21:04 NCR
10A	NCAC	06S	.0203	21:04 NCR
10A	NCAC	06S	.0204*	21:04 NCR
10A	NCAC	06S	.0301*	21:04 NCR
10A	NCAC	06S	.0402	21:04 NCR
10A	NCAC	06S	.0403-.0404*	21:04 NCR
10A	NCAC	06S	.0405	21:04 NCR
10A	NCAC	09	.2823*	n/a G.S. 150B-21.5(a)(5)
12	NCAC	11	.0201*	20:21 NCR
13	NCAC	07F	.0602*	n/a G.S. 150B-21.5
13	NCAC	15	.0440*	21:04 NCR
15A	NCAC	03I	.0101*	21:02 NCR
15A	NCAC	03L	.0208	21:02 NCR
15A	NCAC	03O	.0101*	21:02 NCR
15A	NCAC	03O	.0102	21:02 NCR
15A	NCAC	03O	.0106-.0107*	21:02 NCR
15A	NCAC	03R	.0103*	21:02 NCR
15A	NCAC	06G	.0101-.0103*	20:21 NCR
15A	NCAC	06G	.0104	20:21 NCR
15A	NCAC	06G	.0105*	20:21 NCR
15A	NCAC	07K	.0208*	20:17 NCR
15A	NCAC	08G	.0102	21:01 NCR
15A	NCAC	08G	.0201-.0202*	21:01 NCR
15A	NCAC	08G	.0203-.0204*	21:01 NCR
15A	NCAC	08G	.0205	21:01 NCR

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**APPROVED RULES**

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15A	NCAC	08G	.0301-.0306*	21:01 NCR
15A	NCAC	08G	.0401-.0410*	21:01 NCR
15A	NCAC	08G	.0501*	21:01 NCR
15A	NCAC	08G	.0502-.0503	21:01 NCR
15A	NCAC	08G	.0504-.0505*	21:01 NCR
15A	NCAC	08G	.0601	21:01 NCR
15A	NCAC	08G	.0602-.0603*	21:01 NCR
15A	NCAC	08G	.0604	21:01 NCR
15A	NCAC	08G	.0701*	21:01 NCR
15A	NCAC	08G	.0801-.0804*	21:01 NCR
15A	NCAC	08G	.0902	21:01 NCR
15A	NCAC	08G	.1001*	21:01 NCR
15A	NCAC	08G	.1101	21:01 NCR
21	NCAC	32M	.0101*	21:03 NCR
21	NCAC	32M	.0103*	21:03 NCR
21	NCAC	32M	.0105	21:03 NCR
21	NCAC	32M	.0108	21:03 NCR
21	NCAC	36	.0208	21:02 NCR
21	NCAC	36	.0219*	21:01 NCR
21	NCAC	36	.0801	21:02 NCR
21	NCAC	36	.0803*	21:02 NCR
21	NCAC	36	.0805	21:02 NCR
21	NCAC	36	.0808	21:02 NCR
21	NCAC	48C	.0101-.0103*	20:20 NCR
21	NCAC	48C	.0201*	20:20 NCR
21	NCAC	48C	.0402*	20:20 NCR
21	NCAC	48D	.0107*	20:20 NCR
21	NCAC	48E	.0110*	20:20 NCR
21	NCAC	48F	.0102-.0103*	20:20 NCR
21	NCAC	48G	.0306	20:20 NCR
21	NCAC	48G	.0601-.0602*	20:20 NCR
21	NCAC	65	.0101-.0108	21:04 NCR
21	NCAC	65	.0203-.0204*	21:04 NCR
21	NCAC	65	.0302*	21:04 NCR
21	NCAC	65	.0501*	21:04 NCR
21	NCAC	65	.0701*	21:04 NCR
21	NCAC	65	.0801*	21:04 NCR
21	NCAC	65	.0901*	21:04 NCR

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**TITLE 04 – DEPARTMENT OF COMMERCE**

**04 NCAC 06C .1205 AUTOMATIC LIENS UPON ALL SHARES TO SECURE ALL DEBTS**

In addition to the lien on shares, deposits and accumulated dividends of members as granted by G.S. 54-109.59, a credit union shall also have an automatic lien upon all such shares, deposits and accumulated dividends to secure the full amount of all debts owed to the credit union by its member. This lien shall be equivalent to that lien upon members' shares granted to all federally chartered credit unions by the National Credit Union Act and its regulations.

*History Note:* Authority G.S. 54-109.21(25);  
Eff. December 1, 2006.

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**TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**10A NCAC 06P .0401 STATE DIVISION OF AGING AND ADULT SERVICES RESPONSIBILITIES**

The Division of Aging and Adult Services is responsible for:

- (1) Consultation. The adult day care consultant in the Division of Aging and Adult Services shall be available to county departments of social services and day care providers regarding the development of adult day care services, interpretation of the North Carolina Adult Day Care and Day Health Services Standards for Certification and related issues. The regional service representatives shall be available to county departments of social services for consultation regarding the development of

- adult day care services as part of a county social services system;
- (2) Certification. The Division of Aging and Adult Services shall be responsible for all actions regarding initial certification and annual recertification of adult day care programs based on the report and recommendations of the county department of social services and the adult day care consultant in the central office; and
- (3) Monitoring. The Division of Aging and Adult Services shall establish criteria for the local department of social services adult day care consultant to make announced and unannounced monitoring visits to certified adult day programs. An administrative letter identifying the criteria shall be signed by the Division Director and sent to all county departments of social services directors and adult day care providers.

- (8) "Alzheimer's Disease" means a progressive, degenerative disease of the brain resulting in impaired memory, thinking and behavior. Characteristic symptoms of the disease include gradual memory loss, impaired judgement, disorientation, personality change, difficulty in learning and loss of language skills.
- (9) "Ambulatory" means a person who is mobile and does not need the continuing help of a person or object for support (except a walking cane).
- (10) "Capacity" means the number of participants for which a day care program is certified.
- (11) "Caretaker" (or "Caregiver") means an adult who regularly provides an impaired adult with continuous supervision, assistance with preparation of meals, assistance with housework and assistance with personal grooming.
- (12) "Certification" means the process whereby an adult day care program is approved as meeting the North Carolina Adult Day Care Rules in 10A NCAC 06.
- (13) "Certifying agency" means the Department of Health and Human Services, Division of Aging and Adult Services.
- (14) "Dementia" means the loss of intellectual functions (such as thinking, remembering, and reasoning) of sufficient severity to interfere with a person's daily functioning. Dementia is not a disease itself but rather a group of symptoms that may accompany certain diseases or conditions. Symptoms may also include changes in personality, mood and behavior.
- (15) "Group process" means at least three persons engaged in a common activity.
- (16) "Institution" means a facility that is established to serve a particular purpose and is required by state law to be provided and maintained by the state and any facility defined in federal regulations as an institution. In North Carolina, the list of institutions includes: general hospitals, state psychiatric hospitals, state centers for the mentally ill, skilled nursing facilities, and intermediate care facilities.
- (17) "Instrumental Activities of Daily Living (IADL)" means meal preparation, medication intake, housekeeping, money management, phone use, laundering, reading, shopping, communication such as speaking, writing, signing, gestures, using communication devices and going to necessary activities.
- (18) "Medication schedule" means a listing of all medications taken by participants with

*History Note: Authority G.S. 143B-153; Eff. July 1, 1979; Amended Eff. July 1, 2007; October 1, 2000.*

**10A NCAC 06R .0201 DEFINITIONS**

As used in this Subchapter, unless the context requires otherwise, the following definitions shall apply:

- (1) "Activities of Daily Living (ADL)" means eating; dressing; bathing; toileting; bowel and bladder control; transfers; and ambulation.
- (2) "Adaptable space" means space in a facility that can be used for several purposes with little effort and without sacrificing safety and health standards; for example, an activities room that is used for crafts in the morning, used to serve lunch and used for exercise activities in the afternoon.
- (3) "Adaptable activity" means an activity where participation can be varied from individual, small group, or large group, and can occur seated, standing or lying down.
- (4) "Adult" means an individual 18 years of age or older.
- (5) "Adult Day Care Center" means a day care program operated in a structure other than a single family dwelling.
- (6) "Adult Day Care Home" means a day care program for up to 16 people operated in a single family dwelling where the owner resides.
- (7) "Adult Day Care Program" means the provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. This term is used to refer to adult day care programs, adult day health programs, and adult day care and

- dosages, route of administration, and times medications are to be taken.
- (19) "Mental health disability" means disorders with psychological or behavioral symptoms or impairment in functioning due to a social, psychological, genetic, physical, chemical or biological disturbance.
- (20) "Modifiable activity" means an activity that can be simplified and adapted as a participant's abilities decline or improve.
- (21) "Non-ambulatory" means a person who is bedfast.
- (22) "Nucleus area" means adult day care programs located in a multi-use building and refers to the area not shared by any other programs located in the building but used only by the adult day care program.
- (23) "Nursing care" means skilled nursing care or intermediate care.
- (24) "On-site" means the area certified for the day care program.
- (25) "Owner" means the person responsible for management of a day care home or day health home.
- (26) "Other special needs disease or condition" means a diagnosis, disease or disability, such as AIDS/HIV, that benefits from monitoring or oversight in a supervised setting.
- (27) "Participant" means a person enrolled in an adult day care program.
- (28) "Personal care" means tasks that range from assistance with basic personal hygiene and grooming, feeding, and ambulation, to medical monitoring and other health care related tasks.
- (29) "Physical therapy program" means a series of activities prescribed by a licensed physical therapist or activities administered under the supervision of a physical therapist.
- (30) "Program director" means the person responsible for program planning, development and implementation in a day care program.
- (31) "Progress notes" means written reports in the participant's file of staff discussions, conferences, or consultation with family or other interested parties, for the purpose of evaluation of a participant's progress and any other information regarding the participant's situation.
- (32) "Related disorders" means dementia or impaired memory characterized by irreversible memory dysfunction.
- (33) "Respite care," as a component of adult day care programs, means a service provided to give temporary relief to the family or caregiver. Primarily, respite is provided to families caring for children or adults with disabilities or families caring for frail or disabled older adults.
- (34) "Responsible party" means the caretaker with primary day-to-day responsibility for an impaired adult.
- (35) "Semi-ambulatory" means a person who needs and uses the assistance of objects such as a wheelchair, crutches, walker, or other appliance or the support of another person on a regular and continuing basis to move about.
- (36) "Senior center" means a community or neighborhood facility for the organization and provision of services including health, social, nutritional and educational services and a facility for recreational and group activities for older persons.
- (37) "Special care services" means services by a certified adult day care program that promotes itself as providing programming, activities or care specifically designed for persons with Alzheimer's or other dementias, or related disorders, mental health disabilities, or other special needs diseases or conditions.
- (38) "Supervising agency" means the county department of social services in the county in which the day care program is located. The county department is responsible for seeing that certification standards are met on an on-going basis and for making a recommendation to the Division of Aging and Adult Services regarding certification.

*History Note: Authority G.S. 131D-6; 143B-153; S.L. 1999-334; Eff. January 1, 1981; Amended Eff. July 1, 1990; January 1, 1986; July 1, 1984; Temporary Amendment Eff. September 28, 1999; Amended Eff. July 1, 2007; July 17, 2000.*

**10A NCAC 06R .0301 GOVERNING BODY**

- (a) Responsibility for management rests with the governing body of the day care program. In a private for-profit program, responsibility for management rests with the owner or board of directors; in a private, non-profit program, with the board of directors; in a public agency, with the board of that agency.
- (b) The governing body of a day care program shall establish and maintain management procedures, including:
- (1) approval of organizational structure;
  - (2) adoption of an annual budget;
  - (3) regular review of financial status, making sure that the program is under fiscal management; This includes conducting a review of the annual budget, monthly accounts of income and expenditures to reflect against the projected budget, and an annual audit;
  - (4) appointment of the program director who shall delegate responsibility for conduct of specific programmatic and administrative activities in accordance with policies adopted by the governing body; and



- (5) adoption of written policies regarding operation, including;
  - (A) program policies outlining program goals; enrollment and discharge criteria and procedures; hours of operation; types of services provided, including transportation if offered; rates and payments; and management of medications. The policies shall be designed so copies may be given to interested parties who request information about the day care program;
  - (B) personnel policies; and
  - (C) any other policies deemed necessary by the governing body, such as agreements with other agencies and organizations.
- (c) All policies affecting clients shall be written in direct and understandable language.
- (d) The owner of a day care home shall establish and maintain operating procedures, including the following:
  - (1) develop an annual budget;
  - (2) maintain monthly accounts of income and expenditures; and
  - (3) establish written policies regarding operation, including:
    - (A) program policies outlining program goals; enrollment and discharge criteria and procedures; hours of operation; types of services provided, including transportation if offered; rates and payments; and management of medications. The policies shall be designed so copies may be given to interested parties who request information about the day care program;
    - (B) personnel policies; and
    - (C) any other policies deemed necessary, such as agreements with other agencies and organizations.

*History Note: Authority G.S. 143B-153; Eff. July 1, 1978; Amended Eff. July 1, 1990; January 1, 1981; Temporary Amendment Eff. October 1, 2001; Amended Eff. July 1, 2007; August 1 2002.*

**10A NCAC 06R .0501 PLANNING PROGRAM ACTIVITIES**

- (a) Enrollment Policies and Procedures
  - (1) Each adult program shall have enrollment policies. Enrollment policies shall be in writing as a part of the program policies and shall define the population served. These policies serve as the basis for determining who shall be accepted into the program and for planning activities appropriate for the

- participants. The policies shall be specific to prevent enrolling people whose needs cannot be met by the planned activities and shall provide for discharge of participants whose needs can no longer be met or who can no longer be cared for safely. If a day care program serves semi-ambulatory or non-ambulatory persons, it shall be so stated in the admissions criteria.
- (2) Prior to enrollment, the applicant, family members or other caretaker shall have a minimum of one personal interview with a minimum of one program staff member. During the interview, the staff shall complete initial documentation identifying social and medical care needs, any designated spiritual, religious or cultural needs, and a determination of whether the program can meet the individual's expressed needs. The staff person doing the interviewing shall sign the determination of needs and the responsible party shall sign the application for enrollment. These signed documents shall be obtained before the individual's first day of attendance as a participant in the program.
- (3) A medical examination report signed by a physician, nurse practitioner or physician's assistant, completed within the prior six months, shall be obtained by the program within 30 days of enrollment. This report must be updated annually no later than the anniversary date of the initial report.
- (4) At enrollment, or in the initial interview, the program policies shall be discussed with each applicant and family member or other caretaker, and a copy of the program policies shall be provided.
- (5) Documentation of receipt of and agreement to abide by the program policies by the participant or responsible party shall be obtained by the program and kept in the participant's file.
- (6) The program policies shall contain:
  - (A) a discharge policy outlining the criteria for discharge and notification procedures for discharge, the timeframe and procedures for notifying family or responsible party of discharge, and referral or follow-up procedures;
  - (B) a medication policy as specified in Rule .0505 of this Section;
  - (C) a description of participant's rights;
  - (D) grievance policies and procedures for families;
  - (E) advance directives policy;
  - (F) non-discrimination policies;
  - (G) procedure to maintain confidentiality;

- (H) policy on reporting suspected elder abuse or neglect;
- (I) description of the geographical area served by the program; and
- (J) inclement weather policies.

(b) Planning Services for Individual Participants

- (1) Within 30 days of enrollment of a new participant, the program shall perform a comprehensive assessment and written service plan for each individual. The assessment shall address the individual's ability to perform activities of daily living and instrumental activities of daily living while in the program. The mental, social, living environment, economic and physical health status of the individual shall also be assessed. The service plan shall be signed and dated by the program director or the director's designee. For adult day health participants the health component of the service plan shall be written and signed by a registered nurse.
- (2) In developing the written service plan, the program shall include input from the participant, family members, or responsible party and other agency professionals with knowledge of the individual's needs. The service plan shall be based on strengths, needs and abilities identified in the assessment. The assessment and service plan shall be reviewed at regular intervals, and no less than once every six months. The service plan shall include:
  - (A) the needs and strengths of the participant;
  - (B) the interests of the participant;
  - (C) the measurable service goals and objectives of care for the participant while in the day care program;
  - (D) the type of interventions to be provided by the program in order to reach desired outcomes;
  - (E) the services to be provided by the program to achieve the goals and objectives;
  - (F) the roles of participant, family, caregiver, volunteers and program staff; and
  - (G) the time limit for the plan, with provision for review and renewal.
- (3) Progress notes in the participant's record shall be updated at least every three months.
- (4) The participant, caregiver and other service providers shall have the opportunity to contribute to the development, implementation and evaluation of the service plan.
- (5) Any unusual behavior, change in mood, change in attitude or need for help or services shall be reported to the program. If the participant is a social services client, the report

shall be made to the participant's family, caregiver, or responsible party and the department of social services worker or the social worker designated as consultant to the day care program by the department. If the participant is not a social services client, the report shall be made to the person's family, caregiver or responsible party. A note shall be made in the participant's record of action taken.

- (6) The participant or the responsible party may choose the days and number of days the participant will attend, with the program director's approval.
- (7) The reason for any unscheduled participant absence shall be determined by the program staff and documented on the day it occurs. The program shall attempt to contact the absent participant or the responsible party.
- (8) The adult day care program shall have responsibility for the participant when a participant is registered in attendance. A participant leaving the program for part of a day shall sign out relieving the staff of further responsibility. If a participant has emotional or mental impairment which requires supervision and that person needs or wants to leave the program during the day, the social worker, family, caregiver, friend, or responsible party shall sign the person out.

(c) Program Activities Plan

- (1) The day care center or home shall have a program activities plan which meets the following criteria:
  - (A) Overall planning of activities shall be based on elements of the individual service plans.
  - (B) The primary program mode shall be the group process, both large and small groups, with provision for individual activities and services as needed.
  - (C) Activities shall be adaptable and modifiable to allow for greater participation and to maintain participant's individual skill level.
  - (D) Activities shall be consistent with the stated program goals.
  - (E) Activities shall be planned jointly by staff and participants. Staff shall encourage participants to participate in the planning and operation of the program as much as they are able, and to use their skills, talent and knowledge in program planning and operation.
  - (F) All program activities shall be supervised by program staff.

- (G) Participants shall have the choice of refusing to participate in any given activity.
- (2) The activities schedule shall provide for the inclusion of cognitive activities to be available on a daily basis, and be designed to:
  - (A) stimulate thinking and creativity;
  - (B) provide opportunities for learning new ideas and skills;
  - (C) help maintain existing reasoning skills and knowledge base; and
  - (D) provide opportunities to utilize previously learned skills.
- (3) The activities schedule shall provide for the inclusion of physical activities to be available on a daily basis, and be designed to:
  - (A) improve or maintain mobility and overall strength; and
  - (B) increase or maintain joint range of motion.
- (4) The activities schedule shall provide for the inclusion of psychosocial activities to be available on a daily basis, and be designed to:
  - (A) provide opportunities for social interaction;
  - (B) develop a sense of belonging;
  - (C) promote goal-oriented use of time;
  - (D) create feelings of accomplishment;
  - (E) foster dignity and self-esteem;
  - (F) prompt self-expression; and
  - (G) provide fun and enjoyment.
- (5) The activities schedule shall:
  - (A) be in writing, specifying the name of each activity to be provided, the days of the week each activity shall be conducted, and the approximate length of time of each activity;
  - (B) indicate the length of time the schedule is to be followed; and
  - (C) be posted weekly or monthly in a prominent place in the facility.

- (c) A therapeutic diet shall be provided, if prescribed in writing by a physician, physician's assistant or nurse practitioner for any participant. If therapeutic diets are prepared by program staff, such staff shall have training in planning and preparing therapeutic diets or shall provide documentation of previous training and education sufficient to assure ability to prepare meals in accordance with a physician's prescription.
- (d) A registered dietitian or certified nutritionist shall give consultation to the staff on basic and special nutritional needs and proper food handling techniques and the prevention of foodborne illness.
- (e) An adult day care program shall neither admit nor continue to serve a participant whose dietary requirements cannot be accommodated by the program.
- (f) Meals shall be stored, prepared and served in a sanitary manner using safe food handling techniques such as those recommended by the United States Department of Agriculture, at the following website: ([http://www.fsis.usda.gov/Fact\\_Sheets/Safe\\_Food\\_Handling\\_Fact\\_Sheets/index.asp](http://www.fsis.usda.gov/Fact_Sheets/Safe_Food_Handling_Fact_Sheets/index.asp)). The food service provider shall abide by the food safety and sanitation practices required by the Commission for Health Services rules applying to adult day care facilities. Copies of the Rules may be found at the following website: (<http://www.deh.enr.state.nc.us/ehs/Rules/t15a-18a.33.pdf>).

*History Note: Authority G.S. 143B-153; Eff. July 1, 1978; Amended Eff. July 1, 2007; March 1, 1992; October 1, 1981; January 1, 1981.*

**10A NCAC 06R .0504 EMERGENCIES AND FIRST AID**

- (a) A fire safety and evacuation plan, approved by the office of the fire marshal or its designee, shall be prepared and maintained by each adult day care program in compliance with the North Carolina State Building Code and Fire Prevention Code.
- (b) Plan for Emergencies. A written plan for handling emergencies shall be established and displayed prominently in the facility. All staff shall be knowledgeable about the plan. The plan shall:

- (1) relate to medical and non-medical emergencies; and
- (2) specify responsibilities of each staff member in an emergency;

Quarterly drills in handling emergencies, such as medical emergencies, natural disasters, fires, and facility security shall be conducted. These drills shall be documented including the date and kind of emergency.

- (c) Evacuation Plan. An evacuation plan shall be posted in each room and fire drills shall be conducted quarterly by programs with a fire safety sprinkler system and monthly by programs without a fire safety sprinkler system. A record shall be kept of dates and time required to evacuate the facility.
- (d) All physically able staff who have direct contact with participants shall complete certified training in standard first aid and cardio-pulmonary resuscitation (CPR). If a staff member is determined to be physically unable to complete this training, a signature by a licensed physician, physician's assistant or nurse practitioner attesting to such shall be provided indicating the

*History Note: Authority G.S. 143B-153; Eff. July 1, 1978; Amended Eff. July 1, 2007; July 1, 1990; January 1, 1981.*

**10A NCAC 06R .0502 NUTRITION**

- (a) A midday meal shall be provided to each participant in attendance at an adult day care program during mealtime. The meal shall provide at least one-third of an adult's daily nutritional requirement as specified by the Dietary Guidelines for Americans, at the following website: (<http://www.usda.gov/cnpp/DietGd.pdf>). The menu shall be approved by a registered or licensed dietitian or nutritionist.
- (b) Snacks and fluids shall be offered to meet the participant's nutritional and fluid needs. At a minimum, a mid-morning and mid-afternoon snack shall be offered daily to participants. Snacks shall be planned to keep sugar, salt and cholesterol intake to a minimum.

time limit of such physical inability. The first aid and CPR training shall be:

- (1) taught by an instructor certified through the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute, or Emergency Medical Services;
- (2) current, as determined by the organization conducting the training and issuing the certification; and
- (3) documented on an official attendance card issued by the organization certifying the training, or documented by the attendance course roster, in which case the roster shall be signed by the instructor, indicate pass or fail for each student, indicate the length of time the training is valid, and be accompanied by a copy of the instructor's certification.

(e) The program shall arrange for medical assistance to be available in the event of an emergency.

(f) The program shall have a portable basic emergency information file available on each client that includes:

- (1) hospital preference, physician of record and telephone number;
- (2) emergency contact (family or caregiver);
- (3) insurance information;
- (4) medications and allergies;
- (5) current diagnosis and history; and
- (6) advance directives, if any.

(g) Adult day care staff shall report actions taken in case of sickness and all incidents resulting in physical injury or suspected physical injury, including incidents involving missing participants to the program director. The adult day care staff shall make sure that all persons needing medical attention receive such attention as soon as possible. The person taking emergency action shall notify the family or responsible party of the participant involved and other program staff shall be notified of emergency action taken as soon as possible. The program director shall compile and keep on record a report of all emergency actions taken. A copy of the report shall be sent to the county department of social services within 72 hours of the incident.

*History Note: Authority G.S. 143B-153; Eff. July 1, 1978; Amended Eff. July 1, 2007; July 1, 1990; January 1, 1981.*

**10A NCAC 06R .0505 MEDICATIONS**

(a) All adult day care programs shall have written policies on participant medication use, medication administration order changes and medical disposal.

(b) Medications shall be administered according to the participant's medication schedule as defined in Rule .0508(a)(4) (E) of this Section or as authorized by the participant's caregiver.

(c) A record of all medications given to each participant shall be updated at a minimum of once every quarter and as needed and shall document the following:

- (1) participant's name;

- (2) name, dosage, quantity and route of the medication;
- (3) instructions for giving medication;
- (4) date and time medication is administered; and
- (5) name or initials of person giving the medication. If initials are used, a signature equivalent to those initials shall be entered on this record.

(d) Medications shall be kept in the original pharmacy containers in which they were dispensed. The containers shall be labeled with the participant's full name, the name and strength of the medicine, and dosage and instructions for administration. Medicines shall be kept in a locked location.

(e) Only adult day health or adult day care and day health combination programs shall enroll or serve participants who require intravenous, intramuscular or subcutaneous medications while attending the program.

*History Note: Authority G.S. 131D-6; 143B-153; Eff. July 1, 1978; Amended Eff. July 1, 2007; March 1, 1992; January 1, 1981.*

**10A NCAC 06R .0508 RECORDS**

(a) Individual Client Records. Each adult day care program shall maintain records to document the progress of each participant and to document program operation. Such records shall be kept in a locked file. An individual folder for each participant shall be established and maintained and include the following:

- (1) a signed application recording:
  - (A) client's full name;
  - (B) address and telephone number;
  - (C) date of birth, marital status and living arrangement of client;
  - (D) time of day client will arrive and time of day client will leave the program;
  - (E) travel arrangements to and from the program for the client;
  - (F) name, address and telephone number of at least two family members or friends who are responsible for the client and can be contacted in emergencies;
  - (G) name, address and telephone number of a licensed medical service provider who will see the client on request; and
  - (H) personal concerns and knowledge of the caregiver that may have an impact on the care plan.

- (2) copies of all current and former signed authorizations for the day care program to receive and give out confidential information on the participant. Such authorization shall include the name of the party from whom information is requested and to whom information is given. Such authorization shall be dated within the prior 12 months and

- obtained each time a request for client participant information is made.
- (3) a signed authorization for the client to receive emergency medical care from any licensed medical practitioner, if such emergency care is needed by the client;
- (4) a medical examination report conducted within the past three months of enrollment and updated annually, signed by a licensed physician, physician's assistant or nurse practitioner. The report shall include information on:
- (A) current diseases and chronic conditions and the degree to which these diseases and conditions require observation by day care staff, and restriction of normal activities by the client;
- (B) presence and degree of psychiatric problems;
- (C) amount of direct supervision the client requires;
- (D) any limitations on physical activities;
- (E) listing of all medications with dosages and times medications are to be administered; and
- (F) most recent date participant was seen by doctor.
- (5) assessment forms as identified in Rule .0501(a)(2) and (b)(1) and (b)(2) of this Section.
- (6) progress notes which are the written report of staff discussions, conferences, consultation with family or other interested parties, evaluation of a participant's progress and any other information regarding a participant's situation.
- (7) service plans for the participant, including scheduled days of attendance, for the preceding 12 months.
- (8) a signed authorization if the participant or his responsible party will permit photographs, video, audio recordings or slides of the participant to be made by the day care program, whether for medical documentation, publicity, or any other purpose. Such authorization shall specify how and where such photographs, videos, audio recordings or slides will be used, and must be obtained prior to taking any photographs, videos, audio recordings or slides of the participant;
- (9) a statement signed by the participant, a family member or other responsible party (when applicable) acknowledging receipt of the program policies and agreeing to uphold program policies pertaining to the participant.
- (b) Records for Day Care Centers and Homes shall be kept a minimum of three years and shall contain:
- (1) copies of activity schedules;
- (2) monthly records of expenses and income, including fees collected, and fees to be collected;
- (3) all bills, receipts and other pertinent information which document expenses and income;
- (4) a daily record of attendance of participants by name;
- (5) accident reports;
- (6) a record of staff absences, annual leave and sick leave, including dates and names of substitutes;
- (7) reports on emergency and fire drills;
- (8) individual personnel records on all staff members including:
- (A) application for employment;
- (B) evidence of a state criminal history check on each employee providing direct care;
- (C) job description;
- (D) medical certification of absence of a health condition that would pose a risk to others;
- (E) written note or report on any personnel action taken with the employee;
- (F) written report of annual employee review;
- (G) CPR and first aid training documentation; and
- (H) signed statement to keep all participant information confidential.
- (9) a copy of all written policies, including:
- (A) program policies;
- (B) personnel policies;
- (C) agreements regarding shared space or space licensed by other Divisions;
- (D) plan for emergencies; and
- (E) evacuation plan;
- (10) evaluation reports; and
- (11) control file of DSS-1360s for all participants for whom Social Services Block Grant (Title XX) reimbursement is claimed.

*History Note: Authority G.S. 131D-6; 143B-153; Eff. July 1, 1978; Amended Eff. July 1, 2007; March 1, 1992; July 1, 1990; January 1, 1981.*

**10A NCAC 06R .0601 PROCEDURE**

- (a) All individuals, groups or organizations operating or wishing to operate an adult day care program as defined by G.S. 131D-6 shall apply for a certificate to the county department of social services in the county where the program is to be operated.
- (b) A social worker shall provide technical assistance and shall conduct a study of the program using the Division of Aging and Adult Services Form DAAS-1500 or DAAS-6205.
- (c) The initial certification package shall be submitted through the county department of social services to the state Division of

Aging and Adult Services. The materials and forms to be included in the package are:

- (1) program policies;
- (2) organizational diagram;
- (3) job descriptions;
- (4) documentation showing planned expenditures and resources available to carry out the program of service for a 12 month period;
- (5) a floor plan of the facility showing measurements, restrooms and planned use of space;
- (6) Form DOA-1498 (Fire Inspection Report) or the equivalent completed and signed by the local fire inspector, indicating approval of the facility, no more than 30 days prior to submission with the certification package;
- (7) Form DOA-1499 (Building Inspection Report for Adult Day Care Centers), DOA-1499a (Building Inspection Form for Adult Day Care Homes), or the equivalent completed and signed by the local building inspector indicating approval of the facility, no more than 30 days prior to submission with the certification package;
- (8) Form DENR-4054 (Sanitation Evaluation Report) or the equivalent completed and signed by a local sanitarian, indicating approval of the facility, no more than 30 days prior to the submission with the certification package;
- (9) written notice and the effective date if a variance of local zoning ordinances has been made in order for property to be utilized for an adult day care program;
- (10) a copy of the articles of incorporation, bylaws and names and addresses of board members for adult day care programs sponsored by a non-profit corporation;
- (11) the name and mailing address of the owner if a proprietary program;
- (12) a written medical statement from a physician, nurse practitioner or a physician's assistant, completed within the 12 months prior to submission of the certification package, for each proposed staff member certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties normally assigned on the job;
- (13) verification of standard first aid and cardio-pulmonary resuscitation certification (CPR) for each proposed staff member who is physically able and who will have direct contact with participants. If a staff member is determined to be physically unable to complete this training, a signature by a licensed physician, physician's assistant or nurse practitioner attesting to such shall be provided indicating the time limit of such

physical inability. The first aid and CPR training shall be:

- (A) taught by an instructor certified through the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute, or Emergency Medical Services;
  - (B) current, as determined by the organization conducting the training and issuing the certification; and
  - (C) documented on an official attendance card issued by the organization certifying the training, or documented by the attendance course roster, in which case the roster shall be signed by the instructor, indicate pass or fail for each student, indicate the length of time the training is valid and be accompanied by a copy of the instructor's certification;
- (14) evidence of the completion of a state criminal history check for the program owner and each proposed staff member having direct contact with participants; and
  - (15) DAAS-1500 (Adult Day Care Certification Report). This form must be submitted by the county department of social services with a copy to the program.
- (d) The following forms and materials make up a certification package for the renewal of a certification and shall be submitted through the county department of social services, no more than 60 days prior to the end of the current period of certification, to the state Division of Aging and Adult Services:
- (1) Form DOA-1498 (Fire Inspection Report) or the equivalent completed and signed by the local fire inspector, indicating approval of the facility, dated no more than 12 months prior to submission with the certification package;
  - (2) Form DOA-1499 (Building Inspection Report for Adult Day Care Centers), DOA-1499a (Building Inspection Form for Adult Day Care Homes), or the equivalent when structural building modifications have been made during the previous 12 months, completed and signed by the local building inspector indicating approval of the facility, within 30 days following completion of the structural building modifications;
  - (3) Form DENR-4054 (Sanitation Evaluation Report) or the equivalent completed and signed by a local environmental health specialist, indicating approval of the facility, no more than 12 months prior to submission with the certification package;
  - (4) a written medical statement from a physician, nurse practitioner or physician's assistant for each staff member hired subsequent to the previous certification or recertification

expiration date, certifying absence of a health condition that would pose a risk to others and that the employee can perform the duties normally assigned on the job;

- (5) an updated copy of the program policies, organizational diagram, job descriptions, names and addresses of board members if applicable, and a floor plan showing measurements, restrooms, and planned use of space, if any changes have been made since the previous certification package was submitted;
- (6) documentation showing planned expenditures and resources available to carry out the program of service for a 12 month period;
- (7) verification of standard first aid and cardiopulmonary resuscitation certification (CPR) for each proposed staff member who is physically able and who will have direct contact with participants. If a staff member is determined to be physically unable to complete this training, a signature by a licensed physician, physician's assistant or nurse practitioner attesting to such shall be provided indicating the time limit of such physical inability. The first aid and CPR training shall be:
  - (A) taught by an instructor certified through the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute or Emergency Medical Services;
  - (B) current, as determined by the organization conducting the training and issuing the certification; and
  - (C) documented by an official attendance card or attendance course roster, in which case the roster shall indicate pass or fail for each participant and be accompanied by the instructor's certification, signature, and length of time the training is valid;
- (8) DAAS-1500 (Adult Day Care Certification Report). This form must be submitted with the certification package by the county department of social services to the Division of Aging and Adult Services at least 30 days in advance of the expiration date of the certificate, with a copy to the program.

(e) Following review of the certification package, a pre-certification visit may be made by staff of the State Division of Aging and Adult Services.

(f) Within 14 business days, the Division of Aging and Adult Services shall provide written notification to the applicant and the county department of social services of the action taken after a review of the certification package and visit, if made.

*Eff. January 1, 1986;*

*Amended Eff. July 1, 2007; July 1, 2000; May 1, 1992; July 1, 1990.*

**10A NCAC 06S .0204 STAFF REQUIREMENTS**

(a) Program Director of Adult Day Health Centers:

(1) Adult day health centers with a capacity of more than 10 participants shall have a full-time program director or qualified substitute having the same qualifications and training as defined in Subparagraph (a)(3) of this Rule. The program director for adult day health centers with a capacity of 10 or fewer participants may also serve as the health care coordinator provided that the individual meets all the requirements set forth in Paragraphs (a) and (b) of this Rule and if requirements in Rule .0203 of this Section related to program capacity are met. If requirements of Paragraphs (a) and (b) of this Rule are met, and the capacity is greater than 10 participants, the program director may serve as the substitute health care coordinator for up to but not exceeding three consecutive weeks.

(2) The program director shall have the authority and responsibility for the management of activities and direction of staff to insure that activities and services are provided in accordance with established program policies. The program director shall assign authority and responsibility for the management of activities and direction of staff when the program director is not on site.

(3) The program director shall:

- (A) be at least 18 years of age;
- (B) have completed a minimum of two years of formal post secondary education from an institution accredited by an accrediting agency recognized by the United States Department of Education (including colleges, universities, technical institutes, and correspondence schools) or shall have a high school diploma or the equivalent, and a combined minimum of five years experience and training in services to elderly or adults with disabilities;
- (C) have at least two years of work experience in supervision and administration;
- (D) provide, prior to employment, a written medical statement from a physician, nurse practitioner, or physician's assistant, completed within the prior 12 months, certifying absence of a health condition that would pose a risk to others and ability

*History Note: Authority G.S. 130A-148; 131D-6; 143B-153;*

- to perform the duties assigned on the job; and
- (E) provide at least three reference letters or the names of individuals with whom a reference interview can be conducted, including at least one former employer, if any. The individuals providing reference information shall have knowledge of the applicant program director's background and qualifications.
- (4) In employing a program director, the governing body, agency or owner shall consider whether or not applicants exhibit characteristics required to be considered for the position of program director. These characteristics include:
  - (A) ability to design and implement a varied, structured program of group and individual activities; and
  - (B) managerial and administrative skills - ability to supervise staff and to plan and coordinate meaningful staff training.
- (b) Health Care Coordinator of Adult Day Health Centers:
  - (1) Adult day health centers shall have a health care coordinator to coordinate the delivery of health care services and participate in direct care as specified in Subparagraph (b)(2) of this Rule. The health care coordinator shall be on-site a minimum of four hours per day and any additional hours necessary to meet the requirements for the provision of health care services as set forth in this Subchapter. The health care coordinator may assume responsibility for the position in Paragraph (a) of this Rule, if qualified for that position and if requirements in Paragraph (a) of this Rule and requirements in Rule .0203 of this Section related to program capacity are met.
  - (2) The nursing responsibilities of the health care coordinator, consistent with the Nursing Practice Act, include:
    - (A) completing preadmission health assessment for initial acceptance into program, including problem-identification and care planning;
    - (B) implementing the health care components of the established service plan which shall include medication administration, wound care, enteral or parenteral feedings, bowel or bladder training and maintenance programs, tracheotomy care and suctioning, and delegating nursing care tasks to unlicensed personnel;
    - (C) monitoring participant's response to medical treatment plan and nursing interventions and revising plan of care as necessary;
    - (D) reporting and recording results of the nursing assessment, care rendered and participant's response to care;
    - (E) collaborating with other health care professionals and caregivers regarding provision of participant's health care;
    - (F) educating other staff members to emergency procedures and providing information to staff and caregivers about health concerns and conditions of participants;
    - (G) providing first aid treatment as needed; and
    - (H) make certain health and personal care services as outlined in 10A NCAC 06S .0403 are provided to participants consistent with the participant's service plans.
- (3) The health care coordinator:
  - (A) shall be either a registered nurse or a licensed practical nurse currently licensed to practice in North Carolina; and
  - (B) if the health care coordinator is a licensed practical nurse, supervision shall be provided by a registered nurse consistent with the Nursing Practice Act G.S. 90-171 and 21 NCAC 36 .0224 through .0225. Copies of these Rules shall be obtained from the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714, telephone (919) 733-2678, at a cost of two dollars and fifty cents (\$2.50) for up to 10 pages and twenty-five cents (\$.25) for each additional page, or available at the following website: <http://reports.oah.state.nc.us/ncac.asp>. The licensed practical nurse shall also receive on-site supervision by a registered nurse as needed, or at minimum, every two weeks;
  - (C) shall have knowledge and understanding of the physical and emotional aspects of aging, the resultant diseases and infirmities and related medications and rehabilitative measures;
  - (D) shall be at least 18 years of age;
  - (E) shall provide, prior to employment, a written medical statement from a physician, nurse practitioner, or physician's assistant, completed within the prior 12 months, certifying



absence of a health condition that would pose a risk to others and ability to perform the duties assigned on the job; and

- (F) shall provide at least three reference letters or the names of individuals with whom a reference interview can be conducted, including at least one former employer, if any. The individuals providing reference information shall have knowledge of the applicant coordinator's background and qualifications.

(c) Staff Responsible for Personal Care in Adult Day Health Centers. All day health center staff providing personal care shall present evidence of meeting the following qualifications prior to assuming such responsibilities:

- (1) successful completion of nurse's aide, home health aide or equivalent training course, or
- (2) a minimum of one year of experience in caring for impaired adults.

(d) Personnel in Adult Day Health Homes:

- (1) A minimum of one full-time equivalent staff person shall be designated as having responsibility for direct participant care for up to five participants. The staff person with this responsibility shall be the program director or other designated staff.
- (2) The program director or designated staff shall meet the requirements for health care coordinators as set forth in Paragraph (b) of this Rule and shall have at least two years of work experience and ability to manage all aspects of a day health program.
- (3) The day health home shall have substitute or relief staff to enable the day health home to remain open on days when the program director is not available to supervise the program. This substitute or relief staff shall meet the requirements for health care coordinators as set forth in Paragraph (b) of this Rule.

History Note: Authority G.S. 130A-148; 131D-6; Eff. September 1, 1990; Amended Eff. July 1, 2007; May 1, 1992.

**10A NCAC 06S .0301 REQUIREMENTS**

(a) General requirements governing facilities, construction, equipment and furnishings for adult day care as set forth in 10A NCAC 06R .0400 shall apply to adult day health.

(b) Additional facility requirements are as follows:

- (1) Facility space shall be of sufficient dimension and size to allow for required program group activities. Notwithstanding the space requirements of 10A NCAC 06R .0401:
  - (A) day health centers and day health homes shall provide at least 60 square feet of indoor space excluding

hallways, offices and restrooms for each participant;

- (B) combination programs shall provide at least 50 square feet of indoor space excluding hallways, offices and restrooms for each participant; and

- (C) day health programs or combination programs which share space with other programs or activities in a multi-use facility shall have a nucleus area separate from other activities in the rest of the building and shall have a fire-resistant rated separation according to the North Carolina Building Code. The nucleus area must provide at least 40 square feet of indoor space per participant excluding hallways, offices and restrooms, and a minimum of 20 square feet per participant must be provided in other space in the facility designated for use by the day health program. When the other space is being used at the same time by individuals participating in other services provided in the multi-use facility, the 20 square feet per participant is in addition to any minimum square footage requirement for other use of such space. Shared facility space outside the nucleus area which may be used by the day health program and counted in meeting the 20 square feet per participant requirement includes craft, therapy and other activity areas. Dining space may be included if also used for activities. Offices, restrooms, hallways, kitchens and shared treatment rooms shall not be counted in meeting the 20 square feet per participant requirement. Participation shall be open only to persons enrolled in the program and to visitors on a planned basis. Involvement of day health participants in other activities in the building shall be on planned basis, as a part of the day health program plan, and supervised by a day health staff member.

- (2) Facilities shall have a minimum of one male and one female accessible toilet in accordance with the North Carolina Accessibility Code. One toilet shall be available for each 12 adults, including staff and participants who utilize the facility. One hand lavatory shall be provided for each two toilets.

- (3) The facility shall have a minimum of one private office for staff use with equipment and

- furnishings for administrative purposes and for conferences with individual participants and families.
- (4) The facility shall include a treatment room which is enclosed and private from the rest of the facility. The treatment room shall meet the requirements of the North Carolina State Building Code. The treatment room shall have a sink or have a door-way that connects it to a room containing a sink. The room shall contain a treatment table or bed with a waterproof mattress cover that will serve as a treatment table, storage cabinet for first aid and medical supplies and equipment, table or desk and two chairs. The storage cabinet shall be kept locked.
- (5) The treatment room shall provide a means of insuring the privacy of the person on the treatment table.
- (6) The treatment room shall have the following medical supplies and equipment:
- (A) first aid supplies consisting of absorbent compress, adhesive bandages, adhesive tape, antiseptic, burn treatment, medical exam gloves, sterile pads and triangular bandage;
  - (B) fever thermometer;
  - (C) blood pressure cuff;
  - (D) stethoscope;
  - (E) medical scales, or scales that can be calibrated;
  - (F) emesis basin;
  - (G) bed pan;
  - (H) urinal; and
  - (I) wash basin.

*History Note: Authority G.S. 131D-6; Eff. September 1, 1990; Amended Eff. July 1, 2007.*

**10A NCAC 06S .0403 HEALTH AND PERSONAL CARE SERVICES**

- (a) In adult day health programs, the following health care and personal care services shall be provided:
- (1) assistance with activities of daily living including feeding, ambulation, or toileting as needed by individual participants;
  - (2) health care monitoring of each participant's general health and medical regimen. This includes documenting the periodic assessment of the vital signs, weight, dental health, general nutrition, and hygiene of each participant. When health changes occur, positive or negative, the adult day care program staff shall notify the family, caretaker or responsible party of the changes. The change in health status and notification shall be recorded in the participant's file;

- (3) assistance to participants and caregivers with medical treatment plans, diets, and referrals as needed;
  - (4) health education programs for all participants on a regular basis, at least monthly, and health care counseling tailored to meet the needs of participants and caregivers; and
  - (5) first aid treatment as needed.
- (b) Specialized services, e.g. speech therapy, physical therapy, and counseling, shall be facilitated by the adult day health program as ordered by a physician and as available through community resources.

*History Note: Authority G.S. 131D-6; Eff. September 1, 1990; Amended Eff. July 1, 2007; March 1, 1992.*

**10A NCAC 06S .0404 TRANSPORTATION**

Standards as set forth in 10A NCAC 06R .0503 shall be met by adult day health programs.

*History Note: Authority G.S. 131D-6; Eff. September 1, 1990; Temporary Amendment Eff. October 1, 2001; Amended Eff. July 1, 2007; August 1, 2002.*

**10A NCAC 09 .2823 QUALITY POINT OPTIONS**

Operators may earn one additional quality point as follows:

- (1) Education options:
  - (a) Completion by staff of additional education coursework as follows:
    - (i) 75 percent of infant/toddler teachers have obtained an Infant/Toddler Certificate, or
    - (ii) 75 percent of teachers have completed an A.A.S. or higher in early childhood education/child development, or
    - (iii) 75 percent of lead teachers have completed a BA/BS or higher in early childhood education/child development, or
    - (iv) All lead teachers have completed an A.A.S. or higher in early childhood education/child development, or
    - (v) 75 percent of group leaders have obtained a North Carolina School Age Care Credential or have completed six semester hours in school-age coursework, or
    - (vi) A family child care home provider has obtained an Infant/Toddler Certificate or



for the past five years conducted by an Administrative Offices of the Courts' approved firm that conducts criminal history searches and bases its search on the criminal history database maintained by the North Carolina Administrative Offices of the Courts; and

(4) the applicant's application fee.

(b) Each applicant must provide evidence of high school graduation either by diploma, G.E.D. certificate, or other equivalent documentation.

(c) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee, the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74D and the administrative rules during the personal meeting. The applicant shall sign a form provided by the Board indicating that they have reviewed the information with the Board's representative and that they have an understanding of G.S. 74D and the administrative rules.

(d) Each applicant for a branch office license shall complete an application form provided by the Board. This form and one additional copy shall be submitted to the administrator and shall be accompanied by the branch office application fee.

*History Note: Filed as a Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984;*

*Authority G.S. 74D-2; 74D-3; 74D-5; 74D-7;*

*Eff. May 1, 1984;*

*Amended Eff. January 1, 2007; September 1, 2006; March 1, 1993; July 1, 1987; January 1, 1986.*

snow, ice or other slippery material, the employer shall implement safe work practices (equipment, practices and procedures) that address the hazards known to be associated with tower work to minimize the associated risk to employees while working on the tower structure and the support structure to which it is affixed, where applicable.

(2) Climbing Facility means a component specifically designed or provided to permit access to the tower structure, such as a fixed ladder, step bolt, or other structural member.

(3) Competent Person means a person who is trained to identify existing and predictable hazards in the surroundings or working conditions that are hazardous or dangerous to employees, and who has authorization from his employer to take prompt corrective measures to eliminate them, including halting the work as required by the rules in this Section.

(4) Elevated (High Angle) Rescue means the process by which methods and equipment are utilized in order to gain access to and egress from the location of an injured employee(s) on the tower structure, and lower both the injured employee(s) and the rescuer(s) to the ground safely.

(5) Fall Protection Equipment means the personal equipment that employees utilize in conjunction with 100% fall protection systems, including connectors, body belts or body harnesses, lanyards and deceleration devices.

(6) Ladder Safety System means an assembly of components whose function is to arrest the fall of a user, including the carrier and its associated attachment elements (e.g., brackets, fasteners), the safety sleeve, and the body support and connectors, wherein the carrier is permanently attached to the climbing face of the ladder or immediately adjacent to the structure.

(7) One-Hundred Percent (100%) Fall Protection means each employee exposed to fall hazards above six (6) feet while ascending, descending, or moving point to point, must be protected by fall protection, as described in 13 NCAC 07F .0605(c), at all times.

(8) Qualified Climber means a person who has, by virtue of knowledge, training, and experience, been deemed qualified in writing by his employer to perform tower work.

(9) Qualified Person means a person possessing a degree, certificate, professional standing, or knowledge, training, and experience in the field of communication tower work, and who has demonstrated to his employer his ability to

**TITLE 13 – DEPARTMENT OF LABOR**

**13 NCAC 07F .0602 DEFINITIONS**

In addition to the definitions set forth in 29 CFR Part 1910 and 29 CFR Part 1926, the following definitions apply throughout the rules in this Section:

(1) Acceptable Conditions for Access mean the conditions that must exist before the employer grants permission for construction, alteration, repair or maintenance work to be performed on a communication tower. These conditions include the following:

(a) Work under the control of a work safety program meeting the requirements of the Rules in this Section; and,

(b) Work where an accumulation of snow, ice or other slippery material is not present, except as necessary for the inspection or removal of such material;

(c) Notwithstanding the prohibitions outlined in Sub-item (1)(b) of this Rule, if tower emergency maintenance work must be performed where there is an accumulation of

- resolve problems relating to the subject matter, the work, or the project.
- (10) Safety Sleeve means the part of a ladder safety system consisting of the moving component with locking mechanism that travels on the carrier and makes the connection between the carrier and the body support.
  - (11) Site means the communication tower and the surrounding land or property where tower work is being performed.
  - (12) Step Bolt means a bolt or rung attached at intervals along a structural member and used for foot placement during climbing or standing.
  - (13) Tower Construction means the building of a new tower or structure, or the installation of new equipment on an existing tower or structure.
  - (14) Tower Emergency Maintenance Work means the repair, restoration or replacement of any pre-existing device installed on the tower in the interest of public safety, such as, aviation signaling devices and equipment used to transmit or receive broadcast signals.
  - (15) Tower Inspection means the procedure in which an employee(s) climb(s) or ride(s) the structure's elevator to visually inspect the tower for potential problems, and test for tower plumbness and guy cable tension.
  - (16) Tower Maintenance Work means the replacement in kind of any device on an existing tower, the repair of existing equipment, and painting.

*History Note: Authority G.S. 95-131; Eff. February 1, 2005; Amended Eff. December 1, 2006.*

**13 NCAC 15 .0440 REGULATION OF WATERSLIDES**

- (a) The classification, design, manufacture, construction, and operation of waterslides shall conform to the rules in this Section and the ASTM F 2376 – Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems, which is incorporated by reference. This incorporation includes subsequent amendments and editions of the Code.
- (b) Copies of the ASTM F 2376 – Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Water Slide Systems may be obtained from the American Society of Testing and Materials (ASTM), via U.S. Mail at 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959, via telephone at (610) 832-9585, or via the internet at www.astm.org. The cost is thirty-four dollars (\$34.00) per copy.

*History Note: Authority G.S. 95-111.4(3); Eff. December 1, 2006.*

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

**15A NCAC 03I .0101 DEFINITIONS**

- (a) All definitions set out in G.S. 113, Subchapter IV apply to this Chapter.
- (b) The following additional terms are hereby defined:
  - (1) Commercial Fishing Equipment or Gear. All fishing equipment used in coastal fishing waters except:
    - (A) Seines less than 30 feet in length;
    - (B) Collapsible crab traps, a trap used for taking crabs with the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
    - (C) Spears, Hawaiian slings or similar devices which propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas or similar means;
    - (D) A dip net having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
    - (E) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
    - (F) A landing net used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
    - (G) Cast Nets;
    - (H) Gigs or other pointed implements which are propelled by hand, whether or not the implement remains in the hand; and
    - (I) Up to two minnow traps.
  - (2) Fixed or stationary net. A net anchored or staked to the bottom, or some structure attached to the bottom, at both ends of the net.
  - (3) Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight.
  - (4) Possess. Any actual or constructive holding whether under claim of ownership or not.
  - (5) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
  - (6) Use. Employ, set, operate, or permit to be operated or employed.
  - (7) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a

- purse line through rings located along the top or bottom line or elsewhere on such net.
- (8) Gill Net. A net set vertically in the water to capture fish by entanglement by the gills in its mesh as a result of net design, construction, mesh size, webbing diameter or method in which it is used.
- (9) Seine. A net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.
- (10) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean.
- (11) Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a boat.
- (12) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
- (13) Mechanical methods for clamming. Includes dredges, hydraulic clam dredges, stick rakes and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any other method that utilizes mechanical means to harvest clams.
- (14) Mechanical methods for oystering. Includes dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters.
- (15) Depuration. Purification or the removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means.
- (16) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a definite white, pink, or red-line or rim on the outer edge of the back fin or flipper.
- (17) Length of finfish.
- (A) Total length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (B) Fork length is determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin.
- (C) Fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.
- (18) Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
- (19) Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from authorized sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following: predator protection, food, water circulation, salinity, or temperature controls utilizing technology not found in the natural environment.
- (20) Critical habitat areas. The fragile estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food chain. Critical habitats include nursery areas, beds of submerged aquatic vegetation, shellfish producing areas, anadromous fish spawning and anadromous fish nursery areas, in all coastal fishing waters as determined through marine and estuarine survey sampling. Critical habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species.
- (A) Beds of submerged aquatic vegetation are those habitats in public trust and estuarine waters vegetated with one or more species of submerged vegetation such as eelgrass (*Zostera marina*), shoalgrass (*Halodule wrightii*) and widgeongrass (*Ruppia maritima*). These vegetation beds occur in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In either case, the bed is defined by the presence of above-ground leaves or the below-ground rhizomes and propagules together with the sediment on which the plants grow. In defining beds of submerged aquatic vegetation, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or rules 15A NCAC 03K .0304, .0404 and 03I .0101, to apply to or conflict with the non-development control activities authorized by that Act.
- (B) Shellfish producing habitats are those areas in which shellfish, such as

- clams, oysters, scallops, mussels, and whelks, whether historically or currently, reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (C) Anadromous fish spawning areas are those areas where evidence of spawning of anadromous fish has been documented by direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
- (D) Anadromous fish nursery areas are those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
- (21) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
- (22) North Carolina Trip Ticket. Multiple-part form provided by the Department to fish dealers who are required to record and report transactions on such forms.
- (23) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed. The point of landing shall be considered a transaction when the fisherman is the fish dealer.
- (24) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate including dead coral or rock (excluding mollusk shells). For example, such living marine organisms associated with hard bottoms, banks, reefs, and live rock may include:
- (A) Animals:
- (i) Sponges (Phylum Porifera);
- (ii) Hard and Soft Corals, Sea Anemones (Phylum Cnidaria):
- (I) Fire corals (Class Hydrozoa);
- (II) Gorgonians, whip corals, sea pansies, anemones, Solenastrea (Class Anthozoa);
- (iii) Bryozoans (Phylum Bryozoa);
- (iv) Tube Worms (Phylum Annelida):
- (I) Fan worms (Sabellidae);
- (II) Feather duster and Christmas tree worms (Serpulidae);
- (III) Sand castle worms (Sabellaridae).
- (v) Mussel banks (Phylum Mollusca:Gastropoda);
- (vi) Colonial barnacles (Arthropoda: Crustacea: Megabalanus sp.).
- (B) Plants:
- (i) Coralline algae (Division Rhodophyta);
- (ii) Acetabularia sp., Udotea sp., Halimeda sp., Caulerpa sp. (Division Chlorophyta);
- (iii) Sargassum sp., Dictyopteris sp., Zonaria sp. (Division Phaeophyta).
- (25) Coral:
- (A) Fire corals and hydrocorals (Class Hydrozoa);
- (B) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia);
- (C) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia):
- (i) Sea fans (Gorgonia sp.);
- (ii) Sea whips (Leptogorgia sp. and Lophogorgia sp.);
- (iii) Sea pansies (Renilla sp.).
- (26) Shellfish production on leases and franchises:
- (A) The culture of oysters, clams, scallops, and mussels, on shellfish leases and franchises from a sublegal harvest size to a marketable size.
- (B) The transplanting (relay) of oysters, clams, scallops and mussels from designated areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
- (27) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
- (28) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
- (29) Pound Net Set. A fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support such trap. The lead(s), enclosures, and holding pen are not conical, nor are they supported by hoops or frames.

- (30) Educational Institution. A college, university or community college accredited by an accrediting agency recognized by the U.S. Department of Education.
- (31) Long Haul Operations. A seine towed between two boats.
- (32) Swipe Net Operations. A seine towed by one boat.
- (33) Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
- (34) Responsible party. Person who coordinates, supervises or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations and the person responsible for use of the issued license in compliance with applicable laws and regulations.
- (35) New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name or ocean pier license in that name on June 30, 1999. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
- (36) Tournament Organizer. The person who coordinates, supervises or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
- (37) Holder. A person who has been lawfully issued in their name a license, permit, franchise, lease, or assignment.
- (38) Recreational Purpose. A fishing activity has a recreational purpose if it is not a commercial fishing operation as defined in G.S. 113-168.
- (39) Recreational Possession Limit. Includes restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- (40) Attended. Being in a vessel, in the water or on the shore immediately adjacent to the gear and immediately available to work the gear and within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
- (41) Commercial Quota. Total quantity of fish allocated for harvest taken by commercial fishing operations.
- (42) Recreational Quota. Total quantity of fish allocated for harvest taken for a recreational purpose.
- (43) Office of the Division. Physical locations of the Division conducting license transactions in the cities of Wilmington, Washington, Morehead City, Columbia, Wanchese and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses are not considered Offices of the Division.
- (44) Land:
  - (A) For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when the fish reaches the shore or a structure connected to the shore.
  - (B) For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
  - (C) For recreational fishing operations, when fish are retained in possession by the fisherman.
- (45) Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
- (46) Regular Closed Oyster Season. May 15 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (47) Assignment. Temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains the power to revoke the assignment at any time, is still the responsible party for the license.
- (48) Transfer. Permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.
- (49) Designee. Any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
- (50) Blue Crab Shedding. The process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following: predator protection, food, water circulation, salinity or temperature controls utilizing proven technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
- (51) Fyke Net. An entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more



- internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (52) Hoop Net. An entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
- (53) For Hire Vessel. As defined by G.S. 113-174 when the vessel is fishing in state waters or when the vessel originates from or returns to a North Carolina port.

*History Note: Authority G.S. 113-134; 113-174; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1995; March 1, 1994; October 1, 1993; July 1, 1993; Recodified from 15A NCAC 03I .0001 Eff. December 17, 1996; Amended Eff. April 1, 1999; August 1, 1998; April 1, 1997; Temporary Amendment Eff. May 1, 2000; August 1, 1999; July 1, 1999; Amended Eff. August 1, 2000; Temporary Amendment Eff. August 1, 2000; Amended Eff. December 1, 2006; September 1, 2005; April 1, 2003; April 1, 2001.*

**15A NCAC 03O .0101 PROCEDURE AND REQUIREMENTS TO OBTAIN LICENSES, ENDORSEMENTS AND COMMERCIAL FISHING VESSEL REGISTRATIONS**

(a) To obtain any Marine Fisheries licenses, endorsements, commercial fishing vessel registrations except Recreational Fishing Tournament Licenses to Sell Fish and Land or Sell Licenses, the following information is required for the application by the licensee, a responsible party or person holding a power of attorney:

- (1) Full name, physical address, mailing address, date of birth, and signature of the licensee on the application. If the licensee is not appearing before a license agent or a representative of the Division, the licensee's signature on the application shall be notarized;
- (2) Current picture identification of licensee or responsible party; acceptable forms of picture identification are driver's license, state identification card, military identification card, resident alien card (green card) or passport or if purchased by mail, a copy thereof;

- (3) Certification that the applicant does not have four or more marine or estuarine resource violations during the previous three years, except Blanket Coastal Recreational Fishing Licenses;
  - (4) Valid documentation papers or current motor boat registration or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted;
  - (5) Current articles of incorporation and a current list of corporate officers when purchasing a license or commercial fishing vessel registration in a corporate name. In the case of incorporation of an individual fishing vessel, the name of the master of that vessel shall also be specified. It is unlawful to fail to notify the Morehead City Office of the Division of Marine Fisheries within five days of change of the master specified for that vessel;
  - (6) If a partnership is established by a written partnership agreement, a current copy of such agreement shall be provided when purchasing a license, endorsement or commercial fishing vessel registration in a partnership name;
  - (7) For nonresidents, certification of the state of residency;
  - (8) In addition to the information required in G.S. 113-169.4, linear length of pier when purchasing an Ocean Fishing Pier License;
  - (9) In addition to the information required in G.S. 113-171.1, current aircraft registration and list of operator(s) when purchasing a Spotter Plane License;
  - (10) In addition, for fish dealers licenses, the physical address of the established location where business is conducted and, if different, the address where records are kept;
  - (11) When purchasing a Fish Dealer License with clam or oyster categories or a consolidated license, the applicant shall provide valid certification as a North Carolina certified shellfish dealer;
  - (12) In addition, for the Ocean Fishing Pier Blanket Coastal Recreation Fishing License, a valid Ocean Fishing Pier License issued in the name of the applicant or copy thereof.
- (b) License to Land Flounder from the Atlantic Ocean.
- (1) To qualify for a License to Land Flounder from the Atlantic Ocean, the applicant shall:
    - (A) have landed in North Carolina at least 1,000 pounds of flounder from a single vessel each year from the Atlantic Ocean during any two of the 1992-93, 1993-94, 1994-95 license years for which the person had a

- (B) vessel that was licensed to land in North Carolina; and
- (B) have been licensed under G.S. 113-152 or 113-153 during any two of the 1992-93, 1993-94, or 1994-95 license years; and
- (C) hold a valid Standard or Retired Standard Commercial Fishing License or valid Land or Sell License.
- (2) It is lawful for a person to hold Licenses to Land Flounder from the Atlantic Ocean equal to the number of vessels that he owns that individually met the eligibility requirements of Parts (b)(1)(A) and (b)(1)(B) of this Rule.
- (3) The License to Land Flounder from the Atlantic Ocean is only valid when used on the vessel specified at the time of license issuance.
- (4) At the time of issuance, the applicant for the License to Land Flounder from the Atlantic Ocean shall specify the name of the master of the vessel for each License to Land Flounder from the Atlantic Ocean issued.
- (5) Applicants for a License to Land Flounder from the Atlantic Ocean shall complete an application form provided by the Division of Marine Fisheries and submit it to the Morehead City Office of the Division of Marine Fisheries for processing.
- (6) It is unlawful for the holder of the License to Land Flounder from the Atlantic Ocean to fail to notify the Morehead Office of the Division of Marine Fisheries within five days of change as to the master identified on the license.
- (7) Licenses to Land Flounder from the Atlantic Ocean are issued for the current license year and expire on June 30.

(c) To obtain a Recreational Fishing Tournament License to Sell Fish, the tournament organizer shall apply with the Division of Marine Fisheries at least 30 days prior to the starting date of the tournament with the following required information:

- (1) Full name, physical address, mailing address, date of birth, signature of the tournament organizer, name of tournament, and dates of tournament on the license application. If the licensee is not appearing before a representative of the Division, the licensee's signature shall be notarized on the application.
- (2) Current picture identification of tournament organizer; acceptable forms of picture identification are driver's license, state identification card, military identification card, or passport, or if purchased by mail, a copy thereof.

(d) To obtain a Land or Sell License, the following information is required for a proper application:

- (1) Full name, physical address, mailing address, date of birth, and signature of the responsible party or master for the vessel on the license application. If the licensee is not appearing

- before a representative of the Division, the licensee's signature on the application shall be notarized on the application;
- (2) Current picture identification of responsible party or master; acceptable forms of picture identification are driver's license, state identification card, military identification card, or passport or if applying by mail, a copy thereof;
- (3) Valid documentation papers or current motor boat registration or copy thereof when purchasing a commercial fishing vessel registration. If an application for transfer of documentation is pending, a copy of the pending application and a notarized bill of sale may be submitted.

Fees shall be based on the vessel's homeport as it appears on the U.S. Coast Guard documentation papers or the State in which the vessel is registered.

(e) Proof of residency in North Carolina for:

- (1) Standard Commercial Fishing License or Retired Standard Commercial Fishing License shall require a notarized certification from the applicant that the applicant is a resident of the State of North Carolina as defined by G.S. 113-130(4); and
  - (A) a notarized certification from the applicant that a North Carolina State Income Tax Return was filed for the previous calendar or tax year as a North Carolina resident; or
  - (B) a notarized certification that the applicant was not required to file a North Carolina State Income Tax Return for the previous calendar or tax year; or
  - (C) military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.
- (2) All other types of licenses:
  - (A) North Carolina voter registration card; or
  - (B) Current North Carolina Driver's License; or
  - (C) Current North Carolina Certificate of Domicile; or
  - (D) Current North Carolina Identification Card issued by the North Carolina Division of Motor Vehicles; or
  - (E) Military identification, military dependent identification and permanent change of station orders or assignment orders substantiating individual's active duty assignment at a military facility in North Carolina.

(f) Applications submitted without complete and required information shall be deemed incomplete and shall not be considered further until resubmitted with all required information.

(g) It is unlawful for a license or registration holder to fail to notify the Division of Marine Fisheries within 30 days of a change of address.

(h) Licenses are available at Offices of the Division or by mail from the Morehead City Office, unless otherwise specified. In addition, Recreational Commercial Gear Licenses are available at Wildlife Service Agents who have been designated as agents of the Department.

(i) To renew any Marine Fisheries licenses, endorsements, and commercial fishing vessel registration, except Recreational Commercial Gear Licenses, the following is required for the renewal application by the licensee, a responsible party or person holding a power of attorney;

- (1) The information required in Subparagraphs (a)(4), (a)(5), and (a)(6) of this Rule are only required if a change has occurred since the last issuance of license, endorsement or commercial fishing vessel registration.
- (2) Certification that articles of incorporation and list of corporate officers, if incorporated, written partnership agreement, if written partnership, or documentation papers or motor boat registration previously provided for initial license purchase are still valid and current for renewal.
- (3) Current and valid state driver's license or state identification picture identification numbers and expiration dates shall be verified on mail license renewal applications or any other electronic license renewal process, otherwise the licensee shall provide a photocopy for renewal by mail or visit a Division License Office and present a current and valid picture identification pursuant to Subparagraph (a)(2) of this Rule.
- (4) The licensee's or responsible party's signature on the application shall certify all information as true and accurate. Notarization of signature on renewal applications is not required.
- (5) The Division of Marine Fisheries may require current copies of documentation for licenses, endorsements, commercial fishing vessel registration on renewal when necessary to verify inconsistent information or the information cannot be verified by independent sources.
- (6) If the linear length of the pier has not changed for the Ocean Fishing Pier License renewal, the responsible party shall certify that the length is accurate; otherwise, a Marine Patrol Officer's signature is required to certify the linear length before the license can be renewed.
- (7) Certification that shellfish dealer certification by North Carolina previously provided for

issuance of Fish Dealer License with clam or oyster categories or consolidated license is still valid and current for renewal.

*History Note: Authority G.S. 113-134; 113-168; 113-168.1-6; 113-169; 113-169.2-5; 113-171.1; 113-174.3; 113-174.4; 143B-289.52; Eff. January 1, 1991; Amended Eff. July 1, 1997; March 1, 1994; Temporary Amendment Eff. July 1, 1999; Amended Eff. August 1, 2000; Temporary Amendment Eff. April 1, 2001; Amended Eff. December 1, 2006; August 1, 2004; August 1, 2002.*

**15A NCAC 03O .0106 DISPLAY OF LICENSES AND REGISTRATIONS**

(a) It is unlawful:

- (1) For any person to use a vessel required to be registered under the provisions of G.S. 113-168.6 in a commercial fishing operation without a current commercial fishing vessel registration decal mounted on an exterior surface so as to be plainly visible when viewed from the port side;
- (2) To display any commercial fishing vessel registration decal not issued for the vessel displaying it.

(b) It is unlawful to fail to display any fish dealer's licenses required by G.S. 113-169.3, ocean fishing pier license required by G.S. 113-169.4, or Ocean Fishing Pier Blanket Coastal Recreational Fishing License (CRFL) pursuant to G.S. 113-174.4 in prominent public view in each location subject to licensing.

*History Note: Authority G.S. 113-168.6; 113-169.3; 113-169.4; 113-174.4; 143B-289.52; Eff. January 1, 1991; Temporary Amendment Eff. July 1, 1999; Amended Eff. December 1, 2006; August 1, 2000.*

**15A NCAC 03O .0107 LOST LICENSE REPLACEMENT**

Lost licenses except Blanket Coastal Recreational Fishing Licenses, endorsements, and commercial fishing vessel registration decals may be replaced upon payment of a fee of ten dollars (\$10.00) or a fee equal to the initial cost of the license, endorsement, or commercial fishing vessel registration, whichever is less. The replacement fee for the Blanket Coastal Recreational Fishing Licenses is five dollars (\$5.00).

*History Note: Authority G.S. 113-134; 113-168.1; 113-168.6; 113-169.4; 113-173; 113-174.1; 143B-289.52; Eff. January 1, 1991; Temporary Amendment Eff. July 1, 1999; Amended Eff. December 1, 2006; August 1, 2000.*

**15A NCAC 03R .0103 PRIMARY NURSERY AREAS**

The primary nursery areas referenced in 15A NCAC 03N .0104 are delineated in the following coastal water areas:

- (1) In the Roanoke Sound Area:
  - (a) Shallowbag Bay:
    - (i) Dough Creek - northeast of a line beginning on the west shore at a point 35° 54.5396' N - 75° 39.9681' W; running northeasterly to the east shore to a point 35° 54.4615' N - 75° 40.1598' W; and west of a line that crosses a canal on the east side of Dough Creek beginning on the north shore at a point 35° 54.7103' N - 75° 40.0951' W; running southerly to the south shore to a point 35° 54.6847' N - 75° 40.0882' W;
    - (ii) Scarborough Creek - south of a line beginning on the west shore at a point 35° 53.9801' N - 75° 39.5985' W; running northeasterly to the east shore to a point 35° 54.0372' N - 75° 39.5558' W.
  - (b) Broad Creek - all waters north of a line beginning on the west shore at a point 35° 51.9287' N - 75° 38.3377' W; running northeasterly to the east shore to a point 35° 52.0115' N - 75° 38.1792' W; and west and south of a line beginning on the north shore at a point 35° 53.3655' N - 75° 38.0254' W; running southeasterly to the south shore to a point 35° 53.3474' N - 75° 37.9430' W.
- (2) In the Northern Pamlico Sound Area:
  - (a) Long Shoal River:
    - (i) Long Shoal River - northwest of a line beginning on the north shore at a point 35° 38.0175' N - 75° 52.9270' W; running southwesterly to the south shore to a point 35° 37.8369' N - 75° 53.1060' W;
    - (ii) Deep Creek - southeast of a line beginning on the north shore at a point 35° 37.7346' N - 75° 52.1383' W; running southwesterly to the south shore to a point 35° 37.6673' N - 75° 52.2997' W;
    - (iii) Broad Creek - west of a line beginning on the north shore at a point 35° 35.9820' N - 75° 53.6789' W; running southerly to the south shore to a point 35° 35.7093' N - 75° 53.7335' W;
  - (iv) Muddy Creek - east of a line beginning on the north shore at a point 35° 36.4566' N - 75° 52.1460' W; running southerly to the south shore to a point 35° 36.2828' N - 75° 52.1640' W;
  - (v) Pains Bay - north of a line beginning on the west shore at a point 35° 35.4517' N - 75° 49.1414' W; running easterly to the east shore to a point 35° 35.4261' N - 75° 48.8029' W;
  - (vi) Otter Creek - southwest of a line beginning on the west shore at a point 35° 33.2597' N - 75° 55.2129' W; running easterly to the east shore to a point 35° 33.1995' N - 75° 54.8949' W;
  - (vii) Clark Creek - northeast of a line beginning on the north shore at a point 35° 35.7776' N - 75° 51.4652' W; running southeasterly to the south shore to a point 35° 35.7128' N - 75° 51.4188' W;
- (b) Far Creek - west of a line beginning on the north shore at a point 35° 30.9782' N - 75° 57.7611' W; running southerly to Gibbs Point to a point 35° 30.1375' N - 75° 57.8108' W;
- (c) Middletown Creek - west of a line beginning on the north shore at a point 35° 28.4868' N - 75° 59.8186' W; running southwesterly to the south shore to a point 35° 28.1919' N - 76° 00.0216' W;
- (d) Wysocking Bay:
  - (i) Lone Tree Creek - east of a line beginning on the north shore at a point 35° 25.6048' N - 76° 02.3577' W; running southeasterly to the south shore to a point 35° 25.1189' N - 76° 02.0499' W;
  - (ii) Wysocking Bay - north of a line beginning on the west shore at a point 35° 25.7793' N - 76° 03.5773' W; running northeasterly to the east shore to a point 35° 25.9585' N - 76° 02.9055' W;

- (iii) Douglas Bay - northwest of a line beginning on Mackey Point at a point 35° 25.2627' N - 76° 03.1702' W; running southwesterly to the south shore to a point 35° 24.8225' N - 76° 03.6353' W;
- (iv) Tributaries west of Brown Island - west of a line beginning on Brown Island at a point 35° 24.3606' N - 76° 04.4557' W; running southerly to the north shore of Brown Island to a point 35° 24.2081' N - 76° 04.4622' W; and northwest of a line beginning on the south shore of Brown Island at a point 35° 23.8255' N - 76° 04.4761' W; running southwesterly to a point 35° 23.6543' N - 76° 04.8630' W;
- (e) East Bluff Bay - Harbor Creek east of a line beginning on the north shore at a point 35° 21.5762' N - 76° 07.8755' W; running southerly to a point 35° 21.4640' N - 76° 07.8750' W; running easterly to the south shore to a point 35° 21.4332' N - 76° 07.7211' W;
- (f) Cunning Harbor tributaries - north of a line beginning on the west shore at a point 35° 20.7567' N - 76° 12.6379' W; running easterly to the east shore to a point 35° 20.7281' N - 76° 12.2292' W;
- (g) Juniper Bay:
  - (i) Upper Juniper Bay - north of a line beginning on the west shore at a point 35° 23.1687' N - 76° 15.1921' W; running easterly to the east shore to a point 35° 23.1640' N - 76° 14.9892' W;
  - (ii) Rattlesnake Creek - west of a line beginning on the north shore at a point 35° 22.9453' N - 76° 15.2748' W, running southerly to the south shore to a point 35° 22.8638' N - 76° 15.3461' W;
  - (iii) Buck Creek - north of a line beginning on the west shore at a point 35° 21.5220' N - 76° 13.8865' W; running southeasterly to the east shore to a point 35° 21.3593' N - 76° 13.7039' W;
- (iv) Laurel Creek - east of a line beginning on the north shore at a point 35° 20.6693' N - 76° 13.3177' W; running southerly to the south shore to a point 35° 20.6082' N - 76° 13.3305' W;
- (v) Old Haulover - west of a line beginning on the north shore at a point 35° 22.0186' N - 76° 15.6736' W; running southerly to the south shore to a point 35° 21.9708' N - 76° 15.6825' W;
- (h) Swanquarter Bay:
  - (i) Upper Swanquarter Bay - north of a line beginning on the west shore at a point 35° 23.5651' N - 76° 20.6715' W; running easterly to the east shore to a point 35° 23.6988' N - 76° 20.0025' W;
  - (ii) Oyster Creek - east of a line beginning on the north shore at a point 35° 23.1214' N - 76° 19.0026' W; running southeasterly to the south shore to a point 35° 23.0117' N - 76° 18.9591' W;
  - (iii) Caffee Bay:
    - (A) Unnamed tributary - north of a line beginning on the west shore at a point 35° 22.1604' N - 76° 18.9140' W; running easterly to the east shore to a point 35° 22.1063' N - 76° 18.7500' W;
    - (B) Unnamed tributary - north of a line beginning on the west shore at a point 35° 22.1573' N - 76° 18.5101' W; running easterly to the east shore to a point 35° 22.1079' N - 76° 18.1562' W;
    - (C) Upper Caffee Bay (Haulover) - east of a line beginning on the north shore at a point 35° 21.8499' N - 76° 17.5199' W;

- W; running southerly to the south shore to a point 35° 21.5451' N - 76° 17.4966' W;
- (i) Rose Bay:
- (i) Rose Bay - north of a line beginning on the west shore at a point 35° 26.6543' N - 76° 25.3992' W; running easterly to Channel Marker "6"; running northeasterly to Watch Point to a point 35° 26.8515' N - 76° 25.0055' W;
- (ii) Island Point Creek - west of a line beginning on the north shore at a point 35° 26.0413' N - 76° 25.0452' W; running southeasterly to the south shore to a point 35° 25.9295' N - 76° 24.9882' W;
- (iii) Tooley Creek - west of a line beginning on the north shore at a point 35° 25.4937' N - 76° 25.5324' W; running southerly to the south shore to a point 35° 25.1819' N - 76° 25.5776' W;
- (iv) Broad Creek - east of a line beginning on the north shore at a point 35° 24.4620' N - 76° 23.3398' W; running southwesterly to the south shore to a point 35° 24.2352' N - 76° 23.5158' W;
- (v) Lightwood Snag Bay - northwest of a line beginning on the north shore at a point 35° 24.3340' N - 76° 25.9680' W; running southwesterly to a point 35° 24.2610' N - 76° 26.1800' W; running southwesterly to a point on the shore 35° 23.9270' N - 76° 26.3300' W;
- (vi) Deep Bay:
- (A) Old Haulover - north of a line beginning on the west shore at a point 35° 23.2140' N - 76° 22.8560' W; running easterly to the east shore to a point 35° 23.2124' N - 76° 22.7340' W;
- (B) Drum Cove (Stinking Creek) - south of a line beginning on the west shore at a point 35° 22.5212' N - 76° 24.7321' W; running southeasterly to the east shore to a point 35° 22.4282' N - 76° 24.5147' W;
- (vii) Eastern tributaries (Cedar Hammock and Long Creek) - east of a line beginning on the north shore at a point 35° 24.9119' N - 76° 23.1587' W; running southerly to the south shore to a point 35° 24.6700' N - 76° 23.2171' W;
- (j) Spencer Bay:
- (i) Germantown Bay:
- (A) Ditch Creek - northwest of a line beginning on the north shore at a point 35° 24.1874' N - 76° 27.8527' W; running southwesterly to the south shore to a point 35° 24.0937' N - 76° 27.9348' W;
- (B) Jenette Creek - northwest of a line beginning on the north shore at a point 35° 24.5054' N - 76° 27.6258' W; running southwesterly to the south shore to a point 35° 24.4642' N - 76° 27.6659' W;
- (C) Headwaters of Germantown Bay - north of a line beginning on the west shore at a point 35° 24.8345' N - 76° 27.2605' W; running southeasterly to the east shore to a point

- (D) Swan Creek - southeast of a line beginning on the north shore at a point 35° 24.4783' N - 76° 27.1513' W; running southwesterly to the south shore to a point 35° 24.3899' N - 76° 27.2809' W;
  - (ii) Unnamed tributary - west of a line beginning on the north shore at a point 35° 22.9741' N - 76° 28.3469' W; running southerly to the south shore to a point 35° 22.8158' N - 76° 28.3280' W;
  - (iii) Unnamed tributary - west of a line beginning on the north shore at a point 35° 23.1375' N - 76° 28.5681' W; running southerly to the south shore to a point 35° 23.0209' N - 76° 28.5060' W;
  - (iv) Unnamed tributary - southwest of a line beginning on the north shore at a point 35° 23.3775' N - 76° 28.7332' W; running southeasterly to the south shore to a point 35° 23.3297' N - 76° 28.5608' W;
  - (v) Unnamed tributaries - northwest of a line beginning on the north shore at a point 35° 23.7207' N - 76° 28.6590' W; running southwesterly to the south shore to a point 35° 23.4738' N - 76° 28.7763' W;
  - (vi) Upper Spencer Bay - northwest of a line beginning on the north shore at a point 35° 24.3129' N - 76° 28.5300' W; running southwesterly to the south shore to a point 35° 23.9681' N - 76° 28.7671' W;
  - (vii) Spencer Creek - east of a line beginning on the north shore at a point 35° 23.9990' N - 76° 27.3702' W; running southerly to the south shore to a point 35° 23.8598' N - 76° 27.4037' W;
  - (k) Long Creek - north of a line beginning on the west shore at a point 35° 22.4678' N - 76° 28.7868' W; running southeasterly to the east shore to a point 35° 22.3810' N - 76° 28.7064' W;
  - (l) Willow Creek - east of a line beginning on the north shore at a point 35° 23.1370' N - 76° 29.8829' W; running southeasterly to the south shore to a point 35° 22.9353' N - 76° 29.7215' W;
  - (m) Abels Bay - north and east of a line beginning on the west shore at a point 35° 24.1072' N - 76° 30.3848' W; running southeasterly to the east shore to a point 35° 23.9898' N - 76° 30.1178' W; thence running southerly to the south shore to a point 35° 23.6947' N - 76° 30.1900' W;
  - (n) Crooked Creek - north of a line beginning on the west shore at a point 35° 24.4138' N - 76° 32.2124' W; running easterly to the east shore to a point 35° 24.3842' N - 76° 32.0419' W.
- (3) In the Pungo River Area:
- (a) Fortescue Creek:
    - (i) Headwaters of Fortescue Creek - southeast of a line beginning on the south shore at a point 35° 25.5379' N - 76° 30.6923' W; running easterly to the north shore to a point 35° 25.5008' N - 76° 30.5537' W;
    - (ii) Warner Creek - north of a line beginning on the west shore at a point 35° 26.2778' N - 76° 31.5463' W; running easterly to the east shore to a point 35° 26.3215' N - 76° 31.4522' W;
    - (iii) Island Creek - north of a line beginning on the west shore at a point 35° 26.1342' N - 76° 32.3883' W; running easterly to the east shore to a point 35° 26.1203' N - 76° 32.2603' W;
    - (iv) Dixon Creek - south of a line beginning on the west shore at a point 35° 25.5766' N - 76° 31.8489' W; running easterly to the east shore to a point 35° 25.5865' N - 76° 31.6960' W;
    - (v) Pasture Creek - north of a line beginning on the west

- shore at a point 35° 25.9437' N - 76° 31.8468' W; running southwesterly to the east shore to a point 35° 25.9918' N - 76° 31.7224 W;
  - (vi) Cox, Snell, and Seer Creeks - northeast of a line beginning on the west shore at a point 35° 26.0496' N - 76° 31.2087' W; running southeasterly to the east shore to a point 35° 25.8497' N - 76° 30.8828' W;
  - (vii) Unnamed tributary on the north side of Fortescue Creek - northeast of a line beginning on the west shore at a point 35° 25.7722' N - 76° 30.7825' W; running southeasterly to the east shore to a point 35° 25.7374' N -- 76° 30.7102' W;
  - (viii) Runway Creek - northeast of a line beginning on the west shore at a point 35° 25.6547' N - 76° 30.6637' W; running easterly to the east shore to a point 35° 25.6113' N - 76° 30.5714' W;
- (b) Slade Creek:
  - (i) Upper Slade Creek - south of a line beginning on the north shore at a point 35° 27.9168' N - 76° 30.5189' W; running westerly to the south shore to a point 35° 27.9532' N - 76° 30.7140' W;
  - (ii) Jarvis Creek - northeast of a line beginning on the west shore at a point 35° 28.2450' N - 76° 30.8921' W; running southeasterly to the east shore to a point 35° 28.2240' N - 76° 30.8200' W;
  - (iii) Jones Creek - south of a line beginning on the west shore at a point 35° 28.0077' N - 76° 30.9337' W; running southeasterly to the east shore to a point 35° 27.9430' N - 76° 30.8938' W;
  - (iv) Becky Creek - north of a line beginning on the west shore at a point 35° 28.6081' N - 76° 31.6886' W; running northeasterly to the east shore to a point 35° 28.6297' N - 76° 31.6073' W;
- (4) In the Pamlico River Area:
  - (a) North Creek:
    - (v) Neal Creek - north of a line beginning on the west shore at a point 35° 28.7797' N - 76° 31.8657' W; running northeasterly to the east shore to a point 35° 28.8084' N - 76° 31.7727' W;
    - (vi) Wood Creek - north of a line beginning on the west shore at a point 35° 28.5788' N - 76° 32.4163' W; running northeasterly to the east shore to a point 35° 28.6464' N - 76° 32.3339' W;
    - (vii) Spellman Creek - north of a line beginning on the east shore at a point 35° 28.2233' N - 76° 32.6827' W; running southwesterly to the west shore to a point 35° 28.2567' N - 76° 32.6533' W;
    - (viii) Speer Creek - east of a line beginning on the north shore at a point 35° 27.9680' N - 76° 32.3593' W; running southerly to the south shore to a point 35° 27.9216' N - 76° 32.3862' W;
    - (ix) Church Creek and Speer Gut - east of a line beginning on the north shore at a point 35° 27.5910' N - 76° 32.7412' W; running southwesterly to the south shore to a point 35° 27.5282' N - 76° 32.8227' W;
    - (x) Allison and Foreman Creek - south of a line beginning on Parmalee Point at a point 35° 27.2812' N - 76° 33.0634' W; running southwesterly to the west shore to a point 35° 27.2418' N - 76° 33.1451' W;
  - (c) Flax Pond - west of a line beginning the north shore at a point 35° 32.0297' N - 76° 33.0389' W; running southwesterly to the south shore to a point 35° 31.9212' N - 76° 33.2061' W;
  - (d) Battalina and Tooleys creeks - northwest of a line beginning on the north shore at a point 35° 32.3914' N - 76° 36.1548' W; running southwesterly to the south shore to a point 35° 32.0627' N - 76° 36.3769' W.



- (i) North Creek - north of a line beginning on the west shore at a point 35° 25.6764' N - 76° 39.9970' W; running northeasterly to the east shore to a point 35° 25.5870' N - 76° 40.0806' W; point 35° 16.3636' N - 76° 36.0568' W; running southeasterly to the south shore to a point 35° 16.1857' N - 76° 36.0111' W;
  - (ii) East Fork:
    - (A) Northeast of a line beginning on the west shore at a point 35° 25.8000' N - 76° 39.2679' W; running southeasterly to the east shore to a point 35° 25.6914' N - 76° 39.1374' W;
    - (B) Unnamed tributary of East Fork - northwest of a line beginning on the north shore at a point 35° 25.6950' N - 76° 39.4337' W; running southwesterly to the south shore to a point 35° 25.6445' N - 76° 39.4698' W;
  - (iii) Frying Pan Creek - east of a line beginning on the north shore at a point 35° 24.9881' N - 76° 39.5948' W; running southwesterly to Chambers Point to a point 35° 24.8508' N - 76° 39.6811' W;
  - (iv) Little Ease Creek - west of a line beginning on the north shore at a point 35° 25.1463' N - 76° 40.3490' W; running southwesterly to Cousin Point to a point 35° 25.0075' N - 76° 40.4159' W;
- (b) Goose Creek:
    - (i) Hatter Creek - west of a line beginning on the north shore at a point 35° 19.9593' N - 76° 37.5992' W; running southerly to the south shore to a point 35° 19.9000' N - 76° 37.5904' W;
    - (ii) Upper Spring Creek:
      - (A) Headwaters of Upper Spring Creek - east of a line beginning on the north shore at a point 35° 17.8166' N - 76° 36.7704' W; running southeasterly to the south shore to a point 35° 17.8166' N - 76° 36.7468' W;
      - (B) Unnamed tributary - north of a line beginning on the west shore at a point 35° 16.8386' N - 76° 36.4447' W; running easterly to the east shore to a point 35° 16.8222' N - 76° 36.3811' W;
      - (iii) Eastham Creek:
        - (A) Slade Landing Creek - south of a line beginning on the west shore at a point 35° 17.5450' N - 76° 35.9677' W; running southeasterly to the east shore to a point 35° 17.4845' N - 76° 35.8946' W;
        - (B) Mallard Creek - north of a line beginning on the west shore at a point 35° 17.8230' N - 76° 36.1314' W; running southeasterly to the east shore to a point 35° 17.7927' N - 76° 36.0330' W;
      - (iv) Mud Gut - northeast of a line beginning on the north shore at a point 35° 17.8754' N - 76° 36.7704' W; running southeasterly to the south shore to a point 35° 17.8166' N - 76° 36.7468' W;
      - (v) Wilkerson Creek - east of a line beginning on the north shore at a point 35° 18.4096' N - 76° 36.7479' W; running southwesterly to the south shore to a point 35° 18.3542' N - 76° 36.7741' W;
      - (vi) Dixon Creek - east of a line beginning on the north shore at a point 35° 18.8893' N -

- 76° 36.5973' W; running southerly to the south shore to a point 35° 18.5887' N - 76° 36.7142' W;
- (c) Oyster Creek; Middle Prong:
- (i) Oyster Creek:
- (A) West of a line, beginning on the north shore at a point 35° 19.4780' N - 76° 34.0131' W; running southerly to the south shore to a point 35° 19.3796' N - 76° 34.0021' W;
- (B) Duck Creek - south of a line beginning on the west shore at a point 35° 19.0959' N - 76° 33.2998' W; running northeasterly to the east shore to a point 35° 19.1553' N - 76° 33.2027' W;
- (ii) James Creek - southwest of a line beginning on the north shore at a point 35° 18.6045' N - 76° 32.3233' W; running southeasterly to James Creek Point at a point 35° 18.4805' N - 76° 32.0240' W;
- (iii) Middle Prong - south of a line beginning on the west shore at a point 35° 17.8888' N - 76° 31.9379' W; running southerly to the east shore to a point 35° 17.7323' N - 76° 31.9052' W;
- (iv) Clark Creek:
- (A) Headwaters of Clark Creek (including Mouse Harbor Ditch) - southeast of a line beginning on the west shore at a point 35° 18.1028' N - 76° 31.1661' W; running northeasterly to the east shore to a point 35° 18.1907' N - 76° 31.0610' W;
- (B) Boat Creek - east of a line beginning on the north shore at a point 35° 18.5520' N - 76° 31.2927' W; running southerly to the south shore to a point 35° 18.4189' N - 76° 31.2660' W.
- (5) In the Western Pamlico Sound Area:
- (a) Mouse Harbor:
- (i) Long Creek - north of a line beginning on the west shore at a point 35° 18.4025' N - 76° 29.8139' W; running northeasterly to the east shore to a point 35° 18.4907' N - 76° 29.5652' W;
- (ii) Lighthouse Creek - north of a line beginning on the west shore at a point 35° 18.5166' N - 76° 29.2166' W; running southeasterly to the east shore to a point 35° 18.4666' N - 76° 29.1666' W;
- (iii) Cedar Creek and Island creeks - south of a line beginning on the west shore at a point 35° 16.9073' N - 76° 29.8667' W; running southeasterly to the east shore to a point 35° 16.6800' N - 76° 29.4500' W;
- (b) Porpoise Creek - west of a line beginning on the north shore at a point 35° 15.7263' N - 76° 29.4897' W; running southeasterly to the south shore to a point 35° 15.6335' N - 76° 29.3346' W;
- (c) Middle Bay:
- (i) Middle Bay - west of a line beginning on the north shore at a point 35° 14.6137' N - 76° 30.8086' W; running southeasterly to the south shore to a point 35° 14.0631' N - 76° 30.5176' W;
- (ii) Little Oyster Creek - north of a line beginning on the west shore at a point 35° 14.4745' N - 76° 30.2111' W; running northeasterly to the east shore to a point 35° 14.5825' N - 76° 29.9144' W;
- (d) Jones Bay, west of the IWW:
- (i) Little Drum Creek and Little Eve Creek - south of a line beginning on the west shore at a point 35° 12.4380' N - 76° 31.7428' W; running

- southeasterly to the east shore to a point 35° 12.3499' N - 76° 31.2554' W;
  - (ii) Ditch Creek - south of a line beginning on the west shore at a point 35° 13.3609' N - 76° 33.6539' W; running southeasterly to the east shore to a point 35° 13.2646' N - 76° 33.1996' W;
  - (iii) Lambert Creek - west of a line beginning on the north shore at a point 35° 13.8980' N - 76° 34.3078' W; running southeasterly to the south shore to a point 35° 13.8354' N - 76° 34.2665' W;
  - (iv) Headwaters of Jones Bay, (west of the IWW) - west of a line beginning on the north shore at a point 35° 14.4684' N - 76° 35.4307' W; running southerly to the south shore to a point 35° 14.3947' N - 76° 35.4205' W;
  - (v) Bills Creek - north of a line beginning on the west shore at a point 35° 14.4162' N - 76° 34.8566' W; running northerly to the east shore to a point 35° 14.4391' N - 76° 34.7248' W;
  - (vi) Doll Creek - north of a line beginning on the west shore at a point 35° 14.3320' N - 76° 34.2935' W; running southeasterly to the east shore to a point 35° 14.2710' N - 76° 34.0406' W;
  - (vii) Drum Creek - north of a line beginning on the west shore at a point 35° 14.1764' N - 76° 33.2632' W; running easterly to the east shore to a point 35° 14.1620' N - 76° 33.0614' W.
- (6) In the Bay River Area:
  - (a) Mason Creek - southeast of a line beginning on the north shore at a point 35° 08.2531' N - 76° 41.4897' W; running southwesterly to the west shore to a point 35° 08.1720' N - 76° 41.6340' W;
  - (b) Moore Creek - southeast of a line beginning on the north shore at a point 35° 08.9671' N - 76° 40.2017' W; running southeasterly to the south shore to a point 35° 08.8629' N - 76° 40.1598' W;
- (c) Small tributaries from Bell Point to Ball Creek:
  - (i) Tributary west of Bell Point - south of a line beginning on the west shore at a point 35° 09.9536' N - 76° 39.3977' W; running northeasterly to the east shore to a point 35° 09.9970' N - 76° 39.3420' W;
  - (ii) Little Pasture Creek - south of a line beginning on the west shore at a point 35° 09.8944' N - 76° 39.1483'; running southeasterly to the east shore to a point 35° 09.8417' N - 76° 39.1130' W;
  - (iii) Rice Creek - south of a line beginning on the west shore at a point 35° 09.7616' N - 76° 38.9686' W; running southeasterly to the east shore to a point 35° 09.7378' N - 76° 38.8833' W;
- (d) Ball and Cabin creeks - south of a line beginning on the west shore at a point 35° 09.6479' N - 76° 37.9973' W; running southeasterly to the east shore to a point 35° 09.5589' N - 76° 37.5879' W;
- (e) Bonner Bay:
  - (i) Riggs Creek - west of a line beginning on the north shore at a point 35° 09.4050' N - 76° 36.2205' W; running southeasterly to the south shore to a point 35° 09.2298' N - 76° 36.0949' W;
  - (ii) Spring Creek - west of a line beginning on the north shore at a point 35° 08.5149' N - 76° 36.0799' W; running southerly to the south shore to a point 35° 08.3575' N - 76° 36.0713' W;
  - (iii) Bryan and Ives creeks - south of a line beginning on the west shore at a point 35° 08.3632' N - 76° 35.8653' W; running northeasterly to the east shore to a point 35° 08.4109' N - 76° 35.7075' W;
  - (iv) Dipping Vat Creek - east of a line beginning on the north shore at a point 35° 09.2734' N - 76° 34.3363' W; running southerly to the south shore

- to a point 35° 09.1212' N - 76° 34.3667' W;
  - (v) Long Creek - east of a line beginning on the west shore at a point 35° 08.1404' N - 76° 34.5741' W; running northeasterly to the east shore to a point 35° 08.2078' N - 76° 34.4819' W;
  - (vi) Cow Gallus Creek - west of a line beginning on the north shore at a point 35° 08.5125' N - 76° 34.6417' W; running southerly to the south shore to a point 35° 08.4083' N - 76° 34.6131' W;
- (f) Rock Hole Bay - northeast of a line beginning on the west shore at a point 35° 11.6478' N - 76° 32.5840' W; running southeasterly to the east shore to a point 35° 11.2664' N - 76° 32.2160' W;
- (g) Dump Creek - north of a line beginning on the west shore at a point 35° 11.7105' N - 76° 33.4228' W; running easterly to the east shore to a point 35° 11.7174' N - 76° 33.1807' W;
- (h) Tributaries east of IWW at Gales Creek:
  - (i) Raccoon Creek - east of a line beginning on the north shore at a point 35° 12.9169' N - 76° 35.4930' W; running southeasterly to the south shore to a point 35° 12.6515' N - 76° 35.3368' W;
  - (ii) Ditch Creek - east of a line beginning on the north shore at a point 35° 12.4460' N - 76° 35.0707' W; running southeasterly to the south shore to a point 35° 12.3495' N - 76° 34.9917' W;
- (i) Tributaries west of IWW at Gales Creek:
  - (i) Jumpover Creek - west of a line beginning on the north shore at a point 35° 13.2830' N - 76° 35.5843' W; running southerly to the south shore to a point 35° 13.2035' N - 76° 35.5844' W;
  - (ii) Gales Creek - west of a line beginning on the north shore at a point 35° 12.9653' N - 76° 35.6600' W; running southerly to the south shore
- to a point 35° 12.8032' N - 76° 35.6366' W;
- (iii) Whealton and Tar creeks - west of a line beginning on the north shore at a point 35° 12.7334' N - 76° 35.5430' W; running southeasterly to the south shore to a point 35° 12.4413' N - 76° 35.3594' W;
- (j) Chadwick and No Jacket creeks - north of a line beginning on the west shore at a point 35° 11.9511' N - 76° 35.8899' W; running northeasterly to the east shore to a point 35° 12.0599' N - 76° 35.3973' W;
- (k) Bear Creek - west of a line beginning on the north shore at a point 35° 11.7526' N - 76° 36.2721' W; running southwesterly to the south shore to a point 35° 11.5781' N - 76° 36.3366' W;
- (l) Little Bear Creek - north of a line beginning on the west shore at a point 35° 11.1000' N - 76° 36.3060' W; running northeasterly to the east shore to a point 35° 11.2742' N - 76° 35.9822' W;
- (m) Tributaries to Bay River from Petty Point to Sanders Point:
  - (i) Oyster Creek - north of a line beginning on the west shore at a point 35° 10.7971' N - 76° 36.7399' W; running northeasterly to the east shore to a point 35° 10.9493' N - 76° 36.4878' W;
  - (ii) Potter Creek - north of a line beginning on the west shore at a point 35° 10.7259' N - 76° 37.0764' W; running northeasterly to the east shore to a point 35° 10.7778' N - 76° 36.7933' W;
  - (iii) Barnes and Gascon creeks - north of a line beginning on the west shore at a point 35° 10.6396' N - 76° 37.3137' W; running northeasterly to the east shore to a point 35° 10.6929' N - 76° 37.2087' W;
  - (iv) Harris Creek - north of a line beginning on the west shore at a point 35° 10.5922' N - 76° 37.5333' W; running northeasterly to the east shore to a point 35° 10.6007' N - 76° 37.5103' W;

- (v) Mesic Creek - north of a line beginning on the west shore at a point 35° 10.5087' N - 76° 37.9520' W; running easterly to the east shore to a point 35° 10.4830' N - 76° 37.8477' W;
- (n) In Vandemere Creek:
    - (i) Cedar Creek - north of a line beginning on the west shore at a point 35° 11.2495' N - 76° 39.5727' W; running northeasterly to the east shore to a point 35° 11.2657' N - 76° 39.5238' W;
    - (ii) Long Creek - east of a line beginning on the north shore at a point 35° 11.4779' N - 76° 38.7790' W; running southerly to the south shore to a point 35° 11.4220' N - 76° 38.7521' W;
    - (iii) Little Vandemere Creek - north of a line beginning on the west shore at a point 35° 12.1449' N - 76° 39.2620' W; running southeasterly to the east shore to a point 35° 12.1182' W 76° 39.1993' W;
- (o) Smith Creek - north of a line beginning on the west shore to a point 35° 10.4058' N - 76° 40.2565' W; running northeasterly to the east shore to a point 35° 10.4703' N - 76° 40.1593' W;
- (p) Harper Creek - west of a line beginning on the north shore at a point 35° 09.2767' N - 76° 41.8489' W; running southwesterly to the south shore to a point 35° 09.1449' N - 76° 41.9137' W;
- (q) Chapel Creek - north of a line beginning on the west shore at a point 35° 08.9333' N - 76° 42.8382' W; running northeasterly to the east shore to a point 35° 08.9934' N - 76° 42.7694' W;
- (r) Swindell Bay - south of a line beginning on the west shore at a point 35° 08.2580' N - 76° 42.9380' W; running southeasterly to the east shore to a point 35° 08.2083' N - 76° 42.8031' W.
- (7) In the Neuse River Area North Shore:
    - (a) Swan Creek - west of a line beginning on the south shore at a point 35° 06.5470' N - 76° 33.8203' W; running northeasterly to a point 35° 06.4155' N - 76° 33.9479' W;
- (b) Broad Creek:
    - (i) Greens Creek - north of a line beginning on the west shore at a point 35° 06.0730' N - 76° 35.5110' W; running southeasterly to the east shore to a point 35° 05.9774' N - 76° 35.3704' W;
    - (ii) Pittman Creek - north of a line beginning on the west shore at a point 35° 05.8143' N - 76° 36.1475' W; running northeasterly to the east shore to a point 35° 05.8840' N - 76° 36.0144' W;
    - (iii) Burton Creek - west of a line beginning on the north shore at a point 35° 05.7174' N - 76° 36.4797' W; running southwesterly to the south shore to a point 35° 05.6278' N - 76° 36.5067' W;
    - (iv) All tributaries on the north shore of Broad Creek - north of a line beginning on the west shore of the western most tributary at a point 35° 05.5350' N - 76° 37.4058' W; running easterly to a point 35° 05.4752' N - 76° 36.9672' W; running to a point 35° 05.4868' N - 76° 36.9163' W; north of a line beginning on the west shore of the eastern most tributary at 35° 05.4415' N - 76° 36.7869' W, running northeasterly to a point 35° 05.4664' N - 76° 36.7540' W;
    - (v) Brown Creek - northwest of a line beginning on the west shore at a point 35° 05.5310' N - 76° 37.8132' W; running northeasterly to the east shore to a point 35° 05.5737' N - 76° 37.6908' W;
    - (vi) Broad Creek including Gideon Creek - west of a line beginning on the north shore at a point 35° 05.5310' N - 76° 37.8132' W; running

- southerly to the south shore to a point 35° 05.3212' N - 76° 37.8398' W;
- (vii) Tar Creek - south of a line beginning on the west shore at a point 35° 05.2604' N - 76° 37.5093' W; running easterly to the east shore to a point 35° 05.2728' N - 76° 37.6251' W;
- (viii) Tributary east of Tar Creek - south of a line beginning on the west shore at a point 35° 05.3047' N - 76° 37.0316' W; running easterly to the east shore to a point 35° 05.2674' N - 76° 36.8086' W;
- (ix) Tributary east of Tar Creek - south of a line beginning on the west shore at a point 35° 05.2674' N - 76° 36.8086' W; running easterly to the east shore to a point 35° 05.2445' N - 76° 36.5416' W;
- (x) Parris Creek - south of a line beginning on the west shore at a point 35° 05.2445' N - 76° 36.5416' W; running southeasterly to the east shore to a point 35° 05.2031' N - 76° 36.4573' W;
- (xi) Mill Creek - south of a line beginning on the west shore at a point 35° 05.4439' N - 76° 36.0260' W; running northeasterly to the east shore to a point 35° 05.4721' N - 76° 35.8835' W;
- (xii) Cedar Creek - south of a line beginning on the west shore at a point 35° 05.3711' N - 76° 35.6556' W; running southeasterly to the east shore to a point 35° 05.2867' N - 76° 35.5348' W;
- (c) Orchard and Old House creeks - north of a line beginning on the west shore at a point 35° 03.3302' N - 76° 38.4478' W; running northeasterly to the east shore to a point 35° 03.6712' N - 76° 37.9040' W;
- (d) Pierce Creek - north of a line beginning on the west shore at a point 35° 02.5030' N - 76° 40.0536' W; running northeasterly to the east shore to a point 35° 02.5264' - 76° 39.9901 W;
- (e) Whittaker Creek - north of a line beginning on the west shore at a point 35° 01.7186' N - 76° 41.1309' W; running easterly to the east shore to a point 35° 01.6702' N - 76° 40.9036' W;
- (f) Oriental:
  - (i) Smith and Morris creeks - north of a line beginning on the west shore at a point 35° 02.1553' N - 76° 42.2931' W; running southeasterly to the east shore to a point 35° 02.1097' N - 76° 42.1806' W;
  - (ii) Unnamed tributary west of Dewey Point - north of a line beginning on the west shore at a point 35° 01.3704' N - 76° 42.4906' W; running northeasterly to the east shore to a point 35° 01.3530' N - 76° 42.4323' W;
  - (iii) Unnamed tributary on the south shore of Greens Creek - south of a line beginning on the west shore at a point 35° 01.4340' N - 76° 42.7920' W; running southeasterly to the east shore to a point 35° 01.4040' N - 76° 42.7320' W;
  - (iv) Unnamed tributary on the south shore of Greens Creek - south of a line beginning on the west shore at a point 35° 01.3680' N - 76° 42.4920' W; running southeasterly to the east shore to a point 35° 01.3560' N - 76° 42.4320' W;
  - (v) Greens Creek - west of a line beginning on the north shore at a point 35° 01.5985' N - 76° 42.9959' W; running southeasterly to the south shore to a point 35° 01.4759' N - 76° 42.9570 W;
  - (vi) Kershaw Creek - north of a line beginning on the west shore at a point 35° 01.5985' N - 76° 42.9959' W; running easterly to the east shore to a point 35° 01.6077' N - 76° 42.8459' W;
  - (vii) Shop Gut Creek - west of a line beginning on the north shore at a point 35° 01.2720' N - 76° 42.1500' W; running

- southerly to the south shore to a point 35° 01.1700' N – 76° 42.1380' W;
- (g) Dawson Creek:
- (i) Unnamed eastern tributary of Dawson Creek - east of a line beginning on the north shore at a point 35° 00.2064' N – 76° 45.2652' W; running southeasterly to the south shore to a point 35° 00.1790' N - 76° 45.2289' W;
- (ii) Unnamed tributary of Dawson Creek (at mouth) - east of a line beginning on the north shore at a point 34° 59.6620' N – 76° 45.1156' W; running southerly to the south shore to a point 34° 59.6326' N – 76° 45.1177' W;
- (h) Beard Creek tributary - southeast of a line beginning on the north shore at a point 35° 00.3176' N - 76° 51.9098' W; running southwesterly to the southwest shore to a point 35° 00.1884' N - 76° 51.9850' W.
- (8) In the Neuse River Area South Shore:
- (a) Clubfoot Creek - south of a line beginning on the west shore at a point 34° 52.4621' N - 76° 45.9256' W; running easterly to the east shore to a point 34° 52.4661' N - 76° 45.7567' W:
- (i) Mitchell Creek - west of a line beginning on the north shore at a point 34° 54.4176' N - 76° 45.7680' W; running southerly to the south shore to a point 34° 54.2610' N - 76° 45.8277' W;
- (ii) Gulden Creek - east of a line beginning on the north shore at a point 34° 54.1760' N - 76° 45.4438' W; running southerly to the south shore to a point 34° 54.0719' N - 76° 45.4888' W;
- (b) Adams Creek:
- (i) Godfrey Creek - south of a line beginning on the west shore at a point 34° 57.3104' N - 76° 41.1292' W; running easterly to the east shore to a point 34° 57.2655' N - 76° 41.1187' W;
- (ii) Delamar Creek - south of a line beginning on the west shore at a point 34° 57.0475' N - 76° 40.7230' W; running southeasterly to the east shore to a point 34° 57.0313' N - 76° 40.7015' W;
- (iii) Kellum Creek - west of a line beginning on the north shore at a point 34° 55.5240' N - 76° 39.8072' W; running southeasterly to the south shore to a point 34° 55.4356' N - 76° 39.8201' W;
- (iv) Kearney Creek and unnamed tributary - west of a line beginning on the north shore of the north creek at a point 34° 55.1847' N - 76° 39.9686' W; running southerly to the south shore to a point 34° 54.9661' N - 76° 40.0091' W;
- (v) Isaac Creek - south of a line beginning on the west shore at a point 34° 54.2457' N - 76° 40.1010' W; running easterly to the east shore to a point 34° 54.2630' N - 76° 40.0088' W;
- (vi) Back Creek - southeast of a line beginning on the northeast shore at a point 34° 54.6598' N - 76° 39.5257' W; running southwesterly to the southwest shore to a point 34° 54.5366' N - 76° 39.7075' W;
- (vii) Cedar Creek - southeast of a line beginning on the west shore at a point 34° 55.7759' N - 76° 38.6070' W; running easterly to the east shore to a point 34° 55.7751' N - 76° 38.4965' W;
- (viii) Jonakin Creek - northeast of a line beginning on the west shore at a point 34° 56.1192' N - 76° 38.4997' W; running easterly to the east shore to a point 34° 56.1172' N - 76° 38.4584' W;
- (ix) Dumpling Creek - east of a line beginning on the northwest shore at a point 34° 56.9187' N - 76° 39.5559' W; running southeasterly to the southeast shore to a point

- 34° 56.8421' N - 76° 39.5155' W;
- (x) Sandy Huss Creek - northeast of a line beginning on the west shore at a point 34° 57.2348' N - 76° 39.8457' W; running southeasterly to the east shore to a point 34° 57.1638' N - 76° 39.7169' W;
- (c) Garbacon Creek - south of a line beginning on the west shore at a point 34° 59.0044' N - 76° 38.5758' W; running easterly to the east shore to a point 34° 59.0006' N - 76° 38.4845' W;
- (d) South River:
- (i) Big Creek - southwest of a line beginning on the northwest shore at a point 34° 56.9502' N - 76° 35.3498' W; running southeasterly to the southeast shore to a point 34° 56.8346' N - 76° 35.2091' W;
- (ii) Horton Bay - north of a line beginning on the west shore at a point 34° 59.1936' N - 76° 34.7657' W; running easterly to the east shore to a point 34° 59.2023' N - 76° 34.4586' W;
- (e) Brown Creek - south of a line beginning on the west shore at a point 34° 59.8887' N - 76° 33.5707' W; running easterly to the east shore to a point 34° 59.9440' N - 76° 33.4180' W;
- (f) Turnagain Bay:
- (i) Abraham Bay - west of a line beginning on the north shore at a point 35° 00.1780' N - 76° 30.7564' W; running southerly to the south shore to a point 34° 59.8338' N - 76° 30.7128' W;
- (ii) Broad Creek and Persons Creek - southwest of a line beginning at a point on the north shore 34° 59.1974' N - 76° 30.4118' W; running southeasterly to the south shore to a point 34° 58.9738' N - 76° 30.1168' W;
- (iii) Mulberry Point Creek - east of a line beginning on the north shore at a point 35° 00.4736' N - 76° 29.7538' W; running southerly to the south shore to a point 35° 00.3942' N - 76° 29.7082' W;
- (iv) Tump Creek - east of a line beginning on the north shore at a point 35° 00.2035' N - 76° 29.5947' W; running southerly to the south shore to a point 35° 00.0500' N - 76° 29.4897' W;
- (v) Tributary south of Tump Creek - east of a line beginning on the north shore at a point 34° 59.7784' N - 76° 29.3548' W; running southerly to the south shore to a point 34° 59.6830' N - 76° 29.3303' W;
- (vi) Deep Gut - northeast of a line beginning on the north shore at a point 34° 59.6134' N - 76° 29.0376' W; running southeasterly to the south shore to a point 34° 59.4799' N - 76° 28.9362' W;
- (vii) Big Gut - east of a line beginning on the north shore at a point 34° 59.0816' N - 76° 28.7076' W; running southerly to the south shore to a point 34° 58.9300' N - 76° 28.7383' W.
- (9) West Bay; Long Bay Area:
- (a) Fur Creek and Henrys Creek - southwest of a line beginning on the northwest shore at a point 34° 56.5580' N - 76° 27.7065' W; running southeasterly to the southeast shore to a point 34° 56.3830' N - 76° 27.4563' W;
- (b) Cadduggen Creek - south of a line beginning on the west shore at a point 34° 56.5767' N - 76° 23.8711' W; running easterly to the east shore to a point 34° 56.2890' N - 76° 23.6626' W.
- (10) Core Sound Area:
- (a) Cedar Island Bay - northwest of a line beginning on the northeast shore at a point 34° 59.7770' N - 76° 17.3837' W; running southwesterly to the southwest shore to a point 34° 59.0100' N - 76° 17.9339' W;
- (b) Lewis Creek - north of a line beginning on the west shore at a point 34° 56.8736' N - 76° 16.8740' W; running easterly to the east shore to a



- point 34° 56.9455' N - 76° 16.8234' W;
- (c) Thorofare Bay:
- (i) Merkle Hammock Creek - southwest of a line beginning on the northwest shore at a point 34° 55.4796' N - 76° 21.4463' W; running southeasterly to the southeast shore to a point 34° 55.3915' N - 76° 21.1682' W;
- (ii) Barry Bay - west of a line beginning on the north shore at a point 34° 54.6450' N - 76° 20.6127' W; running southerly to the south shore to a point 34° 54.4386' N - 76° 20.4912' W;
- (d) Nelson Bay:
- (i) Willis Creek and Fulchers Creek - west of a line beginning on the north shore of Willis Creek at a point 34° 51.1006' N - 76° 24.5996' W; running southerly to the south shore of Fulchers Creek to a point 34° 50.2861' N - 76° 24.8708' W;
- (ii) Lewis Creek - west of a line beginning on the north shore at a point 34° 51.9362' N - 76° 24.6322' W; running southerly to the south shore to a point 34° 51.7323' N - 76° 24.6487' W;
- (e) Cedar Creek between Sea Level and Atlantic - west of a line beginning on the north shore at a point 34° 52.0126' N - 76° 22.7046' W; running southerly to the south shore to a point 34° 51.9902' N - 76° 22.7190' W;
- (f) Oyster Creek, northwest of the Highway 70 bridge;
- (g) Jarretts Bay Area:
- (i) Smyrna Creek - northwest of the Highway 70 bridge;
- (ii) Ditch Cove and adjacent tributary - east of a line beginning on the north shore at a point 34° 48.0167' N - 76° 28.4674' W; running southerly to the south shore to a point 34° 47.6143' N - 76° 28.6473' W;
- (iii) Broad Creek - northwest of a line beginning on the west shore at a point 34° 47.7820' N - 76° 29.2724' W; running northeasterly to the east shore to a point 34° 47.9766' N - 76° 28.9729' W;
- (iv) Howland Creek - northwest of a line beginning on the northeast shore at a point 34° 47.5129' N - 76° 29.6217' W; running southwesterly to the southwest shore to a point 34° 47.3372' N - 76° 29.8607' W;
- (v) Great Creek - southeast of a line beginning on the northeast shore at a point 34° 47.4279' N - 76° 28.9565' W; running southwesterly to the southwest shore to a point 34° 47.1515' N - 76° 29.2077' W;
- (vi) Williston Creek - northwest of the Highway 70 bridge;
- (vii) Wade Creek - west of a line beginning on the north shore at a point 34° 46.3022' N - 76° 30.5443' W; running southerly to the south shore to a point 34° 46.2250' N - 76° 30.3864' W;
- (viii) Jump Run - north of a line beginning on the west shore at a point 34° 45.5385' N - 76° 30.3974' W; running easterly to the east shore to a point 34° 45.5468' N - 76° 30.3485' W;
- (ix) Middens Creek - west of a line beginning on the north shore at a point 34° 45.5046' N - 76° 30.9710' W; running southerly to the south shore to a point 34° 45.4093' N - 76° 30.9584' W;
- (x) Tusk Creek - northwest of a line beginning on the northwest shore at a point 34° 44.8049' N - 76° 30.6248' W; running southerly to the south shore to a point 34° 44.6074' N - 76° 30.7553' W;
- (xi) Creek west of Bells Island - west of a line beginning on the north shore at a point 34° 43.9531' N - 76° 30.4144' W; running southerly to the south shore to a point 34°

- 43.7825' N - 76° 30.3543'  
W.
- (11) Straits, North River, Newport River Area:
- (a) Straits:
- (i) Sleepy Creek - north of a line beginning on the west shore at a point 34° 43.3925' N - 76° 31.4912' W; running easterly to the east shore to a point 34° 43.3651' N - 76° 31.3250' W;
- (ii) Dicks Creek - north of a line beginning on the west shore at a point 34° 43.3858' N - 76° 32.9125' W; running southeasterly to the east shore to a point 34° 43.3912' N - 76° 32.8605' W;
- (iii) Whitehurst Creek - north of a line beginning on the west shore at a point 34° 43.5118' N - 76° 33.3392' W; running northeasterly to the east shore to a point 34° 43.5561' N - 76° 33.1869' W;
- (b) North River, north of Highway 70 bridge:
- (i) Ward Creek - north of Highway 70 bridge:
- (A) North Leopard Creek - southeast of a line beginning on the southwest shore at a point 34° 45.9573' N - 76° 34.4208' W; running northeasterly to the northeast shore to a point 34° 46.0511' N - 76° 34.3170' W;
- (B) South Leopard Creek - southeast of a line beginning on the southwest shore at a point 34° 45.4930' N - 76° 34.7622' W; running northeasterly to the northeast shore to a point 34° 45.5720' N - 76° 34.6236' W;
- (ii) Turner Creek (Gibbs Creek) - west of a line beginning on the north shore at a point 34° 43.4693' N - 76° 37.6372' W; running southerly to the south shore to a point 34° 43.4054' N - 76° 37.6585' W;
- (c) Newport River - west of a line beginning on the north shore at a point 34° 46.5635' N - 76° 44.3998' W; running southerly to Lawton Point to a point 34° 45.6840' N - 76° 44.0895' W;
- (i) Russel Creek - northeast of a line beginning on the north shore at a point 34° 45.5840' N - 76° 39.8020' W; running southeasterly to the south shore to a point 34° 45.5819' N - 76° 39.7895' W;
- (ii) Ware Creek - northeast of a line beginning on the north shore at a point 34° 46.4576' N - 76° 40.5020' W; running southeasterly to the south shore to a point 34° 46.4125' N - 76° 40.4460' W;
- (iii) Bell Creek - east of a line beginning on the north shore at a point 34° 47.2805' N - 76° 40.9082' W; running southerly to the south shore to a point 34° 47.0581' N - 76° 40.8854' W;
- (iv) Eastman Creek - east of a line beginning on the north shore at a point 34° 47.8640' N - 76° 41.0671' W; running southerly to the south shore to a point 34° 47.8027' N - 76° 41.0605' W;
- (v) Oyster Creek - north of a line beginning on the west shore at a point 34° 46.6610' N - 76° 42.5011' W; running easterly to the east shore to a point 34° 46.7161' N - 76° 42.3481' W;
- (vi) Harlow Creek - north of a line beginning on the west shore at a point 34° 46.7138' N - 76° 43.4838' W; running northeasterly to the east shore to a point 34° 46.8490' N - 76° 43.3296' W;
- (vii) Calico Creek - west of a line beginning on the north shore at a point 34° 43.7318' N - 76° 43.1268' W; running southerly to the south shore to a point 34° 43.6066' N - 76° 43.2040' W;

- (viii) Crab Point Bay - northwest of a line beginning on the northeast shore at a point 34° 44.0615' N - 76° 42.9393' W; running southwesterly to the southwest shore to a point 34° 43.9328' N -- 76° 43.0721' W.
- (12) Bogue Sound; Bogue Inlet Area:
  - (a) Gales Creek - north of the Highway 24 bridge;
  - (b) Broad Creek - north of the Highway 24 bridge;
  - (c) Sanders Creek - north of a line beginning at a point 34° 42.4694' N - 76° 58.3754' W on the west shore; running easterly to a point 34° 42.4903' N - 76° 58.143' W on the east shore;
  - (d) Goose Creek - north of a line beginning on the west shore at a point 34° 41.8183' N - 77° 00.7208' W; running easterly to the east shore to a point 34° 41.8600' N - 77° 00.5108' W;
  - (e) Archer Creek - west of a line beginning on the north shore at a point 34° 40.4721' N - 77° 00.7577' W; running southerly to the south shore to a point 34° 40.3521' N - 77° 00.8008' W;
  - (f) White Oak River - northwest of a line beginning on the northeast shore at a point 34° 45.6730' N - 77° 07.5960' W; running southwesterly to the southwest shore to a point 34° 45.2890' N - 77° 07.7500' W;
    - (i) Pettiford Creek - east of a line beginning on the north shore at a point 34° 42.8670' N - 77° 05.3990' W; running southerly to the south shore to a point 34° 42.6310' N - 77° 05.3180' W;
    - (ii) Holland Mill Creek - west of a line beginning on the north shore at a point 34° 43.8390' N - 77° 08.0090' W; running southeasterly to the south shore to a point 34° 43.4800' N - 77° 07.7650' W;
  - (g) Hawkins Creek - west of a line beginning on the north shore at a point 34° 41.1210' N - 77° 07.5720' W; running southerly to the south shore to a point 34° 41.0460' N - 77° 07.5930' W;
- (h) Queen's Creek - north of state road number 1509 bridge:
  - (i) Dick's Creek - west of a line beginning on the north shore at a point 34° 39.9790' N - 77° 09.3470' W; running southeasterly to the south shore to a point 34° 39.9350' N - 77° 09.3280' W;
  - (ii) Parrot Swamp - west of a line beginning on the north shore at a point 34° 40.6170' N - 77° 09.7820' W; running southeasterly to the south shore to a point 34° 40.3660' N - 77° 09.5980' W;
  - (iii) Hall's Creek - east of a line beginning on the north shore at a point 34° 41.0740' N - 77° 09.8640' W; running easterly to the south shore to a point 34° 41.0300' N - 77° 09.6740' W;
- (i) Bear Creek - west of a line beginning at Willis Landing at a point 34° 38.7090' N - 77° 12.6860' W; running southeasterly to the south shore to a point 34° 38.4740' N - 77° 12.3810' W.
- (13) New River Area:
  - (a) Salliers Bay area - all waters north and northwest of the IWW beginning at a point on the shoreline 34° 37.0788' N - 77° 12.5350' W; running easterly to a point near Beacon "58" at a point 34° 37.9670' N - 77° 12.3060' W; running along the IWW near Cedar Point to a point 34° 33.1860' N - 77° 20.4370' W; running northerly to a point on the shoreline 34° 33.1063' N - 77° 20.4679' W; following the shoreline to the point of origin; including Howard Bay, Mile Hammock Bay, Salliers Bay, and Freeman Creek;
  - (b) New River Inlet area (including Hellgate Creek and Ward's Channel) - all waters south of the IWW from a point on the shoreline 34° 33.0486' N - 77° 18.6295' W running northwesterly to a point near Beacon "65" 34° 33.0550' N - 77° 18.6380' W; running along the IWW to a point near Beacon "15" 34° 31.0630' N - 77° 22.2630' W; running southerly to a point on the shoreline 34° 30.9212' N - 77° 22.2257' W; following the

- shoreline across New River Inlet at the COLREGS demarcation line back to the point of origin excluding the marked New River Inlet Channel;
- (c) New River:
- (i) Trap's Bay - northeast of a line beginning on the west shore at a point 34° 34.0910' N - 77° 21.0010' W; running southeasterly to the east shore to a point 34° 33.8260' N - 77° 20.4060' W;
  - (ii) Courthouse Bay:
    - (A) Tributary of Courthouse Bay - southeast of a line beginning on Harvey's Point at a point 34° 35.0050' N - 77° 22.3910' W; running northeasterly to the east shore to a point 34° 35.0830' N - 77° 22.1890' W;
    - (B) Tributary of Courthouse Bay - northwest of a line beginning on the west shore at a point 34° 35.0970' N - 77° 22.6010' W; running northeasterly to the east shore to a point 34° 35.1630' N - 77° 22.5030' W;
    - (C) Rufus Creek - east of a line beginning at a point on the north shore 34° 34.4630' N - 77° 21.6410' W; running southerly to a point near Wilken's Bluff 34° 34.3140' N - 77° 21.6620' W;
  - (iii) Wheeler Creek - south of a line beginning on the west shore at a point 34° 34.0570' N - 77° 23.3640' W; running easterly to a point near Poverty Point 34° 34.1060' N - 77° 23.2440' W;
  - (iv) Fannie Creek - south of a line beginning on the west shore at a point 34° 34.1470' N - 77° 23.6390' W; running easterly to the east shore to a point 34° 34.1300' N - 77° 23.5600' W;
  - (v) Snead's Creek - northwest of a line beginning on the west shore at a point 34° 35.2850' N - 77° 23.5500' W; running northerly to the east shore to a point 34° 35.3440' N - 77° 23.4860' W;
  - (vi) Everette Creek - south of a line beginning on the west shore at a point 34° 34.2570' N - 77° 24.8480' W; running easterly to the east shore to a point 34° 34.2380' N - 77° 24.6970' W;
  - (vii) Stone's Creek - southwest of a line beginning on the northwest shore at a point 34° 36.6170' N - 77° 26.8670' W; running southeasterly to the southeast shore to a point 34° 36.5670' N - 77° 26.8500' W;
  - (viii) Muddy Creek - north of a line beginning on the west shore 34° 36.8670' N - 77° 26.6340' W; running easterly to the east shore to a point 34° 36.8670' N - 77° 26.6170' W;
  - (ix) Mill Creek - north of a line beginning on the west shore at a point 34° 37.2350' N - 77° 25.7000' W; running easterly to the east shore to a point 34° 37.2360' N - 77° 25.6890' W;
  - (x) Whitehurst Creek - west of a line beginning on the north shore at a point 34° 38.0780' N - 77° 22.6110' W; running easterly to the south shore to a point 34° 38.0720' N - 77° 22.6000' W;
  - (xi) Town Creek - west of a line beginning on the north shore at a point 34° 39.6060' N - 77° 23.0690' W; running southerly to the south shore to a point 34° 39.5950' N - 77° 23.0830' W;
  - (xii) Lewis Creek - southwest of a line beginning on the northwest shore at a point 34° 40.9330' N - 77° 24.5290' W; running

- southeasterly to the southeast shore to a point 34° 40.9190' N - 77° 24.5040' W;
- (xiii) Northeast Creek - east of a line beginning at the mouth of Scale's Creek at a point 34° 43.7350' N - 77° 24.1190' W; running southeasterly to the south shore to a point 34° 43.3950' N - 77° 23.5450' W;
- (xiv) Southwest Creek - southwest of a line beginning on the north shore at a point 34° 41.8500' N - 77° 25.6460' W; running southeasterly to the south shore to a point 34° 41.5540' N - 77° 25.2250' W;
- (xv) Upper New River - north of a line beginning on the west shore at a point 34° 42.9770' N - 77° 25.9070' W; running easterly through a point near Beacon "53" to a point 34° 43.2600' N - 77° 25.3800' W; to the east shore to a point 34° 43.4260' N - 77° 25.0700' W;
- (d) Chadwick Bay - all waters bounded by a line beginning on Roses Point at a point 34° 32.2240' N - 77° 22.2880' W; running easterly to a point near Marker "6" at 34° 32.4180' N - 77° 21.6080' W; then following the IWW to a point near Marker "14" at 34° 31.3220' N - 77° 22.1520' W; following the shoreline of Chadwick Bay back to the point of origin:
- (i) Fullard Creek (including Charles Creek) - northwest of a line beginning on the north shore at a point 34° 32.2210' N - 77° 22.8080' W; running southeasterly to the south shore to a point 34° 32.0340' N - 77° 22.7160' W;
- (ii) Bump's Creek - north of a line beginning on the west shore at a point 34° 32.3430' N - 77° 22.4570' W; running northeasterly to the east shore to a point 34° 32.4400' N - 77° 22.3830' W.
- (14) Stump Sound Area: Stump Sound - all waters north of the IWW from a point on the shoreline 34° 31.1228' N - 77° 22.3181' W; running southerly to a point across the IWW from Beacon "15" 34° 31.1040' N - 77° 22.2960' W; running along the IWW to a point near Marker "78" 34° 25.4050' N - 77° 34.2120' W; running northerly to a point on the shoreline 34° 24.5183' N - 77° 34.9833' W; running along the shoreline to the point of origin; except 100 feet north of the IWW from a point across from Beacon "49" 34° 28.1330' N - 77° 30.5170' W to a point near Marker "78" 34° 25.4050' N - 77° 34.2120' W. All waters south of IWW from a point on the shoreline 34° 31.0550' N - 77° 22.2574' W; running northerly to a point near Beacon "15" at 34° 31.0630' N - 77° 22.2630' W; running along the IWW to a point across the IWW from Marker "78" 34° 25.3110' N - 77° 34.1710' W; running southeasterly to a point on the shoreline 34° 23.9817' N - 77° 35.0367' W; running along the shoreline to the point of origin; except 100 feet on the south side of the IWW from a point near Beacon "49" 34° 28.082' N - 77° 30.4600' W at Morris Landing to a point across the IWW from Marker "78" 34° 25.3110' N - 77° 34.1710' W and except the dredged canals at Old Settler's Beach and the dredged channel from the IWW north of Marker "57" to the Old Settler's Beach Canals.
- (15) Topsail Sound Area:
- (a) Virginia Creek - all waters northwest of a line beginning on the southwest shore near the mouth at a point 34° 24.8030' N - 77° 35.5960' W; running northeasterly to a point 34° 25.0333' N - 77° 35.3167' W; running easterly to intersect the nursery area line near Becky's Creek at a point 34° 25.4050' N - 77° 34.2120' W, with the exception of the natural channel as marked by the North Carolina Division of Marine Fisheries;
- (b) Old Topsail Creek - all waters northwest of a line beginning on the northeast shore at a point 34° 21.7740' N - 77° 40.3870' W; running southwesterly to the southwest shore to a point 34° 21.4930' N - 77° 40.6900' W, with the exception of the dredged channel as marked by the North Carolina Division of Marine Fisheries;
- (c) Topsail Sound - all waters enclosed within a line starting near Beacon "BC" at a point 34° 24.6110' N - 77° 35.7050' W; then bounded on the northeast and southeast by Bank's Channel, on the southwest by Marker "98" channel and on the northeast by

- the IWW; then back to the point of origin;
- (d) Mallard Bay Area - all waters northwest of the IWW beginning at a point on the shoreline 34° 24.0278' N - 77° 36.8498' W; running southerly to a point 34° 24.0167' N - 77° 36.7333' W near Beacon "93"; running to a point 34° 23.8167' N - 77° 36.9667' W; running southwesterly along the marsh line to a point on the shoreline 34° 22.6168' N - 77° 38.8580' W near Beacon "96"; running along the shoreline to the point of origin.
- (16) Middle Sound Area:
- (a) Howard Channel and Long Point Channel area - all waters southeast of the IWW beginning at a point on the shoreline 34° 20.4514' N - 77° 40.0183' W; running along the shorelines of Topsail Inlet Channel and Marker # 98 Channel to a point near Beacon "98" 34° 21.5670' N - 77° 40.4580' W; to running along the IWW to a point on the north side of the Figure 8 Island Marina Channel to a point 34° 16.5120' N - 77° 45.4870' W; following the shoreline of Figure 8 Island Marina Channel to a point 34° 16.2628' N - 77° 44.7855' W; following the shoreline across Rich Inlet at the COLREGS demarkation line to the point of origin. [with the exception of Howard Channel from the IWW to New Topsail Inlet, Green Channel from Marker "105" to Rich's Inlet, Butler's Creek (Utley's Channel) from the IWW to Nixon's Channel, and Nixon's Channel from IWW to Rich's Inlet;]
- (b) Futch Creek - northwest of a line beginning on the north shore at Baldeagle Point at a point 34° 17.9900' N - 77° 44.4930' W; running southerly to Porter's Neck to a point 34° 18.1170' N - 77° 44.3760' W;
- (c) Page's Creek - northwest of a line beginning on the north shore at a point 34° 16.7420' N - 77° 46.6940' W; running southwesterly to the south shore to a point 34° 16.6910' N - 77° 46.8510' W;
- (d) All waters bounded on the north by the Figure Eight Island Causeway, on the east by Mason's Channel, on the south by Mason's Inlet Channel and on the west by the Intracoastal Waterway, with the exception of Mason's Channel.
- (17) Greenville Sound Area:
- (a) Shell Island area - all waters bounded on the north by Mason's Inlet Channel, on the west by the IWW, on the south by Old Moores Inlet Channel and on the east by Wrightsville Beach;
- (b) Howe Creek (Moore's Creek) - northwest of a line beginning on the north shore at a point 34° 14.9060' N - 77° 47.2180' W; running southwesterly to the south shore to a point 34° 14.8470' N - 77° 47.3810' W;
- (c) Bradley Creek - all waters west of a line beginning on the north side of the Highway 17, 74 and 76 bridge at a point 34° 12.9700' N - 77° 50.0260' W running southerly to the south side of the Bridge at a point 34° 12.8620' N - 77° 50.0550' W;
- (d) Wrightsville Beach area - all waters in an area enclosed by a line beginning across the IWW from the mouth of Bradley Creek at a point 34° 12.3530' N - 77° 49.1250' W; running easterly to a point (near the Borrow Pit) 34° 12.3820' N - 77° 48.6610' W; then bounded by Bank's Channel on the east, Shinn Creek on the south and the IWW on the west, back to point of origin.
- (18) Masonboro Sound Area:
- (a) Masonboro-Myrtle Grove Sound area (west side) -all waters west and northwest of the IWW beginning at a point on the shoreline 34° 12.7423' N - 77° 49.8391' W; running southeasterly to a point at the mouth of Bradley Creek at a point 34° 12.4130' N - 77° 49.2110' W; running along the west side of the IWW to a point opposite Beacon "161" at 34° 03.5590' N - 77° 53.4550' W; running westerly to a point on the shoreline 34° 03.5715' N - 77° 53.4979' W; running along the shoreline back to the point of origin;
- (b) Masonboro-Myrtle Grove Sound area (east side) - all waters south and southeast of a line beginning on the north end of Masonboro Island at a point 34° 10.9130' N - 77° 48.9550' W; running northwesterly to a point near the intersection of Shinn Creek and the IWW 34° 11.3840' N - 77° 49.5240' W; running along the east

- side of the IWW to a point near Marker "161" 34° 03.5270' N - 77° 53.3550' W; running southerly to a point on the shoreline 34° 03.3917' N - 77° 53.0423' W; running along the shoreline across Carolina Beach Inlet at the COLREGS demarcation line back to the point of origin (with the exception of Old Masonboro Channel and Carolina Beach Inlet Channel).
- (19) Cape Fear River Area:
- (a) Cape Fear River - all waters north of a line beginning on the west shore at a point 34° 10.4410' N - 77° 57.7400' W; running easterly through Beacon "59" to the east shore to a point 34° 10.4050' N - 77° 57.1310' W; with the exception of the maintained channel, and all waters north of a line beginning on the west shore at a point 34° 04.6040' N - 77° 56.4780' W; running easterly through Beacon "41" to the east shore to a point 34° 04.7920' N - 77° 55.4740' W; with the exception of 300 yards east and west of the main shipping channel up to Beacon "59" (mouth of Brunswick River);
  - (b) The Basin (Ft. Fisher area) - east of a line beginning on the north shore at a point 33° 57.2950' N - 77° 56.1450' W; running southeasterly to the south shore to a point 33° 57.1120' N - 77° 56.2060' W;
  - (c) Walden Creek - all waters northwest of a line beginning on the north side of county road No. 1528 bridge at a point 33° 58.2950' N - 77° 59.0280' W running southerly to the south side of the bridge at a point 33° 58.2250' N - 77° 59.0440' W;
  - (d) Baldhead Island Creeks:
    - (i) Baldhead Creek - southeast of a line beginning on the north shore at a point 33° 51.7680' N - 77° 59.1700' W; running westerly to the south shore to a point 33° 51.7590' N - 77° 59.1850' W;
    - (ii) Cape Creek - southeast of a line beginning on the north shore at a point 33° 51.9740' N - 77° 58.3090' W; running southwesterly to the south shore to a point 33° 51.9480' N - 77° 58.3480' W;
    - (iii) Bluff Island Creek (East Beach Creek) - south of a line beginning on the west shore at a point 33° 52.6740' N - 77° 58.1530' W; running easterly to the east shore to a point 33° 52.6850' N - 77° 58.0780' W;
  - (iv) Deep Creek - south of a line on the west shore at a point 33° 52.6850' N - 77° 58.0780' W; running northeasterly to the east shore to a point 33° 52.7690' N - 77° 58.0110' W;
  - (e) Dutchman Creek - north of a line beginning on the west shore at a point 33° 55.1560' N - 78° 02.7260' W; running southeasterly to the east shore to a point 33° 55.1130' N - 78° 02.5990' W;
  - (f) Denis Creek - west of a line beginning on the north shore at a point 33° 55.0410' N - 78° 03.5180' W; running southerly to the south shore to a point 33° 55.0120' N - 78° 03.5110' W;
  - (g) Piney Point Creek - west of a line beginning on the north shore at a point 33° 54.6310' N - 78° 03.5020' W; running southerly to the south shore to a point 33° 54.6040' N - 78° 03.5010' W;
  - (h) Molasses, Coward and Smokehouse creeks - all waters bounded by the IWW and the Elizabeth River on the north and east, the Oak Island Coast Guard canal on the east, Oak Island on the south and the CP and L Discharge canal on the west;
  - (i) Oak Island area - all waters north of the IWW from a point on the shoreline 33° 55.2827' N - 78° 03.7681' W; running southerly to a point across the IWW from Marker # 9 33° 55.2610' N - 78° 03.7630' W; running along the IWW to a point near Beacon "18" 33° 55.7410' N - 78° 10.2760' W; running northerly to a point on the shoreline 33° 55.7718' N - 78° 10.2744' W; running along the shoreline back to the point of origin; all waters south of the IWW from a point near Marker "9" 33° 55.2060' N - 78° 03.7580' W; running along the IWW to a point across the IWW from Beacon "18" 33° 55.7199' N - 78° 10.2764' W; running southerly to a point on the shoreline 33° 55.6898' N - 78°

- 10.2775'W; running along the shoreline back to the point of origin.
- (20) Lockwoods Folly Inlet Area:
- (a) Davis Creek and Davis Canal - east of a line beginning on the north shore at a point 33° 55.2280' N - 78° 10.8610' W; running southerly to the south shore to a point 33° 55.1970' N - 78° 10.8390' W;
- (b) Lockwoods Folly River - north of a line beginning on the west shore at a point 33° 56.3880' N - 78° 13.2360' W; running easterly to the east shore to a point 33° 56.6560' N - 78° 12.8350' W;
- (c) Spring Creek (Galloway Flats area) - all waters northwest of a line beginning on the north shore at a point 33° 55.7350' N - 78° 13.7090' W; running southwesterly to the south shore to a point 33° 55.5590' N - 78° 13.7960' W.
- (21) Shallotte Inlet Area:
- (a) Shallotte River - north of a line beginning on Bill Holden's Landing at a point 33° 55.8840' N - 78° 22.0710' W; running northeasterly to Gibbins Point to a point 33° 56.3190' N - 78° 21.8740' W;
- (b) Shallotte River (Ocean Flats)-excluding Gibbs Creek, the area enclosed by a line beginning at Long Point 33° 54.6210' N - 78° 21.7960' W; then bounded on the south by the IWW, the west by Shallotte River, the north by Gibb's Creek and the east by the shoreline of the Shallotte River back to the point of origin;
- (c) Shallotte Creek (Little Shallotte River) - east of a line beginning on Shell Landing at a point 33° 55.7390' N - 78° 21.6410' W; running southerly to Boone's Neck Point to a point 33° 55.5990' N - 78° 21.5480' W;
- (d) Saucepan Creek - northwest of a line beginning on the west shore at a point 33° 54.7007' N - 78° 23.4183' W; running northerly to the east shore (mouth of Old Mill Creek) to a point 33° 54.9140' N - 78° 23.4370' W;
- (e) Old Channel area - all waters south of the IWW from a point near Beacon "83" 33° 54.2890' N - 78° 23.1930' W; running along the IWW to a point near Ocean Isle Beach bridge 33° 53.7270' N - 78° 26.3760' W; running southerly to a point on the shoreline 33° 53.7082' N - 78° 26.3732' W;
- running southerly along the shoreline to a point on the shoreline 33° 53.3827' N - 78° 26.2118' W; running along the shoreline to the point of origin; except the dredged finger canals at Ocean Isle Beach located on the south side of the IWW between the Ocean Isle Beach Bridge and IWW Marker "89".
- (22) Little River Inlet Area:
- (a) Gause Landing area - all waters north of the IWW from a point on the shoreline 33° 53.9053' N - 78° 25.6064' W; running southerly to a point near Beacon "90" 33° 53.8790' N - 78° 25.5950' W; then following the IWW to a point at the intersection of the IWW and the South Carolina line; 33° 52.0003' N - 78° 33.5633' W; running northerly along the South Carolina line to a point on the shoreline 33° 52.0290' N - 78° 33.5893' W; running along the shoreline to the point of origin;
- (b) Eastern Channel Area - all waters bounded on the east and south by Eastern Channel, on the west by Jink's Creek and on the north by the IWW;
- (c) The Big Narrows Area:
- (i) Big Teague Creek - west of a line beginning on the north shore at a point 33° 52.8260' N - 78° 30.0110' W; running southerly to the south shore to a point 33° 52.8040' N - 78° 29.9940' W;
- (ii) Little Teague Creek - west of a line beginning on the north shore at a point 33° 52.9280' N - 78° 30.1500' W; running southeasterly to the south shore to a point 33° 52.9130' N - 78° 30.1220' W;
- (iii) Big Norge Creek - south of a line beginning on the west shore at a point 33° 52.8550' N - 78° 30.6190' W; running easterly to the east shore to a point 33° 52.8620' N - 78° 30.5900' W;
- (d) Mad Inlet area - all waters south of the IWW from a point on the shoreline 33° 52.3121' N - 78° 30.4990' W; running northerly to a point near the Sunset Beach bridge 33° 52.8450' N - 78° 30.6510' W; then following the IWW to a point at



the intersection of the IWW and the South Carolina line 33° 51.9888'N – 78° 33.5458' W; running southeasterly along the South Carolina line to a point on the shoreline; running along the shoreline across Mad Inlet at the COLREGS demarcation line to the point of origin; with the exception of Bonaparte Creek;

- (e) Calabash River - all waters east of a line beginning at a point on the north side of state road No. 1164 bridge at a point 33° 53.3850' N – 78° 32.9710' W running southerly to the south side of the bridge at a point 33° 53.3580' N – 78° 32.9750' W.

*History Note: Authority G.S. 113-134; 113-182; 143B-289.52; Eff. January 1, 1991; Amended Eff. March 1, 1996; September 1, 1991; Recodified from 15A NCAC 03R .0003 Eff. December 17, 1996; Amended Eff. December 1, 2006; September 1, 2005; August 1, 2004; May 1, 1997.*

**15A NCAC 06G .0101 OBJECTIVES**

(a) The North Carolina Conservation Reserve Enhancement Program (CREP) is a state/federal/local partnership that combines existing federal Conservation Reserve Program (CRP) funding and state funding from various sources, including the Agriculture Cost Share Program (ACSP), to take environmentally sensitive land out of crop production. For purposes of this Rule the generic term "CREP" references either the federal portion or the combined federal and state portions of the program. The combined federal and state portion of CREP is referred to as NC-CREP. Under CREP, landowners may voluntarily enroll eligible land in 10-year, 15-year, 30-year or permanent agreements or contracts. The Commission operates the state portion of NC CREP program as the lead agency for the State of North Carolina (State), and may from time to time delegate activities to the Division.

(b) The program objectives for the Commission, which are the same as those of the multi-agency CREP team, are the following: to reduce agricultural non-point source pollution; to enroll eligible land in 10-year, 15-year, 30-year or permanent easements or leases; to encourage voluntary sign-ups for the program; and to enhance ecological aspects and wildlife habitat of areas near watercourses.

(c) The Division, or its agent, shall seek eligible applicants for enrollment into the program in accordance with the United States Department of Agriculture's 2-CRP Manual. Landowner payments shall be made in accordance with state and federal requirements, and shall be subject to the availability of funds.

(d) The applicable standards, rules, regulations, and practices of the Natural Resource Conservation Service (NRCS) NRCS Field Office Technical Guide, the United States Department of Agriculture's 2-CRP Manual, the Division of Forest Resources, 15A NCAC 09C .0400 and the Ecosystem Enhancement

Program, G.S. 143-214.8 are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Likewise, the provisions of the United States Department of Agriculture's 2-CRP Manual are incorporated herein by reference, and such incorporation includes subsequent amendments and editions of the referenced material. Copies of all of these materials are available at the offices of the Division, and the cost of any copies shall not exceed ten cents (\$.10) per page.

*History Note: Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004.*

**15A NCAC 06G .0102 ELIGIBILITY**

(a) Persons may offer to enroll acreage to CREP at any time within the enrollment period or any extension thereof. Acreage enrolled into the CREP is referred to as "CREP Enrollments." Acreage enrolled into NC-CREP is referred to as NC-CREP Enrollments. In order to be enrolled into the CREP, all of the following shall be met:

- (1) the producer eligibility requirements within the United States Department of Agriculture's 2-CRP Manual;
- (2) the cropland and marginal pasture land requirements within the United States Department of Agriculture's 2-CRP Manual;
- (3) Acreage offered is eligible under the United States Department of Agriculture's 2-CRP Manual and applicable NRCS standards, and is suitable for the intended practice; and
- (4) Producer accepts the maximum payment rate based on the payment formula described in Rule .0105 of this Section.

(b) The Commission may refuse enrollment where water quality benefits do not justify the payments, or where the acquisition is impractical or nuisance conditions exist on the land.

(c) The following acreage is ineligible to be enrolled in CREP:

- (1) federally-owned land unless the applicant has a prior written lease for the time frame in which the land is under the Conservation Reserve Program (CRP);
- (2) land on which a federal agency restricts the use in a mortgage or an easement;
- (3) acreage permanently under water, including acreage currently enrolled in CRP;
- (4) land currently enrolled in other federal programs and still under lifespan requirements;
- (5) land already enrolled in CRP; or
- (6) acreage withdrawn, terminated or otherwise released from the CRP after enrollment and before the contract expiration date.

(d) For the NC-CREP, landowners may enroll into one of the enrollment options included in the United States Department of Agriculture's 2-CRP Manual. 30-year contract or easement;

(e) Existing forested buffers may be enrolled under NC-CREP according to the limitations in the United States Department of Agriculture's 2-CRP Manual.

(f) An unmanageable field remnant may qualify for enrollment subject to the conditions in the United States Department of Agriculture's 2-CRP Manual.

(g) Landowners may switch from a 30-year contract/easement to one of the permanent easement options or may enroll additional land under the payment schedule existing at the time of the change in enrollment.

(h) Eligibility for the CREP shall be determined by the local District, Farm Service Agency (FSA), NRCS and the Division. An eligible applicant may enter into the federal agreements (10-years to 15-years), as well as the State agreements (30-year or permanent). Persons and land qualifying for the federal portion of CREP may also be qualified for enrollment under NC-CREP. Any landowner enrolling 10 acres or greater per tract, regardless of the length of enrollment, must enter into a 30-year or permanent State agreement.

*History Note: Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004.*

**15A NCAC 06G .0103 CONSERVATION PLAN**

(a) A conservation plan is required for all CREP Enrollments. The conservation plan is a record of the applicant's decisions and supporting information for the treatment of a unit of land or water as a result of the planning process that meets the NRCS Field Office Technical Guide quality criteria for each natural resource and that addresses economic and social considerations. The plan shall describe the schedule of operations and activities required to solve identified natural resource concerns. Conservation plans shall be prepared according to all applicable federal, state and local environmental laws, executive orders, and rules. The conservation plan shall be consistent with any conservation easement protecting the enrollment area. This applies regardless of eligibility for cost-share funds. Participants shall also agree to establish and maintain approved practices according to the conservation plan of operations and forest management plans, for the duration of the agreement. Practices included in the conservation plan must cost-effectively achieve a reduction in soil erosion and nutrient transport. All forestry management practices must be completed according to a forestry management plan approved by a registered forester. The Division and the Commission may review conservation plans at any time while CREP agreements are effective.

(b) All CREP Enrollments must provide interception of water from the crop or pasture land into the enrollment area. All CREP Enrollments must maintain a contiguous buffer with the water course. Enrollments of wetland restoration areas shall be accepted only if enrollments shall be in trees, in those areas where trees would be the natural cover. The riparian forested buffer or wetland practice may include an outer buffer layer of native grasses between cropped areas and the trees, as specified in the practice criteria.

Hydrologic restoration to the greatest extent practicable shall occur on all NC-CREP Enrollments. Hydrologic restoration to the greatest extent practicable means to improve/increase hydrology and to retain water to the maximum extent as long as there are no adverse impacts to non-enrolled lands. This may be accomplished through the following means: creating sheet flow; reducing concentrated flow areas; blocking or filling artificial drainage; or using water control structures in conjunction with buffers. All shall meet or exceed appropriate NRCS standards. Water infiltration and retention shall be maximized on non-hydric soils by creating sheet flow and by reducing concentrated flow areas. Plans shall provide for improved wildlife habitat. The establishment of CREP practices shall be:

- (1) consistent with conservation compliance provisions;
- (2) at the participant's own expense;
- (3) included in the approved conservation plan;
- (4) approved by the local District; and
- (5) subject to FSA and Division approval where applicable.

(c) 30-year contracts/easements and permanent easements for which the participant chooses the timber harvest option shall require a minimal impact zone adjacent to the qualifying waterbody. A Minimal Impact Zone is a zone measured from the top of the stream bank for which tree removal is restricted to removal of dead trees and practices necessary to prevent pest or disease infestation or to maintain health of individual trees. Timber management and harvesting may be allowed in the remaining portion of the CREP enrollment as outlined in the contract/easement.

(d) A modification to an approved conservation plan must be in the best interest of CREP, and consistent with any conservation easement protecting the enrollment area. Such plans shall be revised as needed. Circumstances necessitating a revision include but are not limited to:

- (1) adding or revising a CREP practice;
- (2) substituting CREP practices;
- (3) scheduling reapplication of a CREP practice;
- (4) reflecting change in ownership; or
- (5) implementing other non-cost shared conservation measures, if producer agrees to install according to the approved conservation plan on CREP land already seeded to an acceptable cover.

*History Note: Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004.*

**15A NCAC 06G .0105 PAYMENT**

(a) The NC-CREP combines federal and state funding to achieve the goals of the program. For that reason, the eligible person may receive two separate payments (i.e. federal and state) to meet expectations set by the applicable contracts.

(b) The State payment shall be dependent on the length of the contract signed. The State payment shall consist of a one-time bonus payment for executed contracts for 30-year and permanent

enrollments that require a conservation easement or lease. The State shall also pay a portion of cost-sharable practices implemented within the guidelines of the ACSP subject to availability of funds to the District. Any agricultural cost share payments shall be consistent with all Commission requirements, including those in 15A NCAC 06E .0101 through .0108.

(c) For enrollments involving the ACSP, all cost-share practices are subject to terms and policies as set forth in the ACSP rules and best management practices manual. State cost-share percentages, listed below, shall be dependent on the length of enrollment. All payments involving ACSP funds shall require approval of the local District Board of Supervisors, and are subject to the availability of funds to the District.

10 year	25 percent
15 year	30 percent
30 year	40 percent
permanent agreement	50 percent

(d) The maximum one-time bonus payment under NC-CREP that an eligible person can receive shall be limited by the maximum payment allowed under the federal payment. The payment for enrollment of land in 30-year or permanent conservation easements or leases shall be made once the conservation easement or lease is executed by the State and a technical representative has determined that the participant is actively engaged in the applicable practices.

(e) The formula for payment of the one-time State bonus shall be as established in the 2-CRP Manual, subject to the availability of funds.

*History Note: Authority G.S. 113A-235; 139-4; 143-215.74(a); 143B-294; S.L. 1998-165; Temporary Adoption Eff. October 1, 2000; Eff. August 1, 2002; Amended Eff. December 1, 2006; July 1, 2004.*

**15A NCAC 07K .0208 SINGLE FAMILY RESIDENCES EXEMPTED**

(a) All single family residences constructed within the Estuarine Shoreline Area of Environmental Concern which are more than 40 feet landward of normal high water or normal water level, and involve no land disturbing activity within the 40 feet buffer area are exempted from the CAMA permit requirement as long as this exemption is consistent with all other applicable CAMA permit standards and local land use plans in effect at the time the exemption is granted. This exemption does allow for the construction of an access to the water in accordance with Rule 07H .0209(d)(10).

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

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

(c) Before beginning any work under this exemption, the Department of Environment and Natural Resources representative must be notified of the proposed activity to allow

on-site review. Notification may be by telephone, in person or in writing. Notification must include:

- (1) the name, address, and telephone number of the landowner and the location of the work, including the county, nearest community and water body;
- (2) the dimensions of the proposed project, including proposed landscaping and the location of normal high water or normal water level;
- (3) confirmation that a written statement has been obtained, signed by the adjacent riparian property owners indicating that they have no objections to the proposed work.

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

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

*History Note: Authority G.S. 113A-103(5) c; Eff. November 1, 1984; Amended Eff. December 1, 2006; December 1, 1991; May 1, 1990; October 1, 1989.*

**15A NCAC 08G .0201 RESPONSIBILITY OF SYSTEM OWNERS TO DESIGNATE CERTIFIED OPERATORS**

Owners of classified water pollution control systems must designate operators, certified by the Water Pollution Control System Operators Certification Commission (WPCSOCC), of the appropriate type and grade for the system, and, for each classification must:

- (1) designate one Operator In Responsible Charge (ORC) who possesses a valid certificate of the type and grade at least equivalent to the type and grade of the system;
- (2) designate one or more Back-up Operator(s) in Responsible Charge (Back-up ORCs) who possesses a valid certificate of the type of the system and no more than one grade less than the grade of the system, with the exception of no backup operator in responsible charge is required for systems whose minimum visitation requirements are twice per year; and
- (3) submit a signed completed "Water Pollution Control System Operator Designation Form" to the Commission (or to the local health department for owners of subsurface systems) countersigned by the designated certified operators, designating the Operator in Responsible Charge (ORC) and the Back-up Operator in Responsible Charge (Back-up ORC):
  - (a) 60 calendar days prior to wastewater or residuals being introduced into a new system; or
  - (b) within 120 calendar days following:

- (i) receiving notification of a change in the classification of the system requiring the designation of a new Operator in Responsible Charge (ORC) and Back-up Operator in Responsible Charge (Back-up ORC) of the proper type and grade; or
- (ii) a vacancy in the position of Operator in Responsible Charge (ORC) or Back-up Operator in Responsible Charge (Back-up ORC).
- (c) within seven calendar days of vacancies in both ORC and Back-up ORC positions replacing or designating at least one of the responsibilities.

- (2) visit the system as often as is necessary to insure the proper operation of the system but in no case less frequently than specified in the following schedule, unless otherwise specified in permit:
  - (a) biological grade I systems with the exception of Sub-item (2)(e) of this Rule; weekly;
  - (b) biological grade II, III, and IV systems, other than those systems specified in Sub-item(2)(f) of this Rule; five days per week, excluding holidays;
  - (c) surface irrigation systems with the exception of Sub-item (2)(e) of this Rule; weekly;
  - (d) collection systems; within 24 hours of knowledge of a bypass, spill, or overflow of wastewater from the system unless visited by a collection system Back-up Operator in Responsible Charge;
  - (e) domestic wastewater systems with a treatment capacity of 1500 gallons per day or less; twice per year with a six month interval between visits;
  - (f) domestic wastewater aerobic treatment units (ATUs) with a treatment capacity of 1500 gallons per day or less; weekly;
  - (g) systems permitted under rules adopted by the Commission for Health Services; as required by 15A NCAC 18A .1961;
  - (h) physical/chemical systems:
    - (i) grade I systems, including groundwater remediation systems; weekly;
    - (ii) grade II systems; five days per week, excluding holidays
  - (i) land application systems during or within 48 hours after application of residuals;
  - (j) systems not otherwise classified; as specified by the Commission based on the complexity of the system;
- (3) operate and maintain the system efficiently and attempt to insure the compliance of the system with any permit(s) issued for the system as well as any other applicable local, state, and federal environmental permitting and regulatory requirements;
- (4) certify, by signature, as to the validity of all monitoring and reporting information performed on the system as prescribed in any permit issued for the system and provide the owner a copy;

*History Note: Authority G.S. 90A-37; 90A-38; 90A-39; 90A-40; 90A-41; 90A-42; 90A-43; 90A-44; 90A-45; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0202 RESPONSIBILITIES OF SYSTEM OWNERS**

*History Note: Authority G.S. 90A-37 through 90A-45; Eff. April 1, 1999; Repealed Eff. December 1, 2006.*

**15A NCAC 08G .0203 RESPONSIBILITIES OF ALL CERTIFIED OPERATORS**

Certified operators must:

- (1) comply with all terms and conditions of their certification as set forth in these Rules;
- (2) notify the Commission, in writing, within 30 calendar days of any changes in their mailing address;
- (3) be responsible for the renewal of their certification(s) as specified in Section .0700 of this Subchapter; and
- (4) comply with all statutes and rules regarding the operation of water pollution control systems.

*History Note: Authority G.S. 90A-40; 90A-41; 90A-42; 90A-44; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0204 RESPONSIBILITIES OF AN OPERATOR IN RESPONSIBLE CHARGE (ORC)**

An Operator in Responsible Charge (ORC) of a water pollution control system must:

- (1) possess a valid certificate of the appropriate type and grade for the system;

- (5) document the operation, maintenance, and all visitation of the system in a daily log that must be maintained at the system;
- (6) notify the owner of the system as soon as possible, and in writing within five calendar days of first knowledge, of any:
  - (a) overflows from the system or any treatment process unit;
  - (b) bypasses of the system or any treatment process unit; or
  - (c) violations of any limits or conditions of the permit.
- (7) notify the owner, in writing, of the need for any system repairs and modifications that may be necessary to insure the compliance of the system with all local, state, and federal environmental permitting and regulatory requirements;
- (8) be available:
  - (a) for consultations with the system owner and regulatory officials;
  - (b) to handle emergency situations; and
  - (c) to provide access to the facility by regulatory agencies; and
- (9) upon vacating an ORC position, notify the Commission and the appropriate regional office of the Division of Water Quality (or the local health department for owners of subsurface systems) of the vacancy, in writing within 14 calendar days.

*History Note: Authority G.S. 90A-37 through 90A-40; 90A-44; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0301 APPLICABILITY**

- (a) The purpose of this Section is to establish procedures for the classification of water pollution control systems.
- (b) Notwithstanding the requirements in Rules .0302 through .0307 of this Section, the Commission may modify the classification of a water pollution control system when:
  - (1) conditions created by system design features, or inherent operational requirements, exist which make normal operation of the system more or less complex;
  - (2) upgrades or other modifications to a system are completed; or
  - (3) changes in Commission classification rules are made.
- (c) In-plant processes and related water pollution control equipment which are integral parts of direct industrial production, are not considered water pollution control systems for the purpose of this Section.
- (d) Water Pollution Control Systems permitted under rules adopted by the Commission for Health Services shall be classified pursuant to Rule .0307 of this Section.
- (e) Water Pollution Control Systems permitted under rules adopted by the Environmental Management Commission shall

be classified pursuant to Rules .0302 through .0308 of this Section.

- (f) Reservoirs, settling ponds and associated pumps and piping which are an integral part of closed-loop water recycle systems for the non-biological and non-toxic treatment of process water at sand, gravel, crushed stone and similar operations shall not be subject to the requirements of these Rules unless the Commission determines that the system is not being properly operated or maintained in accordance with permit conditions.
- (g) Any water pollution control system, regardless of type or ownership, may be classified and required to designate an Operator in Responsible Charge (ORC) and a Back-up Operator in Responsible Charge (Back-up ORC), in the event that the Commission determines that the system is not being properly operated or maintained.

*History Note: Authority G.S. 90A-37; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0302 CLASSIFICATION OF BIOLOGICAL WATER POLLUTION CONTROL TREATMENT SYSTEMS**

- (a) The following discharging systems are assigned a classification of Grade I Biological Water Pollution Control System unless the permitted flow, or operational complexity of the system requires a higher classification:
  - (1) septic tank/sand filter systems;
  - (2) biological lagoon systems; and
  - (3) constructed wetlands and associated appurtenances.
- (b) Systems that utilize an activated sludge or fixed growth process with a permitted flow less than or equal to 0.5 million gallons per day (mgd) are assigned the classification of Grade II Biological Water Pollution Control System.
- (c) Systems utilizing an activated sludge or fixed growth process with permitted flows of greater than 0.5 through 2.5 million gallons per day (mgd) are assigned the classification of Grade III Biological Water Pollution Control System.
- (d) Systems utilizing an activated sludge or fixed growth process with a permitted flow greater than 2.5 million gallons per day (mgd) are assigned a classification of Grade IV Biological Water Pollution Control System.
- (e) Any system receiving a classification of Grade II Biological Water Pollution Control System that is required to achieve nutrient reduction is assigned the classification of Grade III Biological Water Pollution Control System.
- (f) Any system receiving a classification of Grade III Biological Water Pollution Control System that is required to achieve nutrient reduction is assigned the classification of Grade IV Biological Water Pollution Control System.

*History Note: Authority G.S. 90A-37; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0303 CLASSIFICATION OF WATER POLLUTION CONTROL COLLECTION SYSTEMS**

(a) Water pollution control collection systems operated to convey wastewater to water pollution control systems which are permitted or tributary to municipalities, regional water pollution control systems, water and sewer authorities, public utilities, or are a Grade II, III or IV state or federally owned system, are subject to classification in accordance with Rule .0303(b) of this Section. Any collection system, regardless of ownership, is classified pursuant to this Rule and required to designate an Operator in Responsible Charge (ORC) and a Back-up Operator in Responsible Charge (Back-up ORC) if the Commission determines that the system is not being operated and maintained in a manner which prevents the escape of wastewater from the system into the environment.

(b) Collection systems are assigned the lower grade classification that is either:

- (1) the same as the grade of the biological water pollution control system to which the collection system is tributary; or
- (2) based on the population served by the collection system in accordance with the following chart:
  - (A) 1,500 or less  
Grade I;
  - (B) 1,501 to 15,000  
Grade II;
  - (C) 15,001 to 50,000  
Grade III;
  - (D) 50,001 or more  
Grade IV.

In the event that the population served cannot be determined, the equivalent population served shall be calculated by using the design flow of the system divided by a flow of 60 gallons per day per person.

*History Note: Authority G.S. 90A-37;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0304 CLASSIFICATION OF SURFACE IRRIGATION WATER POLLUTION CONTROL SYSTEMS**

(a) Systems which utilize surface irrigation for the treatment, reuse or disposal of wastewater are classified as surface irrigation water pollution control systems. Those systems which contain only preliminary treatment processes such as septic tanks, sand filters, oil/water separators, lagoons, storage basins, physical screening, or sedimentation processes are not subject to additional operator requirements as specified in Rule .0302 or .0306 of this Section.

(b) Any surface irrigation system that has, as part of its treatment process, systems other than those specified in Paragraph (a) of this Rule, is subject to additional classification pursuant to these Rules.

*History Note: Authority G.S. 90A-37;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0305 CLASSIFICATION OF LAND**

**APPLICATION OF RESIDUALS SYSTEMS**

Systems permitted for the land application of:

- (1) residuals that are produced by a water pollution control system; or
- (2) contaminated soils;

are classified as a land application of residuals system.

*History Note: Authority G.S. 90A-3;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0306 CLASSIFICATION OF PHYSICAL/CHEMICAL WATER POLLUTION CONTROL TREATMENT SYSTEMS**

(a) Any water pollution control system, including systems designed for the remediation of contaminated groundwater, that utilizes a primarily physical process to treat wastewaters is classified as a Grade I Physical/Chemical Water Pollution Control System.

(b) Any water pollution control system that utilizes a primarily chemical process to treat wastewaters, including those systems whose treatment processes are augmented by physical processes, is classified as a Grade II Physical/Chemical Water Pollution Control System. Any reverse osmosis, electro dialysis, and ultrafiltration system is classified as a Grade II Physical/Chemical Water Pollution Control System.

(c) Any water pollution control system that has, as part of its treatment process, a biological water pollution control system is subject to additional classification as a biological water pollution control system.

(d) Any water pollution control system subject to classification under Rule .0302 of this Section, utilizing a physical or chemical process to enhance an activated sludge or fixed growth process, is not subject to additional classification under this Rule.

*History Note: Authority G.S. 90A-37;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0401 GENERAL REQUIREMENTS**

(a) An applicant for certification as an operator of a water pollution control system must meet the following criteria and possess the knowledge and abilities listed as they relate to the specific type of system for which certification is being sought and shall, at a minimum, include:

- (1) possess a high school diploma or a general educational development (GED) equivalent;
- (2) be at least 18 years of age;
- (3) have a general knowledge of typical wastewater characteristics and treatment processes; and
- (4) have the ability to:
  - (A) read and understand the statutes and rules which govern water pollution control system operators and the operation of the type of system for which certification is being sought;

- (B) perform mathematical calculations required to operate the system for which certification is being sought;
- (C) complete and maintain logs and regulatory reporting forms required to document the proper operation of the system; and
- (D) safely and effectively operate the equipment employed in the type of system for which certification is being sought; and
- (E) describe the general maintenance requirements for such equipment.

(b) An applicant who has failed to achieve a passing score on a specific type and grade of examination after three consecutive attempts must:

- (1) attend and successfully complete approved training for the same type and grade as the certification being sought; and
- (2) provide verification, in the form of a certificate of completion or other such documentation, of the successful completion of the required training with any subsequent application made to the Commission to sit for the examination.

(c) An applicant for certification must not have had any certification revoked by the Commission within the two - year period prior to the date of the application for certification.

(d) An applicant for certification is not allowed to sit for any examination offered by the Commission during the period of a suspension of any certification held by the applicant with the Commission.

(e) An applicant who holds a valid biological or collection certification of any level on April 1, 1999, may progress to the highest level of certification of the same type without meeting the requirements of Subparagraph (a)(1) of this Rule.

*History Note: Authority G.S. 90A-37;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0402 ELIGIBILITY REQUIREMENTS FOR BIOLOGICAL WATER POLLUTION CONTROL SYSTEM OPERATORS**

Eligibility for certification as a Biological Water Pollution Control System Operator is based on the following qualifications:

- (1) for Grade I certification, the applicant must:
  - (a) have successfully completed approved training for Grade I Biological Water Pollution Control System operators.
- (2) for Grade II certification, the applicant must:
  - (a) hold a valid North Carolina Grade I Biological Water Pollution Control System Operator certificate;
  - (b) have 6 months of actual experience at a Grade II or higher biological water pollution control system; and

- (c) have successfully completed approved training for Grade II Biological Water Pollution Control System operators.

(3) for Grade III certification, the applicant must:

- (a) hold a valid North Carolina Grade II Biological Water Pollution Control System Operator certificate;
- (b) have successfully completed approved training for Grade III Biological Water Pollution Control System operators; and
- (c) either:
  - (i) have two years of actual experience at a Grade II, or higher, biological water pollution control system, or
  - (ii) be a graduate of two or four year college or university and have taken, and passed, a minimum of six courses in the basic sciences and have 18 months of actual experience at a Grade II, or higher, biological water pollution control system.

(4) for Grade IV certification, the applicant must:

- (a) hold a valid North Carolina Grade III Biological Water Pollution Control System Operator certificate;
- (b) have successfully completed approved training for Grade IV Biological Water Pollution Control System operators; and
- (c) either:
  - (i) have three years of actual experience at a Grade III, or higher, biological water pollution control system, or
  - (ii) be a graduate of a two or four year college or university and have taken, and passed, a minimum of six courses in the basic sciences and have two years of actual experience at a Grade III, or higher, biological water pollution control system.

*History Note: Authority G.S. 90A-39.  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0403 ELIGIBILITY REQUIREMENTS FOR WATER POLLUTION CONTROL COLLECTION SYSTEM OPERATORS**

Eligibility for certification as a Water Pollution Control Collection System Operator is based on the following qualifications:

- (1) for Grade I certification, the applicant must: have successfully completed approved training for Grade I water pollution control collection system operators.
- (2) for Grade II certification, the applicant must:
  - (a) hold a valid North Carolina Grade I Water Pollution Control Collection System Operator certificate;
  - (b) have six months of actual experience in water pollution control collection system operations; and
  - (c) have successfully completed approved training for Grade II water pollution control collection system operators.
- (3) for Grade III certification, the applicant must:
  - (a) hold a valid North Carolina Grade II Water Pollution Control Collection System Operator certificate;
  - (b) have successfully completed approved training for Grade III water pollution control collection system operators; and
  - (c) either:
    - (i) have two years of actual experience in water pollution control collection system operations, or
    - (ii) be a graduate of a two or four year college or university and have taken and passed, a minimum of six courses in a field directly related to the operation and maintenance of a collection system, e.g. civil, mechanical, or environmental engineering, and have one year of actual experience in the operation of a water pollution control collection system.
- (4) for Grade IV certification, the applicant must:
  - (a) hold a valid North Carolina Grade III Water Pollution Control Collection System Operator certificate;
  - (b) have successfully completed approved training for Grade IV water pollution control collection system operators; and
  - (c) either:
    - (i) have three years of actual experience in water pollution control collection system operations, or

- (ii) be a graduate of a two or four year college or university and have taken and passed, a minimum of six courses in a field directly related to the operation and maintenance of a collection system, e.g. civil, mechanical, or environmental engineering, and have two years of actual experience in the operation of a water pollution control collection system.

*History Note: Authority G.S. 90A-39; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0404 ELIGIBILITY REQUIREMENTS FOR LAND APPLICATION OF RESIDUALS OPERATORS**

An applicant for certification as a Land Application of Residuals Operator must have successfully completed approved training for land application of residuals operators and:

- (1) have one year of actual experience in the land application of residuals;
- (2) be a graduate of a two or four year college or university and have taken and passed a minimum of six courses in the basic sciences; or
- (3) hold a valid grade III or higher biological water pollution control system operator certification.

*History Note: Authority G.S. 90A-39; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0405 ELIGIBILITY REQUIREMENTS FOR PHYSICAL/CHEMICAL WATER POLLUTION CONTROL SYSTEM OPERATORS**

Eligibility for certification as a Physical/Chemical Water Pollution Control System Operator is based on the following qualifications:

- (1) for the Grade I have successfully completed approved training for Grade I Physical/Chemical Water Pollution Control System Operators.
- (2) for the Grade II:
  - (a) possess a valid Grade I Physical/Chemical Water Pollution Control System Operator certificate;
  - (b) have one year of actual experience at a Grade II Physical/Chemical Water Pollution Control System; and
  - (c) have successfully completed approved training for Grade II



Physical/Chemical Water Pollution  
Control System Operators.

*History Note: Authority G.S. 90A-39;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0406 ELIGIBILITY REQUIREMENTS FOR SURFACE IRRIGATION WATER POLLUTION CONTROL SYSTEM OPERATORS**

An applicant for certification as a Surface Irrigation Water Pollution Control System Operator must have successfully completed approved training for surface irrigation water pollution control system operators and:

- (1) have one year of actual experience in the operation of a surface irrigation water pollution control system;
- (2) be a graduate of a two or four year college or university and have taken and passed a minimum of six courses in the basic sciences;
- (3) be a private homeowner who intends to operate only his/her own domestic spray irrigation water pollution control system; or
- (4) hold a valid grade III or higher biological water pollution control system operator certification.

*History Note: Authority G.S. 90A-39;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0407 ELIGIBILITY REQUIREMENTS FOR SUBSURFACE WATER POLLUTION CONTROL SYSTEM OPERATORS**

An applicant for certification as a Subsurface Water Pollution Control System Operator must have successfully completed approved training for subsurface water pollution controls system operator and:

- (1) have one year of actual experience in the operation of a subsurface water pollution control system;
- (2) be a graduate of a two or four year college or university and have taken and passed a minimum of six courses in the basic sciences;
- (3) be a private homeowner who intends to operate only his/her own domestic subsurface water pollution control system; or
- (4) hold a valid grade III or higher biological water pollution control system operator certification.

*History Note: Authority G.S. 90A-39;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0408 ELIGIBILITY REQUIREMENTS FOR OPERATOR IN TRAINING (OIT) CERTIFICATION**

(a) The Commission may allow an applicant for any water pollution control system operator certificate to take the

examination if the individual has met all of the prerequisite education and certification requirements but is unable to meet the actual experience requirement.

(b) Upon achieving a passing score on the examination, the applicant shall be issued an Operator In Training (OIT) certificate of the same type and grade as the examination.

(c) The Operator In Training (OIT) must not be designated as the Operator in Responsible Charge (ORC) or Back-up Operator In Responsible Charge (Back-Up ORC) of a system.

(d) Operator In Training (OIT) certificates must be renewed annually as stipulated in 15A NCAC 08G .0701.

(e) When the holder of an Operator in Training (OIT) certificate completes the prerequisite experience for the permanent certificate at that type and level, the holder must submit an application documenting the experience, with the appropriate fee for a replacement certificate in order to receive the permanent certificate at that level.

*History Note: Authority G.S. 90A-39;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0409 ELIGIBILITY REQUIREMENTS FOR CONDITIONAL WATER POLLUTION CONTROL SYSTEM OPERATORS**

Conditional Certificates shall remain valid contingent upon the individuals holding the certificates meeting renewal requirements as found in Section .0700 of this Subchapter.

*History Note: Authority G.S. 90A-39;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0410 RECIPROCITY CERTIFICATION**

(a) The Commission shall issue certification(s) to individuals certified in other States or legal jurisdictions if the individuals:

- (1) meet or exceed all eligibility requirements or the equivalent thereof as determined by the Commission as found in Rules .0302 to .0308 of the Section, with the exception of completion of approved training,
- (2) complete Application for Reciprocity Form and submit it with the appropriate non-refundable fee as specified in G.S. 90A-42,
- (3) provide a letter of verification from certifying State agency that applicant is certified at stated level and that no disciplinary actions are outstanding against the applicant, and
- (4) apply for and achieve a passing score on a Commission-administered examination of the same type and grade as that for which reciprocity certification is being requested. The requirement for completion of approved training is waived in the case of applicants pursuant to this Rule.

(b) Applicants pursuant to this Rule must not have taken and failed to achieve a passing score on a Commission –administered examination of the same type and grade as that for which

reciprocity certification is being requested, within the previous two year period prior to the date of application for reciprocity.

(c) Applicants failing to achieve a passing score on three or more examinations of the same type and grade as that for which certification is being requested, must successfully complete approved training for that certification before being eligible for that examination.

(d) Applicants who obtain certification by providing false information to the Commission shall be subject to disciplinary actions as set forth in Section .0800 of this Subchapter.

*History Note: Authority G.S. 90A-4; 90A-40;  
Eff. December 1, 2006.*

**15A NCAC 08G .0501 APPLYING FOR EXAMINATION**

(a) All applications for examination submitted to the Commission must be:

- (1) submitted on an a WPCSOCC Examination Application;
- (2) accompanied by the appropriate non-refundable application fee per G.S. 90A-42;
- (3) completed in entirety with all required information, documentation, and signatures provided; and
- (4) postmarked at least 30 days prior to the scheduled date of the examination if an examination is scheduled.

(b) Upon receipt of an application by the Commission, the application shall be reviewed for completeness and a determination as to the eligibility of the applicant to sit for the requested examination shall be made. Incomplete applications shall be returned to the applicant.

(c) Each applicant shall be notified, in writing, of the applicant's eligibility to sit for the requested examination. Individuals determined to be eligible for an examination shall be sent written notification containing information concerning the date, time and location of the examination. This written notification shall be considered a receipt from the Commission to the applicant for the examination fee. Applicants found to be ineligible for an examination shall be sent written notification of the ineligibility determination.

(d) Any applicant who obtains certification by supplying false information to the Commission shall be subject to disciplinary action(s) as set forth in Section .0800 of this Subchapter.

*History Note: Authority G.S. 90A-39; 90A-41; 90A-42;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0504 EXAMINATION GRADING**

(a) A passing score on any examination administered by the Commission is 70 percent of the available points on the examination.

(b) Each applicant, and only the applicant, shall be notified, in writing, of the results on an examination.

(c) If a passing score is attained by an applicant on an examination, the written notification to the applicant shall constitute the certification of the applicant as an operator or

operator in training of a water pollution control system of the same type and grade as the examination.

*History Note: Authority G.S. 90A-39; 90A-40;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0505 EXAMINATION REVIEWS**

(a) Any applicant who fails to make a passing score on an examination may request to review the examination. All requests to review an examination must be received by the Commission in writing within 15 calendar days of receiving notification of failing to make a passing score on an examination.

(b) Applicants who submit a written request to review an examination shall be notified of a date, time, and location at which the applicant shall be given the opportunity to review the examination. This shall be the only opportunity the applicant will be allowed for reviewing the examination.

(c) An applicant shall not be allowed to review the examination within 30 calendar days of an upcoming examination date.

*History Note: Authority G.S. 90A-39;  
Eff. April 1, 1999;  
Amended Eff. December 1, 2006.*

**15A NCAC 08G .0602 TEMPORARY CERTIFICATES**

(a) Temporary certificates, of any type and grade, may be issued by the Commission to the operator of a water pollution control system, for a period not to exceed one year, due to:

- (1) the vacancy of the Operator in Responsible Charge (ORC) or the Back-up Operator in Responsible Charge (Back-up ORC);
- (2) the suspension or revocation of the certification of the Operator in Responsible Charge (ORC) or the Back-up Operator in Responsible Charge (Back-up ORC);
- (3) a change in the classification of the system due to a permit modification or the completion of an upgrade or expansion; or
- (4) a modification to Commission rules.

(b) Temporary Certificates shall only be issued for the Operator in Responsible Charge (ORC) or the Back-up Operator in Responsible Charge (Back-up ORC) of the system specified on the application.

(c) All applications for a temporary certificate must:

- (1) be submitted by the owner of the system for the applicant;
- (2) be accompanied by the required fee; and
- (3) include a letter from the owner that contains:
  - (A) an explanation for the need of a temporary certificate for the applicant;
  - (B) an explanation of all of the efforts that were made to employ an operator who possessed the required certification;
  - (C) a statement designating the applicant as either the Operator in Responsible

Charge (ORC) or Back-up Operator in Responsible Charge (Back-up ORC) of the system; and

- (D) a plan that describes the actions that:
- (i) the applicant will pursue in order to attempt to obtain permanent certification during the effective period of the temporary certificate; and
  - (ii) the owner of the system will be pursuing in the event that the applicant fails to obtain permanent certification during the effective period of the temporary certificate.

(d) Applicants for a temporary certificate must:

- (1) Either:
  - (A) for biological or collection system grade II or higher operator certification, possess a valid certificate of the same type as the system and that is no more than one grade lower than the classification of the system when applying as an Operator in Responsible Charge (ORC) and no more than two grades lower than the classification of the system when applying as a Back-up Operator in Responsible Charge (Back-up ORC); or
  - (B) for a Grade I biological, Grade I Physical/Chemical, Grade I Collection, Surface Irrigation, Land Application, or Subsurface Water Pollution Control System; have a minimum of three months of actual experience in the operation of the type of system for which a temporary certificate is being applied if the temporary certificate is requested.
- (2) be eligible for permanent certification prior to the expiration date of the temporary certificate;
- (3) not have made three previous unsuccessful attempts to make a passing score on the same type and grade examination as the temporary certificate; and
- (4) have never relinquished, nor had revoked, any water pollution control operator certificate issued by the Commission.

(e) Applicants who obtain a temporary certificate by providing false information to the Commission shall be subject to disciplinary action(s) as set forth in Section .0800 of this Subchapter.

*History Note: Authority G.S. 90A-40; 90A-42; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0603 TEMPORARY CERTIFICATE RENEWAL**

- (a) All applications for renewal of a temporary certificate must:
- (1) be submitted by the owner of the system 60 calendar days prior to the expiration date of the original temporary certificate;
  - (2) be accompanied by the required fee; and
  - (3) include a letter from the owner that explains:
    - (A) the need for renewal of the temporary certificate;
    - (B) the reasons for the failure of the applicant to obtain permanent certification during the original effective period of the temporary certificate;
    - (C) the efforts that have been made by the owner to employ a properly certified operator during the effective period of the original temporary certificate; and
    - (D) the actions that will be taken by:
      - (i) the applicant in order to obtain permanent certification during the effective period of the renewed temporary certificate; and
      - (ii) the owner if the applicant does not obtain permanent certification during the effective period of the renewed temporary certificate.
- (b) The renewal request shall be denied if the applicant has failed:
- (1) to seek permanent certification by examination during the original effective period of the temporary certificate; or
  - (2) to obtain permanent certification after four examination attempts during the original effective period of the temporary certificate.
- (c) A temporary certificate may be renewed only once for the same operator.
- (d) Applicants who obtain a temporary certificate renewal by providing false information to the Commission shall be subject to disciplinary action(s) as set forth in Section .0800 of this Subchapter.

*History Note: Authority G.S. 90A-40; 90A-42; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0701 REQUIREMENTS**

- (a) In order to maintain a valid certificate, the certificate must be renewed annually by:
- (1) Submitting payment of the appropriate required annual renewal fee, as set forth in G.S. 90A-42, by the end of the effective year; and

(2) Each operator must provide documentation of a minimum of six contact hours of Commission approved training during each year following the year of initial certification.

(b) Certificate(s) that are not renewed when due shall be considered invalid. In order to renew a certificate that has been invalid for up to two years, all outstanding renewal fees and supplemental processing fees and penalties that have accrued since the certificate was last renewed must be paid and all accrued continuing education requirements must be met. In order to renew a certificate that has been invalid for two or more consecutive years the operator shall be required to take and make a passing score on an examination of the same type and grade as the former certificate. In order to qualify for the examination, all relevant requirements of Section .0400 of this Subchapter must be met. Any requirements in Section .0400 of this Subchapter for Commission approved training must have been met within the previous 12 month period. Invalid Conditional Certificates are not renewable.

(c) Renewal notices shall be mailed to each certified operator, at the last known address for the operator on file with the Commission, 60 calendar days prior to the renewal due date. Failure to receive a renewal notice does not relieve a certified operator of the responsibility to renew the certificate by the renewal due date.

*History Note: Authority G.S. 90A-40; 90A-42; 90A-44; 90A-46.1;*

*Eff. April 1, 1999;*

*Amended Eff. December 1, 2006.*

**15A NCAC 08G .0801 GROUNDS FOR DISCIPLINARY ACTIONS**

The Commission may take disciplinary actions, in accordance with Rule .0802 of this Section, against a certified operator for:

- (1) practicing fraud or deception in the performance of duties;
- (2) failure to use reasonable care or judgment in the performance of duties;
- (3) failure to apply their knowledge or ability in the performance of duties;
- (4) incompetence or the inability to perform duties;
- (5) supplying false information in order to obtain or maintain certification; or
- (6) cheating on a certification examination.

*History Note: Authority G.S. 90A-41;*

*Eff. April 1, 1999;*

*Amended Eff. December 1, 2006.*

**15A NCAC 08G .0802 DISCIPLINARY ACTIONS**

(a) The Commission shall revoke or suspend the certification of an operator or issue a letter of reprimand to an operator in accordance with the provisions of G.S. 90A-41, 150B-3 and this Rule.

(b) The Chairman of the Commission may issue notification of summary suspension, the intention to revoke or suspend the

certification of an operator or the intent to issue a letter of reprimand.

(c) The Chairman shall convene an advisory committee to review the circumstances of the proposed disciplinary action(s).

- (1) The advisory committee shall include at least:
  - (A) the Chairman of the Commission;
  - (B) the Vice Chairman of the Commission;
  - (C) the member of the Commission who represents the type of system at which the operator is employed or another member of the Commission appointed by the Chairman of the Commission; and
  - (D) a certified operator appointed by the Chairman.

(2) The members of the advisory committee shall offer guidance to the Commission chairman in regards to the actions that should be taken against an operator.

(d) Notification of the advisory committee meeting shall be sent by certified mail at least 15 calendar days prior to the date of the meeting, to the last known address of the operator. This notification shall contain the alleged facts or conduct upon which the proposed revocation or suspension of the certification or letter of reprimand is based.

(e) The operator shall have an opportunity to submit a written response to the Chairman prior to the date of the advisory committee meeting. The operator shall also be given the opportunity to make an oral statement before the advisory committee.

(f) Within 10 working days of the conclusion of the advisory committee meeting, the Chairman shall issue a decision. If this decision is to issue a revocation or suspension or a letter of reprimand, the Chairman shall advise the operator of the effective date of the action and the facts or conduct upon which the action is based. The revocation or suspension of a certification or the letter of reprimand shall be delivered to the affected operator and the owner of the system(s) at which the operator works by certified mail, at the last known address for the operator and owner on file with the Commission, at least 20 calendar days prior to the effective date of the revocation or suspension or letter of reprimand.

(g) The revocation, suspension or letter of reprimand becomes a final Commission action if the operator does not file a petition for a contested case hearing in the Office of Administrative Hearings as provided in the Administrative Procedure Act, G.S. 150B.

(h) If an applicant is caught cheating on an examination by a proctor of the examination, the applicant shall be excused from the examination, the examination shall not be graded, the fee for the examination shall be forfeited by the applicant and any other certification(s) held by the applicant with the Commission shall be subject to revocation as set forth in G.S. 90A-41 and in this Rule.

(i) If the Commission determines, after the examination has been graded, that an applicant cheated on an examination and certification has been conveyed to the applicant, the certification obtained through the examination shall be revoked and any other

certification(s) held by the applicant with the Commission shall be subject to revocation as set forth in G.S. 90A-41 and in this Rule.

*History Note: Authority G.S. 90A-40; 90A-41; 143B-300; 150B-23; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0803 CERTIFICATION FOLLOWING DISCIPLINARY ACTIONS**

(a) An individual who has had certification revoked by the Commission shall petition the Commission for any new certification sought and may not petition the Commission for such new certification sooner than two years after the effective date of the revocation. Following the denial of eligibility for re-certification after relinquishment or revocation, an operator must wait one year before reapplying for certification.

(b) The following information must be included in the petition for certification:

- (1) a written statement explaining the actions that the individual has taken to correct those problems that lead to the revocation of the certification previously held with the Commission; and
- (2) a statement that attests to the Commission that, upon obtaining certification, the individual shall comply with all laws governing the proper operation of water pollution control systems.

(c) After submittal of the petition for certification, the petitioner may be required to appear before the Commission at a regularly scheduled meeting. The petitioner shall be notified, by certified mail, of the date, time and location of the meeting at least 15 calendar days prior to the meeting.

(d) Within 120 calendar days following receipt of a petition for certification, the Commission shall notify the individual, in writing, of its decision to deny or grant examination eligibility in accordance with the procedures set forth in Section .0500 of this Subchapter. Eligibility for certification shall be granted only if there is substantial evidence that those conditions that lead to the revocation of previous certification held by the petitioner have been corrected.

(e) Certification of an individual whose previous certification has been revoked shall occur only after the individual sits for, and obtains a passing score on, an examination. Once approval is granted by the Commission for certification after reviewing the petition for certification, the individual must submit an application, accompanied by the appropriate examination fee, and meet the examination eligibility requirements for the type of certification being sought as set forth in Section .0400 of this Subchapter. The individual must begin the certification process at the lowest grade level offered for the type of certification sought. Operational experience accrued by the individual prior to the revocation of any previously held certification(s) shall not be considered when determining the eligibility of the individual for the examination.

(f) Applicants for certification who were previously determined to be ineligible for certification due to supplying false

information to the Commission must follow the procedures set forth in Paragraphs (a) through (e) of this Rule in order to obtain certification.

*History Note: Authority G.S. 90A-39; 90A-41; 150B-23; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .0804 CONTESTED CASE PROCEDURES**

(a) Administrative hearings shall be held in accordance with G.S. 150B and the administrative hearing procedures codified at 15A NCAC 01B .0200 et seq., are hereby incorporated by reference including any subsequent amendments and additions.

(b) For information on obtaining a copy of 15A NCAC 01B .0200, you may contact the Rules Division of the NC Office of Administrative Hearings at (919) 733-2678.

*History Note: Authority G.S. 143B-300; 150B-23; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

**15A NCAC 08G .1001 PETITIONS FOR REGULATORY ACTIVITY**

(a) Any person(s) desiring to request the adoption, amendment, or repeal of a rule may make such request in a petition filed pursuant to G.S. 150B-20, addressed to the Water Pollution Control System Operators Certification Commission and mailed to the Chairman at 1618 Mail Service Center, Raleigh, NC 27699-1618. Such petitions must contain:

- (1) a draft of the proposed rule or a summary of its intent;
- (2) reasons for adoption of the proposed rule(s) and the effect it will have on existing rules and practices; and
- (3) the name(s) and address(es) of the petitioner(s).

(b) Petitions shall be placed on the agenda of the next regularly scheduled meeting of the Commission if received at least four weeks prior to the meeting. The Chairman shall prepare recommended responses to petitions for the Commission's consideration. Petitions shall be considered in accordance with the requirements of G.S. 150B-20.

*History Note: Authority G.S. 143B-300; 150B-20; Eff. April 1, 1999; Amended Eff. December 1, 2006.*

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**TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 32 – BOARD OF MEDICAL EXAMINERS**

**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(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 of this Subchapter or a registered nurse seeking initial approval in North Carolina, as defined in Rule .0104(g) of this Subchapter,

while awaiting final approval to practice as a nurse practitioner.

- (15) "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).

History Note: Authority G. S. 90-6; 90-18(c)(14); 90-18.2; Eff. January 1, 1991; Amended Eff. December 1, 2006; August 1, 2004; May 1, 1999; January 1, 1996.

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;
(3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0120(7) and (9); and
(4) has supplied additional information necessary to evaluate the application as requested.
(b) Beginning January 1, 2005, new graduates of a nurse practitioner program, who are 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 accrediting body; and
(3) provide documentation of certification by a national credentialing body.

History Note: Authority G.S. 90-18(c)(14); 90-18.2; 90-171.36; Eff. August 1, 2004; Amended Eff. December 1, 2006.

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CHAPTER 36 - BOARD OF NURSING

21 NCAC 36 .0219 TEMPORARY LICENSE

- (a) The Board may issue a Status P nonrenewable temporary license to persons who have filed a completed application for licensure without examination with correct fee and provided

validation of an active license in another jurisdiction. If an applicant indicates prior court conviction(s) or disciplinary action(s) in another jurisdiction, eligibility for a temporary license shall be determined after review of relevant documents.

- (b) The following applies to Status P temporary licenses:
(1) The Status P nonrenewable temporary license shall expire on the lesser of six months or the date a full license is issued or when it is determined the applicant is not qualified to practice nursing in North Carolina.
(2) Status P temporary license shall authorize the holder to practice nursing in the same manner as a fully licensed R.N. or L.P.N., whichever the case may be.
(3) Holders of valid Status P temporary license shall identify themselves as R.N. Petitioner (R.N.P.) or L.P.N. petitioner (L.P.N.P.), as the case may be, after signatures on records.
(4) Upon expiration or revocation of the Status P temporary license, the individual is ineligible to practice nursing as described in Subparagraph (b)(2) of this Rule.

History Note: Authority G.S. 90-171.33; Eff. May 1, 1982; Temporary Amendment Eff. June 29, 1988 for a period of 180 days to expire on December 25, 1988; Amended Eff. December 1, 2006; January 1, 1996; July 1, 1994; August 3, 1992; January 1, 1989.

21 NCAC 36 .0803 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 .0805 of this Section;
(3) is certified as a nurse practitioner by a national credentialing body consistent with 21 NCAC 36 .0120(7) and (9); and
(4) has supplied additional information necessary to evaluate the application as requested.
(b) Beginning January 1, 2005, new graduates of a nurse practitioner program, who are 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 accrediting body; and
(3) provide documentation of certification by a national credentialing body.

*History Note: Authority G.S. 90-18(13); 90-18.2; 90-171.20(7); 90-171.23(b); 90-171.83; Eff. August 1, 2004; Amended Eff. December 1, 2006.*

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**CHAPTER 48 - BOARD OF PHYSICAL THERAPY EXAMINERS**

**21 NCAC 48C .0101 PERMITTED PRACTICE**

(a) Physical therapy is presumed to include any acts, tests, procedures, modalities, treatments, or interventions that are routinely taught in educational programs or in continuing education programs for physical therapists and are routinely performed in practice settings.

(b) A physical therapist who employs acts, tests, procedures, modalities, treatments, or interventions in which professional training has been received through education or experience is considered to be engaged in the practice of physical therapy.

(c) A physical therapist must supervise physical therapist assistants, physical therapy aides, PT students and PTA students to the extent required under the Physical Therapy Practice Act and the rules in this Chapter. Physical therapy aides include all non-licensed individuals aiding in the provision of physical therapy services.

(d) The practice of physical therapy includes tests of joint motion, muscle length and strength, posture and gait, limb length and circumference, activities of daily living, pulmonary function, cardio-vascular function, nerve and muscle electrical properties, orthotic and prosthetic fit and function, sensation and sensory perception, reflexes and muscle tone, and sensorimotor and other skilled performances; treatment procedures such as hydrotherapy, shortwave or microwave diathermy, ultrasound, infra-red and ultraviolet radiation, cryotherapy, electrical stimulation including transcutaneous electrical neuromuscular stimulation, massage, debridement, intermittent vascular compression, iontophoresis, machine and manual traction of the cervical and lumbar spine, joint mobilization, machine and manual therapeutic exercise including isokinetics and biofeedback; and training in the use of orthotic, prosthetic and other assistive devices including crutches, canes and wheelchairs. Physical therapy further includes:

(1) examining (history, system review and tests and measures) individuals in order to determine a diagnosis, prognosis, and intervention within the physical therapist's scope of practice. Tests and measures include the following:

- (A) aerobic capacity and endurance;
- (B) anthropometric characteristics;
- (C) arousal, attention, and cognition;
- (D) assistive and adaptive devices;
- (E) community and work (job/school/play) integration or reintegration;
- (F) cranial nerve integrity;
- (G) environmental, home, and work (job/school/play) barriers;

- (H) ergonomics and body mechanics;
- (I) gait, locomotion, and balance;
- (J) integumentary integrity;
- (K) joint integrity and mobility;
- (L) motor function;
- (M) muscle performance;
- (N) neuromotor development and sensory integration;
- (O) orthotic, protective and supportive devices;
- (P) pain;
- (Q) posture;
- (R) prosthetic requirements;
- (S) range of motion;
- (T) reflex integrity;
- (U) self-care and home management;
- (V) sensory integrity; and
- (W) ventilation, respiration, and circulation.

(2) alleviating impairment and functional limitation by designing, implementing, and modifying therapeutic interventions that include the following:

- (A) coordination, communication and documentation;
- (B) patient/client-related instruction;
- (C) therapeutic exercise (including aerobic conditioning);
- (D) functional training in self-care and home management (including activities of daily living and instrumental activities of daily living);
- (E) functional training in community and work (jobs/school/play) integration or reintegration activities (including instrumental activities of daily living, work hardening, and work conditioning);
- (F) manual therapy techniques (including mobilization and manipulation);
- (G) prescription, application, and fabrication of assistive, adaptive, orthotic, protective, supportive, and prosthetic devices and equipment that is within the scope of practice of physical therapy;
- (H) airway clearance techniques;
- (I) wound management;
- (J) electrotherapeutic modalities; and
- (K) physical agents and mechanical modalities.

(3) preventing injury, impairment, functional limitation, and disability, including the promotion and maintenance of fitness, health, and quality of life in all age populations.

*History Note: Authority G.S. 90-270.24; 90-270.26; Eff. December 30, 1985;*



*Amended Eff. December 1, 2006; April 1, 2003; August 1, 2002; August 1, 1998; December 1, 1990; October 1, 1989; April 1, 1989.*

**21 NCAC 48C .0102 RESPONSIBILITIES**

- (a) The physical therapist must determine the patient care plan and the elements of that plan appropriate for delegation.
- (b) The physical therapist must determine that those persons acting under his or her supervision possess the competence to perform the delegated activities.
- (c) The physical therapist may delegate responsibilities to physical therapist assistants. The supervising physical therapist must determine that the PT or PTA student is working under supervision at all times.
- (d) The physical therapist must enter and review chart documentation, reexamine and reassess the patient and revise the patient care plan if necessary, based on the needs of the patient.
- (e) The physical therapist must establish the discharge plan.
- (f) For each date of service, a physical therapist must provide all therapeutic interventions that require the expertise of a physical therapist and must determine the use of assistive personnel who provide delivery of service that is safe and effective for each patient.
- (g) A physical therapist's responsibility for patient care management must include first-hand knowledge of the status of each patient and oversight of all documentation for services rendered to each patient, including awareness of fees and reimbursement structures.
- (h) A physical therapist must be immediately available directly or by telecommunication to a physical therapist assistant supervising a physical therapy aide or student engaging in patient care.
- (i) A physical therapist must be limited to clinically supervising only that number of assistive personnel, including physical therapists assistants, physical therapy aides, and students completing clinical requirements, as is appropriate for providing safe and effective patient interventions at all times.
- (j) If a physical therapist assistant or physical therapy aide is involved in the patient care plan, the patient must be reassessed by the supervising physical therapist no less frequently than every 30 days.
- (k) A physical therapist who is supervising a physical therapy aide or student must be present in the same facility when patient care is provided.
- (l) The physical therapist must document every evaluation and intervention/treatment, which must include the following elements:
  - (1) Authentication (signature and designation) by the physical therapist who performed the service;
  - (2) Date of the evaluation or treatment;
  - (3) Length of time of total treatment session or evaluation;
  - (4) Patient status report;
  - (5) Changes in clinical status;
  - (6) Identification of specific elements of each intervention/modality provided. Frequency, intensity, or other details may be included in

- the plan of care and if so, do not need to be repeated in the daily note;
- (7) Equipment provided to the patient or client; and
- (8) Interpretation and analysis of clinical signs and symptoms and response to treatment based on subjective and objective findings, including any adverse reactions to an intervention.
- (m) At least every 30 days, the therapist must document:
  - (1) The patient's response to therapy intervention;
  - (2) Progress toward achieving goals; and
  - (3) Justifications for continued treatment.

*History Note: Authority G.S. 90-270.24; 90-270.26; 90-270.31; 90-270.34; Eff. December 30, 1985; Amended Eff. December 1, 2006; August 1, 2002; August 1, 1998; January 1, 1991.*

**21 NCAC 48C .0103 PROHIBITED PRACTICE**

- (a) A physical therapist must not employ acts, tests, procedures, modalities, treatments, or interventions in the treatment of patients that are beyond the scope of the practice of physical therapy. Any patient whose condition requires medical diagnosis of disease or treatment beyond the scope of physical therapy must be referred as specified in G.S. 90-270.35.
- (b) A physical therapist must not permit any person working under his or her supervision to engage in acts or practices beyond the scope allowed by the Physical Therapy Practice Act or the rules in this Chapter.
- (c) Physical therapy does not include the application of roentgen rays or radioactive materials, but consistent with the requirements of G.S. 90-270.35(4) a physical therapist may review x-rays and may also request radiologic consultations; however, a physical therapist shall not order radiological examinations.

*History Note: Authority G.S. 90-270.24; 90-270.26; 90-270.35; Eff. December 30, 1985; Amended Eff. December 1, 2006; August 1, 1998; April 1, 1989.*

**21 NCAC 48C .0201 SUPERVISION BY PHYSICAL THERAPIST**

- (a) A physical therapist assistant may assist in the practice of physical therapy only to the extent allowed by the supervising physical therapist.
- (b) A physical therapist assistant may make modifications of treatment programs that are consistent with the established patient care plan.
- (c) A physical therapist assistant may engage in off-site patient related activities that are appropriate for the physical therapist assistant's qualifications and the status of the patient.
- (d) A physical therapist assistant may document care provided without the co-signature of the supervising physical therapist.
- (e) A physical therapist assistant who is supervising a physical therapy aide or student must be present in the same facility when patient care is provided.

(f) The physical therapist assistant must document every intervention/treatment, which must include the following elements:

- (1) Authentication (signature and designation) by the physical therapist assistant who performed the service;
- (2) Date of the intervention/treatment;
- (3) Length of time of total treatment session;
- (4) Patient status report;
- (5) Changes in clinical status;
- (6) Identification of specific elements of each intervention/modality provided. Frequency, intensity, or other details may be included in the plan of care and if so, do not need to be repeated in the daily note;
- (7) Equipment provided to the patient or client; and
- (8) Response to treatment based on subjective and objective findings, including any adverse reactions to an intervention.

*History Note: Authority G.S. 90-270.24; 90-270.26; 90-270.35; Eff. December 30, 1985; Amended Eff. December 1, 2006; August 1, 2002.*

**21 NCAC 48C .0402 FUNCTION**

- (a) A physical therapy aide may perform only those acts delegated by a licensed physical therapist or physical therapist assistant.
- (b) A physical therapy aide must not engage in the performance of physical therapy activities without supervision by a licensee in accordance with this Subchapter.
- (c) A physical therapy aide must work under the supervision of a licensee who is present in the facility. This may extend to an off-site setting only when the physical therapy aide is accompanying and working directly with a licensee with a specific patient.
- (d) A physical therapy aide must not be independently responsible for a patient caseload.

*History Note: Authority G.S. 90-270.24; 90-270.26; Eff. December 30, 1985; Amended Eff. December 1, 2006; August 1, 2002; August 1, 1998.*

**21 NCAC 48D .0107 PERSONS REFUSED EXAMINATION PERMISSION**

- (a) The Board shall refuse permission to take the examination to any person who:
  - (1) Does not meet the requirements as set forth in the Physical Therapy Practice Act;
  - (2) Furnishes false information to the Board on the application; or
  - (3) Fails to furnish personal background information as required by these Rules.
- (b) Any applicant who is refused permission to take the examination shall be entitled to petition the Board for a

contested case hearing pursuant to Subchapter 48G, Section .0500 of this Chapter.

*History Note: Authority G.S. 90-270.26; 90-270.29; 90-270.30; 90-270.36; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. December 1, 2006; August 1, 2002; December 30, 1985.*

**21 NCAC 48E .0110 FOREIGN-TRAINED PHYSICAL THERAPISTS**

- (a) This Rule applies to a physical therapist who has graduated from a program located outside the United States which has not been accredited in accordance with G.S. 90-270.29 [currently, the Commission on Accreditation of Physical Therapy Education (CAPTE)].
- (b) English Translations. All application forms and supporting documents must be in English or accompanied by an English translation.
- (c) If the applicant does not meet the requirements of G.S. 90-270.29(2), the Board shall examine the applicant's educational background to determine if the general and professional education is substantially equivalent to that obtained by an applicant for licensure under G.S. 90-270.29 as follows:

- (1) For candidates graduating prior to December 31, 2002, a minimum of 120 semester hours of college education at the freshman through senior level is required, which includes a minimum of 60 semester hours of professional curriculum, including basic health sciences, clinical sciences and clinical education, and a minimum of 42 semester hours of general education. Up to 21 hours may be substituted for actual course work by obtaining a passing score on College Level Examination Program (CLEP) examinations.
- (2) For candidates graduating after December 31, 2002, the applicant's educational background must be substantially equivalent to a Post-Baccalaureate degree from a CAPTE approved physical therapy educational program. In order for a foreign-trained applicant's educational background to be determined substantially equivalent to a post-baccalaureate degree from a CAPTE approved program, the general and professional education must satisfy the requirements for the first professional degree as determined by the course work evaluation tool developed by the Federation of State Boards of Physical Therapy (FSBPT), or its successor organization. Up to one-half (1/2) of the general education credit hours may be substituted for actual course work by obtaining a passing score on CLEP examinations.

(d) The applicant must make arrangements to have the credentials evaluated by FCCPT (Foreign Credentialing Commission on Physical Therapy, Inc.), or a service determined

by the Board to be equivalent, and which must have a physical therapist consultant on its staff. The Board shall make its own review of applicant's educational program and is not bound by the findings of the credentialing service.

(e) The applicant must provide the following information:

- (1) For examinations administered prior to August 1, 1998, proof that a score of 210 on the TSE (Test of Spoken English) or the SPEAK (Speaking Proficiency English Assessment Kit) examination was obtained;
- (2) For examinations administered on or after August 1, 1998, and prior to January 1, 2007, proof that a minimum score of 50 on the TSE examination or the SPEAK examination was obtained, a minimum score on the Test of Written English (TWE) of 4.5 was obtained, and a minimum score of 560 on the Test of English as a Foreign Language (TOEFL) was obtained;
- (3) For examinations administered on or after September 25, 2005, proof that the applicant obtained the following minimum standard scale scores in each of the four scoring domains (Listening, Reading, Writing, and Speaking), and the total score of the iBT/Next Generation TOEFL: Writing: 24, Speaking: 26, Reading Comprehension: 21, Listening Comprehension: 18, Total Score: 89; or
- (4) Proof that English is the applicant's primary language.

*History Note: Authority G.S. 90-270.26; 90-270.29; 90-270.30; 90-270.31; Eff. December 30, 1985; Amended Eff. November 1, 1991; August 1, 1991; Temporary Amendment Eff. July 21, 1995, for a period of 180 days or until the permanent Rule becomes effective, whichever is sooner; Amended Eff. December 1, 2006; November 1, 2004; August 1, 2002; August 1, 1998; February 1, 1996; October 1, 1995.*

**21 NCAC 48F .0102 FEES**

- (a) The following fees are charged by the Board:
- (1) application for physical therapist licensure, one hundred fifty dollars (\$150.00);
  - (2) application for physical therapist assistant licensure, one hundred fifty dollars (\$150.00);
  - (3) renewal for all persons, one hundred dollars (\$100.00);
  - (4) penalty for late renewal, twenty dollars (\$20.00) plus renewal fee;
  - (5) revival of license lapsed less than five years, thirty dollars (\$30.00) plus renewal fee;
  - (6) transfer of licensure information fee, including either the examination scores or licensure verification or both, thirty dollars (\$30.00);
  - (7) retake examination, sixty dollars (\$60.00);
  - (8) certificate replacement or duplicate, thirty dollars (\$30.00);

- (9) directory of licensees, ten dollars (\$10.00);
- (10) licensee list or labels or any portion thereof for physical therapists, sixty dollars (\$60.00);
- (11) licensee list or labels or any portion thereof for physical therapist assistants, sixty dollars (\$60.00);
- (12) processing fee for returned checks, maximum allowed by law.

(b) The application fee is not refundable.

(c) A certified check, money order or cash is required for payment of application fees listed in Subparagraphs (a)(1) and (2) of this Rule.

*History Note: Authority G.S. 25-3-512; 90-270.33; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. August 1, 1998; October 1, 1995; October 1, 1994; November 1, 1991; August 1, 1991; Temporary Amendment Eff. October 1, 1999; Amended Eff. December 1, 2006; August 1, 2002; August 1, 2000.*

**21 NCAC 48F .0103 INVESTIGATIONS**

Any complaint relevant to alleged violations of the North Carolina Physical Therapy Practice Act must be made in writing, signed by the person submitting the complaint, and include the complainant's address and telephone number. Complaints must be sent to the executive director.

*History Note: Authority G.S. 90-270.26; 90-270.35; 90-270.36; Eff. February 1, 1976; Readopted Eff. September 30, 1977; Amended Eff. December 1, 2006; February 1, 1996; May 1, 1988; October 28, 1979.*

**21 NCAC 48G .0601 PROHIBITED ACTIONS**

(a) Behaviors and activities which may result in disciplinary action by the Board pursuant to G.S. 90-270.36(1), (6), (7), (8) and (9) and G.S. 90-270.35(4) include the following:

- (1) recording false or misleading data, measurements or notes regarding a patient;
- (2) delegating responsibilities to a person when the licensee delegating knows or has reason to know that the competency of that person is impaired by physical or psychological ailments, or by alcohol or other pharmacological agents, prescribed or not;
- (3) practicing or offering to practice beyond the scope permitted by law;
- (4) accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;
- (5) performing, without adequate supervision as described in the rules in this Chapter, professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except

- in an emergency situation where a person's life or health is in danger;
- (6) harassing, abusing, or intimidating a patient either physically or verbally;
  - (7) failure to exercise supervision over persons who are authorized to practice only under the supervision of the licensed professional;
  - (8) promoting an unnecessary device, treatment intervention, or service for the financial gain of the practitioner or of a third party;
  - (9) directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a client;
  - (10) failure to file a report, filing a false report or failure to respond to an inquiry within 30 days, required by law or these Rules, or impeding or obstructing such filing or inducing another person to do so;
  - (11) revealing identifiable data, or information obtained in a professional capacity, without prior consent of the patient, except as authorized or required by law;
  - (12) guaranteeing that a patient will benefit from the performance of professional services;
  - (13) altering a license or renewal card by changing any information appearing thereon;
  - (14) using a license or renewal card which has been altered;
  - (15) permitting or allowing another person to use his or her license or renewal card for the practice of physical therapy;
  - (16) delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such a person is not qualified by training, by experience, or by licensure to perform such responsibilities;
  - (17) violating any term of probation, condition, or limitation imposed on the licensee by the Board;
  - (18) engaging in any activities of a sexual nature, including kissing, fondling or touching any person while engaged in the practice of physical therapy;
  - (19) billing or charging for services or treatment not performed;
  - (20) making treatment recommendations or basing a patient's continued treatment on the extent of third party benefits instead of the patient's condition;
  - (21) willfully or intentionally communicating false or misleading information regarding a patient;
  - (22) harassing, abusing, or intimidating any person, either physically or verbally, in the presence of a patient;
  - (23) using a form of a license or renewal card that was not issued by the Board or is not current.
  - (24) failing to record patient data within a reasonable period of time following evaluation, assessment or intervention;
  - (25) failing to pay the costs of investigation or otherwise to comply with an order of discipline;
  - (26) failing to maintain legible patient records that contain an evaluation of objective findings, a diagnosis, a plan of care including desired outcomes, the treatment record including all elements of 21 NCAC 48C .0102(l) or 21 NCAC 48C .0201(f), a discharge plan including the results of the intervention, and sufficient information to identify the patient and the printed name and title of each person making an entry in the patient record;
  - (27) charging fees not supported by treatment notes; and
  - (28) furnishing false or misleading information on an application for licensure renewal.
- (b) When a person licensed to practice physical therapy is also licensed in another jurisdiction and that other jurisdiction takes disciplinary action against the licensee, the North Carolina Board of Physical Therapy Examiners may summarily impose the same or lesser disciplinary action upon receipt of the other jurisdiction's actions. The licensee may request a hearing. At the hearing the issues shall be limited to:
- (1) whether the person against whom action was taken by the other jurisdiction and the North Carolina licensee are the same person;
  - (2) whether the conduct found by the other jurisdiction also violates the North Carolina Physical Therapy Act; and
  - (3) whether the sanction imposed by the other jurisdiction is lawful under North Carolina law.
- (c) In accordance with G.S. 150B-3(c) a license may be summarily suspended if the public health, safety, or welfare requires emergency action. This determination is delegated to the Chairman or Executive Director of the Board pursuant to G.S. 90-270.26(8). Such a finding shall be incorporated with the order of the Board of Physical Therapy Examiners and the order shall be effective on the date specified in the order or on service of the certified copy of the order at the last known address of the licensee, whichever is later, and continues to be effective during the proceedings. Failure to receive the order because of refusal of service or unknown address does not invalidate the order. Proceedings shall be commenced promptly.
- (d) When the Board receives a notice from a Clerk of Superior Court that the license of a physical therapist or a physical therapist assistant has been forfeited pursuant to G.S. 15A-1331A, the licensee shall surrender the license to the Board immediately and not engage in the practice of physical therapy during the period of forfeiture. Forfeiture under this Section shall not limit the Board's authority to take further disciplinary action against the licensee in accordance with the Board's rules.

*History Note: Authority G.S. 15A-1331A; 90-270.24; 90-270.26; 90-270.35(4); 90-270.36; 150B-3;*

Eff. October 1, 1995;  
Amended Eff. December 1, 2006; August 1, 2002; August 1, 1998; February 1, 1996.

**21 NCAC 48G .0602 SANCTIONS; REAPPLICATION**

(a) The Board may, upon proof of a violation of G.S. 90-270.36 or the rules in this Chapter, impose any of the following sanctions in its discretion:

- (1) issue a reprimand;
- (2) issue a warning to a licensee;
- (3) place a licensee on probation;
- (4) suspend a license, the duration of which shall be determined by the Board;
- (5) revoke any license;
- (6) refuse to issue or renew a license;
- (7) accept a voluntary surrender of a license; and
- (8) charge the reasonable costs of investigation and hearing to a licensee who is disciplined.

(b) In addition to the sanctions specified in Subparagraphs (a)(2), (3) and (4) of this Rule, the Board may also impose restrictions and conditions on a license including scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served, including requiring a licensee to submit regular reports to the Board on matters related to the restricted license.

(c) A person whose license has been revoked or who surrenders a license:

- (1) is not permitted to reapply for a license for a period of two years from the date of revocation;
- (2) is not permitted to reapply for a license for a period not to exceed two years from the date of surrender;
- (3) must submit as part of the reapplication process all materials requested by the Board related to the revocation or surrender and may be required to meet with the Board; and
- (4) may have the restrictions specified in Paragraph (b) of this Rule imposed in conjunction with the issuance of a license.

History Note: Authority G.S. 90-270.26;  
Eff. August 1, 2002;  
Amended Eff. December 1, 2006.

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**CHAPTER 65 – THERAPUTIC RECREATION  
CERTIFICATION BOARD**

**21 NCAC 65 .0203 LICENSED RECREATIONAL  
THERAPIST STANDARDS OF PRACTICE**

A Licensed Recreational Therapist must practice recreational therapy, also known as therapeutic recreation, in accordance with the most recent version of the ATRA Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide published by the American Therapeutic Recreation Association (ATRA) and any subsequent amendments or changes. A copy can be purchased from ATRA at: <http://www.atra-tr.org>.

History Note: Authority G.S. 90C-22(6); 90C-24(a)(3);  
Eff. December 1, 2006.

**21 NCAC 65 .0204 LICENSED RECREATIONAL  
THERAPY ASSISTANT STANDARDS OF PRACTICE**

Under the supervision of a Licensed Recreational Therapist, a Licensed Recreational Therapy Assistant must practice recreational therapy in accordance with the most recent version of the ATRA Standards for the Practice of Therapeutic Recreation and Self-Assessment Guide published by the American Therapeutic Recreation Association (ATRA) and any subsequent amendments or changes. A copy can be purchased from ATRA at: <http://www.atra-tr.org>.

History Note: Authority G.S. 90C-22(6); 90C-24(a)(3);  
Eff. December 1, 2006.

**21 NCAC 65 .0302 MINIMUM LEVEL OF  
EDUCATION AND COMPETENCY FOR LICENSED  
RECREATIONAL THERAPY ASSISTANTS**

(a) For the purposes of G.S. 90C-27(b) an academic major is defined as an Associate of Applied Science Degree in therapeutic recreation or recreational therapy from a community college accredited by the Southern Association of Colleges and Schools.

(b) Course work for an Associate degree must reflect the following:

- (1) A minimum of nine semester hours in therapeutic recreation or recreational therapy content courses. Beginning January 15, 2008, six hours in recreational therapy or therapeutic recreation content courses.
- (2) 10 semester hours in therapeutic recreation or recreational therapy interventions;
- (3) A minimum of 15 semester hours of supportive coursework including at least one course from three of the following areas: psychology, sociology, physical and biological science, human services and physical education courses. Beginning January 15, 2008, supportive coursework must include a minimum of five semester hours of anatomy and physiology and three semester hours of abnormal psychology, three semester hours of growth and development the remaining six semester hours of supportive coursework must be in the areas of psychology, sociology, physical and biological science, human services and physical education; and
- (4) A minimum 380 hour field placement experience in a clinical, residential, or community-based agency under the supervision of a Licensed Recreational Therapist or Licensed Recreational Therapy Assistant. The field placement must be a minimum of 10 consecutive weeks with each week including a minimum of 20 hours.

*History Note: Authority G.S. 90C-24(a)(3); 90C-27(b); Eff. December 1, 2006.*

**21 NCAC 65 .0501 LICENSURE FEES**

(a) A cashier's check, certified check or an employer's check is acceptable for the initial application licensure fees.

(b) Fees are nonrefundable and payable to the North Carolina Board of Recreational Therapy Licensure. Personal checks shall be accepted for payment of renewal fee and record maintenance fee. Processing fee for returned checks shall be the maximum allowed by law.

(c) The Board shall collect the following fees:

- (1) Initial Application for Licensure Fee
  - (A) Licensed Recreational Therapist (\$100.00)
  - (B) Licensed Recreational Therapy Assistant (\$ 50.00)
- (2) Licensure renewal fees (due every two years)
  - (A) Licensed Recreational Therapist (\$ 50.00)
  - (B) Licensed Recreational Therapy Assistant (\$ 25.00)
- (3) Inactive status (\$ 35.00)
- (4) Record Maintenance fee (due non-renewal yr)
  - (A) Licensed Recreational Therapist (\$ 50.00)
  - (B) Licensed Recreational Therapy Assistant (\$ 25.00)
- (5) Purchase of mailing labels to promote continuing education (\$ 50.00)

*History Note: Authority G.S. 90C-24(a)(3); 90C-28; Eff. December 1, 2006.*

**21 NCAC 65 .0701 REINSTATEMENT OF LAPSED LICENSE**

(a) A recreational therapist or a recreational therapy assistant whose license has lapsed and who desires reinstatement of that license must:

- (1) Complete a reinstatement licensure form provided by the Board;
- (2) Submit evidence of satisfaction of all court conditions resulting from any misdemeanor or felony conviction(s) if applicable;
- (3) Submit evidence of meeting education and competency requirements pursuant to Rule .0301 or Rule .0302 as applicable at the time of reinstatement;
- (4) Submit evidence of meeting continuing education requirements in accordance with Rule .0601; and
- (5) Submit payment of licensure fees.

(b) Persons whose license is suspended for failure to renew, pursuant to G.S. 90C, must not practice recreational therapy and must not hold themselves out as licensed by the Board until they apply for and receive reinstatement of their license by the Board.

(c) The Board shall inform the applicant in writing of the Board's decision within 30 days after the application deadline

and the Board finds the complete application shows the requirements have been successfully meet.

*History Note: Authority G.S. 90C-24(a)(3); 90C-30; Eff. December 1, 2006.*

**21 NCAC 65 .0801 INACTIVE STATUS**

(a) While on the inactive list, an individual must not practice recreational therapy in North Carolina.

(b) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant, who has been on the inactive status list for a period of one year or less, may convert to active status by:

- (1) Submission of a reinstatement application to the Board;
- (2) Completion of a minimum of 10 continuing education points, or the amount of points pro-rated to the amount of time inactive, as defined in Rule .0601 for license renewal for a Licensed Recreational Therapist or Licensed Recreational Therapy Assistant; and
- (3) Payment of the current license renewal fee.

(c) A Licensed Recreational Therapist or Licensed Recreational Therapy Assistant who has been on the inactive list for a period greater than one year may convert to active status by:

- (1) Submission of a reinstatement application to the Board;
- (2) Completion of a minimum of 10 continuing education points per year of inactive status, or the amount of points pro-rated to the amount of time inactive, as defined in Rule .0601 for license renewal;
- (3) Payment of the current license renewal fee; and
- (4) Successful completion of the examination of the National Council for Therapeutic Recreation Certification for the Licensed Recreational Therapist.

(d) Persons certified by the State of North Carolina as a Therapeutic Recreation Specialist or Therapeutic Recreation Assistant presently on the inactive status list when this Rule takes effect will be notified of the rule change at their last known address.

(e) Persons listed as Inactive Status by the State of North Carolina Therapeutic Recreation Certification Board have until January 15, 2008 to apply for licensure through the exemption clause.

*History Note: Authority G.S. 90C-24(a)(3); 90C-31; Eff. December 1, 2006.*

**21 NCAC 65 .0901 ENDORSEMENT**

(a) The applicant for licensure by endorsement must make application to and be evaluated by the Board in accordance to the procedures outlined in the requirements for licensure.

(b) The application package shall be accompanied by:

- (1) One current head and shoulders color photograph of the applicant identification;
- (2) Official college transcripts;
- (3) Verification of current state licensure;

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**APPROVED RULES**

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- (4) Verification of successful passage of the National Council for Therapeutic Recreation Certification Therapeutic Recreation Exam; and
  - (5) Licensure Fees stated in Rule .0500.
- (c) The Board shall issue a license to practice as a licensed recreational therapist or a licensed recreational therapy assistant to any applicant who:
- (1) Meets all licensure requirements, and

- (2) Is currently licensed as a recreational therapist by a state with requirements substantially equivalent to the North Carolina Board of Recreational Therapy Licensure requirements at the time of application.

*History Note: Authority G.S. 90C-24(a)(3); 90C-33; Eff. December 1, 2006.*





<u>Center-Program Operations Manual</u>	10A NCAC 43G .0201
<u>Personnel Management</u>	10A NCAC 43G .0202
<u>Safety</u>	10A NCAC 43G .0203
<u>Annual Program Planning and Performance Evaluation</u>	10A NCAC 43G .0204
<u>Integration of Services with Local Communities</u>	10A NCAC 43G .0205
<u>Forms</u>	10A NCAC 43G .0206
<u>Clinical Assessment Services</u>	10A NCAC 43G .0301
<u>Treatment and Client/Family Instruction Services</u>	10A NCAC 43G .0302
<u>Case Management Services</u>	10A NCAC 43G .0303
<u>Screening Services</u>	10A NCAC 43G .0304
<u>Case-Specific Technical Assistance Services</u>	10A NCAC 43G .0305
<u>Confidentiality</u>	10A NCAC 43G .0401
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<u>Disclosure for the purpose of Research</u>	10A NCAC 43G .0409
<u>Disclosure Pursuant to a Court Order</u>	10A NCAC 43G .0410
<u>Definitions</u>	10A NCAC 43G .0502
<u>Provider Eligibility</u>	10A NCAC 43G .0503
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<u>Client and Third Party Fees</u>	10A NCAC 43G .0508
<u>Application for Funds</u>	10A NCAC 43G .0509
<u>Budgeting of Grant Funds</u>	10A NCAC 43G .0510
<u>Annual Plan</u>	10A NCAC 43G .0511
<u>Renewal of Grant Funds</u>	10A NCAC 43G .0512

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<u>Requirements for Units Required to Match Grants</u>	11 NCAC 05A .0703
<u>Licensee Requirements</u>	11 NCAC 06A .0802
<u>Courses Specifically Approved</u>	11 NCAC 06A .0803
<u>Attendance</u>	11 NCAC 06A .0806
<u>Hardship</u>	11 NCAC 06A .0807
<u>Sanctions for Noncompliance</u>	11 NCAC 06A .0811

**SHERIFFS EDUCATION AND TRAINING STANDARDS COMMISSION**

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<u>Period of Suspension: Revocation: or Denial</u>	12 NCAC 10B .0205

<u>Background Investigations</u>	12	<u>NCAC 10B .0305</u>
<u>Admission of Trainees</u>	12	<u>NCAC 10B .0713</u>
<u>Sheriff Responsibilities</u>	12	<u>NCAC 10B .1701</u>
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<u>In-Service Training for Justice Officers</u>	12	<u>NCAC 10B .2001</u>
<u>Certification-Specific Programs</u>	12	<u>NCAC 10B .2002</u>
<u>In-Service Training Coordinator</u>	12	<u>NCAC 10B .2003</u>
<u>Instructors</u>	12	<u>NCAC 10B .2004</u>
<u>Minimum Training Requirements</u>	12	<u>NCAC 10B .2005</u>
<u>In-Service Training Program Specifications</u>	12	<u>NCAC 10B .2006</u>
<u>Sheriff/Agency head Responsibilities</u>	12	<u>NCAC 10B .2007</u>
<u>Failure to Complete in-Service Training Programs</u>	12	<u>NCAC 10B .2008</u>

**LABOR, DEPARTMENT OF**

<u>Handicapped Worker Certification</u>	13	<u>NCAC 12 .0202</u>
<u>Withholding of Wages</u>	13	<u>NCAC 12 .0304</u>
<u>Authorization for Withholding of Wages</u>	13	<u>NCAC 12 .0305</u>
<u>Vacation Pay</u>	13	<u>NCAC 12 .0306</u>
<u>Bonuses, Commissions and Other Forms of Wage Calculation</u>	13	<u>NCAC 12 .0307</u>
<u>Application for a Youth Employment Certificate</u>	13	<u>NCAC 12 .0402</u>
<u>Review Issuance and Maintenance of Certificates</u>	13	<u>NCAC 12 .0403</u>
<u>Waiver</u>	13	<u>NCAC 12 .0404</u>
<u>Revocation</u>	13	<u>NCAC 12 .0405</u>
<u>Parental Exemption</u>	13	<u>NCAC 12 .0409</u>

**ENVIRONMENTAL MANAGEMENT COMMISSION**

<u>Outstanding Resource Waters</u>	15A	<u>NCAC 02B .0225</u>
<u>Little Tennessee River Basin and Savannah River Drainage ...</u>	15A	<u>NCAC 02B .0303</u>
<u>New Source Performance Standards</u>	15A	<u>NCAC 02D .0524</u>
<u>General Recordkeeping and Reporting Requirements</u>	15A	<u>NCAC 02D .0605</u>
<u>Bulk Gasoline Terminals</u>	15A	<u>NCAC 02D .0927</u>
<u>Gasoline Truck Tanks and Vapor Collection Systems</u>	15A	<u>NCAC 02D .0932</u>
<u>Sale and Service of Analyzers</u>	15A	<u>NCAC 02D .1006</u>
<u>Maximum Achievable Control Technology</u>	15A	<u>NCAC 02D .1111</u>
<u>Purpose and Applicability</u>	15A	<u>NCAC 02D .2501</u>
<u>Definitions</u>	15A	<u>NCAC 02D .2502</u>

<u>Mercury Emission</u>	15A NCAC 02D .2503
<u>Permitting</u>	15A NCAC 02D .2504
<u>Monitoring, Reporting, and Recordkeeping</u>	15A NCAC 02D .2505
<u>Designated Representative</u>	15A NCAC 02D .2506
<u>Computation of Time</u>	15A NCAC 02D .2507
<u>New Source Growth</u>	15A NCAC 02D .2508
<u>Periodic Review and Reallocation</u>	15A NCAC 02D .2509
<u>Trading Program and Banking</u>	15A NCAC 02D .2510
<u>Mercury Emission Limits</u>	15A NCAC 02D .2511
<u>Universal Stormwater Management Program</u>	15A NCAC 02H .1020
<u>Permits requiring Public Participation</u>	15A NCAC 02Q .0306
<u>Definitions</u>	15A NCAC 02Q .0503
<u>Permit Content</u>	15A NCAC 02Q .0508
<u>Administrative Permit</u>	15A NCAC 02Q .0514
<u>Local Program Approval</u>	15A NCAC 02T .0915

**COASTAL RESOURCES COMMISSION**

<u>Public Hearing and Local Adoption Requirements</u>	15A NCAC 07B .0801
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**HEALTH SERVICES, COMMISSION FOR**

<u>STDS Applicable to Generators of Hazardous Waste-Part 262</u>	15A NCAC 13A .0107
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**SECRETARY OF STATE, DEPARTMENT OF**

<u>Scope</u>	18 NCAC 07C .0101
<u>Definitions</u>	18 NCAC 07C .0102
<u>Application</u>	18 NCAC 07C .0201
<u>Oath of Office and Delivery of Commission</u>	18 NCAC 07C .0202
<u>Re-Registration</u>	18 NCAC 07C .0203
<u>Approved Course of Study for Electronic Notaries Public</u>	18 NCAC 07C .0301
<u>Electronic Notary Signature</u>	18 NCAC 07C .0401
<u>Electronic Notary Seal</u>	18 NCAC 07C .0402
<u>Physical Presence Requirement for Electronic Notarization</u>	18 NCAC 07C .0403
<u>Electronic Notary Solution Provider Application</u>	18 NCAC 07C .0501
<u>Criteria for Approval of Electronic Notary Solution Provi...</u>	18 NCAC 07C .0502
<u>Electronic Notary Solution Provider Changes</u>	18 NCAC 07C .0503
<u>Separate Attestations</u>	18 NCAC 07C .0601
<u>Electronic Notary Seals</u>	18 NCAC 07C .0602
<u>Employers of Electronic Notaries</u>	18 NCAC 07C .0603
<u>Protected Access</u>	18 NCAC 07C .0604

**CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF**

<u>CPE Requirements for CPAS</u>	21 NCAC 08G .0401
<u>Qualification of CPE Sponsors</u>	21 NCAC 08G .0403
<u>Requirements for CPE Credit</u>	21 NCAC 08G .0404
<u>Compliance with CPE Requirements</u>	21 NCAC 08G .0406

<u>Computation of CPE Credits</u>	21	<u>NCAC 08G .0409</u>
<u>Professional Ethics and Conduct CPE</u>	21	<u>NCAC 08G .0410</u>
 <b>MEDICAL BOARD</b>		
<u>Process for Approval to Practice</u>	21	<u>NCAC 32M .0104</u>
 <b>NURSING, BOARD OF</b>		
<u>Revocation Suspension or Denial of License</u>	21	<u>NCAC 36 .0217</u>
<u>Refresher Course</u>	21	<u>NCAC 36 .0220</u>
<u>Clinical Nurse Specialist Practice</u>	21	<u>NCAC 36 .0228</u>
<u>Process for Approval to Practice</u>	21	<u>NCAC 36 .0804</u>
 <b>PHARMACY, BOARD OF</b>		
<u>Pharmacist Work Conditions</u>	21	<u>NCAC 46 .2506</u>
 <b>APPRAISAL BOARD</b>		
<u>Registration, License and Certificate Renewal</u>	21	<u>NCAC 57A .0203</u>
<u>Continuing Education</u>	21	<u>NCAC 57A .0204</u>
<u>Expired Registration License or Certificate</u>	21	<u>NCAC 57A .0206</u>
<u>National Appraiser Registry</u>	21	<u>NCAC 57A .0209</u>
<u>Temporary Practice</u>	21	<u>NCAC 57A .0210</u>
<u>Nonresident Trainee Registration, Appraiser Licensure and...</u>	21	<u>NCAC 57A .0211</u>
<u>Subject Matter and Passing Scores</u>	21	<u>NCAC 57A .0302</u>
<u>Appraisal Reports</u>	21	<u>NCAC 57A .0405</u>
<u>Supervision of Trainees</u>	21	<u>NCAC 57A .0407</u>
<u>Course Records</u>	21	<u>NCAC 57B .0210</u>
<u>Course Scheduling</u>	21	<u>NCAC 57B .0304</u>
<u>Instructor Requirements</u>	21	<u>NCAC 57B .0306</u>
<u>Criteria for Course Approval</u>	21	<u>NCAC 57B .0603</u>
<u>Prelicensing and Precertification Courses</u>	21	<u>NCAC 57B .0604</u>
<u>Course Operational Requirements</u>	21	<u>NCAC 57B .0606</u>
<u>Renewal of Approval and Fees</u>	21	<u>NCAC 57B .0611</u>
 <b>RESPIRATORY CARE BOARD</b>		
<u>Definitions</u>	21	<u>NCAC 61 .0103</u>
 <b>RECREATIONAL THERAPY LICENSURE, BOARD OF</b>		
<u>Supervision of a Licensed Recreational Therapy Assistant</u>	21	<u>NCAC 65 .0205</u>
<u>Application Procedures for Licensed Recreational Therapis...</u>	21	<u>NCAC 65 .0401</u>
<u>Practice and Continuing Education Requirements for Licens...</u>	21	<u>NCAC 65 .0601</u>
<u>Renewal Requirements for Licensed Recreational Therapist</u>	21	<u>NCAC 65 .0602</u>
<u>Change of Address for Licensed Recreational Therapist</u>	21	<u>NCAC 65 .0603</u>
<u>Investigation of Suspected Violations and Complaints</u>	21	<u>NCAC 65 .1001</u>

**STATE PERSONNEL COMMISSION**

<u>Unavailability When Leave is Exhausted</u>	25	<u>NCAC 01C .1007</u>
<u>Redeployment</u>	25	<u>NCAC 01D .0912</u>
<u>Posting and Announcement of Vacancies</u>	25	<u>NCAC 01H .0602</u>
<u>Applicant Information and Application</u>	25	<u>NCAC 01H .0604</u>
<u>Special Applicant Considerations: Agency Responsibilities</u>	25	<u>NCAC 01H .0605</u>
<u>Selection of Applicants</u>	25	<u>NCAC 01H .0606</u>
<u>Minimum Qualifications</u>	25	<u>NCAC 01H .0607</u>
<u>Final Commitments</u>	25	<u>NCAC 01H .0609</u>
<u>Periods of War</u>	25	<u>NCAC 01H .0611</u>
<u>Agency Responsibility</u>	25	<u>NCAC 01H .0616</u>
<u>Employee's Responsibility</u>	25	<u>NCAC 01H .0617</u>
<u>Verification Procedures</u>	25	<u>NCAC 01H .0620</u>
<u>Agency Certification</u>	25	<u>NCAC 01H .0621</u>
<u>Applicant Disqualification</u>	25	<u>NCAC 01H .0622</u>
<u>Disciplinary Action</u>	25	<u>NCAC 01H .0623</u>
<u>Dismissal</u>	25	<u>NCAC 01H .0624</u>
<u>Recruitment and Selection Policy</u>	25	<u>NCAC 01H .0630</u>
<u>Applicant Information and Application</u>	25	<u>NCAC 01H .0632</u>
<u>Special Applicant Consideration and Employment of Relatives</u>	25	<u>NCAC 01H .0633</u>
<u>Selection of Applicants</u>	25	<u>NCAC 01H .0634</u>
<u>Employment of Aliens</u>	25	<u>NCAC 01H .0636</u>
<u>Credentials Verification Procedures</u>	25	<u>NCAC 01H .0637</u>
<u>Applicant Disqualification-False or Misleading Information</u>	25	<u>NCAC 01H .0638</u>
<u>Disciplinary Action-False or Misleading Information</u>	25	<u>NCAC 01H .0639</u>
<u>Dismissal-False or Misleading Information</u>	25	<u>NCAC 01H .0640</u>
<u>General Provisions</u>	25	<u>NCAC 01H .0701</u>
<u>Promotional Priority Consideration</u>	25	<u>NCAC 01H .0801</u>
<u>Relationship to Other Priority Considerations</u>	25	<u>NCAC 01H .0802</u>
<u>Reduction-in-Force Consideration</u>	25	<u>NCAC 01H .0901</u>
<u>Requirement for RIF Priority Consideration</u>	25	<u>NCAC 01H .0902</u>
<u>Reemployment After Priority Expiration</u>	25	<u>NCAC 01H .0903</u>
<u>Agency and Employee Responsibilities</u>	25	<u>NCAC 01H .0904</u>
<u>Office of State Personnel Responsibilities</u>	25	<u>NCAC 01H .0905</u>
<u>Cumulative State Service</u>	25	<u>NCAC 01H .1002</u>
<u>Agency and Employee Responsibilities</u>	25	<u>NCAC 01H .1003</u>
<u>Office of State Personnel Responsibilities</u>	25	<u>NCAC 01H .1004</u>
<u>Mandatory Right to a Position</u>	25	<u>NCAC 01H .1005</u>
<u>Veterans' Preference Policy Statement</u>	25	<u>NCAC 01H .1101</u>
<u>Claiming Veterans' Preference</u>	25	<u>NCAC 01H .1102</u>
<u>Allegation of Denial of Veterans' Preference</u>	25	<u>NCAC 01H .1103</u>
<u>Application of Veterans' Preference</u>	25	<u>NCAC 01H .1104</u>
<u>Separation</u>	25	<u>NCAC 01I .2005</u>

**LIST OF APPROVED TEMPORARY RULES  
December 14, 2006 Meeting**

**MENTAL HEALTH, COMMISSION OF**

<u>Scope</u>	10A NCAC 26E .0601
<u>Definitions</u>	10A NCAC 26E .0602
<u>Requirements for Transmission of Data</u>	10A NCAC 26E .0603

**INSURANCE, DEPARTMENT OF**

<u>Transactions Subject to Prior Notice-Notice Filing</u>	11 NCAC 11B .0222
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**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

<u>Accreditation of Criminal Justice Schools</u>	12 NCAC 09C .0401
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**SECRETARY OF STATE, DEPARTMENT OF**

<u>Scope</u>	18 NCAC 12 .0101
<u>Definitions</u>	18 NCAC 12 .0102
<u>Time</u>	18 NCAC 12 .0103
<u>Filing Locations and Methods</u>	18 NCAC 12 .0201
<u>Filers Must Use Department Forms</u>	18 NCAC 12 .0202
<u>Form Completion Requirements</u>	18 NCAC 12 .0203
<u>Form Signature Required</u>	18 NCAC 12 .0204
<u>Form Preparation or Completion by Another</u>	18 NCAC 12 .0205
<u>Signing Pursuant to Power of Attorney</u>	18 NCAC 12 .0206
<u>Signing and Executing A Form Under Oath</u>	18 NCAC 12 .0207
<u>Signature Verifies Information is True</u>	18 NCAC 12 .0208
<u>Signature and Execution Under Oath of An electronic Filing</u>	18 NCAC 12 .0209
<u>Filing Submission Date and Time</u>	18 NCAC 12 .0210
<u>Proof of Receipt of Filing Submission</u>	18 NCAC 12 .0211
<u>Department Review of Submitted Filing</u>	18 NCAC 12 .0212
<u>Omissions Requiring correction Within One Business Day</u>	18 NCAC 12 .0213
<u>Omissions Requiring Correction Within Seven Days</u>	18 NCAC 12 .0214
<u>Effective Date of Complete Filing</u>	18 NCAC 12 .0215
<u>Rejected Filings</u>	18 NCAC 12 .0216
<u>Effective Date of Late Filing</u>	18 NCAC 12 .0217
<u>General</u>	18 NCAC 12 .0301
<u>Non-Profits to Which No Fee Reduction or Waiver Shall be G...</u>	18 NCAC 12 .0302
<u>Non-Profit Fee Reduction Procedure</u>	18 NCAC 12 .0303
<u>Non-Profit Fee Waiver Procedure</u>	18 NCAC 12 .0304
<u>Proof of Non-Profit Status</u>	18 NCAC 12 .0305
<u>Additional Information for Fee Reduction</u>	18 NCAC 12 .0306
<u>Additional Information for Fee Waiver</u>	18 NCAC 12 .0307
<u>Withholding Public Record Pursuant to Economic Developmen...</u>	18 NCAC 12 .0401
<u>Effect of Failure to Request Designation</u>	18 NCAC 12 .0402

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**RULES REVIEW COMMISSION**

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<u>One Designation Form Per Activity</u>	18	<u>NCAC 12</u>	<u>.0403</u>
<u>Description of Economic Development Activity</u>	18	<u>NCAC 12</u>	<u>.0404</u>
<u>Identification of Authorized Individual</u>	18	<u>NCAC 12</u>	<u>.0405</u>
<u>Identification of Authorized Government Employee, Officia...</u>	18	<u>NCAC 12</u>	<u>.0406</u>
<u>Disclosure At Request of Recruitment Filer</u>	18	<u>NCAC 12</u>	<u>.0407</u>
<u>Matters on Which the Registrant Expects to Act As Lobbyist</u>	18	<u>NCAC 12</u>	<u>.0501</u>
<u>Calculation of Time to Determine Registration Requirements</u>	18	<u>NCAC 12</u>	<u>.0601</u>
<u>Quarterly Report May Include Last Month of Quarter Report</u>	18	<u>NCAC 12</u>	<u>.0602</u>
<u>Quarterly Report May Incorporate Separately Filed Monthly...</u>	18	<u>NCAC 12</u>	<u>.0603</u>
<u>Quarterly Report Verification of Monthly Report Information</u>	18	<u>NCAC 12</u>	<u>.0604</u>
<u>Separate Reports</u>	18	<u>NCAC 12</u>	<u>.0701</u>
<u>Quarterly Report May include Last Month of Quarter Report</u>	18	<u>NCAC 12</u>	<u>.0702</u>
<u>Quarterly Report May Incorporate Separately Filed Monthly...</u>	18	<u>NCAC 12</u>	<u>.0703</u>
<u>Quarterly Report Verification of Monthly Report Information</u>	18	<u>NCAC 12</u>	<u>.0704</u>
<u>Solicitor Registration</u>	18	<u>NCAC 12</u>	<u>.0801</u>
<u>Registration</u>	18	<u>NCAC 12</u>	<u>.0802</u>
<u>Method of Furnishing Lobbyist Lists</u>	18	<u>NCAC 12</u>	<u>.1101</u>
<u>General Requirements</u>	18	<u>NCAC 12</u>	<u>.1501</u>
<u>Confidentiality Request Contents</u>	18	<u>NCAC 12</u>	<u>.1502</u>
<u>Disclosure of Confidential Information</u>	18	<u>NCAC 12</u>	<u>.1503</u>
<u>Confidentiality of Investigative Records</u>	18	<u>NCAC 12</u>	<u>.1504</u>
<u>General Requirements</u>	18	<u>NCAC 12</u>	<u>.1601</u>
<u>Scope</u>	18	<u>NCAC 13</u>	<u>.0101</u>
<u>Definitions</u>	18	<u>NCAC 13</u>	<u>.0102</u>
<u>Time</u>	18	<u>NCAC 13</u>	<u>.0103</u>
<u>Filing Locations and Methods</u>	18	<u>NCAC 13</u>	<u>.0201</u>
<u>Filing Using Department's Forms</u>	18	<u>NCAC 13</u>	<u>.0202</u>
<u>Form Completion Requirements</u>	18	<u>NCAC 13</u>	<u>.0203</u>
<u>Filing Submission Date and Time</u>	18	<u>NCAC 13</u>	<u>.0204</u>
<u>Rejection of Incomplete Filing</u>	18	<u>NCAC 13</u>	<u>.0205</u>
<u>Department Refusal to File</u>	18	<u>NCAC 13</u>	<u>.0206</u>
<u>Expedited Review of Filing</u>	18	<u>NCAC 13</u>	<u>.0207</u>
<u>Effective Date of Filing</u>	18	<u>NCAC 13</u>	<u>.0208</u>
<u>Department's Delivery of Copy to Filer</u>	18	<u>NCAC 13</u>	<u>.0209</u>
<u>General Requirements</u>	18	<u>NCAC 13</u>	<u>.0301</u>
<u>Maps and Descriptions of Service Areas</u>	18	<u>NCAC 13</u>	<u>.0401</u>
<u>Schedules</u>	18	<u>NCAC 13</u>	<u>.0501</u>
<u>Minimum Requirements</u>	18	<u>NCAC 13</u>	<u>.0701</u>
<u>Withdrawal Notice Covers Entire Service Area</u>	18	<u>NCAC 13</u>	<u>.0702</u>
<u>One Annual Service Report Per Franchise</u>	18	<u>NCAC 13</u>	<u>.0801</u>
<u>One Annual Service Report Description and Map Information</u>	18	<u>NCAC 13</u>	<u>.0802</u>
<u>Required Customer Service Information</u>	18	<u>NCAC 13</u>	<u>.0804</u>
<u>Accessing Public Records</u>	18	<u>NCAC 13</u>	<u>.0901</u>

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**AGENDA**

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**RULES REVIEW COMMISSION  
January 18, 2007, 10:00 A.M.**

- I. Reminder of Governor's Executive Order #1
- II. Review of minutes of last meeting
- III. Follow-Up Matters
  - A. Building Code Council – Residential Code R 322.1; 4502 (Bryan)
  - B. Coastal Resources Commission – 15A NCAC 7H .0312 (Bryan)
  - C. Appraisal Board – 21 NCAC 57A .0201 (DeLuca)
  - D. Appraisal Board – 21 NCAC 57B .0102; .0103 (DeLuca)
  - E. Board of Community Colleges – 23 NCAC 3A .0113 (DeLuca)
  - F. State Personnel Commission – 25 NCAC 1H .0631 *Extend Period of Review* (DeLuca)
  - G. State Personnel Commission – 25 NCAC 1H .0635 (DeLuca)
- IV. Review of Rules (Log Report)
- V. Review of Temporary Rules (If Any)
- VI. 2007 State Medical Facilities Plan
- VII. Commission Business
  - Discussion of Rules Review Commission Policies and Procedures
- VIII. Next meeting: February 15, 2007

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**Commission Review/Permanent Rules  
Log of Filings  
November 21, 2006 through December 20, 2006**

**AGRICULTURE, BOARD OF**

The rules in Chapter 20 concern the North Carolina State Fair. The rules in Subchapter 20B concern regulations of the state fair including general provisions (.0100); space rental: commercial exhibit and concession regulations (.0200); competitive exhibit regulations (.0300); and operation of state fair facilities (.0400).

Admission Regulations  
Amend/\*

02 NCAC 20B .0104

**HOME INSPECTOR LICENSURE BOARD**

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); home inspector continuing education (.1300); and Manufactured Housing Board continuing education (.1400).

Definitions  
Amend/\*

11 NCAC 08 .1101

Purpose and Scope  
Amend/\*

11 NCAC 08 .1103

General Exclusions  
Amend/\*

11 NCAC 08 .1105



<u>Exterior</u> Amend/*	11 NCAC 08 .1107
<u>Plumbing</u> Amend/*	11 NCAC 08 .1109
<u>Electrical</u> Amend/*	11 NCAC 08 .1110
<u>Heating</u> Amend/*	11 NCAC 08 .1111
<u>Air conditioning</u> Amend/*	11 NCAC 08 .1112
<u>Interiors</u> Amend/*	11 NCAC 08 .1113
<u>Insulation and Ventilation</u> Amend/*	11 NCAC 08 .1114

**CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION**

The rules in Chapter 9 are from the Criminal Justice Education and Training Standards Commission. This Commission has primary responsibility for setting statewide education, training, employment, and retention standards for criminal justice personnel (not including sheriffs). The rules in Subchapter 9E relate to the law enforcement officers' in-service training program.

<u>Required Annual In-Service Training Topics</u> Amend/*	12 NCAC 09E .0102
<u>Minimum training Specifications: Annual In-Service Training</u> Amend/*	12 NCAC 09E .0105

The rules in Subchapter 9F cover concealed handgun training program.

<u>Sanctions</u> Amend/*	12 NCAC 09F .0106
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**LABOR, DEPARTMENT OF**

The rules in Chapter 7 are from the Commissioner of Labor and cover the Occupational and Safety Health Act (OSHA). The rules in Subchapter 7F cover specific OSHA standards for various industries: general (.0100); construction (.0200); agriculture (.0300); shops fabricating structural steel and steel plate (.0400); maritime (.0500); communication towers (.0600); and blasting and use of explosives (.0700).

<u>Fall Protection</u> Amend/*	13 NCAC 07F .0605
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The rules in Chapter 20 concern controlled substances examination regulations including definitions (.0100); general provisions (.0200); use of contractors (.0300); notice to examinees (.0400); confidentiality (.0500); and payment of expenses (.0600).

<u>Definitions</u> Amend/*	13 NCAC 20 .0101
<u>Current Employees</u> Repeal/*	13 NCAC 20 .0302
<u>Prospective Employees</u> Repeal/*	13 NCAC 20 .0303

**EDUCATION, STATE BOARD OF**

The rules in Chapter 6 concern elementary and secondary education. The rules in Subchapter 6H concern federal programs.

Dispute Resolution Process for Homeless Students 16 NCAC 06H .0112  
Adopt/\*

**SECRETARY OF STATE, DEPARTMENT OF**

The rules in Chapter 7 are from the Notary Public Division.

Notary Public Division 18 NCAC 07A .0101  
Repeal/\*

Appointment of Notaries Public 18 NCAC 07A .0202  
Repeal/\*

Disposition of Commissions 18 NCAC 07A .0204  
Repeal/\*

Fee 18 NCAC 07A .0205  
Repeal/\*

Requirements of Commissions 18 NCAC 07A .0206  
Repeal/\*

Revocation of Commissions 18 NCAC 07A .0207  
Repeal/\*

Certificates of Authority 18 NCAC 07A .0208  
Repeal/\*

Approved Course of Study 18 NCAC 07A .0301  
Repeal/\*

Instructors 18 NCAC 07A .0302  
Repeal/\*

Approved Manual 18 NCAC 07A .0303  
Repeal/\*

The rules in Subchapter 7B are rules covering traditional notary publics and include general provisions (.0100); the application process (.0200); initial appointment as a notary (.0300); renewal or reappointment as a notary (.0400); commissioning and term of office (.0500); enforcement and disciplinary actions (.0900); and public records and requests for information (.1000).

Scope 18 NCAC 07B .0101  
Adopt/\*

Definitions 18 NCAC 07B .0102  
Adopt/\*

Location, Hours and Contact Information 18 NCAC 07B .0103  
Adopt/\*

Forms 18 NCAC 07B .0104  
Adopt/\*

Fees 18 NCAC 07B .0105  
Adopt/\*

Waiver 18 NCAC 07B .0106  
Adopt/\*

Continuing Obligations of Notaries 18 NCAC 07B .0107  
Adopt/\*

General 18 NCAC 07B .0201  
Adopt/\*

Initial Commission 18 NCAC 07B .0301  
Adopt/\*

Timing of Filing of Initial Application 18 NCAC 07B .0302  
Adopt/\*

Reappointment 18 NCAC 07B .0401

Adopt/*	
<u>Reappointment Test</u>	18 NCAC 07B .0402
Adopt/*	
<u>Application After Reappointment Denial Based on Failing Test</u>	18 NCAC 07B .0403
Adopt/*	
<u>Appointment and Issuance of Commissioning Certificate</u>	18 NCAC 07B .0501
Adopt/*	
<u>Commissioning Certificate Date</u>	18 NCAC 07B .0502
Adopt/*	
<u>Oath of Office and Delivery of Commissioning Certificate</u>	18 NCAC 07B .0503
Adopt/*	
<u>Reappointment if Oath not Taken Within 45 Days</u>	18 NCAC 07B .0504
Adopt/*	
<u>Term of Office</u>	18 NCAC 07B .0505
Adopt/*	
<u>Factors Considered in Disciplinary Actions</u>	18 NCAC 07B .0901
Adopt/*	
<u>General Application Denial</u>	18 NCAC 07B .0902
Adopt/*	
<u>Executed Document Violations</u>	18 NCAC 07B .0903
Adopt/*	
<u>Complete and Lawful Notarial Act Violations</u>	18 NCAC 07B .0904
Adopt/*	
<u>Other Violations</u>	18 NCAC 07B .0905
Adopt/*	
<u>Minimum Sanction</u>	18 NCAC 07B .0906
Adopt/*	
<u>Appeal Procedures</u>	18 NCAC 07B .0907
Adopt/*	
<u>Public Information</u>	18 NCAC 07B .1001
Adopt/*	

## **MEDICAL BOARD**

The rules in Chapter 32 are from the Board of Medical Examiners. The rules in Subchapter 32A concern organization.

<u>Declaratory Ruling</u>	21 NCAC 32A .0107
Repeal/*	
<u>Request for Declaratory Ruling</u>	21 NCAC 32A .0111
Adopt/*	
<u>Disposition of Request</u>	21 NCAC 32A .0112
Adopt/*	
<u>Procedure for Declaratory Ruling</u>	21 NCAC 32A .0113
Adopt/*	

The rules in Subchapter 32T concern clinical pharmacist practitioner including clinical pharmacist practitioner (.0100).

<u>Clinical Pharmacist Practitioner</u>	21 NCAC 32T .0101
Amend/*	

## **PHARMACY, BOARD OF**

The rules in Chapter 46 are from the Board of Pharmacy and cover organization of the Board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); sterile parenteral pharmaceuticals (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

<u>Definitions</u>	<u>21 NCAC 46 .1317</u>
Amend/*	
<u>Pharmacy Permits</u>	<u>21 NCAC 46 .1601</u>
Amend/*	
<u>Device and Medical Equipment Permits</u>	<u>21 NCAC 46 .1608</u>
Amend/*	
<u>Right to Refuse a Prescription</u>	<u>21 NCAC 46 .1801</u>
Amend/*	
<u>Availability of Records</u>	<u>21 NCAC 46 .2607</u>
Amend/*	
<u>Storage of Devices and Medical Equipment</u>	<u>21 NCAC 46 .2612</u>
Amend/*	
<u>Storage of Devices and Medical Equipment in Possession of...</u>	<u>21 NCAC 46 .2613</u>
Adopt/*	
<u>Clinical Pharmacist Practitioner</u>	<u>21 NCAC 46 .3101</u>
Amend/*	

#### **STATE PERSONNEL COMMISSION**

The rules in Subchapter 1H concern recruitment and selection including general provisions (.0100); recruitment (.0200); application process (.0300); examination programs (.0400); recruitment forms (.0500); general provisions (.0600); general provision for priority consideration (.0700); promotional priority (.0800); reduction-in-force-priority reemployment (.0900); exempt priority consideration (.1000); and veteran's preference (.1100).

<u>Exempt Priority Consideration-Policy and Scope</u>	<u>25 NCAC 01H .1001</u>
Amend/*	

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**CONTESTED CASE DECISIONS**

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*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.*

*Beryl E. Wade*

*Beecher R. Gray*

*Melissa Owens Lassiter*

*A. B. Elkins II*

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<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<b><u>ALCOHOL BEVERAGE CONTROL COMMISSION</u></b>				
Santos Ferman T/A Paraiso vs. ABC Commission	05 ABC 1828	Chess	05/31/06	
Owl's Eyes of Asheville, LLC, T/A Hooters v. ABC Commission	05 ABC 1989	Chess	06/07/06	
Carlos Salas T/A Boom Boom Boom Night Club, 1205 Elgin Avenue Hight Point, NC 27262 v. ABC Commission	06 ABC 0719	Chess	08/07/06	
ABC Commission v. T/A Minit Shop	06 ABC 0862	Morrison	10/17/06	
<b><u>CRIME VICTIMS COMPENSATION</u></b>				
Timothy P. Webber v. Crime Victims Compensation Commission	05 CPS 1568	Lassiter	06/08/06	21:01 NCR 109
Valerie Joy McGill v. Crime Victims Compensation Commission	06 CPS 0038	Gray	06/08/06	
Torrey Charles v. Crime Victims Compensation Commission	06 CPS 0051	Chess	09/21/06	
Charles Leon Champion v. Crime Victims Compensation Commission	06 CPS 0155	Elkins	06/08/06	
Sharron Smith v. Crime Control and Public Safety	06 CPS 0708	Gray	07/12/06	
Elaine B. Deloatch v. Crime Victims Compensation Commission	06 CPS 0736	Wade	08/15/06	
Christopher Lee Vess v. Crime Control Victims Compensation Services Division	06 CPS 0890	Gray	08/23/06	
Chris K. Daniels v. Crime Control and Public Safety, Div. of Victim Compensation Commission	06 CPS 0909	Lassiter	08/01/06	
Tamika L. Howard-Smith v. Crime Victims Compensation	06 CPS 1161		09/06/06	
Pervis R. Owens Sr v. OAH, Crime Victims Compensation Commission	06 CPS 1492	Morrison	09/28/06	
A list of Child Support Decisions may be obtained by accessing the OAH Website: <a href="http://www.ncoah.com/decisions">www.ncoah.com/decisions</a> .				
<b><u>DEPARTMENT OF AGRICULTURE</u></b>				
Shacond Muse Bey v. Dept. of Agriculture	06 DAG 0985	Morrison	08/16/06	
<b><u>DEPARTMENT OF CULTURAL RESOURCES</u></b>				
William H. Miller v. Cultural Resources, State Historic Preservation	05 DCR 0439	Mann	07/03/06	
<b><u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u></b>				
Andrea Green, Parent, on behalf of her Miner Child, Andrew Price	01 DHR 2149	Gray	06/29/06	
Michael Eugene Dalton v. DHHS, DFS	02 DHR 1456	Lassiter	10/06/06	
Marquelle's Enrichment Center for Edith James and Wilhelmenia Bridges v. Div. Child Development Regulatory Services Section	02 DHR 1537	Gray	08/21/06	
Michael Eugene Dalton v. DHHS, DFS	04 DHR 0288	Lassiter	10/06/06	
Gerald Wanamaker v. Ms Satana T. Deberry General Coun. DHHS	04 DHR 1513	Lassiter	06/14/06	
Michael Eugene Dalton v. DHHS, DFS	04 DHR 1662	Lassiter	10/06/06	
Rebecca Hamilton, Beck's Play and Learn v. DHHS, Div. of Child Development	04 DHR 1866	Lassiter	10/02/06	

**CONTESTED CASE DECISIONS**

Restoration Church of God in Christ, d/b/a Restoration's Joys of the Heart Child Care Center v. DHHS, Div. of Child Development	05 DHR 0097	Elkins	08/30/06	
Restoration Church of God in Christ Internation, d/b/a Joys of the Heart Child Care Center v. DHHS, Div. of Public Health, Child and Adult Care Food Program	05 DHR 0124	Elkins	08/30/06	
Handa of the Future, Sheila Martin v. DHHS, Child and Adult Care Food Program	05 DHR 0457	Wade	06/27/06	
Patricia Filyaw's FCCH vs. Div. of Child Development	05 DHR 0803	Gray	05/30/06	
Amanda M. Walters v. DHHS, DFS, Health Care Personnel Registry Section	05 DHR 1121	Chess	05/30/06	
Carolyn W. Cooper, Happy Days Child Care v. Div. of Child Development	05 DHR 1255	Lassiter	09/12/06	
Shari Ann Torain v. DHHS	05 DHR 1317	Elkins	06/08/06	
Delfina Harris v. DHHS, DFS	05 DHR 1344	Wade	10/11/06	
County of Buncombe & NC Radiation Therapy Management Services, Inc. d/b/a 21 <sup>st</sup> Century Oncology v. DHHS, DFS, Certificate of Need Section, & Asheville Hematology and Oncology Associates, P.A.	05 DHR 1369	Gray	05/26/06	21:01 NCR 115
Jamie Bluto, Guardian of Heather Bluto v. Mecklenburg County Area Mental Health and Developmental Disabilities	05 DHR 1427	Chess	05/17/06	
United Home Care, Inc v. DHHS, DFS, CON Section and Liberty Home Care II, LLC, Total Care Home Health of NC, INC.,	05 DHR 1456	Wade	06/19/06	
Total Care Home Health of NC, INC., v. DHHS, DFS, CON Section and Liberty Home , Care II, LLC, Total Care Home Health of NC, INC.,	05 DHR 1464	Wade	06/19/06	
Brookside Montessori School v. DHHS, Div. of Child Development	05 DHR 1465	Gray	06/28/06	
Novant Health, Inc. and Forsyth Memorial Hospital, Inc. d/b/a Forsyth Medical , Center v. DHHS, DFS, Certificate of Need Section	05 DHR 1490	Lassiter	05/31/06	
Duke University Health System d/b/a Durham Regional Hospital v. DHHS, DFS, Certificate of Need Section	05 DHR 1491	Lassiter	05/31/06	
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	
Shannon Woodell Glidewell v. DHHS, DFS	05 DHR 1514	Gray	09/29/06	
LaBrenda Perry Bennett v. Health Care Personnel Registry	05 DHR 1579	Morrison	07/13/06	
Lisa D. Smith-Perri on behalf of Gibson Price Smith, Brother	05 DHR 1982	Gray	06/26/06	
All Braxton, The Braxton Home II v, DHHS, DFS	05 DHR 1986	Mann	07/20/06	
Bertha Graham v. DHHS, DFS, Health Care Personnel Registry	05 DHR 2040	McCotter	06/08/06	
Jeanette Clark v. State Board of Nursing, Raleigh, NC	05 DHR 2076	Gray	07/10/06	
Yavonka Renee Vann v. DHHS, DFS	05 DHR 2108	Gray	07/12/06	
Janet Johnson v. Health Care Personnel Registry	05 DHR 2127	Gray	08/15/06	
Zion Hill Ame Zion Church, Child Development Center v. DHHS, Div. of Child Development	05 DHR 2184	Gray	07/12/06	
Steven Thomas Safrin v. DHHS	05 DHR 2191	Mann	06/20/06	
Rosa Currie v. DHHS	05 DHR 2204	Elkins	09/26/06	
Ruben Perez v. DHHS, Div. of Public Health Women and Children's Health Section	05 DHR 2225	Lassiter	05/10/06	
Hospice & Palliative Care Charlotte Region v. DHHS, DFS, CON Section, Licensure and Certification Section and Liberty Home Care II, LLC	06 DHR 0018	Elkins	09/28/06	
Hospice & Palliative Care Charlotte Region v. DHHS, DFS, CON Section and DHHS, DFS, Licensure and Certification Section	06 DHR 0022	Elkins	09/14/06	21:07 NCR 674
Jacqueline Hall v. DHHS, Div. of Child Development	06 DHR 0025	Lassiter	08/31/06	
Joshua B. Worley, by and through his Guardian as Litem, Bertha Gail Levi v. DHHS, Div. of Medical Assistance	06 DHR 0033	Mann	09/11/06	
Richard Wayne Baird v. DHHS, DMA	06 DHR 0177	Gray	06/15/06	
Rosemary Nwanko v. DHHS, DFS, Mental Health Licensure and Certification Section	06 DHR 0186	Gray	07/12/06	
JoAnn Baldwin v. DHHS, DFS, Child and Adult Care Food Program	06 DHR 0208	Wade	06/27/06	
Joyce Moore v. DHHS	06 DHR 0212	Morrison	08/15/06	
Jansala Walker v. Healthcare Personnel Registry	06 DHR 0213	Wade	06/07/06	
Bobby Locklear v. DHHS, DFS, Adult Licensure Section	06 DHR 0215	Mann	06/20/06	
Linwood B. Cameron d/b/a New Millennium Management Services v. DFS	06 DHR 0218	Elkins	06/08/06	
Selvia Chapel Child Care Center ID# 74000208, Bishop A. H. Hartsfield v. DHHS, Div. of Child Development	06 DHR 0268	Gray	08/21/06	
Deloris Johnson v. DHHS, Div. of Public Health, Child and Adult Care Food Program	06 DHR 0271	Gray	05/17/06	
Jack Williamson v. Div. of Medical Assistance Third Party Recovery	06 DHR 0300	Chess	08/04/06	
Shawqi Abdalla Ibtisam Omar v. OAH	06 DHR 0332	Gray	07/10/06	
Daniel Marshall v. DHHS	06 DHR 0340	Wade	06/27/06	
Katie Morris v. DHHS	06 DHR 0344	Gray	08/21/06	
Michael Glenn Shell v. Board of Health Care Workers Registry, DHHS	06 DHR 0358	Elkins	07/31/06	
Angel Allman v. Div. of Medical Assistance Medical Policy	06 DHR 0370	Wade	08/09/06	
Tammie L. Greene v. DHHS, Div. of Medical Assistance	06 DHR 0386	Chess	07/25/06	
Carol Denny v. DHHS	06 DHR 0395	Mann	09/05/06	
Myrna Diane Bunns v. DHHS, Division of Child Development	06 DHR 0399	Gray	06/19/06	
Joseph Randy Creech v. Dix, DHHS	06 DHR 0416	Mann	09/06/06	
Annette Alexander v. DHHS	06 DHR 0471	Elkins	06/23/06	

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Bernice Norman v. Wash Co. Dept. of Social Services	06 DHR 0472	Elkins	06/23/06
Daisey Fish v. Dorthea Dix Hospital	06 DHR 0473	Morrison	08/02/06
Delisa Jean Scott v. DHHS, DFS	06 DHR 0475	Elkins	06/23/06
Deloris Johnson v. DHHS, Div. of Public Health, Child and Adult Care Food Program	06 DHR 0488	Gray	05/17/06
Myrna A. Batson v. Broughton Hospital	06 DHR 0503	Gray	07/12/06
Digna A. Marte v. DHHS, Div. of Medical Assistance	06 DHR 0551	Mann	07/21/06
Carolyn W. Cooper, Happy Days Child Care Center v. Div. of Child Development, DHHS	06 DHR 0565	Lassiter	08/01/06
Eric Becton v. DHHS	06 DHR 0594	Elkins	06/23/06
Bibian Nwanguma v. Health Care Personnel Registry	06 DHR 0651	Wade	08/14/06
Regina A McLean v. DHHS, Citizen Affairs/Administration	06 DHR 0691	Gray	06/27/06
Regina A. Mclean v. Human Health Client Assistant Program	06 DHR 0692	Gray	07/20/06
Christy Laws v. DHHS	06 DHR 0698	Elkins	09/07/06
Kara Elmore v. DHHS, DFS	06 DHR 0702	Gray	08/23/06
James Soules v. DHHS	06 DHR 0718	Gray	08/01/06
DeJuana Byrd Heavenly Angels Child Center v. Child Abuse/ Neglect	06 DHR 0720	Lassiter	06/14/06
Angela M. Rhodes v. New Hanover County DSS	06 DHR 0730	Mann	09/05/06
Full Potential, LLC v. DHHS	06 DHR 0781	Gray	07/21/06
Alberta Denise Murphy v. DHHS and Registry	06 DHR 0788	Elkins	09/07/06
Bettie B. Woods v. Gardian Ad Litem, Angela Phillips, Lincoln County DSS/Catawba BAL	06 DHR 0830	Gray	06/28/06
Rockingham County Department of Social Services v. Medicaid/Value Options	06 DHR 0839	Lassiter	08/01/06
Denise Little v. Catawba County LME, John Hardy, Director Consultant Deanna Hoxworth	06 DHR 0860	Lassiter	06/23/06
Edna Cray - Kid's Academy v. DHHS, Div. of Public Health Child and Adult Care Food Program	06 DHR 0887	Gray	06/13/06
Norman Lavel Bracey, Jr., v. Social Services (Medicaid)	06 DHR 0955	Gray	07/21/06
Ariel Horowitz, Minor, by her Parents David Horowitz and Rosalind Heiko v. Div. of Medical Assistance, MH/DD/SAS and DHHS	06 DHR 1064	Lassiter	08/21/06
Keira T. Williams v. Wake County Dept. of Social Services	06 DHR 1067	Lassiter	07/06/06
Brentwood Child Care Center (92001147) v. DCD/Child Abuse Neglect Unit	06 DHR 1100	Lassiter	10/12/06
Angela Fay Carraway v. DHHS	06 DHR 1105	Morrison	08/21/06
Ivory Jade Alson v. Wake Co. Dept. of Social Services	06 DHR 1106	Lassiter	07/10/06
Play and Learn Childcare, Mary Ellen Helton v. DHHS, Div. of Public Health, Chalid and Adult Care Food Program	06 DHR 1108	Gray	07/24/06
RTTS, Inc v. DHHS, DFS, Mental Health Licensure and Cert. Section	06 DHR 1127	Lassiter	10/02/06
Rhonda Bumgarner v. DHHS, Div. of Medical Assistance	06 DHR 1162	Gray	09/14/06
Zabrina Johnson v. DHHS	06 DHR 1170	Gray	10/09/06
Leea Holt, Tari Guevara v. Div. of Child Development, DHHS	06 DHR 1181	Morrison	10/13/06
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Sherri Groves v. Div. of Child Development	06 DHR 1252	Gray	09/14/06
Graceland Food Mart, James C. McGirt, Owner v. DHHS	06 DHR 1266	Elkins	09/22/06
Mary Jane Rutledge v. NCOAH	06 DHR 1331	Gray	09/12/06
Aunt Alice Daycare Center, Alice Camara v. DHHS, Nutrition Program	06 DHR 1490	Lassiter	10/13/06
Connie Lee Yates v. DHHS	06 DHR 1558	Morrison	09/27/06

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Corporate Express Office Products, Inc. v. NC Division of Purchase and Contract, & Office Depot, Inc.	06 DOA 0112	Gray	05/17/06	21:01 NCR	163
Hershel Sarraf, Oro Avanti, Inc. v. DOA, Div. of Purchase and Contract	06 DOA 0646	Wade	09/20/06		

**DEPARTMENT OF CORRECTIONS**

Michael Eugene Hunt v. DOC	06 DOC 0498	Gray	06/20/06		
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**DEPARTMENT OF JUSTICE**

Steven Forrest Brubaker v. NC Criminal Justice Education and Training Standards Commission	05 DOJ 1405	Elkins	05/31/06	21:01 NCR	158
Jeffrey Michael Quinn v. Criminal Justice Training Standards Comm.	05 DOJ 1406	Elkins	08/04/06		
Christopher Paul Stanfield v. Criminal Justice and Training Standards Commission and Sheriff's Education and Training Standards Comm.	05 DOJ 1520	Wade	08/28/06		
Christopher Paul Stanfield v. Criminal Justice and Training Standards Commission and Sheriff's Education and Training Standards Comm.	05 DOJ 1521	Wade	08/28/06		
Todd Franklin Wyke v. Criminal Justice Education and Training Standards Commission	05 DOJ 2223	Lassiter	09/15/06		
Michael Edward Sutton v. NC Criminal Justice Education & Training Standards Commission	06 DOJ 0012	Morrison	05/09/06		
Philip Lee Holdaway v. Sheriffs' Education and Training Standards Comm.	06 DOJ 0069	DeLuca	08/04/06		
Anthony Lee Davis v. Sheriffs' Education and Training Standards Comm.	06 DOJ 0070	Gray	08/26/06		
Todd Franklin Wyke v. DOJ, Company Police Program	06 DOJ 0146	Lassiter	09/15/06		
Angela Renee Lail v. Sheriffs' Education and Training Standards Comm.	06 DOJ 0228	Gray	08/06/06	21:06 NCR	514
James Woodrow Jacobs v. Sheriffs' Education and Training Standards Comm.	06 DOJ 0229	Gray	07/12/06		

**CONTESTED CASE DECISIONS**

Jason Matthew Lish v. Criminal Justice Education and Training Standards Commission	06 DOJ 0579	Wade	09/12/06
Christopher Brian Mingia v. Criminal Justice Education and Training Standards Commission	06 DOJ 0598	Wade	09/12/06
Christopher S. Cummings v. DOJ, Company Police Program	06 DOJ 0696	Gray	08/11/06
Allison M. Burdette v. Company Police Program	06 DOJ 0733	Wade	08/11/06
Amber Lee Baldwin v. Sheriffs' Education and Training Standards Comm.	06 DOJ 0814	Gray	06/26/06
Reginald Warren v. Criminal Justice Education and Training Standards Commission	06 DOJ 0880	Gray	09/08/06
Betty Perry v. Criminal Justice Education and Training Standards Comm.	06 DOJ 0881	Lassiter	09/20/06
Danny Kaye Barham and NC Detective Agency, Inc v. Private Protective Services Board	06 DOJ 0870	Morrison	08/07/06
David L. Willams v. Private Protective Services Board	06 DOJ 0876	Morrison	07/18/06
Donna G. Redding v. Private Protective Services Board	06 DOJ 0877	Morrison	08/01/06
Joseph O. Smiley v. Private Protective Services Board	06 DOJ 0878	Morrison	08/01/06
Amy Pearl King v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1295	Lassiter	10/10/06

**DEPARTMENT OF STATE TREASURER**

Percy E. Myers v. Retirement Systems Division, LGERS,	06 DST 0048	Chess	05/31/06
Harry Whisnat v. Teachers' and State Employees' Retirement System of NC, A Corporation, Board of Trustees of the Teachers' and State Employees' Retirement System of NC, A body politic and Corporate, DOT, Retirement Systems Div. and the State of NC	06 DST 0591	Gray	09/19/06

**EDUCATION, STATE BOARD OF**

Darrell Wayne Purcell v. State Board of Education	05 EDC 1861	Morrison	10/11/06
Elizabeth Ann Mical v. Department of Public Instruction	05 EDC 1962	Morrison	08/04/06
Margaret Frances Handest v. Dept. of Public Instruction, Center for Recruitment and Retention	05 EDC 2057	Morrison	10/11/06
Linda Ellis v. Dept. of Public Instruction – National Board – Certification	06 EDC 0002	Morrison	10/12/06
Monica Robertson v. Department of Public Instruction	06 EDC 0359	Morrison	08/02/06
Gail G. Brooks v. Department of Public Instruction	06 EDC 0437	Morrison	08/07/06
Reginald Powe v. Public Schools of North Carolina, State Board of Educ. Department of Public Instruction, Superintendent's Ethics Advisory Committee	06 EDC 1116	Elkins	10/03/06

**DEPT. OF ENVIRONMENT AND NATURAL RESOURCES**

Howard L. Hardy v. Co. of Craven Department of Health	00 EHR 0803	Gray	06/26/06
Wheatly Oil Company, Inc v. DENR, Div. of Waste Management	03 EHR 0030	Gray	08/04/06
Auddies, Inc v. DENR	03 EHR 1312	Lassiter	10/18/06
Joe L. Wilson v. DENR	03 EHR 1641	Gray	10/09/06
Ronald L. Preston v. Davidson County Health Department	03 EHR 2329	Gray	08/24/06
Auddies, Inc v. DENR	04 EHR 0103	Lassiter	10/18/06
Sandra M. Netting v. DENR	04 EHR 1768	Gray	09/29/06
County of Davidson v. DENR, Div. of Air Quality	04 EHR 0362	Wade	09/01/06
Laney Oil Company, Inc, UST# 04-049P, UST# 04-050P v DENR	05 EHR 0135	Gray	06/20/06
Anton Tomassetti v. DENR, Div. of Air Quality	05 EHR 0321	Gray	06/12/06
Raymond S. Carpenter v. DENR	05 EHR 2009	Bryan	08/28/06
John Graham v. DENR, Div. of Air Quality	05 EHR 2029	Gray	05/08/06
Samuel Buck Kiser v. DENR, Div. of Waste Management	05 EHR 2120	Chess	07/25/06

21:06 NCR 519

Christopher S. Anderson, Jan HP Anderson v. Ashe County Health Dept.	06 EHR 0558	Elkins	07/31/06
Heyward Ledford, Wolfpen Associates, Inc. v. DENR	06 EHR 0679	Gray	06/12/06
Parnell-Kinlaw Group, Inc v. DENR, Div. of Land Quality	06 EHR 0743	Mann	09/26/06
Danny Ray Thorpe v. Brunswick Co. Health Dept., Environmental Health Department	06 EHR 1041	Gray	08/07/06
Dianne D. Vereen v. Brunswick Co. Health Department	06 EHR 1126	Elkins	09/27/06
C.F. Little and Patsy H. Little v. DENR	06 EHR 1340	Lassiter	09/22/06
John P. Leonard, Agent for Magnolia Pointe LP v. County of Durham Engineering Department	06 EHR 1568	Gray	10/13/06

**DEPARTMENT OF INSURANCE**

James D. Kelly Jr. v. State Health Plan	06 INS 0013	Morrison	08/07/06
Daniel C. Johnson v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 0353	Morrison	07/03/06

21:06 NCR 524

**OFFICE OF STATE PERSONNEL**

Sgt. Gerry R. Mouzon v. Crime Control & Public Safety, NC State Highway Patrol, and Brian Beatty, Secretary CC & PS	02 OSP 0392	Gray	06/15/06
Sgt. Gerry R. Mouzon v. Crime Control & Public Safety, NC State Highway Patrol, and Brian Beatty, Secretary CC & PS	02 OSP 1036	Gray	06/15/06
Georgia Warren v. DOT	02 OSP 1911	Wade	08/08/06



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Georgia Warren v. DOT	02 OSP 2179	Wade	08/08/06	
Emily Flores v. College of Agriculture and Life Sciences NC State	04 OSP 1518	Lassiter	10/13/06	
Charles H. Boykin, Jr. v. Halifax County Health Dept.	05 OSP 0851	Gray	09/15/06	
Tiffany Bowick-Richardson v. Fayetteville State University	05 OSP 0901	Lassiter	08/23/06	
Hank L. Silverthorne v. DOT, Bridge Maintenance (Division One)	05 OSP 0291	Gray	05/11/06	
Jeffrey Michael Quinn v. Dept. of Crime Control and Public Safety, State Highway Patrol	05 OSP 1012	Elkins	08/04/06	21:06 NCR 527
Deena Ward v. Columbus Co. Dept. of Social Services	05 OSP 1017	Lassiter	06/23/06	
Alma Chinita Trotter v. DHHS, Public Health Department	05 OSP 1183	Chess	06/01/06	
Tonita Derr Dawkins v. DOC, Alexander Correctional Institution	05 OSP 1449	Gray	07/27/06	
Thomas H. Jones v. NC State Highway Patrol, Dept. of Crime Control & Public Safety	05 OSP 1495	Chess	05/17/06	
W. Frank Etheridge v. DOA, State Capital Police	05 OSP 1771	Lassiter	08/03/06	21:06 NCR 536
Sandra Harris v. DOT	05 OSP 1886	Lassiter	07/13/06	
Marisa Lail Setzer v. Department of Public Instruction	05 OSP 1963	Morrison	08/02/06	
Melissa H. Bailey v. DOT	05 OSP 2119	Wade	06/28/06	
Michael D. Bognanowicz v. NC Wildlife Resources Commission	05 OSP 2024	Bryan	05/18/06	
Malcolm Shelton Davis v. DHHS	06 OSP 0015	Smith	09/12/06	
Kamaria Smith v. DHHS	06 OSP 0130	Mann	06/06/06	
Lisa A. Forbes v. Dorothea Dix Hospital	06 OSP 0134	Gray	03/29/06	
Lisa A. Forbes v. Dorothea Dix Hospital	06 OSP 0135	Gray	03/29/06	
Lelia J. Bailey v. Winston-Salem State University	06 OSP 0211	Chess	09/06/06	
Reginald Powe v. Public Schools of NC State Board of Education, Dept of Public Instruction	06 OSP 0238	Lassiter	05/09/06	
Nita Bass v. Craven County Department of Social Services	06 OSP 0346	Lassiter	09/12/06	
Lisa Green v. DOC	06 OSP 0379	Lassiter	06/02/06	
James Walter Gibson v. DOT	06 OSP 0543	Gray	05/19/06	
Caria Faulk v. Columbus Co. Dept. of Social Services	06 OSP 0546	Lassiter	07/06/06	
Robin D. Long v. UNC Greensboro	06 OSP 0684	Lassiter	06/27/06	
Rena Coltraine McLeod v. Guilford Co. Dept. of Public Health	06 OSP 0703	Wade	06/28/06	
Jan-Lee Wells v. Fayetteville Sate	06 OSP 0731	Gray	08/10/06	
Timothy Scott Reynolds v. Morrison Correctional Institution	06 OSP 0803	Lassiter	07/26/06	
Geraldine Blackston-Ramos v. Maurice Boswell, Mary Washun, Cynthia Chamblee, Phyllis Sharpe, Dennis Davis, Bill McNeal, Wake County Public Schools/Human Resource Department/Preventive Services/ Partnership for Educational Success	06 OSP 0831	Morrison	07/12/06	
Rick Van Kerkhove v. DOC	06 OSP 0851	Gray	08/25/06	
Odessa D. Gwynn v. Caswell County Senior Center	06 OSP 0863	Wade	08/26/06	
Juliana W. Smith v. Alamance-Caswell Area Mental Health, Developmental Disabilities, and Substance Abuse Authority	06 OSP 1059	Lassiter	08/09/06	
Dr. Mirian W. McIntosh v. Durham Co. Health Department	06 OSP 1060	Lassiter	08/09/06	
Maria Olea-Lingg v. UNC-Health Care	06 OSP 1143	Lassiter	10/12/06	
Tamra M. Burroughs v. Div. of Services for the Deaf and Hard of Hearing	06 OSP 1280	Elkins	09/07/06	
James D. Abrams v. Craven Co. DOT	06 OSP 1358	Gray	10/13/06	
<b><u>SECRETARY OF STATE</u></b>				
Tisha L. Jones v. Dept. of Secretary of State	05 SOS 1987	Gray	05/19/06	
Temeka A. Brooks v. Dept of Secretary of State	06 SOS 0276	Mann	05/26/06	
Laksha England v. Dept. of SOS	06 SOS 0630	Mann	09/13/06	
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<b><u>UNC HOSPITALS</u></b>				
Linda Sisco v. UNC Hospitals	05 UNC 0781	Gray	05/09/06	
Karen H. Moore v. UNC Hospitals	06 UNC 0351	Elkins	06/08/06	
Krista Singletary v. UNC Hospitals	06 UNC 0468	Mann	10/12/06	
Larry E. Rogers v. UNC Hospitals	06 UNC 0697	Elkins	07/31/06	
Cynthia Lodestro v. UNC Hospitals	06 UNC 0707	Wade	08/11/06	
Margaret Branham v. UNC Hospitals	06 UNC 0903	Elkins	09/07/06	
Ta-Wanda & David Wilson v. UNC Hospitals	06 UNC 1084	Lassiter	09/12/06	
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