

NORTH CAROLINA REGISTER

VOLUME 21 • ISSUE 20 • Pages 1796 - 1843

April 16, 2007

I. IN ADDITION

Note from Codifier – Environmental Management Commission.....	1796
Brownfields Property – HMV Hawkins, LLC and GHT Investments, LLC ...	1797
Brownfields Property – Rose Mary Developments, LLC.....	1798
Brownfields Property – Mica Village, LLC.....	1799
Brownfields Property – DRR of the Carolinas, LLC.....	1800
Notice of Application for Approval of Wastewater System.....	1801
Decision Letters on "Changes Affecting Voting" from US Attorney General	1802

II. PROPOSED RULES

Environment and Natural Resources, Department of

Environmental Management Commission.....	1803 – 1825
------------------------------------------	-------------

Occupational Licensing Boards and Commissions

Acupuncture Licensing Board.....	1824 – 1831
Perfusion Advisory Committee of the NC Medical Board.....	1832 – 1835

III. CONTESTED CASE DECISIONS

Index to ALJ Decisions.....	1836 – 1843
-----------------------------	-------------

PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone (919) 733-2678
Fax (919) 733-3462*

*Julian Mann, III, Director
Camille Winston, Deputy Director
Molly Masich, Codifier of Rules
Dana Sholes, Publications Coordinator
Julie Edwards, Editorial Assistant
Felicia Williams, Editorial Assistant
Lisa Johnson, RRC Admin. Assistant*

Contact List for Rulemaking Questions or Concerns

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

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

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

contact: Molly Masich, Codifier of Rules 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) 733-3980
Felicia Williams, Editorial Assistant felicia.s.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 Attorney joe.deluca@ncmail.net (919) 715-8655
Bobby Bryan, Staff Attorney bobby.bryan@ncmail.net (919) 733-0928
Lisa Johnson, Administrative Assistant lisa.Johnson@ncmail.net (919) 733-3962

Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street (919) 807-4700
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX

contact: Nathan Knuffman, Economist III nathan.Knuffman@ncmail.net (919)807-4728
Jonathan Womer, Asst. State Budget Officer jonathan.womer@ncmail.net (919)807-4737

Governor's Review

Reuben Young reuben.young@ncmail.net
Legal Counsel to the Governor (919) 733-5811
116 West Jones Street(919)
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 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 th 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.

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.

Note from the Codifier

*Environmental Management Commission
Issue 16 – February 15, 2007*

The Environmental Management Commission published a notice of text in the NC Register, February 15, 2007, pages 1488-1526, to amend rule 15A NCAC 02D .1402 found on pages 1509-1510. Paragraph (g) should have been underlined as filed as it is new proposed text; however, during the OAH process of compiling documents the underlining was inadvertently removed. The text is correct as published.

The Office of Administrative Hearings apologizes for the error and any inconvenience.

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
HMV Hawkins, LLC and GHT Investments, LLC**

Pursuant to N.C.G.S. § 130A-310.34, HMV Hawkins, LLC and GHT Investments, 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 the former Willard Lead facility, consists of 4.5 acres and is located at 101 New Bern Street. Its tax identification number is 147-02-120. Environmental contamination exists on the Property in groundwater and soil. HMV Hawkins, LLC and GHT Investments, LLC plan to redevelop the property principally for multi-family residential use, with some retail and, with DENR approval, other commercial use. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and HMV Hawkins, LLC and GHT Investments, 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 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/or 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. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if HMV Hawkins, LLC and GHT Investments, LLC, as they plan, publish this Summary in the North Carolina Register after they publish the Summary in a newspaper of general circulation serving the area in which the brownfields property is located, and if they effect publication of this Summary in the North Carolina Register on the date they expect 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 April 17, 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
Rose Mary Developments LLC**

Pursuant to N.C.G.S. § 130A-310.34, Rose Mary Developments 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 Raleigh, Wake County, North Carolina. The Property, the former site of the North Carolina Equipment Company, consists of approximately 2.04 acres and is located at 3101 Hillsborough Street. Environmental contamination exists on the Property in soil and groundwater. Rose Mary Developments LLC has committed itself to redevelopment of the Property for office and commercial, including retail, use. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Rose Mary Developments 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 offices of the 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/or 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. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Rose Mary Developments 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 April 17, 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
Mica Village, LLC**

Pursuant to N.C.G.S. § 130A-310.34, Mica Village, 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 Asheville, Buncombe County, North Carolina. The Property which is known as the former Asheville Mica Plant, consists of 3.0 acres and is located at 75 Thompson Street. Environmental contamination exists on the Property in the soil and groundwater. Mica Village, LLC has committed itself to residential, retail, office, common space, parking, pet park, and greenway uses on the Property. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Mica Village, 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 Weaverville Library, 41 N. Main St., Weaverville, NC 28787 by contacting Jill Totman at that address or at (828) 645-3592; or at the offices of the N.C. 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 may be submitted to DENR within 30 days, and written requests for a public meeting within 21 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 Mica Village, 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 April 17, 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**
DRR of the Carolinas, LLC

Pursuant to N.C.G.S. § 130A-310.34, DRR of the Carolinas, 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, the former site of an American Cyanamid & Chemical Corporation facility, consists of 4.1 acres on Donald Ross Road southeast of its intersection with Wilkinson Boulevard. The Property bears Mecklenburg County tax parcel identification number 11705204. Environmental contamination exists on the Property in groundwater and soil. DRR of the Carolinas, LLC has committed itself to allow no use of the Property other than as a gravel parking lot for trailers, cars and other commercial vehicles and, in the future, for commercial and light industrial purposes. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and DRR of the Carolinas, 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 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 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. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if DRR of the Carolinas, 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 April 16, 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

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

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

Application by: Marie-Christine Bélanger, Technological Development Director
Premier Tech Environment Inc.
1, avenue Premier
Rivière-du-Loup, G5R 6C1 CANADA

For: Modified Innovative Approval for " for Ecoflo® Peat Biofilter System

And: Sam Carter, Government Relations Manager
Orenco Systems, Inc.
814 Airway Avenue
Sutherlin, Oregon 97479

For: Modified Innovative Approval for "AdvanTex®" advanced wastewater pretreatment systems

DENR Contact: Jim Hayes
1-919-733-2895
FAX 919-715-3227
Jim.hayes@ncmail.net

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

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



U.S. Department of Justice
Civil Rights Division

FILED

JKT:YR:SMC:par
DJ 166-012-3
2007-0207
2007-0365

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530
MAY 13 A 9 48

OFFICE OF
ADMINISTRATIVE
SERVICES

March 5, 2007


Michael Crowell, Esq.
Tharrington Smith
Mr. John T. Carter, Jr.
City Attorney
P.O. Box 1151
Raleigh, North Carolina 27602-1151

Dear Messrs. Crowell and Carter:

This refers to the increase in the terms of office for the mayor and council from two to four years, the adoption and implementation of staggered terms, and the two annexations (Ordinance Nos. 2006-62 and 2007-01) and their designation to wards of the City of Jacksonville in Onslow County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on January 17 and 30, 2007.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine these submissions if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,


John Tanner
Chief, Voting Section

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 Environmental Management Commission intends to amend rules cited as 15A NCAC 02B .0303 - .0305, .0307, .0309 - .0313, .0316 - .0317.

Proposed Effective Date: November 1, 2007

Public Hearing:

Date: May 15, 2007

Time: 6:00 p.m.

Location: Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, NC 27604

Public Hearing:

Date: May 23, 2007

Time: 6:00 p.m.

Location: Carolina Beach State Park Auditorium, 1010 State Park Road, Carolina Beach, NC 28428

Reason for Proposed Action: The Division of Water Quality Wetlands Unit requested the EMC to undergo rulemaking to reclassify thirty-three wetlands in eleven North Carolina river basins to add the supplemental Unique Wetlands (UWL) classification. If adopted, these UWL reclassification proposals would offer additional protection to approximately 3,800 acres of high quality natural wetland communities in state, federal, and land trust property that support rare species. North Carolina Natural Heritage Program information on rare species and natural communities within the state was used to support the reclassification requests. The purpose of the reclassification requests is to protect the natural wetland communities in the state so that their use as habitat for threatened or endangered species is maintained. State wetland rules at 15A NCAC 02H .0500 allow impacts to Class UWL wetlands for proposed projects that meet a public need and require impacts from these projects to be directed to the same watershed and same wetland type to maintain the use of these wetlands by rare species.

Procedure by which a person can object to the agency on a proposed rule: You may attend the public hearing and make relevant verbal comments, and/ or submit written comments, data or other relevant information by June 15, 2007. The Hearing Officer may limit the length of time that you may speak at the public hearing so that all those who wish to speak may have an opportunity to do so. The EMC is very interested in all comments pertaining to the proposed reclassifications. All

persons interested and potentially affected by the proposals are strongly encouraged to read this entire notice and make comments on the proposed reclassifications. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text (General Statute 150B 21.2(g)). Written comments may be submitted to Adriene Weaver, DENR/Division of Water Quality/ Planning Sections, 1617 Mail Service Center, Raleigh, NC 27699-1617, adriene.weaver@ncmail.net, or fax at (919) 715-5637.

Comments may be submitted to: Adriene Weaver, DENR/ Division of Water Quality, Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919) 733-5083 ext. 370, fax (919) 715-5637, email adriene.weaver@ncmail.net

Comment period ends: June 15, 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 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0303 LITTLE TENN RIVER BASIN

AND SAVANNAH RIVER DRAINAGE AREA

(a) The ~~schedule~~ Little Tenn River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) ~~Clerk of Court:~~
~~Clay County~~
~~Graham County~~
~~Jackson County~~
~~Macon County~~
~~Swain County~~
~~Transylvania County~~ the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina
 - (B) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Georgia or Tennessee shall be classified "C Tr." Such streams in the Savannah River drainage area entering South Carolina shall be classified "B Tr."

(c) The Little Tennessee River Basin and Savannah River Drainage Area Schedule of Classifications and Water Quality Standards was amended effective:

- (1) February 16, 1977;
- (2) March 1, 1977;
- (3) July 13, 1980;
- (4) February 1, 1986;
- (5) October 1, 1987;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) July 1, 1990;
- (9) August 1, 1990;
- (10) March 1, 1991;
- (11) August 3, 1992;
- (12) February 1, 1993;
- (13) August 1, 1994;
- (14) September 1, 1996;
- (15) August 1, 1998;
- (16) August 1, 2000;
- (17) April 1, 2003;
- (18) January 1, ~~2007~~ 2007;
- (19) November 1, 2007.

(d) The Schedule of Classifications of Water Quality Standards for the Little Tennessee Basin and Savannah River Drainage Area was amended effective March 1, 1989 as follows:

- (1) Nantahala River (Index No. 2-57) from source to the backwaters of Nantahala Lake and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW.
- (2) Chattooga River (Index No. 3) including Scotsman Creek, Overflow Creek, Big Creek,

Talley Mill Creek and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class C-trout ORW and Class C ORW and Clear Creek and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective January 1, 1990 as follows:

- (1) North Fork Coweeta Creek (Index No. 2-10-4) and Falls Branch (Index No. 2-10-4-1) were reclassified from Class C to Class B.
- (2) Burningtown Creek (Index No. 2-38) was reclassified from C-trout to B-trout.

(f) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective July 1, 1990 by the reclassification of Alarka Creek (Index No. 2-69) from source to Upper Long Creek (Index No. 2-69-2) including all tributaries from Classes C and C Tr to Classes C HQW and C Tr HQW.

(g) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective March 1, 1991 as follows:

- (1) Cartoogechaye Creek [Index Nos. 2-19-(1) and 2-19-(16)] from Gibson Cove Branch to bridge at U.S. Hwy. 23 and 441 and from the bridge at U.S. Hwy. 23 and 441 to the Little Tennessee River was reclassified from Classes WS-III Tr and C Tr to Classes WS-III and B Tr and B Tr respectively.
- (2) Coweeta Creek (Index Nos. 2-10) from its source to the Little Tennessee River including all tributaries except Dryman Fork (Index No. 2-10-3) and North Fork Coweeta Creek (Index No. 2-10-4) was reclassified from Classes C and C Tr to Classes B and B Tr.

(h) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(i) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area has been amended effective February 1, 1993 as follows:

- (1) Bearallow Creek from its source to 2.3 miles upstream of the Toxaway River [Index No. 4-7-(1)] was revised to indicate the application of an additional management strategy (referencing 15A NCAC 02B .0201(d) to protect downstream waters; and
- (2) the Tuckasegee River from its source to Tennessee Creek [Index No. 2-79-(0.5)] including all tributaries was reclassified from Classes WS-III&B Tr HQW, WS-III HQW and WS-III to Classes WS-III Tr ORW and WS-III ORW.

(j) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective August 1, 1994 with the reclassification of Deep Creek [Index Nos. 2-79-63-(1) and 2-79-63-(16)] from its source to the Great Smokey Mountains National Park Boundary including tributaries from Classes C Tr, B Tr and C Tr HQW to Classes WS-II Tr and WS-II Tr CA.

(k) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective September 1, 1996 as follows:

- (1) Deep Creek from the Great Smoky Mountains National Park Boundary to the Tuckasegee River [Index no. 2-79-63-(21)] was reclassified from Class C Tr to Class B Tr; and
- (2) the Tuckasegee River from the West Fork Tuckasegee River to Savannah Creek and from Macks Town Branch to Cochran Branch [Index Nos. 2-79-(24), 2-79(29.5) and 2-79-(38)] was reclassified from Classes WS-III Tr, WS-III Tr CA and C to Classes WS-III&B Tr, WS-III&B Tr CA and B.

(l) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective August 1, 1998 with the reclassifications of Thorpe Reservoir (Lake Glenville), Hurricane Creek, and Laurel Branch [Index Nos. 2-79-23-(1), 2-79-23-2, and 2-79-23-2-1 respectively] from classes WS-III&B, WS-III Tr and WS-III to classes WS-III&B HQW, WS-III Tr HQW, and WS-III HQW.

(m) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended August 1, 2000 with the reclassification of Wesser Creek [Index No. 2-79-52-5-1] from its source to Williams Branch from Class C to Class C Tr.

(n) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended April 1, 2003 with the reclassification of a portion of the Little Tennessee River [Index No. 2-(1)] from a point 0.4 mile upstream of N.C. Highway 28 to Nantahala River Arm of Fontana Lake from Class C to Class B.

(o) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended January 1, 2007 with the reclassification of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney

Creeks, including Eagle and Forney Creeks, [Index Nos. 2-96 through 2-164 (excluding all waterbodies that drain to the south shore of Fontana Lake)] from Class B, C Tr, WS-IV Tr CA, WS-IV Tr, and WS-IV & B CA to Class B ORW, C Tr ORW, WS-IV Tr ORW CA, WS-IV Tr ORW, and WS-IV & B ORW CA, respectively. Additional site-specific management strategies are outlined in Rule 15A NCAC 02B .0225(e)(12).

(p) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah River Drainage Area was amended effective November 1, 2007 with the reclassification of Richland Balsam Seep near Beechflat Creek [Index No. 2-79-28-3-2] to Class WL UWL as defined in 15A NCAC 02B. 0101. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); S.L. 2005-97.

15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN

~~(a) The schedule may be inspected at the following places: French Broad River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:~~

- (1) ~~Clerk of Court:
Avery County
Buncombe County
Haywood County
Henderson County
Madison County
Mitchell County
Transylvania County
Yancey County~~ the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources Resources:
 - (A) Asheville Regional Office
Asheville Regional Office
Interchange Building 2090 US Highway 70
59 Woodfin Place
Asheville Swannanoa, North Carolina
 - (B) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Tennessee will be classified "B."

(c) The French Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) September 22, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) March 1, 1989;

- (10) October 1, 1989;
- (11) January 1, 1990;
- (12) August 1, 1990;
- (13) August 3, 1992;
- (14) October 1, 1993;
- (15) July 1, 1995;
- (16) November 1, 1995;
- (17) January 1, 1996;
- (18) April 1, 1996;
- (19) August 1, 1998;
- (20) August 1 2000;
- (21) August 1, 2002;
- (22) September 1, ~~2004~~, 2004;
- (23) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1989 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.

(e) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

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

(h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V

and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

(i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.

(j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.

(k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.

(l) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS- III CA (Critical Area).

(m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.

(o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.

(p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and

the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

(s) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index No. 6-47] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

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

15A NCAC 02B .0305 WATAUGA RIVER BASIN

(a) The ~~schedule~~ Watauga River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) ~~Clerk of Court:~~
~~Avery County~~
~~Watauga County~~ the Internet at
<http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Asheville Regional Office
Interchange Building, 2090 US
Highway 70
59 Woodfin Place
Asheville Swannanoa, North Carolina
 - (B) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C."

(c) The Watauga River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 12, 1979;
- (2) February 1, 1986;
- (3) October 1, 1987;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) December 1, 1990;
- (7) April 1, 1992;

- (8) August 3, 1992;
- (9) February 1, 1993;
- (10) April 1, 1994;
- (11) August 1, ~~1998~~, 1998;
- (12) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective July 1, 1989 as follows:

- (1) Dutch Creek (Index No. 8-11) was reclassified from Class C-trout to Class B-trout.
- (2) Pond Creek (Index No. 8-20-2) from water supply intake (located just above Tamarack Road) to Beech Creek and all tributary waters were reclassified from Class WS-III to C.

(e) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective December 1, 1990 with the reclassification of the Watauga River from the US Highway 321 bridge to the North Carolina/Tennessee state line from Class C to Class B.

(f) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin was amended effective April 1, 1992 with the reclassification of Pond Creek from Classes WS-III and C to Classes WS-III Trout and C Trout.

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

(h) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective February 1, 1993 with the reclassification of Boone Fork (Index No. 8-7) and all tributary waters from Classes C Tr HQW and C HQW to Classes C Tr ORW and C ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective April 1, 1994 with the reclassification of the Elk River from Peavine Branch to the North Carolina/Tennessee state line [Index No. 8-22-(3)] from Class C Tr to Class B Tr.

(j) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective August 1, 1998 with the reclassification of East Fork Pond Creek from its source to the backwater of Santis Lake, [Index No. 8-20-2-1.5] from Class WS-II Tr to Class WS-III Tr; the reclassification of West Fork Pond Creek (Santis Lake) [Index No. 8-20-2-1-(2)] from the backwaters of Santis Lake to Pond Creek from WS-II Tr CA to WS-III Tr CA; and the reclassification of the connecting stream of Lake Coffey [Index No. 8-20-2-2] from the dam at Lake Coffey to Pond Creek from WS-II Tr CA to C Tr.

(k) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin has been amended effective November 1, 2007 with the reclassification of the Beech Creek Bog near Beech Creek [Index No. 8-20] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

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

15A NCAC 02B .0307 NEW RIVER BASIN

(a) ~~The schedule—New River Basin Schedule of Classifications and Water Quality Standards~~ may be inspected at the following places:

- (1) ~~Clerk of Court:
Alleghany County
Ashe County
Watauga County~~ the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Asheville Regional Office
~~Interchange Building 2090 US Highway 70
59 Woodfin Place~~
Asheville Swannanoa, North Carolina
 - (B) Winston-Salem Regional Office
~~8025 North Point Boulevard, Suite 100585~~
Waughtown Street
Winston-Salem, North Carolina
 - (C) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C."

(c) The New River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) August 10, 1980;
- (2) April 1, 1983;
- (3) February 1, 1986;
- (4) August 1, 1989;
- (5) August 1, 1990;
- (6) August 3, 1992;
- (7) February 1, 1993;
- (8) ~~August 1, 1998, 1998;~~
- (9) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective July 1, 1989 as follows:

- (1) South Fork New River [Index No. 10-1-(30)] from Dog Creek to New River and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and B.

(e) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-

III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(f) The Schedule of Classifications and Water Quality Standards for the New River Basin has been amended effective February 1, 1993 as follows:

- (1) the South Fork New River (Index No. 10-1-33.5) from Dog Creek to the New River was reclassified from Class B HQW to Class B ORW;
- (2) the New River (Index No. 10) from the confluence of the North And South Fork New Rivers to the last point at which it crosses the NC/VA State line was reclassified from Class C HQW to Class C ORW; and
- (3) Old Field Creek (Index No. 10-1-22) from Call Creek to the South Fork New River, and Call Creek (Index No. 10-1-22-1) from its source to Old Field Creek were reclassified from Class WS-IV Trout to Class WS-IV Trout ORW.

(g) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 1, 1998 with the revision to the primary classification for a portion of the South Fork New River [Index No. 10-1 (20.5)] from Class WS-IV to Class WS-V.

(h) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective November 1, 2007 with the reclassification of Bluff Mountain Fen near Buffalo Creek [Index No. 10-2-20] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

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

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

(a) ~~The schedule—Yadkin-Pee Dee River Schedule of Classifications and Water Quality Standards~~ may be inspected at the following places:

- (1) ~~Clerk of Court:
Alexander County
Anson County
Cabarrus County
Caldwell County
Davidson County
Davie County
Forsyth County
Guilford County
Iredell County
Mecklenburg County
Montgomery County~~

~~Randolph County~~
~~Richmond County~~
~~Rowan County~~
~~Stanly County~~
~~Stokes County~~
~~Surry County~~
~~Union County~~
~~Watauga County~~
~~Wilkes County~~
Yadkin County the Internet at <http://h2o.enr.state.nc.us/csu/>; and

- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, North Carolina
 - (B) Winston-Salem Regional Office
585 Woughtown Street
Winston-Salem, North Carolina
 - (C) Fayetteville Regional Office
Systel Building
225 Green Street
Suite 714
Fayetteville, North Carolina
 - (D) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina
 - (E) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

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

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

- (1) February 12, 1979;
- (2) March 1, 1983;
- (3) August 1, 1985;
- (4) February 1, 1986;
- (5) October 1, 1988;
- (6) March 1, 1989;
- (7) January 1, 1990;
- (8) August 1, 1990;
- (9) January 1, 1992;
- (10) April 1, 1992;
- (11) August 3, 1992;
- (12) December 1, 1992;
- (13) April 1, 1993;
- (14) September 1, 1994;
- (15) August 1, 1995;
- (16) August 1, 1998;
- (17) April 1, 1999;
- (18) July 1, 2006;
- (19) September 1, ~~2006~~, 2006;
- (20) November 1, 2007.

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

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

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

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

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

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

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.
- (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
- (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

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

(i) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS

classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

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

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

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

- (1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.
- (2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.
- (3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
- (4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV&B and WS-IV CA.

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

(m) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective August 1, 1998 with the revision to the primary

classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.

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

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

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

(q) The Schedule of Classifications and Water Quality Standards for the Yadkin-Pee Dee River Basin was amended effective November 1, 2007 with the following reclassifications. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWLs.

- (1) Black Ankle Bog near Suggs Creek [Index No. 13-25-12] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Pilot Mountain Floodplain Pool near Horne Creek [Index No. 12-75] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

15A NCAC 02B .0310 LUMBER RIVER BASIN

(a) ~~The schedule—Lumber River Basin Schedule of Classifications and Water Quality Standards~~ may be inspected at the following places:

- (1) ~~Clerk of Court:
Bladen County
Brunswick County
Columbus County~~

~~Cumberland County~~
~~Hoke County~~
~~Montgomery County~~
~~Moore County~~
~~Richmond County~~
~~Robeson County~~
~~Scotland County~~ the Internet at
<http://h2o.enr.state.nc.us/csu/>; and

(2) the North Carolina Department of Environment and Natural Resources:

- (A) Fayetteville Regional Office
~~Wachovia Building~~ 225 Green Street
 Suite 714
 Systel Building Suite 714
 Fayetteville, North Carolina
- (B) Wilmington Regional Office
 127 Cardinal Drive Extension
 Wilmington, North Carolina
- (C) Division of Water Quality
 Central Office
 512 North Salisbury Street
 Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering South Carolina are classified "C Sw".

(c) The Lumber River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) September 14, 1980;
- (4) April 12, 1981;
- (5) April 1, 1982;
- (6) February 1, 1986;
- (7) July 1, 1990;
- (8) August 1, 1990;
- (9) August 3, 1992;
- (10) September 1, 1996;
- (11) August 1, ~~2000~~, 2000;
- (12) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective July 1, 1990 by the reclassification of Naked Creek (Index No. 14-2-6) from source to Drowning Creek including all tributaries from Class WS-III to Class WS-III ORW.

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

(f) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective September 1, 1996 by the reclassification of the Lumber River from 2.0 miles upstream of highway 401 to a point 0.5 mile upstream of Powell Branch [Index Nos. 14-(3), 14-(4), 14-(4.5), 14-(7) and 14-(10.3)] from Classes WS-IV Sw HQW, WS-IV Sw HQW CA and C Sw HQW to Classes WS-IV&B Sw HQW, WS-IV&B Sw HQW CA and B Sw HQW.

(g) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective August 1, 2000 with the reclassification of Lake Waccamaw [Index No. 15-2] from Class B Sw to Class B Sw ORW.

(h) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin was amended effective November 1, 2007 with the following reclassifications. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer for the UWLs:

- (1) Waccamaw Natural Lake Shoreline near Lake Waccamaw [Index No. 15-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Green Swamp Small Depression Pond near Royal Oak Swamp [Index No. 15-25-1-12] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (3) Old Dock Savanna near Gum Swamp Run [Index No. 15-6] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (4) Myrtle Head Savanna near Mill Branch [Index No. 15-7-7] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (5) Goosepond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (6) Antioch Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (7) Pretty Pond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (8) Dunahoe Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (9) Hamby's Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (10) Oak Savanna Bay near Smith Branch [Index No. 14-10-3] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (11) Big Island Savanna near Driving Creek [Index No. 15-7-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

(a) ~~Places~~ The where the schedules Cape Fear River Basin Schedule of Classifications and Water Quality Standards may be inspected ~~inspected at the following places:~~

- (1) ~~Clerk of Court:~~
~~Alamance County~~
~~Bladen County~~
~~Brunswick County~~
~~Caswell County~~
~~Chatham County~~
~~Columbus County~~
~~Cumberland County~~
~~Duplin County~~
~~Durham County~~
~~Forsyth County~~
~~Guilford County~~
~~Harnett County~~
~~Hoke County~~
~~Lee County~~
~~Montgomery County~~
~~Moore County~~
~~New Hanover County~~
~~Onslow County~~
~~Orange County~~
~~Pender County~~
~~Randolph County~~
~~Rockingham County~~
~~Sampson County~~
~~Wake County~~
~~Wayne County~~ the Internet at
<http://h2o.enr.state.nc.us/csu/>; and
 (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Winston-Salem Regional Office
585 Waughtown Street
Winston-Salem, North Carolina
 - (B) Fayetteville Regional Office
~~System Building~~
225 Green Street
~~System Building~~ Suite 714
Fayetteville, North Carolina
 - (C) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina
 - (D) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina
 - (E) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina
 - (F) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;

- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;
- (9) December 1, 1985;
- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) March 1, 1988;
- (14) June 1, 1988;
- (15) July 1, 1988;
- (16) January 1, 1990;
- (17) August 1, 1990;
- (18) August 3, 1992;
- (19) September 1, 1994;
- (20) August 1, 1998;
- (21) April 1, 1999;
- (22) August 1, 2002;
- (23) ~~November 1, 2004.~~ 2004;
- (24) November 1, 2007.

(c) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective June 1, 1988 as follows:

- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
- (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.

(d) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.

(e) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
- (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the

eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.

- (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin has been amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.

(g) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective June 1, 1994 as follows:

- (1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
- (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.

(j) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to

Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.

(k) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.

(l) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in 15A NCAC 02B .0248.

(m) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective August 1, 2002 as follows:

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS III&B NSW to Class WS-III NSW HQW@ and Class WS-III&B NSW HQW@.
- (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS III&B NSW to Class WS-III NSW HQW@ and Class WS-III&B NSW HQW@.
- (3) The "@" symbol as used in Paragraph (m) of this Rule means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule 15A NCAC 02B .0215(3)(b)(i)(E) (Fresh Surface Water Quality Standards for Class WS-III Waters), then that development is not subject to the stormwater requirements as described in rule 15A NCAC 02H .1006 (Stormwater Requirements: High Quality Waters).

(n) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective November 1, 2004 as follows:

- (1) A portion of Rocky River [Index Number 17-43-(1)] from a point approximately 0.3 mile upstream of Town of Siler City upper reservoir dam to a point approximately 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.

- (2) A portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point approximately 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) A portion of Mud Lick Creek (Index No. 17-43-6) from a point approximately 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) A portion of Lacy Creek (17-43-7) from a point approximately 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

(o) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin was amended effective November 1, 2007 with the following reclassifications. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer for the UWLs.

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

15A NCAC 02B .0312 WHITE OAK RIVER BASIN

~~(a) Places where the The White Oak River Basin Schedule of Classifications and Water Quality Standards schedules may be inspected:~~ inspected in the following places:

- (1) ~~Clerk of Court:
Carteret County
Craven County
Jones County
Onslow County~~ the internet at <http://h2o.enr.state.nc.us/csu/>; and the North Carolina Department of Environment, Health, Environment and Natural Resources:
 - (A) ~~Washington Regional Office
1424 Carolina Avenue
Washington Square Mall
Washington, North Carolina~~
 - (B) ~~Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina~~
 - (C) ~~Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.~~

(b) The White Oak River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) December 13, 1979;
- (2) June 1, 1988;
- (3) January 1, 1990;
- (4) August 1, 1990;
- (5) August 1, 1991;
- (6) June 1, 1992;
- (7) December 1, ~~1992~~, 1992;
- (8) November 1, 2007.

(c) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective January 1, 1990 as follows:

- (1) Intracoastal Waterway (Index No. 19-39) from northeastern boundary of Cape Fear River Basin to Daybeacon No. 17 including all unnamed bays, guts, and channels, except Rogers Bay and Mill Creek and Intracoastal Waterway (Index No. 19-41) from the northeast mouth of Goose Creek to the southwest mouth of Queen Creek were reclassified from Class SA to Class SA ORW.
- (2) Bear Island ORW Area, which includes all waters within an area north of Bear Island defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island to the western mouth

of Foster Creek including Cow Channel were reclassified from Class SA to Class SA ORW.

- (3) Bogue Sound (including Intracoastal Waterway from White Oak River Basin to Beaufort Inlet) (Index No. 20-36) from Bogue Inlet to a line across Bogue Sound from the southwest side of mouth of Gales Creek to Rock Point and all tributaries except Hunting Island Creek, Goose Creek, and Broad Creek were reclassified from Class SA to Class SA ORW.
- (4) Core Sound (Index No. 21-35-7) from northern boundary of White Oak River Basin (a line from Hall Point to Drum Inlet) to Back Sound and all tributaries except Atlantic Harbor Restricted Area, Nelson Bay, Jarrett Bay, Williston Creek, Wade Creek and Middens Creek were reclassified from Class SA to Class SA ORW.
- (5) Back Sound (Index No. 21-35) from a point on Shackleford Banks at lat. 34 degrees 40' 57" and long 76 degrees 37' 30" north to the western most point of Middle Marshes and along the northwest shoreline of Middle Marshes (to include all of Middle Marshes) to Rush Point on Harkers Island and along the southern shore of Harkers Island back to Core Sound and all tributaries were reclassified from Class SA to Class SA ORW.

(d) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin was amended effective August 1, 1991 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the New River Drainage Area above a line running across the New River from Grey Point to a point of land approximately 2,200 yards downstream of the mouth of Duck Creek.

(e) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin was amended effective June 1, 1992 with the reclassification of Peletier Creek (Index No. 20-36-11) from its source to Bogue Sound from Class SA to Class SB with the requirement that no discharges be allowed.

(f) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective December 1, 1992 with the reclassification of the Atlantic Harbor Restricted Area (Index No. 21-35-7-2) from Class SC to Class SA ORW.

(g) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin has been amended effective November 1, 2007 with the following reclassifications. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWLs:

- (1) Theodore Roosevelt Maritime Swamp Forest near Roosevelt Natural Area Swamp [Index No. 20-36-9.5-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Bear Island Maritime Wet Grassland near the Atlantic Ocean [Index No. 99-(4)] was

reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

15A NCAC 02B .0313 ROANOKE RIVER BASIN

(a) ~~The schedule—Roanoke River Basin Schedule of Classifications and Water Quality Standards~~ may be inspected at the following places:

- (1) ~~Clerk of Court:~~
~~Bertie County~~
~~Caswell County~~
~~Forsyth County~~
~~Granville County~~
~~Guilford County~~
~~Halifax County~~
~~Martin County~~
~~Northampton County~~
~~Person County~~
~~Rockingham County~~
~~Stokes County~~
~~Surry County~~
~~Vance County~~
~~Warren County~~
~~Washington County~~ the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) ~~the~~ North Carolina Department of Environment and Natural Resources:
 - (A) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina
 - (B) Washington Regional Office
1424 ~~Carolina Avenue~~943
Washington Square Mall
Washington, North Carolina
 - (C) Winston-Salem Regional Office
~~8025 North Point Boulevard, Suite~~
100585 Waughtown Street
Winston-Salem, North Carolina
 - (D) Division of Water Quality
Regional Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Virginia are classified "C." Except that all backwaters of John H. Kerr Reservoir and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the classification "B," and all backwaters of Lake Gaston and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the classification "C and B".

(c) The Roanoke River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) May 18, 1977;
- (2) July 9, 1978;
- (3) July 18, 1979;
- (4) July 13, 1980;
- (5) March 1, 1983;
- (6) August 1, 1985;
- (7) February 1, 1986;

- (8) July 1, 1991;
- (9) August 3, 1992;
- (10) August 1, 1998;
- (11) April 1, 1999;
- (12) April 1, ~~2001~~ 2001;
- (13) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective July 1, 1991 with the reclassification of Hyco Lake (Index No. 22-58) from Class C to Class B.

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

(f) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 1, 1998 with the reclassification of Cascade Creek (Camp Creek) [Index No. 22-12] and its tributaries from its source to the backwaters at the swimming lake from Class B to Class B ORW, and reclassification of Indian Creek [index No. 22-13] and its tributaries from its source to Window Falls from Class C to Class C ORW.

(g) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective August 1, 1998 with the reclassification of Dan River and Mayo River WS-IV Protected Areas. The Protected Areas were reduced in size.

(h) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective April 1, 1999 as follows:

- (1) Hyco River, including Hyco Lake below elevation 410 [Index No. 22-58-(0.5)] was reclassified from Class B to Class WS-V & B.
- (2) Mayo Creek (Maho Creek) (Mayo Reservoir) [Index No. 22-58-15] was reclassified from its source to the dam of Mayo Reservoir from Class C to Class WS-V.

(i) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective April 1, 2001 as follows:

- (1) Fullers Creek from source to a point 0.8 mile upstream of Yanceyville water supply dam [Index No. 22-56-4-(1)] was reclassified from Class WS-II to Class WS-III.
- (2) Fullers Creek from a point 0.8 mile upstream of Yanceyville water supply dam to Yanceyville water supply dam [Index No. 22-

56-4-(2)] was reclassified from Class WS-II CA to Class WS-III CA.

(j) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin was amended effective November 1, 2007 with the reclassification of Hanging Rock Hillside Seepage Bog near Cascade Creek [Index No. 22-12-(2)] to Class WL UWL as defined in 15A NCAC 02B .0101. The Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

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

15A NCAC 02B .0316 TAR-PAMLICO RIVER BASIN

(a) ~~The schedule Tar-Pamlico River Basin Schedule of Classifications and Water Quality Standards~~ may be inspected at the following places:

- (1) ~~Clerk of Court:~~
~~Beaufort County~~
~~Dare County~~
~~Edgecombe County~~
~~Franklin County~~
~~Granville County~~
~~Halifax County~~
~~Hyde County~~
~~Martin County~~
~~Nash County~~
~~Pamlico County~~
~~Person County~~
~~Pitt County~~
~~Vance County~~
~~Warren County~~
~~Washington County~~
~~Wilson County~~ the internet at
<http://h2o.enr.state.nc.us/csu/>; and
 (2) the North Carolina Department of Environment and Natural Resources:
 (A) Raleigh Regional Office
 3800 Barrett Drive
 Raleigh, North Carolina
 (B) Washington Regional Office
 943 Washington Square Mall
 Washington, North Carolina-
(C) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. All drainage canals not noted in the schedule are classified "C Sw," except the main drainage canals to Pamlico Sound and its bays which shall be classified "SC."

(c) The Tar-Pamlico River Basin Schedule of Classification and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) November 1, 1978;
- (3) June 8, 1980;
- (4) October 1, 1983;
- (5) June 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) August 1, 1988;

- (9) January 1, 1990;
- (10) August 1, 1990;
- (11) August 3, 1992;
- (12) April 1, 1994;
- (13) January 1, 1996;
- (14) September 1, 1996;
- (15) October 7, 2003;
- (16) June 1, ~~2004~~, 2004;
- (17) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin has been amended effective August 1, 1988 as follows:

- (1) Tar River (Index No. 28-94) from a point 1.2 miles downstream of Broad Run to the upstream side of Tranters Creek from Class C to Class B.

(e) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin has been amended effective January 1, 1990 by the reclassification of Pamlico River and Pamlico Sound [Index No. 29-(27)] which includes all waters within a line beginning at Juniper Bay Point and running due south to Lat. 35° 18' 00", long. 76° 13' 20", thence due west to lat. 35° 18' 00", long 76° 20' 00", thence northwest to Shell Point and including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding the Blowout, Hydeland Canal, Juniper Canal and Quarter Canal were reclassified from Class SA and SC to SA ORW and SC ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin has been amended effective January 1, 1990 by adding the supplemental classification NSW (Nutrient Sensitive Waters) to all waters in the basin from source to a line across Pamlico River from Roos Point to Persimmon Tree Point.

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

(h) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective April 1, 1994 with the reclassification of Blounts Creek from Herring Run to Blounts Bay [Index No. 29-9-1-(3)] from Class SC NSW to Class SB NSW.

(i) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective January 1, 1996 with the reclassification of Tranters Creek [Index Numbers 28-103- (4.5), 28-103- (13.5), 28-103- (14.5) and 28-103-(16.5)] from a point 1.5 miles upstream of Turkey Swamp to the City of Washington's former auxiliary water

supply intake, including tributaries, from Class WS-IV Sw NSW and Class WS-IV CA Sw NSW to Class C Sw NSW.

(j) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective September 1, 1996 with the addition of Huddles Cut (previously unnamed in the schedule) classified as SC NSW with an Index No. of 29-25.5.

(k) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was temporarily amended effective October 7, 2003 and permanently amended June 1, 2004 with the reclassification of a portion of Swift Creek [Index Number 28-78-(0.5)] and a portion of Sandy Creek [Index Number 28-78-1-(19)] from Nash County SR 1004 to Nash County SR 1003 from Class C NSW to Class C ORW NSW, and the waters that drain to these two creek portions to include only the ORW management strategy as represented by "+". The "+" symbol as used in this paragraph means that all undesignated waterbodies that drain to the portions of the two creeks referenced in this Paragraph shall comply with Paragraph (c) of Rule .0225 of this Subchapter in order to protect the designated waters as per Rule .0203 of this Subchapter and to protect outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the designated waters.

(l) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin was amended effective November 1, 2007 with the reclassifications as follows. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWLs.

- (1) Goose Creek Tidal Freshwater Marsh along the confluence of Goose Creek [Index No. 29-33] and the Pamlico River [Index No. 29-(27)], along Flatty Creek [Index No. 29-11-4] a length of the Pamlico River shoreline [Index No. 29-(27)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Mallard Creek Tidal Freshwater Marsh along Mallard Creek [Index No. 29-13-(1)] 0.2 miles above its confluence with the Pamlico River to Class WL UWL as defined in 15A NCAC 02B .0101.

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

15A NCAC 02B .0317 PASQUOTANK RIVER BASIN

(a) ~~The schedule~~ Pasquotank River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) ~~Clerk of Court:~~
~~Camden County~~
~~Chowan County~~
~~Currituck County~~
~~Dare County~~
~~Gates County~~
~~Hyde County~~
~~Pasquotank County~~
~~Perquimans County~~
~~Tyrrell County~~

- Washington County the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources; Resources:
- (A) Washington Regional Office
1424 Carolina Avenue 943
Washington Square Mall
Washington, North Carolina
- (B) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. All drainage canals not noted in the schedule are classified "C."

(c) The Pasquotank River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) March 1, 1977;
- (2) May 18, 1977;
- (3) December 13, 1979;
- (4) January 1, 1985;
- (5) February 1, 1986;
- (6) January 1, 1990;
- (7) August 1, 1990;
- (8) August 3, 1992;
- (9) August 1, 1998;
- (10) August 1, 2000, 2000;
- (11) November 1, 2007.

(d) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective January 1, 1990 by the reclassification of Alligator River [Index Nos. 30-16-(1) and 30-16-(7)] from source to U.S. Hwy. 64 and all tributaries except Swindells Canal, Florida Canal, New Lake, Fairfield Canal, Carters Canal, Dunbar Canal and Intracoastal Waterway (Pungo River - Alligator River Canal) were reclassified from C Sw and SC Sw to C Sw ORW and SC Sw ORW.

(e) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 1, 1990 as follows:

- (1) Croatan Sound [Index No. 30-20-(1)] from a point of land on the southern side of mouth of Peter Mashoes Creek on Dare County mainland following a line eastward to Northwest Point on Roanoke Island and then from Northwest Point following a line west to Reeds Point on Dare County mainland was reclassified from Class SC to Class SB.
- (2) Croatan Sound [Index No. 30-20-(1.5)] from Northwest Point on Roanoke Island following a line west to Reeds Point on Dare County mainland to William B. Umstead Memorial Bridge was reclassified from Class SC to Class SA.

(f) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-

V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(g) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 1, 1998 with the revision to the primary classification for a portion of the Pasquotank River [Index No. 30-3-(1.7)] from Class WS-IV to Class WS-V.

(h) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective August 1, 2000 with the reclassification of Lake Phelps [Index No. 30-14-4-6-1] from Class C Sw to Class B Sw ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin was amended effective November 1, 2007 with the following reclassifications. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWLs.

- (1) Phelps Lake Natural Lake Shoreline near Phelps Lake [Index No. 30-14-4-6-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.
- (2) Nags Head Woods near Buzzard Bay [Index No. 30-21-1] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to adopt the rules cited as 15A NCAC 02S .0501 - .0509, amend the rules cited as 15A NCAC 02S .0101 - .0102, and repeal the rule cited as 15A NCAC 02S .0401.

Proposed Effective Date: September 1, 2007

Public Hearing:

Date: May 1, 2007

Time: 6:00 p.m.

Location: Mooresville Public Library, 304 S. Main Street, Mooresville, NC 28115

Public Hearing:

Date: May 3, 2007

Time: 6:00 p.m.

Location: Division of Waste Management Offices, 401 Oberlin Road, Raleigh, NC 27605

Reason for Proposed Action: *The Dry-Cleaning Solvent Cleanup Act of 1997 established a funded, voluntary program to address contamination resulting from dry-cleaning facilities, wholesale distribution facilities and abandoned sites. Section*

143-215.104D of the Act states that "the Commission shall adopt rules establishing a risk-based approach applicable to the assessment, prioritization, and remediation of dry-cleaning solvent contamination". The Act sets forth a number of minimum requirements the rules shall address, for example, criteria and methods for determining remediation requirements, strategies for assessment and remediation, etc. The proposed rules fully address all requirements specified in the Act. The proposed rules are necessary to provide the Dry-Cleaning Solvent Cleanup Act Program with a framework to establish appropriate cleanup goals for each site, perform cost effective remediation, and issue "no further" action status to sites while protecting human health, safety, and the environment.

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted, in writing to the individual listed below. Objections may also be submitted during the public hearings conducted on these rules. Objections must include the specific rule citation for the objectionable rule and the nature of the objection. Objections must include the complete name and contact information for the individual submitting the objection. Objections must be received by June 15, 2007.

Comments may be submitted to: Ms. Delonda Alexander, Division of Waste Management, 401 Oberlin Road, Suite 150, Raleigh, NC 27605, phone (919) 508-8444, fax (919) 733-4811, email dsca@ncmail.net

Comment period ends: June 15, 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 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02S – RULES AND CRITERIA FOR THE ADMINISTRATION OF THE DRY-CLEANING SOLVENT CLEANUP FUND

SECTION .0100 – GENERAL CONSIDERATIONS

15A NCAC 02S .0101 GENERAL

The purpose of this Subchapter is to establish the criteria for determining eligibility for certification into the North Carolina Dry-Cleaning Solvent Cleanup Fund program, minimum management practices, a risk-based approach for assessment and remediation or certified facilities, and the criteria for the disbursement of funds from the North Carolina Dry-Cleaning Solvent Cleanup Fund.

Authority G.S. 143-215.104D(b); 150B-21.2.

15A NCAC 02S .0102 DEFINITIONS

- (1) "Act" means the Dry-Cleaning Solvent Cleanup Act of 1997 and any amendments thereto.
- (2) "Apparel and household fabrics" means apparel and fabrics that have been purchased at retail or have been purchased at wholesale for rental at retail.
- (3) "Business" means "business" as defined in 15A NCAC 13A .0104, which is hereby incorporated by reference including subsequent amendments and editions. A copy may be inspected or obtained at no cost from the Division of Waste Management, Dry-Cleaning Solvent Cleanup Act Program, 401 Oberlin Road, Raleigh, NC.
- ~~(4)~~ "Chemicals of concern" means the specific compounds and their breakdown products that are identified for evaluation in the risk-based corrective action process. Identification can be based on their historical and current use at the site, detected concentrations in environmental media and their mobility, toxicity, and persistence in the environment.
- ~~(4)(5)~~ "Closed container solvent transfer system" means a device or system specifically designed to fill a dry-cleaning machine with dry-cleaning solvent through a mechanical valve or sealed coupling in order to prevent spills or other loss of solvent liquids or vapors to the environment.
- ~~(6)~~ "Complete exposure pathway" means an exposure pathway where a chemical of concern has reached a receptor.
- ~~(7)~~ "Contaminated site" or "site" means the area defined by the likely current and future location of the chemicals of concern from a facility or abandoned site. A contaminated site could be an entire property or facility, a defined area or portion of a facility or property or multiple facilities or properties.
- ~~(5)(8)~~ "Discovery Site" means the physical site or area where dry-cleaning solvent contamination has been discovered. A discovery site may or

- may not be the same property as the facility site.
- ~~(6)~~(9) "Division" means the Division of Waste Management of the Department of Environment and Natural Resources.
- ~~(7)~~(10) "Dry-Cleaning Business" means a business having engaged in dry-cleaning operations or the operation of a wholesale distribution facility at a facility site.
- ~~(8)~~(11) "Environmental media" means soil, sediment, surface water, groundwater, air or other physical substance.
- (12) "Engineering controls" means physical modifications to a site to reduce or eliminate the potential for exposure to chemicals of concern.
- (13) "Exposure pathway" means the course that a chemical of concern takes from a source area to a receptor. An exposure pathway describes the mechanism by which an individual or population is exposed to a chemical of concern originating from a site. Each exposure pathway includes a source or release from a source of a chemical of concern, a point of exposure, an exposure route and the potential receptors.
- ~~(9)~~(14) "Facility site" means the physical location of a dry-cleaning facility, a wholesale distribution facility or an abandoned site.
- (15) "Hazard Index" means the sum of two or more hazard quotients for chemicals of concern or multiple exposure pathways to a particular receptor.
- (16) "Hazard quotient" means the ratio of level of exposure of a chemical of concern over a specified time period to a reference dose for that chemical of concern derived for a similar exposure period.
- (17) "Individual excess lifetime cancer risk" means the increase over background in an individual's probability of getting cancer over a lifetime due to exposure to a chemical.
- (18) "Institutional controls" means nonengineered measures, including land-use restrictions, used to prevent unsafe exposure to contamination.
- ~~(10)~~(19) "Material impervious to dry-cleaning solvent" means a material that has been demonstrated by the manufacturer, an independent testing laboratory such as Underwriters Laboratory, or another organization determined by the Division to be comparable, to maintain its chemical and structural integrity in the presence of the applicable dry-cleaning solvent and prevent the movement of dry-cleaning solvent for a period of a least 72 hours.
- (20) "Monitored natural attenuation" means a verifiable approach to the reduction in the concentration of chemicals of concern in environmental media due to naturally occurring physical, chemical and biological processes, which is based on best available scientific information.
- (21) "Non-residential land use" means a use that is not a residential land use.
- ~~(14)~~(22) "Number of full time employees" means the number of full-time equivalent employees employed by a person who owns a dry-cleaning facility, as calculated pursuant to 15A NCAC 02S .0103.
- ~~(12)~~(23) "Person" means "person" as defined in G.S. 130A-290, which is hereby incorporated by reference including subsequent amendments and additions. A copy may be inspected or obtained at no cost from the Division of Waste Management, Dry-Cleaning Solvent Cleanup Act Program, 401 Oberlin Road, Raleigh, NC.
- ~~(13)~~(24) "Petitioner" means a potentially responsible party who submits a petition for certification of a facility site.
- (25) "Point of demonstration" means the location selected between the source area and the potential point of exposure where site-specific target levels are met.
- (26) "Point of exposure" means the location at which an individual or population may come in contact with a chemical of concern originating from a site.
- (27) "Receptor" means any human, plant, or animal which is, or has the potential to be, adversely affected by the release or migration of chemicals of concern.
- (28) "Reference dose" means a toxicity value for evaluating potential non-carcinogenic effects in humans resulting from exposure to a chemical of concern.
- (29) "Remedial action plan" means a plan that outlines activities to be undertaken to clean up a contaminated site and to reduce or eliminate current or potential future exposures to receptors.
- (30) "Representative concentrations" means a typical or average concentration to which the receptor is exposed over the specified exposure duration, within a specified geographical area, and for a specific route of exposure.
- (31) "Residential land use" means use for human habitation, including dwellings such as single family houses and multi-family apartments, children's homes, nursing homes, and residential portions of government-owned lands (local, state or federal). Because of the similarity of exposure potential and the sensitive nature of the potentially exposed population, use for day care facilities, educational facilities, hospitals, and parks (local, state or federal) shall also be considered residential use. Other property uses may be

considered residential land use due to the exposure potential and the sensitive nature of the potentially exposed population.

(32) "Risk-based screening level" means chemical-specific, risk-based values for chemicals of concern that are protective of human health for specified exposure pathways.

(A) For known or suspected carcinogens, except for those chemicals of concern that have groundwater standards or interim standards established in 15A NCAC 02L, risk-based screening levels are established for each chemical of concern at exposures that represent an individual excess lifetime cancer risk of one in 1,000,000.

(B) For systemic toxicants, except for those chemicals of concern that have groundwater standards or interim standards established in 15A NCAC 02L, risk-based screening levels are established using a hazard quotient for each chemical of concern of 0.2.

(C) Risk-based screening levels for chemicals of concern in groundwater shall be the standards and interim standards established in 15A NCAC 02L.

(33) "Site-specific target level" means risk-based values for chemicals of concern that are protective of human health for specified exposure pathways and are derived from a consideration of site-specific information.

(A) For known or suspected carcinogens, the sum of individual excess lifetime cancer risk values for all chemicals of concern for all exposure pathways may not exceed one in 100,000.

(B) For systemic toxicants, the Hazard Index for all chemicals of concern for all complete exposure pathways may not exceed 1.0.

(34) "Source" means non-aqueous phase liquid chemical, the locations of highest soil or ground water concentrations of the chemicals of concern or the location releasing the chemical of concern.

(35) "Systemic toxicant" means a substance or agent that may enter the body and have an adverse health effect other than causing cancer.

(36) "Unsaturated zone" means that part of the subsurface where interconnected voids are not all filled with water.

(37) "Unrestricted-use standards" mean concentrations of chemicals of concern for each environmental medium that are acceptable for all uses and are protective of

public health, safety, and welfare and the environment.

Authority G.S. 143-215.104D(b); 150B-21.2.

SECTION .0400 – ASSESSMENT AGREEMENTS

15A NCAC 02S .0401 PRIORITIZATION ASSESSMENT

(a) Upon receipt of a petition for certification that meets the requirements of the Act and Section .0300 of this Subchapter, the Division may enter into an agreement with one or more potentially responsible parties that have petitioned for certification requiring such party or parties to provide a prioritization assessment of the dry cleaning solvent contamination identified in the petition. A prioritization assessment agreement entered into pursuant to this Paragraph shall qualify the petitioners party thereto to the liability protections of the Act.

(b) An agreement made pursuant to Paragraph (a) of this Rule shall provide that costs associated with the prioritization assessment be paid by the petitioner or petitioners who are party to the agreement, provided that costs in excess of the petitioner's deductible and copay obligations under the Act shall be reimbursed from the Fund in accordance with the provisions of the Act.

Authority G.S. 143-215.104D(b); 150B-21.2.

SECTION .0500 – RISK-BASED CORRECTIVE ACTION

15A NCAC 02S .0501 PURPOSE AND APPLICABILITY

The purpose of this Section is to establish a risk-based corrective action approach for assessment and remediation of contamination at certified dry-cleaning facilities or abandoned sites. This Rule applies to risk-based corrective action undertaken pursuant to the terms of assessment and remediation agreements between petitioners and the Division.

Authority G.S. 143-215.104D; 150B-21.2.

15A NCAC 02S .0502 ABATEMENT OF IMMINENT HAZARD

If the Division determines that contamination or conditions at a site constitute an imminent hazard as defined in G.S. 143-215.104B(b)(16), the Division may require the development and implementation of a plan to abate the imminent hazard. Actions taken to abate the imminent hazard may include, but are not limited to, provision of alternate sources of drinking water, soil excavation, vapor mitigation and well abandonment.

Authority G.S. 143-215.104C; 143-215.104D; 150B-21.2.

15A NCAC 02S .0503 PRIORITIZATION OF CERTIFIED FACILITIES AND SITES

(a) The Division shall determine the priority ranking of certified facilities and abandoned sites for the initiation and scheduling of assessment and remediation activities.

(b) The Division shall consider the following factors in determining the priority ranking of a facility or site:

- (1) Proximity of contamination to public and private water supply wells and surface water;
- (2) Existing or potential threat of impacts to public and private water supply wells and surface water;
- (3) Existing or potential threat of vapors from contamination entering buildings and other structures;
- (4) Existing or potential threat of exposure to contaminated soils;
- (5) The degree of contamination in soil, groundwater and surface water; and
- (6) Any other factor relevant to the degree of harm or risk to public health and the environment posed by the existence or migration of contamination at the facility or site.

(c) The Division may determine the initial priority of facilities and sites based on information currently available to the Division. If information available to the Division is not sufficient to determine the initial priority ranking of a facility or site, the Division may require the completion of a preliminary site assessment to identify public and private water supply wells and surface water, potential areas of contamination and chemicals of concern, and groundwater characteristics.

(d) The relative priority ranking of facilities and sites shall be updated and revised to reflect changes in site conditions and current information.

Authority G.S. 143-215.104C; 143-215.104D; 150B-21.2.

15A NCAC 02S .0504 CONTAMINATED SITE CHARACTERIZATION

The Division shall determine the level of assessment necessary to adequately characterize a site. An assessment conducted pursuant to this Rule shall include:

- (1) The source, types and levels of contamination at the site;
- (2) A description of immediate actions required to abate any imminent hazard to public health, safety, or welfare or the environment;
- (3) All receptors and potential exposure pathways;
- (4) The horizontal and vertical extent of soil and groundwater contamination, and all significant factors affecting the transport of chemicals of concern;
- (5) The geology and hydrogeology of the contaminated site, and features influencing the movement, chemical, and physical character of the chemicals of concern;
- (6) The current and anticipated future uses of property and groundwater at the site.

Authority G.S. 143-215.104C; 143-215.104D; 150B-21.2.

15A NCAC 02S .0505 PRELIMINARY SOURCE REMOVAL

The Division may authorize the performance of preliminary source removal at a site prior to approval of a remedial action plan if the Division determines that:

- (1) The removal would eliminate or significantly reduce a continuing source of contamination at the site, thereby reducing the risk to public health and the environment;
- (2) Current conditions at the site allow the removal to be conducted in a manner that will result in cost savings to the Fund; and
- (3) There is sufficient money in the Fund to pay for the removal and funding is appropriate based on the relative priority of the site.

Authority G.S. 143-215.104D(b)(3); 150B-21.2.

15A NCAC 02S .0506 TIERED RISK ASSESSMENT

(a) A tiered risk assessment shall be conducted to establish risk-based screening levels or site-specific target levels for a site.

(b) A site conceptual model shall be developed including, but not limited to, the following elements:

- (1) The type and distribution of chemicals of concern;
- (2) The geology and hydrogeology;
- (3) An exposure model that identifies the receptors, including sensitive subgroups, and the exposure pathways; and
- (4) Land use classification as either residential or non-residential.

(c) Tier 1. A Tier 1 risk assessment is based on precalculated chemical-specific risk-based screening levels. The representative concentrations of chemicals of concern that exist at a site shall be compared to these risk-based screening levels for all complete and potentially complete exposure pathways. If the concentrations exceed the risk-based screening levels, the Division may require remediation of the site to risk-based screening levels or the performance of a Tier 2 risk assessment to establish site-specific target levels. Factors considered by the Division when determining if a Tier 2 assessment is warranted shall include at a minimum:

- (1) Whether the assumptions on which the risk-based screening levels are based are representative of the site-specific conditions;
- (2) Whether the site-specific target levels developed under Tier 2 are likely to be significantly different than the risk-based screening levels or will significantly modify remediation activities; or
- (3) Whether the cost of remediation to achieve risk-based screening levels will likely be greater than the cost of further tier evaluation and subsequent remediation.

(d) Tier 2. A Tier 2 assessment shall allow consideration of additional site-specific information in order to calculate site-specific target levels. This additional information may include the locations of actual points of exposure and points of demonstration as well as site-specific geologic, hydrogeologic and contaminant fate and transport parameters. All parameters and procedures used during the Tier 2 risk assessment must be

approved by the Division. The representative concentrations of chemicals of concern that exist at a site shall be compared to these Tier 2 site-specific target levels for all complete and potentially complete exposure pathways. If the concentrations exceed the Tier 2 site-specific target levels, the Division may require remediation of the site to Tier 2 site-specific target levels or the performance of a Tier 3 risk assessment to establish alternative site-specific target levels. Factors considered by the Division when determining if a Tier 3 assessment is warranted shall include at a minimum:

- (1) Whether the assumptions on which the Tier 2 site-specific target levels are based are representative of the site-specific conditions;
- (2) Whether the alternative site-specific target levels developed under Tier 3 are likely to be significantly different than the Tier 2 site-specific target levels or will significantly modify remediation activities; or
- (3) Whether the cost of remediation to achieve Tier 2 site-specific target levels will likely be greater than the cost of further tier evaluation and subsequent remediation.

(e) Tier 3. A Tier 3 risk assessment shall allow consideration of additional site-specific and toxicological data in order to calculate alternative site-specific target levels. This data may include alternative, technically defensible toxicity factors, physical and chemical properties, site-specific exposure factors, and alternative fate and transport models. Prior to conducting a Tier 3 risk assessment, the Division must approve the work plan and the use of any alternative parameters, values and models. The representative concentrations of chemicals of concern that exist at a site shall be compared to these Tier 3 site-specific target levels for all complete and potentially complete exposure pathways. If the concentrations exceed the Tier 3 site-specific target levels, the Division shall consider the results of the Tier 2 and Tier 3 assessments to determine the site-specific target levels.

(f) The determination of risk-based screening levels and site-specific target levels shall be based on the following assumptions and requirements:

- (1) Concentrations of chemicals of concern in soil shall not exceed unrestricted-use standards on residential property. Concentrations in soil may exceed unrestricted-use standards on property containing both residential and non-residential land use if the ground-level uses are nonresidential and the potential for exposure to contaminated soil has been eliminated;
- (2) An ecological risk evaluation shall be conducted in accordance with Division guidance to determine the risk to plant and animal receptors and habitats.
- (3) The most recent versions of the following references, in order of preference, shall be used to obtain the quantitative toxicity values necessary to calculate risk to identified receptors:
 - (A) Integrated Risk Information System (IRIS);

- (B) Provisional Peer Reviewed Toxicity Values (PPRTVs);
- (C) Published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.

(4) All current and probable future use of groundwater shall be protected. If groundwater has been contaminated or is likely to be contaminated, a point of exposure must be established to quantitatively evaluate the groundwater use pathway. The point of exposure shall be established at the nearest to the source of the following locations:

- (A) Closest existing water supply well;
- (B) Likely nearest future location of a water supply well;
- (C) Hypothetical point of exposure located at a distance of 500 feet from the downgradient property boundary of the facility site; or
- (D) Hypothetical point of exposure located at a distance of 1000 feet downgradient from the source.

(5) For chemicals of concern for which there is a groundwater quality standard in 15A NCAC 02L, concentrations at the point of exposure shall not exceed the groundwater quality standards as specified in 15A NCAC 02L. For chemicals of concern for which there are no groundwater quality standards, concentrations at the point of exposure shall not exceed the risk-based screening levels or site-specific target levels for these chemicals of concern that assume ingestion based on domestic water use;

(6) Concentrations of chemicals of concern shall be measured and evaluated at a point of demonstration well to ensure that concentrations are protective of any point of exposure.

(7) Surface water is protected. The standards for surface water shall be the water quality standards in 15A NCAC 02B.

Authority G.S. 143-215.104D; 150B-21.2.

15A NCAC 02S .0507 REMEDIAL ACTION PLAN

(a) If the level of contamination of any chemical of concern exceeds risk-based screening levels or site-specific target levels, a remedial action plan shall be developed and implemented at the site.

(b) A proposed remedial action plan must be sufficient to meet the risk-based screening levels or site-specific target levels established for the site and shall include:

- (1) A summary of the results of all assessment and interim remedial activities conducted at the site;

- (2) Justification for the remediation method selected based on an analysis of each of the following factors:
 - (A) Results from any pilot studies or bench tests;
 - (B) The remediation methods considered and why other alternatives were rejected;
 - (C) Practical considerations in implementing the remediation, including ease of construction, site access, and required permits;
 - (D) Operation and maintenance requirements;
 - (E) The risks and effectiveness of the proposed remediation including an evaluation of the type, degree, frequency, and duration of any post-remediation activity that may be required, including, but not limited to, operation and maintenance, monitoring, inspection, reports, and other activities necessary to protect public health, safety, and welfare and the environment;
 - (F) Long-term reliability and feasibility of engineering and institutional controls;
 - (G) Technical feasibility of the proposed method to reduce the concentrations of chemicals of concern at the site;
 - (H) Estimated time required to achieve established risk-based screening levels or site-specific target levels;
 - (I) Cost-effectiveness of installation, operation and maintenance, when compared to other remediation alternatives; and
 - (J) Community acceptance.
 - (3) An evaluation of the expected breakdown chemicals or by-products resulting from natural processes;
 - (4) If applicable, a discussion of the proposed treatment or disposition of contaminated media that may be produced by the remediation system, including, but not limited to, the amount of effluent discharged, estimated concentrations of chemicals of concern in the effluent, contaminated soil and air emissions;
 - (5) An operation and maintenance plan and schedule for the remediation system;
 - (6) Design drawings of the proposed remediation system, if applicable;
 - (7) A groundwater monitoring plan which designates monitoring wells to be sampled on a prescribed schedule to monitor plume stability and effectiveness of the remediation;
 - (8) A plan to evaluate the effectiveness of the remedial efforts at the site and the achievement of risk-based screening levels or site-specific target levels;
 - (9) A health and safety plan that assures that the health and safety of nearby residential and business communities will not be adversely affected by activities related to the remediation;
 - (10) A discussion of how the remedial action plan will protect ecological receptors;
 - (11) All required land-use restrictions and notices prepared in accordance with G.S. 143-215.104M and 15A NCAC 02S .0508.
 - (12) Any other information requested by the Division.
- (c) If the ecological risk assessment conducted pursuant to 15A NCAC 02S .0506 indicates that the chemicals of concern are posing an unacceptable risk to plant and animal receptors and habitats, the proposed remedial action plan shall include measures necessary to protect these receptors.
- (d) Monitored natural attenuation of chemicals of concern may be approved as an acceptable remediation method, provided:
- (1) All free product has been removed or controlled to the maximum extent practicable;
 - (2) Contaminated soil is not present in the unsaturated zone above risk-based screening levels or site-specific target levels for the soil-to-groundwater pathway for the site unless it is demonstrated that the soil does not constitute a continuing source of contamination to groundwater at concentrations that pose a threat to human health, safety and the environment, and it is demonstrated that the rate of natural attenuation of chemicals of concern in groundwater exceeds the rate at which the chemicals of concern are leaching from the soil;
 - (3) The physical, chemical and biological characteristics of each chemical of concern and its by-products are conducive to degradation or attenuation under the site-specific conditions;
 - (4) The travel time and direction of migration of chemicals of concern can be predicted with reasonable certainty;
 - (5) Available data shows an apparent or potential decrease in concentrations of chemicals of concern;
 - (6) The chemicals of concern will not migrate onto adjacent properties that are not served by an existing public water supply system, unless the owners have consented to the migration of chemicals of concern onto their property;
 - (7) If any of the chemicals of concern are expected to intercept surface waters, the groundwater discharge will not exceed the standards for surface water contained in 15A NCAC 02B .0200;

- (8) All necessary access agreements needed to monitor groundwater quality have been or can be obtained; and
- (9) A monitoring program, sufficient to track the degradation and attenuation of chemicals of concern and by-products within and down-gradient of the plume and detect chemicals of concern and by-products at least one year's travel time prior to their reaching any existing or foreseeable receptor, is developed and implemented. Analytical data collected during monitored natural attenuation shall be evaluated on an annual basis to determine if the annual rate of expected progress is being achieved.

(e) If the Division determines that it is technically impracticable to achieve a risk-based screening level or site-specific target level for a specific chemical of concern due to geological conditions, remediation technology limitations, site conditions, physical limitations or other factors, the Division may approve or modify the remedial action plan to provide for the use of institutional controls, engineering controls, and long-term monitoring until the risk-based screening levels or site-specific target levels are met. Methods that may be used to demonstrate that remediation is technically impracticable include the following:

- (1) A full scale field demonstration consisting of an operating remediation system;
- (2) A pilot study applying a remediation technology on a small portion of the contaminated site;
- (3) Predictive analyses or modeling that shows the potential for the migration and remediation of chemicals of concern to occur at the site;
- (4) Comparison of specific conditions at the subject site to those of similar sites documented in published research papers or case studies;
- (5) A combination of the above methods; or
- (6) Other methods approved by the Division on a site-by-site basis.

Authority G.S. 143-215.104D; 150B-21.2.

15A NCAC 02S .0508 LAND-USE RESTRICTIONS

- (a) The Division shall require the imposition and enforcement of land-use restrictions when necessary to protect human health and the environment.
- (b) All land use restrictions and notices required pursuant to this Rule or G.S. 143-215.104M shall be on forms approved by the Division.

Authority G.S. 143-215.104D; 143-215.104M; 150B-21.2.

15A NCAC 02S .0509 NO FURTHER ACTION CRITERIA

- (a) The Division shall issue a "No Further Action" letter if each of the following criteria is met:

- (1) Risk-based screening levels or site-specific target levels for each chemical of concern have been achieved, and, if applicable, unacceptable risk to plant and animal receptors and their habitats has been eliminated.
- (2) The stability of the plume has been verified by a monitoring period of at least one year after achievement of the goals set forth in the remedial action plan; and
- (3) All required land-use restrictions and notices have been approved by the Division and recorded in accordance with G.S. 143-215.104M and 15A NCAC 02S .0508.

(b) The Division shall not issue a "No Further Action" letter if the Division has determined that it is technically impracticable to remediate the site to risk-based screening levels or site-specific target levels.

(c) If site conditions change or additional information becomes available to the Division to indicate that the site poses an unacceptable risk to human health, safety or the environment, or if land-use restrictions imposed in accordance with G.S. 143-215.104M are violated, the Division may rescind the "No Further Action" letter and require further remedial action at the site.

Authority G.S. 143-215.104D; 150B-21.2.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 01 – NORTH CAROLINA ACUPUNCTURE LICENSING BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Acupuncture Licensing Board intends to adopt the rules cited as 21 NCAC 01 .0104, .0106, .0202 and amend the rules cited as 21 NCAC 01 .0101, .0103, .0201, .0301.

Proposed Effective Date: August 1, 2007

Public Hearing:

Date: May 4, 2007

Time: 9:00 a.m.

Location: North Carolina Psychological Association; 1004 Dresser Court, Suite 106; Raleigh, North Carolina 27609

Reason for Proposed Action: *Enactment of Session Law 2005-379 (H1357); Need for the board to clarify procedures; eliminate and set fees.*

Procedure by which a person can object to the agency on a proposed rule: *Any person may submit comments to the board either orally or in writing at the public hearing. All other written comments must be received by the board no later than June 15, 2007. Written comments may be mailed to the board.*

Comments may be submitted to: Paola Ribadeneira, North Carolina Acupuncture Licensing Board, P.O. Box 10686, Raleigh, NC 27605, phone (919) 821-3008

Comment period ends: June 15, 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 - LICENSURE

21 NCAC 01 .0101 APPLICATION AND PRACTICE REQUIREMENTS FOR LICENSURE

In addition to and for the purposes of meeting the requirements of G.S. 90-455-G.S. 90-455, an applicant for licensure to practice acupuncture shall: shall satisfy all requirements listed below:

- (1) Submit a completed application;
(2) Submit fees as required by Rule .0103 of this Section;
(3) Submit proof of a score of not less than 70% on the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) acupuncture written and point location exams or a score of not less than 70% from any state utilizing the NCCAOM examination;
(3) Ensure that an official copy of a diploma, transcript, license or certificate, examination score, or other document required for application is forwarded directly to the Board by the issuing entity or its successor organization or designated state agency. Documents shall have an official or government seal or written verification authenticating the document;
(4) Submit a certified copy, certified by the issuing institution, of a transcript including evidence of graduation from a three year postgraduate acupuncture college, accredited

by, or in candidacy status by, the Accreditation Commission for Acupuncture and Oriental Medicine or, if outside of the U.S., the California Acupuncture Committee, or

- (a) Submit proof that the candidate has been continuously licensed to practice acupuncture by an agency of a state of the United States of America for at least the previous 10 years, and no disciplinary actions have been taken or are pending against the candidate, and
(b) Submit proof that candidate has fulfilled at least 20 continuing education credits each of those years in acupuncture or health care related studies.
(4) If the applicant sat for the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination on or before June 30, 2004, the applicant shall submit proof that he or she passed the acupuncture written exam and the point location exam as established and determined by NCCAOM or its successor organization. If the applicant sat for the licensing examination after June 30, 2004, the applicant shall submit proof that he or she passed, as determined by NCCAOM, the following four NCCAOM modules: Foundations of Oriental Medicine, Acupuncture, Biomedicine and Point Location;
(5) Submit proof of successful completion of the Clean Needle Technique course offered by the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);
(5) Submit proof that he or she passed the Clean Needle Technique course as offered and determined by the Council of Colleges of Acupuncture and Oriental Medicine (CCAOM) or its successor organization;
(6) With any document that is not in English in its original form, submit a translation of it into English by someone other than the applicant. Each translated document shall have affixed to it a notarized statement of the translator certifying that he or she is competent in both the language of the original document and English and that the translation is a true and complete translation of the foreign language original. The applicant shall assume the cost of any document necessary for a complete application;
(6) Submit proof of satisfying the education requirements listed below:
(a) US Trained Applicants. All U.S. trained applicants shall graduate from a three-year postgraduate acupuncture college, accredited by or in candidacy

- status by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or its successor organization.
- (b) Foreign Trained Applicants. All foreign trained applicants shall graduate from a postgraduate acupuncture college that meets the curricular requirements of ACAOM. The college shall also be approved by either:
- (i) A foreign government's Ministry of Education;
 - (ii) A foreign government's Ministry of Health;
 - (iii) A governmental agency that is comparable to a division or department of the US Government charged with educational accreditation; or
 - (iv) A private foreign accreditation agency that has an accreditation process and standards substantially equivalent to that of ACAOM, and that is recognized for that purpose by the substantially equivalent governmental entity in that foreign country. The educational institutions shall meet the curricular requirements of ACAOM.
- (c) The documents substantiating that the U.S. trained applicant has met the specified requirements shall be submitted as follows:
- (i) The educational program or governmental agency from which the applicant received the certificate or diploma shall send an official copy of the applicant's transcript directly to the Board in a sealed envelope.
 - (ii) By its submission of this transcript, the program or agency shall verify the applicant's satisfactory completion of the required ACAOM academic and clinical education and designate the completed courses and the hours of study completed in each subject.
- (d) The documents substantiating that the Foreign trained applicant has met the
- specified requirements shall be submitted as follows:
- (i) The educational program or governmental agency from which the applicant received the certificate or diploma shall send an official copy of the applicant's transcript directly to the Board in a sealed envelope;
 - (ii) By submission of this transcript, the program or agency shall verify the applicant's satisfactory completion of his or her clinical education and designate the completed courses and hours of study earned in each subject;
 - (iii) The applicant, at his or her own expense, shall submit an accurate English translation that interprets all documents submitted in a foreign language. Each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Each translated document shall also bear the affidavit of the applicant, certifying that the translation is a true and complete translation of the original. Each affidavit shall be signed before a notary public; and
 - (iv) All foreign trained applicants, at his or her expense, shall submit their transcripts for evaluation by a foreign credential evaluation service to determine if the applicant's course work is equivalent to that required of an applicant from a three-year postgraduate acupuncture college accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM). This includes a

subject-by-subject analysis that meets the curricular requirements of ACAOM in effect at the time of certification by the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) in the acupuncture written and point location examinations. The applicant may use a current member of the National Association of Credential Evaluation Services (NACES) or the American Association of Collegiate Registrars and Admissions Offices (AACRAO); or

- (7) Practice Requirements:
 - (a) The applicant shall fulfill the requirements set forth in G.S. 90-455.
 - (b) Disciplinary action means censure, suspension, or revocation but does not include a letter of caution, warning or admonition; and
- ~~(7) Submit all correspondence to North Carolina Acupuncture Licensing Board, 893 US Highway 70 West, Suite 202, Garner, NC 27529.~~
- (8) Submit an official license history stating the disciplinary record of the applicant to reflect any censure, suspension or revocation. The record shall be sent directly to the Board by each state board in which the applicant has been licensed to practice acupuncture.

Authority G.S. 90-451; 90-454; 90-455.

21 NCAC 01 .0103 FEES

The following fees shall apply:

- ~~(1) Acupuncturists:~~
 - ~~(a)(1) A non refundable application fee for the initial license Application (non-refundable) \$100.00~~
 - ~~(b)(2) Initial Biennial Licensing Fee biennial licensing \$500.00~~
 - ~~(c)(3) Renewal of Biennial License-biennial licensing \$300.00~~
 - ~~(4) Renewal of license, additional late fee \$200.00~~
 - ~~(5) Inactive license renewal, biennial extension \$ 50.00~~
- ~~(2) License Fees:~~
 - ~~(a)(6) Duplicate license-fee \$ 25.00~~
 - ~~(b)(7) Duplicate wall certificate-fee \$ 50.00~~

- ~~(e) Late fee for reinstatement of a license which remains lapsed for more than 60 days \$ 50.00~~
- ~~(d)(8) Fee for providing a roster of licensed acupuncturists-Mailing Labels \$10.00-\$150.00~~
- ~~(e)(9) Returned check-fee \$20.00-\$ 40.00~~
- ~~(f)(10) Fee for verification-Verification of North Carolina licensure to another state \$ 25.00~~
- ~~(g)(11) Name change \$ 5.00~~
- ~~(h) Tutorial application fee \$200.00~~
- ~~(i) Annual tutorial application renewal fee \$100.00~~
- ~~(j)(12) Continuing education per single program approval-fee \$ 50.00~~
- ~~(k)(13) Continuing education provider approval fee- \$ 50.00~~
- ~~(l)(14) Initial school application-fee \$750.00-\$1,000.00~~
- ~~(m)(15) Renewal-Biennial renewal school approval application-fee \$500.00~~
- ~~(n) Photocopy fee (per page) \$0.25~~
- ~~Facsimile fee (per page) \$3.00~~

Authority G.S. 90-457.

21 NCAC 01 .0104 BOARD MAILING ADDRESS

All correspondence shall be mailed to the following address:
North Carolina Acupuncture Licensing Board
P.O. Box 10686
Raleigh, N.C. 27605

Authority G.S. 90-450.

21 NCAC 01 .0106 CHANGE OF NAME OR ADDRESS

Every person licensed under the provisions of this Article shall give written notice to the Board of any change in his or her name or address within 60 calendar days after the change takes place.

Authority G.S. 90-454; 90-455; 90-456.

SECTION .0200 - RENEWAL OF LICENSURE

21 NCAC 01 .0201 RENEWAL OF LICENSURE

The procedure and requirements for renewal of license is as follows:

- (1) Biennial Renewal. A license shall be renewed every two years in the month of the anniversary of the initial date of licensure. A licensee must renew his or her license by the second July 1 following initial licensure and thereafter renew his or her license prior to expiration every two years. Two months prior to the license renewal period, an application for renewal will be mailed to

~~each licensee at the last address provided to the Board. Failure to receive notification during this period does not relieve the licensee of the responsibility of meeting the continuing education requirements and renewal of his/her license.~~

- (2) Continuing Education. An applicant for license renewal shall ~~acknowledge~~ verify on a form prepared by the Board that the licensee has completed the required continuing education units, the number of units completed, and a list of those programs completed. The licensee ~~shall~~ must retain such receipts, vouchers or certificates as may be necessary to document completion of the continuing education units required. An applicant must retain records to establish that the applicant has fulfilled the educational requirements set by the Board.
- (3) Fees. The licensee must pay the renewal fee prescribed in Rule .0103 of this Chapter. The licensee whose license has expired shall be subject to a late renewal fee in addition to the renewal fee. Both of these fees will be required for each licensure period lapsed.
- (4) Suspended license. The holder of a suspended license is subject to and must meet the prescribed renewal requirements set forth in G.S. 90-455(e) or the license shall expire.
- (5) Expired license. He or she must not practice acupuncture with an expired license. Failure to receive notification that the license has expired during this period does not relieve the holder of an expired license of the responsibility of meeting the continuing education requirements that would have been required if the license had continued to be in effect. These continuing education units will not apply to the renewal requirements for the subsequent renewal period. To renew an expired license the applicant must file the approved application, submit proof of completion of continuing education, and pay the renewal late fee resulting from the expired license as well as the required renewal fee.

Authority G.S. 90-455.

21 NCAC 01 .0202 PROCESS TO OBTAIN INACTIVE LICENSE; ACTIVATE LICENSE

- (a) The procedure and requirements for inactive status are as follows:
 - (1) Written request for inactive license. A licensed acupuncturist not engaged in the

practice of acupuncture may request that his or her license be placed in inactive status by submitting the request in writing to the Board.

- (2) Following a period of eight years, the Board shall treat an inactive license as lapsed.
- (b) The procedure and requirements to activate a license are as follows:
 - (1) Submit an application to activate a license on a form provided by the Board.
 - (2) The applicant meeting the requirements to activate his or her license as set out in G.S. 90-455(c) shall submit a signed statement to the Board establishing that he or she has not been involved in any prohibited activities set forth in G.S. 90-456 during the period of inactive status.
 - (3) To make this determination, the Board may hold a hearing in accordance with the requirements followed for revocation and suspension of a license as set out in Rule 21 NCAC 01 .0710.
 - (4) The applicant shall satisfy the Board that he or she completed 40 hours of continuing education units within the preceding two-year period as set out in G.S. 90-455.
- (c) Fees: An applicant shall submit payment of an inactive license fee extension every two years upon notice by the Board.
- (d) The Board shall activate a license upon a finding that the applicant has paid the sum total fee, completed the continuing education requirements, and not engaged in any prohibited activities that would constitute the basis for discipline as set forth in G.S. 90-456.

Authority G.S. 90-450; 90-455; 90-456.

SECTION .0300 – CONTINUING EDUCATION

21 NCAC 01 .0301 STANDARDS FOR CONTINUING EDUCATION

- (a) Applicants for license renewal shall complete 40 Continuing Education Units (CEU) every two years. One CEU is defined as one contact hour or 50 minutes.
- (b) All CEUs shall be completed during the two calendar years immediately preceding the:
 - (1) ~~license~~ License renewal date, or
 - (2) ~~date~~ Date on which the license renewal is approved by the Board.
- (c) The following requirements shall apply to the total number of CEUs submitted by a licensee for license renewal:
 - (1) A minimum of 25 CEUs must be obtained from formally organized courses which have content relating to the scope of ~~"practice of acupuncture"~~ practice of acupuncture as defined by G.S. 90-451(3). Each course shall ~~be: be~~
 - (A) ~~Pre approved by the NCALB; or~~
 - (B) ~~Sponsored—sponsored or accredited approved~~ sponsored or accredited approved by one or more of the

following organizations or their ~~member~~ successor organizations:

- ~~(i)~~(A) National Acupuncture and Oriental Medicine Alliance (NAOMA);
- ~~(ii)~~(B) ~~American~~ Association of Acupuncture and Oriental Medicine (~~AAAOMA~~AAOM);
- ~~(iii)~~(C) Council of Colleges of Acupuncture and Oriental Medicine (CCAOM);
- ~~(iv)~~(D) Acupuncture Schools Accredited By or in Candidacy Status with the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM);
- ~~(v)~~(E) National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM);
- ~~(vi)~~(F) National Academy of Acupuncture and Oriental Medicine (NAAOM);
- ~~(vii)~~(G) Society for Acupuncture Research;
- ~~(viii)~~ Center for Oriental Medical Research and Education (COMRE);
- ~~(ix)~~(H) National Acupuncture Detoxification Association;
- ~~(x)~~ National Acupuncture Teachers Association;
- ~~(xi)~~(I) American Academy of Medical Acupuncturists Acupuncture (AAMA);
- ~~(xii)~~(J) The acupuncture licensing board of another U.S. State; or
- ~~(xiii)~~(K) North Carolina Association of Acupuncture and Oriental Medicine (~~NCAAOM~~); (NCAAOM);
- (L) American Heart Association;
or
- (M) American Red Cross.

(2) A maximum of 15 CEUs may be obtained ~~from~~ from teaching acupuncture diagnosis and treatment. All CEUs for teaching shall be approved by the Board prior to the date of the class and awarded for actual classroom hours taught pursuant to this Rule. For approval the licensee shall submit the following information:

(A) ~~Formally organized courses which have content relating to any health~~

~~service and are relevant to the practice of acupuncture. Such topics include courses in acupuncture adjunctive therapies as defined in G.S. 90-451(3), Western sciences and medical practices, medical ethics, and cardiopulmonary resuscitation. Each course shall be:~~

- ~~(i)~~ Pre-approved by the NCALB; or
- ~~(ii)~~ Meet the requirements of 21 NCAC 01.0301(c)(1)(B); or
- ~~(iii)~~ Sponsored or accredited by one or more of the following organizations:
 - ~~(I)~~ World Health Organization (WHO);
 - ~~(II)~~ National Institutes of Health (NIH);
 - ~~(III)~~ National Institutes of Health Office of Alternative Medicine (NIHOAM);
 - ~~(IV)~~ American Medical Association (AMA);
 - ~~(V)~~ American Nurses Association (ANA);
 - ~~(VI)~~ American Holistic Medical Association;
 - ~~(VII)~~ American Psychiatric Association (APA);
 - ~~(VIII)~~ American Hospital Association (AHA);
 - ~~(IX)~~ American Lung Association (ALA);
 - ~~(X)~~ Red Cross;
 - ~~(XI)~~ Colleges or universities, accredited by the ACAOM;
 - ~~(XII)~~ Hospitals, accredited by the Joint Commission Accreditation of Hospitals and Organizations (JCAHO);
 - ~~(XIII)~~ American Heart Association; or
 - ~~(XIV)~~ Accreditation Council for Continuing Medical Education;

- ~~(B) Personal training in non accredited programs which assist a licensee to carry out their professional responsibilities, including, but not limited to: Qi Gong and Tai Qi;~~
- ~~(C) Training in accredited programs which will assist a licensee to carry out their professional responsibilities, including, but not limited to: Foreign language training for translation of relevant texts. All courses must be pre-approved by the NCALB; or~~
- ~~(D) Teaching acupuncture diagnosis and treatment. All CEUs for teaching must be approved by the NCALB prior to the date of the class.~~
- ~~(E) No CEUs shall be obtained from courses devoted to administrative or business management.~~
- (A) Title of the course;
- (B) Summary of course content or class syllabus;
- (C) Location of the class;
- (D) Dates of the class;
- (E) Number of classroom hours taught; and
- (F) Copy of course evaluation to be provided students.

(d) All programs A course submitted to the Board for credit as CEUs must meet these requirements: shall be formally organized. A formally organized course shall consist of the following:

- (1) A complete record of attendance shall be maintained on file by the sponsor of the course, program, or activity course. These records This record shall be made available to the NCALB Board upon request; and
- (2) All instructors must be For a course taught by an instructor who is required by the State to hold a credential to practice in the field which is the subject of the course, the credential of that instructor shall be in good standing and any instructor shall be competent to teach their his or her designated courses course by virtue of their his or her education, training, and experience. experience;
- (3) The course shall have stated course objectives and a course syllabus or a description of the content of the course with a class outline;
- (4) The course shall be evaluated by each participant; and
- (5) Upon completion of each course the provider shall issue a certificate of completion to each participant to include:
 - (A) Title of the course;
 - (B) Name of participant;
 - (C) Name of all instructors;
 - (D) Name of provider;
 - (E) Date and location of the course; and

(F) Number of CEU's completed.

~~(e) CEUs from any given course, program, or activity course may only be used to satisfy the requirements of only one biennium.~~

~~(f) At the time of license renewal, each licensee shall sign a statement under penalty of perjury indicating whether he/she the licensee has or has not complied with the continuing education requirements.~~

~~(g) Each licensee shall retain for a minimum of four years records of all continuing education programs attended, indicating:~~

- ~~(1) title of the course or program;~~
- ~~(2) sponsoring organization or individual;~~
- ~~(3) accrediting organization (if any); organization; and~~
- ~~(4) course hours in attendance.~~

~~(h) The Board may choose to audit the records of any licensee who has reported and sworn compliance with the continuing education requirement. licensee. No licensee shall be subject to audit more than once every two years. Those licensees selected for audit shall be required to document their compliance with the continuing education requirements of this article.~~

~~(i) Failure to comply with the continuing education requirements shall prohibit license renewal and result in the license reverting to inactive an expired status at the end of the renewal period.~~

~~(j) Continuing education is not required to maintain licensure in inactive status. An inactive licensee is exempt from the continuing education requirements set forth in this article.~~

~~(k) When an inactive licensee has requested, in writing to the Board, return to active status, the licensee must document completion of 40 CEUs which were completed in the two years immediately preceding reactivation.~~

~~(l) It shall constitute unprofessional conduct for a licensee to misrepresent completion of required CEUs. In the event of misrepresentation, disciplinary proceedings may be initiated by the Board.~~

(k) A maximum of 20 CEUs may be obtained for correspondence or on-line courses.

(l) All applications for pre-approval must be submitted 60 days prior to the date of the course.

(m) A licensee may apply to the Board for an extension of time as set forth in G.S. 90-455 to complete the portion of his/her continuing education requirements that he/she is unable to meet due to such causes as a prolonged illness or family emergency. The Board may, at its discretion, may grant such an extension for a maximum of one licensing period. This request shall be received by the Board no later than 30 days prior to the license renewal date, be signed under the penalties of perjury, and contain the following:

- (1) An explanation of the licensee's failure to complete his/her continuing education requirements;
- (2) A list of continuing education courses and hours that the licensee has completed; and
- (3) The licensee's plan for satisfying his/her continuing education requirements.

Authority G.S. 90-454; 90-457.1.

CHAPTER 32 – NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Perfusion Advisory Committee of the North Carolina Medical Board intends to adopt the rules cited as 21 NCAC 32V .0101 - .0114.

Proposed Effective Date: August 1, 2007

Public Hearing:

Date: June 15, 2007

Time: 10:00 a.m.

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

Reason for Proposed Action:

21 NCAC 32V .0101- To define the scope of rules that are to be adopted for the licensing and regulating of North Carolina perfusionists.

21 NCAC 32V .0102- To provide definitions for perfusion rules

21 NCAC 32V .0103- To provide qualifications for perfusion licensure

21 NCAC 32V .0104- To provide registration of licensure requirements for perfusionists

21 NCAC 32V .0105- To provide continuing education requirements for licensed perfusionists

21 NCAC 32V .0106- To provide standards for supervision of provisional licensed perfusionists

21 NCAC 32V .0107- To provide guidance as to what is expected of supervising perfusionist in regard to their duties and responsibilities

21 NCAC 32V .0108- To provide a process by which the Board is informed by which licensed perfusionist will supervise a particular provisional licensed perfusionist

21 NCAC 32V .0109- To provide the factors and process by which a civil penalty is determined and a schedule for assessment of civil penalties.

21 NCAC 32V .0110- To provide for requirements of how a licensed perfusionist should identify himself or herself

21 NCAC 32V .0111- To provide a process by which perfusionists can come to North Carolina to work during times of a disaster or state of emergency

21 NCAC 32V .0112- To provide a process by which temporary licensure can be given on an emergency basis

21 NCAC 32V .0113- To provide a process by which applicants and licensed perfusionists can be assessed for fitness to practice perfusion and competency to practice perfusion.

21 NCAC 32V .0114- To provide a streamlined process by which a provisional license to practice perfusion is converted to a full license to practice perfusion upon receipt of evidence that provisional licensee has successfully completed the certification process.

Procedure by which a person can object to the agency on a proposed rule: Person may submit objections to these Rules by contacting R. David Henderson, Executive Director, North

Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609, fax (919) 326-1131, or email info@ncmedboard.org

Comments may be submitted to: R. David Henderson, 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: June 15, 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 32V – PERFUSIONIST REGULATIONS

21 NCAC 32V .0101 SCOPE

The rules of this Subchapter are designed to implement Article 40 of Chapter 90.

Authority G.S. 90-681; 90-682; 90-685(1)(3).

21 NCAC 32V .0102 DEFINITIONS

The following definitions apply to this Subchapter:

- (1) Approved educational program – Any program within the United States approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or the Accreditation Committee for Perfusion Education (AC-PE), or any Canadian educational program recognized by the Conjoint Committee on Accreditation of the Canadian Medical Association (CMA).
(2) Board – The entity referred to in G.S. 90-682(5) and its agents.
(3) Committee – The entity referred to in G.S. 90-682(2) and its agents.
(4) Provisional licensed perfusionist - The person who is authorized to practice perfusion pursuant to G.S. 90-698.

- (5) Registering - Renewing the license by paying the biennial fee and complying with Rule .0104 of this Subchapter.
- (6) Supervising - Overseeing the activities of, and accepting the responsibility for, the perfusion services rendered by a provisional licensed perfusionist. Supervision shall be continuous but, except as otherwise provided in the rules of this Subchapter, shall not be construed as requiring the physical presence of the supervising perfusionist at the time and place that the services are rendered. Supervision shall not mean direct, on-site supervision at all times, but shall mean that the supervising perfusionist shall be readily available for consultation and assistance whenever the provisional licensee is performing or providing perfusion services.

(7) "Supervising Perfusionist" means a perfusionist licensed by the Committee and who serves as a primary supervising perfusionist or as a back-up supervising perfusionist.

(a) The "Primary Supervising Perfusionist" is the perfusionist who, by signing the designation of supervising perfusionist form provided by the Committee, accepts responsibility for the provisional licensed perfusionist medical activities and professional conduct at all times.

(b) The "Back-up Supervising Perfusionist" means the perfusionist who accepts the responsibility for supervision of the provisional licensed perfusionist's activities in the absence of the Primary Supervising Perfusionist. The Back-up Supervising Perfusionist is responsible for the activities of the provisional licensed perfusionist only when providing supervision.

Authority G.S. 90-681; 90-682; 90-685(1)(3).

21 NCAC 32V .0103 QUALIFICATIONS FOR LICENSE

(a) Except as otherwise provided in this Subchapter, an individual shall obtain a license from the Committee before the individual may practice as a licensed perfusionist. The Committee may grant a license or a provisional license to an applicant who has met the following criteria:

- (1) satisfies the requirements of G.S. 90-686;
- (2) is not disqualified for any reason set out in G.S. 90-691; and
- (3) submits to the Committee any information the Committee deems necessary to evaluate the application; and

(b) An applicant may be required to appear, in person, for an interview with the Committee.

Authority G.S. 90-685(1)(3) and (5); 90-686.

21 NCAC 32V .0104 REGISTRATION

(a) Each person who holds a license as a perfusionist in this state, other than a provisional licensed perfusionist, shall register his or her perfusionist license every two years prior to its expiration date by:

- (1) completing the Committee's registration form;
- (2) submitting the required fee.

(b) A perfusionist who indicates on the registration form that he or she is not currently certified by the American Board of Cardiovascular Perfusion (ABCP) may be asked to appear before the Committee.

Authority G.S. 90-685(1)(3)(5) and (6); 90-690.

21 NCAC 32V .0105 CONTINUING EDUCATION

The licensed perfusionist must maintain documentation of 30 hours of continuing education (CE) completed for every two year period. Of the 30 hours, at least 10 hours must be Category I hours as recognized by the American Board of Cardiovascular Perfusion (ABCP), the remaining hours may be Category II or III hours as recognized by the ABCP. CE documentation must be available for inspection by the Committee or Board or an agent of the Committee or Board upon request.

Authority G.S. 90-685(3) and (8).

21 NCAC 32V .0106 SUPERVISION OF PROVISIONAL LICENSED PERFUSIONISTS

The supervising perfusionist shall exercise supervision of a provisional licensed perfusionist as defined in Rule .0101(6) of this Subchapter, assume responsibility for the services provided by the provisional licensee, be responsible for determining the nature and level of supervision required for the provisional licensee, and be responsible for evaluating and documenting the professional skill and competence of the provisional licensee.

Authority G.S. 90-685(1)(2) and (3).

21 NCAC 32V .0107 SUPERVISING PERFUSIONIST

(a) A licensed perfusionist wishing to serve as a supervising perfusionist must exercise supervision of the provisional licensed perfusionist in accordance with Rule .0106 of this Subchapter. The perfusionist shall retain professional responsibility for the care rendered by the provisional licensed perfusionist at all times.

(b) A perfusionist wishing to serve as a back-up supervising perfusionist must be licensed to practice perfusion by the Board, not prohibited by the Board from supervising a provisional licensed perfusionist, and approved by the primary supervising perfusionist as a person willing and qualified to assume responsibility for the care rendered by the provisional licensed perfusionist in the absence of the primary supervising perfusionist. The primary supervising perfusionist must maintain an ongoing list of all approved back-up supervising

perfusionist(s), signed and dated by each back-up supervising perfusionist, the primary supervising perfusionist, and the provisional licensed perfusionist, and this list must be retained and made available for inspection upon request by the Committee or Board.

Authority G.S. 90-685(1)(2) and (3).

21 NCAC 32V .0108 DESIGNATION OF PRIMARY SUPERVISING PERFUSIONIST FOR PROVISIONAL LICENSEE

(a) Prior to the performance of perfusion under the supervision of any primary supervising perfusionist, or new primary supervising perfusionist, a provisional licensed perfusionist shall submit a designation of primary supervising perfusionist(s) on forms provided by the Committee. The provisional licensed perfusionist shall not commence practice until acknowledgment of the designation of primary supervising perfusionist(s) form is received from the Committee. Such designation shall include:

- (1) the name, practice addresses, and telephone number of the provisional licensed perfusionist; and
- (2) the name, practice addresses, and telephone number of the primary supervising perfusionist(s).

(b) The primary supervising perfusionist shall notify the Committee of any terminations or cessations of practice of a provisional licensed perfusionist under his or her supervision in a previously acknowledged designation within 15 days of the occurrence.

Authority G.S. 90-685(1) and (3).

21 NCAC 32V .0109 CIVIL PENALTIES

(a) In carrying out its duties and obligations under G.S. 90-691 and G.S. 90-693, the following shall constitute aggravating factors:

- (1) Prior disciplinary actions
- (2) Patient harm
- (3) Dishonest or selfish motive
- (4) Submission of false evidence, false statements, or other deceptive practices during the disciplinary process
- (5) Vulnerability of victim
- (6) Refusal to admit wrongful nature of conduct
- (7) Willful or reckless misconduct
- (8) Pattern of misconduct (repeated instances of the same misconduct)
- (9) Multiple offenses (more than one instance of different misconduct)

(b) The following shall constitute mitigating factors:

- (1) Absence of a prior disciplinary record
- (2) No direct patient harm
- (3) Absence of a dishonest or selfish motive
- (4) Full cooperation with the Committee
- (5) Physical or mental disability or impairment
- (6) Rehabilitation or remedial measures
- (7) Remorse
- (8) Remoteness of prior discipline

(c) Before imposing and assessing a civil penalty, the Committee shall make a determination of whether the aggravating factors outweigh the mitigating factors, or whether the mitigating factors outweigh the aggravating factors. After making such a determination, and if the Committee decides to impose a civil penalty, the Committee shall impose the civil penalty consistent with the following schedule:

- (1) First Offense:
Presumptive Fine - \$250.
Finding of Mitigation \$0 to \$249.
Finding of Aggravation \$251 to \$1,000.
- (2) Second Offense:
Presumptive Fine - \$500.
Finding of Mitigation \$0 to \$499.
Finding of Aggravation \$501 to \$1,000.
- (3) Third or More Offense:
Presumptive Fine - \$1000.
Finding of Mitigation \$0 to \$999.
Finding of Aggravation \$1,000.

Authority G.S. 90-685(1) and (3), 90-693(b)(4).

21 NCAC 32V .0110 IDENTIFICATION REQUIREMENTS

A licensed perfusionist shall keep proof of current licensure and registration available for inspection at the primary place of practice and shall, when engaged in professional activities, wear a name tag identifying the licensee as a perfusionist consistent with G.S. 90-640(a).

Authority G.S. 90-640(a); 90-685(3).

21 NCAC 32V .0111 PRACTICE DURING A DISASTER

In the event of a declared disaster or state of emergency that authorizes the Board to exercise its authority under G.S. 90-12.2, and if the Board does exercise its authority pursuant to G.S. 90-12.2, the Board may allow a perfusionist licensed in any other state, or a current, active certified clinical perfusionist who practices in a state where licensure is not required, to perform perfusion during a disaster within a county in which a disaster or state of emergency has been declared or counties contiguous to a county in which a disaster or state of emergency has been declared (in accordance with G.S. 166A-6). The perfusionist who enters the State for purposes of this Rule shall notify the Board within three business days of his or her work site and provide proof of identification and current licensure or certification.

Authority G.S. 90-12.2; 90-685(3).

21 NCAC 32V .0112 TEMPORARY LICENSURE

The Board may grant temporary licensure to a licensed or certified clinical perfusionist in good standing from another state who appears to be qualified for licensure in this State pursuant to G.S. 90-686 and who enters North Carolina to work on an emergency basis. The temporary license shall be valid for a period not to exceed 60 days. Within 10 days of receiving a temporary license, the temporary licensed perfusionist must

make application for a full license, including payment of the requisite application fee. If the temporary licensed perfusionist fails to submit a full application within the 10 day period, his or her temporary license shall immediately expire. After making application for a full license, the Committee and Board must decide the application before the expiration of the temporary license. For purposes of this Rule, "emergency" shall mean the sudden death or illness, or unforeseen and unanticipated absence, of a licensed perfusionist working at a North Carolina hospital that leaves the hospital unable to provide surgical care to patients in a manner that compromises patient safety. As part of the temporary license process, the hospital must certify to the Committee, on forms provided by the Committee that an emergency exists. "Good standing" for purposes of this rule shall mean that the applicant is currently able to practice perfusion in another state without any restriction or condition.

Authority G.S. 90-685(3); 90-686.

**21 NCAC 32V .0113 ORDERS FOR ASSESSMENTS
AND EVALUATIONS**

(a) The Committee and Board may require a perfusionist or applicant to submit to a mental or physical examination by physicians designated by the Committee or Board before or after charges may be presented against the perfusionist if the Committee or Board has reason to believe a perfusionist may be unable to perform perfusion with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of

alcohol, drugs, chemicals, or any other type of material or by reason of any physical, mental or behavioral abnormality.

(b) The results of the examination shall be admissible in evidence in a hearing before the Committee.

(c) The Committee or Board may require a perfusionist to submit to inquiries or examinations, written or oral, by members of the Committee or by other perfusionists, as the Committee or Board deems necessary to determine the professional qualifications of such licensee.

Authority G.S. 90-685(3)(5)(11).

**21 NCAC 32V .0114 PROVISIONAL LICENSE TO
FULL LICENSE**

A provisional licensed perfusionist who becomes certified as defined in Rule .0101(3) of this Subchapter at any time while he or she holds a provisional license may request that his or her provisional license be converted to a full license. The provisional license must make the request upon forms provided by the Committee and must make payment of an additional one hundred seventy-five dollar (\$175.00) fee. The Committee may request additional information or conduct an interview of the applicant to determine the applicant's qualifications.

Authority G.S. 90-685(3)(5); 90-689.

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

*Sammie Chess Jr.
Selina Brooks
Melissa Owens Lassiter
Don Overby*

*Beecher R. Gray
A. B. Elkins II
Joe Webster*

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOL BEVERAGE CONTROL COMMISSION</u>				
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	
ABC Commission v. Carlos Salas, T/A Boom Boom Room Night Club	06 ABC 1262	Gray	01/04/07	
ABC Commission v. Kenneth A. Jones, T/A Ken One Stop	06 ABC 1368	Gray	12/04/06	
<u>CRIME VICTIMS COMPENSATION</u>				
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	
Teresa M. Marley v. Crime Victims Compensation Commission	03 CPS 0185	Elkins	01/19/07	
Dantevius L. Bland v. Crime Victims Compensation Commission	06 CPS 0654	Elkins	11/15/06	
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	Elkins	09/06/06	
Danny Thoms v. Victim Compensation	06 CPS 1237	Overby	12/04/06	
James A. Hillman v. Crime Victims Compensation Commission	06 CPS 1339	Wade	12/08/06	
Jacqueline D. Dupree v. Crime Victims Compensation	06 CPS 1360	Overby	12/15/06	
Pervis R. Owens Sr v. OAH, Crime Victims Compensation Commission	06 CPS 1492	Morrison	09/28/06	
Brian Curlee v. Crime Victims Compensation Commission	06 CPS 1677	Wade	12/13/06	
A list of Child Support Decisions may be obtained by accessing the OAH Website: www.ncoah.com/decisions .				
<u>DEPARTMENT OF AGRICULTURE</u>				
Shacond Muse Bey v. Dept. of Agriculture	06 DAG 0985	Morrison	08/16/06	
Clara Church v. Dept. of Agriculture and Consumer Services	06 DAG 1422	Wade	12/11/06	
<u>DEPARTMENT OF CULTURAL RESOURCES</u>				
William H. Miller v. Cultural Resources, State Historic Preservation	05 DCR 0439	Mann	07/03/06	
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>				
Andrea Green, Parent, on behalf of her Miner Child, Andrew Price	01 DHR 2149	Gray	06/29/06	
Charles N. Long v. DHHS, Wake County Human Services	02 DHR 0932	Lassiter	12/21/06	

CONTESTED CASE DECISIONS

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	
Annie Ruth Laws v. Caldwell County DSS	03 DHR 0824	Lassiter	01/29/07	
Afusat Daodu v. DHHS, DFS	03 DHR 1489	Lassiter	12/08/06	
Michael Eugene Dalton v. DHHS, DFS	04 DHR 0288	Lassiter	10/06/06	
George Onebati NY Angena v. DHHS, DFS, Health Care Personnel Registry	04 DHR 0764	Wade	12/27/06	
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	
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 Inernation, 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	
Anthony Wayne Sando v. DHHS	05 DHR 0465	Gray	11/14/06	
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	
Patrick Francis Diamond v. DHHS	05 DHR 1356	Gray	12/14/06	
County of Buncombe & NC Radiation Therapy Management Services, Inc. d/b/a 21 st 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	
Kamaria Smith v. DHHS, DFS, Nurse Aid Registry	05 DHR 1547	Mann	12/22/06	
LaBrenda Perry Bennett v. Health Care Personnel Registry	05 DHR 1579	Morrison	07/13/06	
Carolina Kids Academy, Inc v. DHHS, Division of Child Development	05 DHR 1906	Morrison	11/03/06	
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 Safrit 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
Keith L. Mallory Jr., v. DHHS, DFS	06 DHR 0023	Wade	12/27/06	
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	
Helen A. Robinson, Administrator for New Life Early Childhood Development Center v. DHHS, Div. of Child Development	06 DHR 0171	Wade	12/29/06	
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	

CONTESTED CASE DECISIONS

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	
Bernice Norman v. Wash Co. Dept. of Social Services	06 DHR 0472	Elkins	06/23/06	
Daisey Fish v. Dortha 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	
Grace A. Wright v. Wake County Health and Human Services, Program Interg Program Dept.	06 DHR 0670	Wade	01/04/07	
Abid Ali d/b/a Durham Food Mart v. DHHS, Division of Public Health, Women and Children's Health Section	06 DHR 0686	Morrison	12/15/06	
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	
Little Town Learning Center, Inc., By Angela Beacham v. DHHS, Div. of Public Health, Child and Adult Care Food Program	06 DHR 0786	Morrison	10/05/06	
Alberta Denise Murphy v. DHHS and Registry	06 DHR 0788	Elkins	09/07/06	
Forsyth Memorial Hospital, Inc d/b/a Forsyth Medical Center and Community General Health Partners, Inc. d/b/a Thomasville Medical Center v. DHHS, DFS, CON and North Carolina Baptist Hospital Lexington Memorial Hospital, Inc. and High Point Regional Health System	06 DHR 0810	Mann	01/18/07	21:18 NCR 1632
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	
Barbara J. Younce v. DHHS, DFS	06 DHR 0927	Gray	12/05/06	
Norman Lavel Bracey, Jr., v. Social Services (Medicaid)	06 DHR 0955	Gray	07/21/06	
Kenyetta Shaw v. DMH/DD/SAS	06 DHR 0966	Elkins	01/23/07	
Elaine Weidman v. DHHS, DFS, Health Care Personnel Registry	06 DHR 1032	Gray	10/25/06	
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	
Reno Judd/Noreen Currie v. DHHS	06 DHR 1183	Gray	10/26/06	
New Directions II, Tamara Perry v. DHHS, DFS, Mental Health Licensure & Certification Section	06 DHR 1199	Overby	11/22/06	

CONTESTED CASE DECISIONS

New Directions II Lane House, Tama Perry v. DHHS, DFS Mental Health Licensure & Certification Section	06 DHR 1200	Overby	11/22/06	
Beverly M. West v. DHHS	06 DHR 1238	Wade	09/26/06	
Hospice and Palliative Care Center of Alamance-Caswell, LLC v. DHHS, DFS, CON Section, Licensure and Certification Section and Community Home Care of Vance County, Inc. d/b/a Community Home Care and Hospice	06 DHR 1247	Elkins	12/15/06	
Hospice and Palliative Care Center of Alamance-Caswell, LLC v. DHHS DFS, Licensure and Certification Section, CON Section and Liberty Home Care, LLC	06 DHR 1248	Elkins	12/15/06	
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	
April Ivelisse Truitt v. DHHS	06 DHR 1288	Elkins	12/12/06	
Willie P. Little v. Medicaid	06 DHR 1315	Gray	11/09/06	
Debra Brown v. DHHS	06 DHR 1323	Gray	11/27/06	
Grandma's House Night Care, Shirley Brown v. Jeff Gaster, Dept. of Child Development	06 DHR 1331	Overby	11/27/06	
Mary Jane Rutledge v. NCOAH	06 DHR 1332	Gray	09/12/06	
Rebecca G Banks v. Dept. of Social Services, Crystal Jackson	06 DHR 1333	Overby	11/28/06	
Jamie Deyton for Crystal Cooper v. DHHS, Div. of MH/DD/SAS Customer Service Section	06 DHR 1357	Webster	12/15/06	
Scott Andrew Broadway v. DHHS (Medicaid)	06 DHR 1395	Gray	11/13/06	
Kyle Collier, a minor, by his mother and legal guardian, Orbie Etheridge v. DHHS	06 DHR 1412	Morrison	12/22/06	21:18 NCR 1643
Betty Betts v. Division of Medical Assistance	06 DHR 1449	Morrison	11/02/06	
Rita Perterson v. OAH	06 DHR 1456	Wade	12/13/06	
Phyllis Hale for daughter Haley Hale v. OAH	06 DHR 1467	Elkins	12/11/06	
Lots of Love Child Development Center v. DHHS	06 DHR 1471	Lassiter	12/15/06	
Rodney Winstead Jr v. DHHS	06 DHR 1475	Morrison	10/26/06	
Aunt Alice Daycare Center, Alice Camara v. DHHS, Nutrition Program	06 DHR 1490	Lassiter	10/13/06	
Mr. Timmy K Pless, Barry Moore, Advocate v. DHHS, Div. of Medical Assistance	06 DHR 1500	Wade	12/13/06	
LaShawn Hardy v. Health Care Personnel Registry	06 DHR 1501	Overby	01/04/07	
Connie Lee Yates v. DHHS	06 DHR 1558	Morrison	09/27/06	
Valyncia J. London v. DHHS	06 DHR 1601	Lassiter	11/13/06	
Kelly A. Schofield, M.D., v. DHHS, Mental Health Licensure and Certification	06 DHR 1602	Gray	02/21/07	
Rose Marie (Allala) Sevorwell v. Wake County & Johnston County, DHHS	06 DHR 1623	Gray	11/09/06	
Uniquely Supported, Inc, Shawn Kuhl (provide appropriate supervision)	06 DHR 1634	Lassiter	12/04/06	
Julian Jones v. EDS – Prior Approval	06 DHR 1679	Gray	12/20/06	
Natasha Renee McNeely v. Western Carolina Center, J Iverson Riddle Development Center	06 DHR 1682	Lassiter	10/31/06	
Tishea Talley v. Nurse Registry	06 DHR 1724	Overby	11/22/06	
Diane Jenkins-Mother/Gaurdian for Erzal Carl Johnson v. DHHS, Div. of Mental Health Developmental Disabilities and Substance Abuse	06 DHR 1784	Lassiter	01/24/07	
Linda Lea, Grace Manor v. Licensure Section	06 DHR 1789	Lassiter	01/24/07	
Polley Clinic of Dermatology & Dermatological Surgery PA	06 DHR 1939	Gray	01/08/07	
Medical Mobility Center v. Div. of Medical Medicaid Program	06 DHR 2034	Gray	12/14/06	
Kim Michelle Sinclair, Kim Sinclair (Jasmine) v. DHHS	06 DHR 2117	Overby	01/11/07	
Shanon B. Kesler (mother), Cassie L. Kesler (daughter) v. Social Services	06 DHR 2170	Overby	01/25/07	
Teresa B. Morton, v. Santana T. Deberry and Drexdal Pratt, Chief of OEMS, Office of Emergency Medical Services	06 DHR 2180	Webster	02/08/07	
Emily Thompson, Drug America v. Medicaid/NCDHHS	06 DHR 2341	Gray	02/20/07	
Marijuana Fisher Ford v. DHHS, DFS	06 DHR 2358	Lassiter	02/20/07	
<u>DEPARTMENT OF ADMINISTRATION</u>				
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	
<u>DEPARTMENT OF CORRECTIONS</u>				
Michael Eugene Hunt v. DOC	06 DOC 0498	Gray	06/20/06	
<u>DEPARTMENT OF JUSTICE</u>				
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	

CONTESTED CASE DECISIONS

Bobbie Jo Bullins v. Sheriffs' Education and Training Standards Comm.	06 DOJ 0071	Lassiter	12/13/06	
Todd Franklin Wyke v. DOJ, Company Police Program	06 DOJ 0146	Lassiter	09/15/06	
Scotty Eugene Robinson v. Sheriffs' Education and Training Standards Commission	06 DOJ 0200	Mann	12/08/06	
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 Commission	06 DOJ 0229	Gray	07/12/06	
Virble Leake, Jr. v. Private Protective Services Board	06 DOJ 0397	Morrison	10/05/06	
Jason Matthew Lish v. Criminal Justice Education and Training Standards Commission	06 DOJ 0579	Wade	09/12/06	
Matthew Vicente Saylor v. Criminal Justice Education and Training Standards Commission	06 DOJ 0597	Wade	12/27/06	
Christopher Brian Mingia v. Criminal Justice Education and Training Standards Commission	06 DOJ 0598	Wade	09/12/06	
Thomas M. Combs v. DOJ, Company Police Program	06 DOJ 0640	Elkins	10/16/06	
Russell Lee Weaver v. Criminal Justice Education and Training Standards Commission	06 DOJ 0662	Gray	01/03/07	
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	
Sean Thomas Roberts v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1061	Elkins	11/30/06	
William Eugene Lemke v. Sheriffs' Education and Training Standards Commission	06 DOJ 1293	Overby	11/28/06	
Amy Pearl King v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1295	Lassiter	10/10/06	
Marcellus Moore v. Criminal Justice Education and Training Standards Commission	06 DOJ 1296	Mann	01/22/07	
Frankey Denese White v. Sheriffs' Education and Training Standards Commission	06 DOJ 1297	Gray	11/03/06	
John Robert Fedyszyn v. Alarm Systems Licensing Board	06 DOJ 1345	Wade	12/27/06	
Jerry Lynn Cheek v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1496	Elkins	12/11/06	
Quintin G. Burnett v. Criminal Justice Education and Training Standards Commission	06 DOJ 1646	Gray	12/20/06	
Michael Abbot Copeland v. Sheriffs' Education and Training Standards Commission	06 DOJ 1742	Gray	02/05/07	
James Phillip Daniel v. Sheriffs' Education and Training Standards Comm.	06 DOJ 1743	Gray	01/08/07	
Ronnie Lee Blount v. Criminal Justice Education and Training Standards Commission	06 DOJ 1749	Gray	01/18/07	
Annette Lassiter Joyner v. Sheriffs' Education and Training Standards Commission	06 DOJ 1750	Gray	01/08/07	
Joshua Michael Richardson v. Sheriffs' Education and Training Standards Commission	06 DOJ 1788	Gray	01/08/07	
Katrina Moore Bowden v. Sheriffs' Education and Training Standards Commission	06 DOJ 1919	Gray	01/18/07	

DEPARTMENT OF STATE TREASURER

Phyllis Dianne Smith v. Department of State Treasurer Retirement Systems Division	05 DST 1378	Wade	12/27/06	
Percy E. Myers v. Retirement Systems Division, LGERS,	06 DST 0048	Chess	05/31/06	
Larry D. Beck v. Local Governmental Employees' Retirement System, a Corporation, et al	06 DST 0366	Overby	01/03/07	
Mary B. Spencer v. State Treasurer, Retirement Systems Division	06 DST 0534	Chess	11/09/06	
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	
Robin C. Fish v. Department of Treasurer Retirement Systems Division	06 DST 1353	Overby	01/11/07	

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	
Charlie L. Richardson v. Department of Public Instruction Licensure Section	06 EDC 1131	Gray	11/03/06	

CONTESTED CASE DECISIONS

Brenda H. Cox v. Center for Recruitment & Retention National Board for Professional Teaching Standards, Dept. of Public Instruction	06 EDC 1546	Elkins	12/11/06	
Catherine (Cathy) Rush v. State Board of Education, Dept. of Public Instruction	06 EDC 1622	Gray	11/09/06	
Melissa Thomas v. State Board of Education	06 EDC 1667	Gray	01/29/07	
Katrina Walker v. DPI	06 EDC 1804	Gray	01/29/07	
Jeffrey Wayne McClain v. Wake Co. Public School System	06 EDC 2042	Elkins	01/05/07	
James Aaron Swafford v. DPI	06 EDC 2175	Elkins	01/17/07	
Wendy Holloway v. State Board of Education	07 EDC 0048	Gray	02/22/07	
<u>DEPT. OF ENVIRONMENT AND NATURAL RESOURCES</u>				
Howard L. Hardy v. Co. of Craven Department of Health	00 EHR 0803	Gray	06/26/06	
Waterkeeper Alliance, et al., and Richard Dove v. DENR, Division of Water Quality, Murphy-Brown, LLC, Brown's of Carolina, LLC, Carroll's Foods, LLC, and Murphy Farms, LLC, North Carolina Pork Council, Inc, NC Poultry Federation, Inc	02 EHR 1353	Gray	01/30/07	
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	
Coastland Corporation, James E. Johnson, Jr., Pres v. Pamlico County Health Department, Environmental Health	04 EHR 0842	Lassiter	10/31/06	
Partners Recycling, Inc v. DENR	04 EHR 1503	Wade	12/15/06	
Laney Oil Company, Inc, UST# 04-049P, UST# 04-050P v DENR	05 EHR 0135	Gray	06/20/06	
Anton Tomasseti 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	
William P. Ferris v. DENR, Division of Coastal Management	06 EHR 0908	Gray	02/22/07	
William & Valerie Brodie v. DENR/Division of Coastal Management and Town of Carolina Beach	06 EHR 0910	Mann	11/08/06	
Robin R. Moore v. DENR, Div. of Waste Management	06 EHR 0986	Lassiter	11/07/06	
Danny Ray Thorpe v. Brunswick Co. Health Dept., Environmental Health Department	06 EHR 1041	Gray	08/07/06	
David Edgar Hine v. DENR, Div of Waste Management, Solid Waste Section	06 EHR 1044	Mann	12/15/06	
John Darlinton v. Division of Water Quality	06 EHR 1081	Gray	02/01/07	
Dianne D. Vereen v. Brunswick Co. Health Department	06 EHR 1126	Elkins	09/27/06	
Princeton Recreational Park v. DENR	06 EHR 1196	Wade	12/13/06	
American Canoe Association, ET.AL v. DENR and DM Farms of Rosehill LLC	06 EHR 1254	Overby	01/02/07	
C.F. Little and Patsy H. Little v. DENR	06 EHR 1340	Lassiter	09/22/06	
Fall Creek Land Co Lot#201 Yellowtop Mountain Estates	06 EHR 1436	Wade	12/27/06	
Cliff S. Barnes v. EMC	06 EHR 1450	Wade	12/08/06	
Joe Walter Sprouse and Talitha LeeAnn Bradburn Sprouse v. The Buncombe County Health Center, Environmental Health Division	06 EHR 1472	Lassiter	01/24/07	
John P. Leonard, Agent for Magnolia Pointe LP v. County of Durham Engineering Department	06 EHR 1568	Gray	10/13/06	
Alvin R. Newell and Barbara A. Newell v. Haywood Co. Health Dept. Environmental Health	06 EHR 1652	Lassiter	01/24/07	
<u>DEPARTMENT OF INSURANCE</u>				
Robert Bryan Bender and James V. Bender, Jr. and Wife, Sheron Bender v. Teachers' and State Employees' Comprehensive Major Medical Plan	05 INS 0067	Lassiter	10/06/06	
Heidi L. Roth v. Teachers' and State Employees' Comprehensive Major Medical Plan	05 INS 1779	Lassiter	10/19/06	
James D. Kelly Jr. v. State Health Plan	06 INS 0013	Morrison	08/07/06	21:06 NCR 524
Daniel C. Johnson v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 0353	Morrison	07/03/06	
Donna Jones/Mark Jones v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 0779	Wade	12/29/06	
Rebecca P. Murray v. George C. Stokes, Executive Administrator N.C. State Health Plan	06 INS 0864	Elkins	12/21/06	
Kerry Stewart v. Teachers' and State Employees' Comprehensive Major	06 INS 1113	Elkins	01/04/07	

CONTESTED CASE DECISIONS

Medical Plan				
Lou Ann Ostadi v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1141	Lassiter	01/24/07	
Harry F. Reynolds v. Teachers' and State Employees' Comprehensive Major Medical Plan	06 INS 1348	Morrison	12/22/06	
<u>LICENSING BOARD FOR GENERAL CONTRACTORS</u>				
Licensing Board for General Contractors v. S.N. Davis Company, Inc (License No. 49245) and Shelby G. Davis, as Qualifier	06 LBC 0827	Webster	01/24/07	
<u>OFFICE OF STATE PERSONNEL</u>				
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	
Georgia Warren v. DOT	02 OSP 2179	Wade	08/08/06	
Ricky Dixon v. County of Buncombe	03 OSP 0822	Lassiter	01/26/07	21:18 NCR 1648
Emily Flores v. College of Agriculture and Life Sciences NC State	04 OSP 1518	Lassiter	10/13/06	
Isaiah Green, Jr v. DMV	05 OSP 0500	Morrison	11/02/06	
C.W. McAdams v. DMV	05 OSP 0626	Morrison	11/02/06	
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	
Clayton Richardson v. Winston-Salem State University	05 OSP 1343	Mann	01/09/07	
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	
Eleanor J. Parker v. DHHS, Dorothea Dix Hospital	05 OSP 1527	Owens	01/19/07	21:18 NCR 1653
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	
Pamela C. Granger v. UNC-CH	06 OSP 0007	Gray	12/22/06	21:18 NCR 1676
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	
Sharon B. Matthews v. DOT, DMV	06 OSP 0207	Elkins	10/23/06	
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	
Todd R. Holbrook v. DOT, DMV	06 OSP 0644	Gray	12/13/06	
Thomasina Burrows v. DHHS, Div. of Vocational Rehabilitation Services/ Independent Living Program	06 OSP 0665	Elkins	11/06/06	
Robin D. Long v. UNC Greensboro	06 OSP 0684	Lassiter	06/27/06	
Reginald Hargrave v. Lexington City Schools	06 OSP 0669	Lassiter	11/02/06	
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	
Katrina Pittman v. DHHS, Division of Vocational Rehabilitation Services	06 OSP 0768	Wade	12/27/06	
Pamela Y. Turner v. DHHS, Whitaker School	06 OSP 0787	Wade	12/29/06	
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	
Walter Giese v. Onslow County Board of Health	06 OSP 0989	Gray	01/22/07	
Connie W. Williams v. DOC, Division of Prisons	06 OSP 1028	Morrison	12/28/06	
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	
Alonzo Vann v. DOT	06 OSP 1145	Wade	12/29/06	

CONTESTED CASE DECISIONS

Hattie Miller v. DOA, Food and Drug Protection Division	06 OSP 1278	Gray	02/06/07	
Tamra M. Burroughs v. Div. of Services for the Deaf and Hard of Hearing	06 OSP 1280	Elkins	09/07/06	
Febby Manuel v. DMA, DHHS	06 OSP 1282	Overby	01/29/07	
Melvin Daniels v. DOC	06 OSP 1299	Elkins	12/11/06	
Calvin D. Ellis v. Fayetteville State University	06 OSP 1336	Wade	12/08/06	
James D. Abrams v. Craven Co. DOT	06 OSP 1358	Gray	10/13/06	
Douise Morris v. DOC	06 OSP 1409	Gray	11/21/06	
Claudette Johnson v. NCSU Dining	06 OSP 1509	Gray	12/07/06	
Wendy Anderson v. Agricultural and Technical State University	06 OSP 1562	Elkins	01/05/07	
Melvin Sutton v. DOT	06 OSP 1657	Gray	11/21/06	
Sandra S. Denmark v. Dorothea Dix Hospital, DHHS	06 OSP 1685	Gray	01/16/07	
James Ray Merrill v. Broughton Hospital	06 OSP 1767	Lassiter	12/13/06	
Brenda Stroud v. DST	06 OSP 1722	Gray	01/18/07	
Darian Lee Hybl v. Halifax Community College (HCC)	06 OSP 1773	Gray	12/14/06	
Teresa S Weedon v. UNC-CH	06 OSP 1864	Elkins	02/22/07	
Tabitha McAdoo v. UNCW	06 OSP 1881	Morrison	12/29/06	
Todd Williams v. Appalachian State University	06 OSP 1895	Overby	02/05/07	
Terry D. Moses v. DOT	06 OSP 2204	Gray	02/15/07	
Tobias Guillaume v. Fayetteville State University	06 OSP 2257	Gray	02/16/07	
Karen Denise Mikeal v. DHHS, Developmental Disabilities and Substance Abuse	06 OSP 2412	Gray	02/16/07	
Anthony W. Allen v. Wake County Human Service	06 OSP 2416	Overby	02/14/07	
Katharine V. Raleigh Ph.D, MPH v. Disability Determination Services General Counsel	07 OSP 0035	Overby	02/14/07	
<u>SECRETARY OF STATE</u>				
Regina H. Autry v. SOS	05 SOS 1774	Chess	11/28/06	
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	
Brendalyn D. Blackmon v. Dept. of Secretary of State	06 SOS 0701	Wade	08/11/06	
Jennifer Carol Daniels v. Dept. of SOS	06 SOS 1167	Lassiter	10/12/06	
Mary P. Lee v. SOS	06 SOS 1329	Mann	01/12/07	21:18 NCR 1682
Gerald Haskins v. SOS, Notary Division	06 SOS 1605	Gray	01/03/07	
<u>UNC HOSPITALS</u>				
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	
Angel C. Carey v. UNC Hospitals	06 UNC 1146	Lassiter	09/07/06	
Ricky Hayes v. UNC-CH	06 UNC 1426	Overby	12/01/06	
Bonnie G. Cheek v. UNC-CH	06 UNC 1561	Gray	12/14/06	
Regina H. Autry v. SOS				
<u>WELL CONTRACTOR'S CERTIFICATION COMMISSION</u>				
Stuart Spruill, Remediation Equipment Specialist Inc v. Well Contractor's Certification Commission	06 WCC 193	Gray	02/28/07	